

An Act to authorise the trustees of a settlement made by Archibald Lawson to mortgage certain lands and hereditaments comprised in the said settlement, for the purpose of enabling the trustees to effect improvements thereon. [10th November, 1896.]

LAWSON'S
ESTATE MORTGAGE
ENABLING.

WHEREAS Archibald Lawson, late of Nyngan, in the Colony of New South Wales, innkeeper, deceased, by indenture of settlement, dated the twenty-eighth day of November, one thousand eight hundred and ninety, assured unto John Geach Keane, then of Nyngan aforesaid, but now of Trangie, in the said Colony, innkeeper, and Archibald M'Callum, of Dubbo, in the Colony aforesaid, gentleman, and their heirs and assigns (thereinafter called the said trustees), all that piece or parcel of land described in the Schedule hereunder, upon trust to hold the said land until Archibald Lawson, the youngest child of the said settlor, should arrive at the age of twenty-one years, and in the meantime and until the trusts therein contained were performed and executed to receive the rents, issues, and profits thereof, and the same to apply towards the maintenance, education, and support of the said settlor's three children thereafter named, and any surplus to invest in good security until the respective times for distribution of proceeds of sale of the said land and hereditaments as thereafter appeared, and thereafter the same to divide equally amongst the said children; and immediately after the said Archibald Lawson should arrive at the age of twenty-one years to sell and dispose of the said lands, hereditaments, and premises by public auction or private contract for the best price that could be obtained, and the proceeds thereupon arising on such sale immediately to divide equally amongst Jane Ann Lawson, John Lawson, and the said Archibald Lawson, children of the said settlor, in equal shares, and in the case of the said Jane Ann Lawson, free from the control of her husband, if she should be then or thereafter married, and to her sole and separate use; and it was thereby declared that should the said Archibald Lawson not attain the age of twenty-one years then the said trustees should hold the said lands and hereditaments upon trust to sell the same as aforesaid upon the said John Lawson arriving at that age, and the proceeds should be divided equally between the said John Lawson and the said Jane Ann Lawson in equal shares; and it was thereby further declared that should the said John Lawson not attain the age of twenty-one years then the said trustees should hold the said lands, hereditaments, and premises in trust for the said Jane Ann Lawson until she should attain that age, and from and immediately thereupon or thereafter upon such trusts, to such uses, and for such ends, intents, and purposes as the said Jane Ann Lawson, her heirs and assigns should by deed or will direct, limit, or appoint, and in default of such direction, limitation, or appointment then in trust for the said Jane Ann Lawson and her heirs; and it was also thereby agreed and declared that in the event of the death of any of the said children before the respective times thereby allotted and appointed for sale of the said lands and hereditaments and the distribution of the proceeds of such sale, the said trustees should hold such lands and hereditaments subject to the trusts aforesaid upon trust for the surviving child or children, his, her, and

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and their heirs; and in the event of all the said children dying before the time for such sale as aforesaid without lawful issue, then to the use of the said settlor, his heirs and assigns, for ever: And whereas to effectuate such settlement the said Archibald Lawson did, on the twenty-eighth day of November, one thousand eight hundred and ninety, transfer to the said John Geach Keane and Archibald M'Callum all his estate and interest as registered proprietor in the said land: And whereas the said Archibald Lawson died on the seventh day of November, one thousand eight hundred and ninety-one: And whereas the said Archibald M'Callum relinquished the trusts of the said settlement on or about the first day of March, one thousand eight hundred and ninety-two, and in virtue of the power vested in him in that behalf by the said indenture of settlement, the said John Geach Keane, as continuing trustee, on or about the first day of March, one thousand eight hundred and ninety-two, appointed the said Denis Houlahan as trustee in the place of the said Archibald M'Callum: And whereas the said land has been duly transferred into the names of the said John Geach Keane and Denis Houlahan, upon the trusts and for the ends, intents, and purposes as appointed in and by the said settlement: And whereas the said Jane Ann Lawson attained the age of twenty-one years on the fifteenth day of June, one thousand eight hundred and ninety-six, and is still living: And whereas Edward Archibald John Lawson, named in the said settlement as John Lawson, died on the seventeenth day of June, one thousand eight hundred and ninety-five, under the age of twenty-one years, and not having married: And whereas the said Archibald Lawson, the youngest son of the said settlor, is still living, and will not attain the age of twenty-one years until the sixteenth day of December, one thousand nine hundred and five: And whereas there are certain buildings upon the said land in the occupation of tenants as hotel premises, billiard-room, and shops: And whereas all the said buildings upon the said land are very old and dilapidated, and the portion occupied as hotel premises has been condemned by the local licensing inspector, and a renewal of the publican's license only granted by the local licensing bench of magistrates on the express undertaking of the said trustees to erect new premises in accordance with the provisions of the Licensing Acts: And whereas the said trustees have accordingly entered into a contract for the erection of such new premises at a cost of four hundred and eighty pounds or thereabouts: And whereas the portion of the said premises occupied as a billiard-room and shops will require to be rebuilt before the youngest child entitled under the said settlement will have attained the age of twenty-one years: And whereas the balance of the rents, issues, and profits of the said land and hereditaments now in the hands of the said trustees amounts to the sum of one hundred and fifty pounds or thereabouts: And whereas the said settlement does not give to the trustees thereof or any other person power to mortgage, pledge, or otherwise charge the lands and hereditaments thereby settled, and the said trustees are consequently unable to raise such moneys as shall from time to time be necessary for the purpose of effecting improvements thereon: And whereas it is impossible without the assistance of Parliament to mortgage, pledge, or charge the said lands and hereditaments settled by the said Archibald Lawson: And whereas it is expedient and would be for the benefit of all parties interested in the said lands and hereditaments that power to mortgage, pledge, or charge the same should be conferred on the trustee or trustees for the time being of the said settlement of the said Archibald Lawson for the purpose of raising money to enable the said trustees to effect improvements thereon: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent

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of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. It shall be lawful for the said trustees or trustee or other trustees or trustee for the time being of the said settlement of the said Archibald Lawson, deceased, from time to time, and at any time for the purpose of raising any sum or sums of money not exceeding in the whole the sum of seven hundred and fifty pounds, which in their or his opinion it may be necessary or desirable to borrow for the purpose of erecting any buildings or repairing or rebuilding any existing buildings upon or otherwise improving the whole or any part or parts of the lands and hereditaments mentioned and described in the said Schedule, to execute any mortgage or mortgages in fee or for any term or terms of years of the whole or such part or parts of the said lands and hereditaments, with power of sale, and all other usual powers, provisions, and covenants: Provided that no person who shall advance money upon the security of any mortgage purporting to be made under the powers hereby given shall be bound to enquire as to the advisability or propriety of the raising of such money, or as to the application of such money when raised and advanced, and the receipt of the said trustees for the money so advanced shall effectually discharge the person advancing the same from any liability in respect of the misapplication or non-application thereof.

Power to raise money
for improvements by
mortgage.

2. This Act may be cited as “Lawson’s Estate Mortgage Short title.
Enabling Act of 1896.”

SCHEDULE.

All that allotment or parcel of land situated in the town of Nyngan, parish of Nyngan, and county of Oxley, containing two roods, and being allotment number five of section number thirty-three in the said town, being the whole of the land comprised in Crown grant, dated twenty-sixth November, one thousand eight hundred and eighty-three, volume six hundred and eighty-five, folio one hundred and seventy-eight.
