



In the Matter of Herefordshire Beacon Hangmans Hill  
Swinyard Hill and Midsummer Hill Castlemorton Little  
Malvern, Eastnor, Ledbury and Colwall

DECISION

This dispute relates to the registration at Entries No 1 in the Land Section and Entries 1 to 12 in the Rights section of Register Unit No. CL.12 in the Register of Common Land maintained by the former Worcestershire County Council and is occasioned by Objection No. 41 made by Eastnor Castle Estates Company and noted in the Register on 19 November 1970 and objection No. 32 made by the Malvern Hills Conservators and noted in the Register on 12 November 1970.

I held a hearing for the purpose of inquiring into the dispute at Worcester on 16 June 1976 and 10 May 1979. At the first hearing Mr. F N Barker of Messrs. Bruton Knowles and Co., appeared for the Eastnor Castle Estates Company. Mr J D Schooling appeared for the Malvern Hills Conservators at both hearings and Mr R J Brookes of Messrs. R and C B Masefield appeared for Mr Weaver at the adjourned hearing.

At the first hearing it was agreed that I should confirm the Entry in the Land Section modified so as to exclude the land identified on the plan annexed to objection No. 41 and I confirm that Entry so modified.

All the Entries in the Rights Section are provisional because of the objection to the Entry in the Land Section but the Malvern Hills Conservators objection only relates to Entries Nos 2 3 4 5 9 and 10.

At the first hearing it was agreed that I should confirm Entries No. 3 4 5 9 and 10 modified so as to confer the right to graze the number of stints set opposite to them respectively viz:

|              |           |
|--------------|-----------|
| Entry No. 3  | 10 stints |
| Entry No. 4  | 15 "      |
| Entry No. 5  | 1 "       |
| Entry No. 9  | 15 "      |
| Entry No. 10 | 2 "       |

The hearing was then adjourned for consideration of the Entry made by Mr Weaver at Entry No. 2 he having made Entries on other units in the Malvern Hills including CL.9.

At the adjourned hearing none of the applicants whose modified Entries had been agreed, appeared. The view which I take is that multiple Entries for rights appurtenant to one holding cannot be cumulative. The right is to graze the animals maintained or capable of being maintained on the holding and the commoner cannot graze the same animals in two places at the same time.



-2-

Mr Weaver has rights on this unit and on CL.9 and CL.14. His rights under a Scheme on CL.9 will if it becomes affective be to graze 264 sheep or their equivalent and he will if my decision on CL.14 becomes final be able to graze 600 sheep on that unit. See my decision on Ref. 215/D/101 on CL.14.

Mr Brooks, if I correctly understood him, accepted that Mr Weaver did not and could not claim to graze 1464 sheep on the Malvern Hills at any one time and that his maximum entitlement was to graze his flock of 600 sheep on any one or more of the units on which they are registered. Since on this unit the quantifications of other registrations have been reduced, I must in my view reduce Mr Weavers quantification on this unit and for lack of any guidance I adopt the quantification agreed by him on CL.9. In the result Mr Weaver can graze not more than 246 sheep on this unit and 246 sheep on CL.9, the balance of 108 he can graze on CL.14, but any excess of the figure of 108 must go in reduction of the sheep grazed on this unit and/or CL.9.

The same reasoning applies to other commoners on this unit who have Entries in the Rights Sections of one or more other units on the Malvern Hills. Entries No. 3 4 9 10 are duplicated on CL.9 and there may be other duplication.

For the reasons given above I confirm all the Entries in the Rights Section modified in the cases of Entries 2 3 4 5 9 and 10 *as follows*:-

|              |  |
|--------------|--|
| Entry No. 2. | The grazing right to be limited to 264 sheep or their equivalent |
| Entry No. 3. | The grazing right to be limited to 100 sheep or their equivalent |
| Entry No. 4. | The grazing right to be limited to 130 sheep or their equivalent |
| Entry No. 5. | The grazing right to be limited to 10 sheep or their equivalent  |
| Entry No. 9. | The grazing right to be limited to 150 sheep or their equivalent |
| Entry No.10. | The grazing right to be limited to 20 sheep or their equivalent  |

5 sheep being equivalent to one beast or one horse or pony or 1 donkey.

Each registration in the Rights Section is subject to the proviso that:- in any case where a commoner has registrations in the Rights Section of one or more other units on the Malvern Hills he shall not graze more animals at any one time than his entitlement under the registration which confers on him the right to graze the largest number of animals.

I am required by regulation 30 (1) of the Commons Commissioners Regulations 1971 to explain that a person aggrieved by this decision as being erroneous in point of law may, within 6 weeks from the date on which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this *19<sup>th</sup>* day of *June* 1979

*J A Lettle*

Commons Commissioner