

An Act to enable Elizabeth Throsby and ^{THROSBY'S LEASING.}
certain other persons interested under the
Will of the late Charles Throsby Esquire
to grant building and other Leases of
certain Lands near Moss Vale. [25th
April, 1876.]

WHEREAS Charles Throsby late of Throsby Park in the County ^{Preamble.}
of Camden in the Colony of New South Wales Esquire
deceased duly made and published his last will and testament in
writing bearing date the eleventh day of August one thousand eight
hundred and fifty-two whereby after certain specific devises and
bequests the said testator devised his messuage or dwelling-house
lands and hereditaments known as Throsby Park and containing by
grant from the Crown one thousand acres unto his wife during her
life if she should so long continue his widow (without impeachment of
waste) and subject to such estate and interest therein the said testator
devised the same together with other estates to his eldest son Charles
Throsby during his life (without impeachment of waste) and from and
immediately after his decease unto such one or more of his sons and
for such estate or estates and charged or chargeable with such sum or
sums of money in favor of and for the benefit of any one or more of
his sons and in such manner and form as his said son Charles Throsby
should by will appoint and in default of and subject to such appoint-
ment unto the sons of his said son Charles Throsby successively in
tail male And upon failure of issue male of his said son Charles unto
his second son James Throsby for his life with a like power of appoint-
ment in favor of his sons as was thereinbefore given to the testator's
son Charles in favor of his sons and in default of and subject to
such appointment to every son of the said testator's second son James
Throsby in succession in tail male so that every elder son of the
testator's said second son and his issue male might be preferred to every
younger son and his issue male and upon failure of issue male of his
said second son unto the said testator's several other sons successively
one

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one after another according to seniority for life (without impeachment of waste) with a like power of appointment by each of them successively in favour of their respective sons as thereinbefore given to his the said testator's said son Charles in favor of his sons And in default of and subject to such appointment to every son of his the said testator's said several other sons respectively in succession in tail male so that every elder son of his said other sons respectively and his issue male might be preferred to every younger son and his issue male and in default of issue of all his the said testator's sons unto his own right heirs for ever And whereas the said testator died on the twenty-seventh day of September one thousand eight hundred and fifty-four without having revoked or altered his said will so far as the same related to the hereinbefore recited devise and leaving his widow the said Elizabeth Throsby and his six sons Charles Throsby James Throsby Oliver Spencer Throsby Patrick Hill Throsby Archer Broughton Throsby and Nicholas Herbert Throsby him surviving which said six sons were born in the order of seniority in which they are abovenamed And whereas the said Charles Throsby eldest son of the said testator died on the ninth day of March one thousand eight hundred and fifty-nine and the said James Throsby on the twelfth day of July one thousand eight hundred and sixty and the said Oliver Spencer Throsby on the sixteenth day of June one thousand eight hundred and seventy-four all of them respectively without issue leaving the said Patrick Hill Throsby the eldest surviving son of the said testator and the said Patrick Hill Throsby has issue two sons And whereas the piece or parcel of land and hereditaments particularly mentioned and described in the Schedule hereto are and comprise a portion of the said testator's lands and hereditaments so devised as hereinbefore recited And whereas there is no power in the said will contained authorizing any person to grant leases of the premises so devised as hereinbefore recited or any portion thereof And whereas the said piece or parcel of land in the Schedule hereto set forth is of little value in the absence of any power of leasing the same And whereas the said piece or parcel of land is by reason of the construction of a public railway line and railway station adjacent thereto well adapted for and would become of permanent and considerably greater value if building and other leases could be granted and it would be for the benefit of all parties interested in the said piece or parcel of land and to the public that there should be a power of granting such building or other leases for long terms of years And whereas several allotments of land forming portion of the said piece or parcel of land in the Schedule hereto set forth have been from time to time demised by the said Elizabeth Throsby and the sons of the said Testator surviving at the time of such demise respectively to several persons for various terms and for the best yearly rent that could be obtained for the same and the said several persons have been in possession of the said lands so respectively demised to them as aforesaid for some time and have upon faith of such demises erected houses and other buildings thereon and have otherwise improved the said lands And whereas it is just and right that power should also be given to confirm the leases already granted as hereinbefore mentioned and to make good the title of the several lessees in and to the respective premises so demised to them as aforesaid Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by authority of the same as follows :—

Power to grant
building or other
leases.

1. It shall be lawful for the said Elizabeth Throsby during her widowhood with the concurrence of the person for the time being then next entitled to a life estate or any greater estate in the said piece

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piece or parcel of land and hereditaments mentioned in the said Schedule hereto or during the minority of any such person the guardian of his estate and after the death or marriage of the said Elizabeth Throsby then for such person so next entitled or his guardian to lease either the whole or any part of the said piece or parcel of land and hereditaments to any person who shall covenant to improve the same by erecting and building thereon any house or building and to repair and rebuild any house or building which shall be hereafter standing thereon or by otherwise expending in improvement such moneys as shall be deemed adequate to the interest to be parted with for any term not exceeding ninety-nine years for a building or twenty-one years for an agricultural or occupation lease to take effect in possession and not in reversion or by way of future interest so as there be reserved in every such lease the best yearly rent to be incident to the immediate reversion that can be reasonably obtained and to be made payable half-yearly or oftener without taking any fine or other benefit in the nature of a fine for the making thereof and so that there be contained in every such lease a condition of re-entry for non-payment of rent within a reasonable time to be therein specified or for non-observance or non-performance of covenants by the lessee and so that the lessee do execute a counterpart thereof and do thereby covenant for payment of the rent thereby reserved and be not by any express words therein made dispunishable for waste.

2. It shall be lawful for the persons in the preceding section mentioned to confirm any lease or agreement for a lease of any piece or parcel of land forming portion of the said piece or parcel of land and hereditaments in the said Schedule hereto mentioned already granted or made by the said Elizabeth Throsby and other persons as hereinbefore recited and thereupon all such leases and agreements shall be and remain in force as though they had been granted and made by virtue of this Act.

Power to confirm leases already granted.

3. This Act may be cited as "Throsby's Leasing Act."

Short title.

SCHEDULE.

ALL that piece or parcel of land situate lying and being in the parish of Bong Bong County of Camden and Colony of New South Wales and being portion of Charles Throsby's one thousand acre grant on the north of White's Creek Commencing at a point formed by the intersection of the centre of White's Creek with the south-eastern side of the Old Argyle Road and bounded on the south-west by said White's Creek south-easterly about five chains ninety links on the south-east by other part of said grant by lines partly fenced bearing north twenty-seven degrees forty-five minutes east fourteen chains forty-five links north thirty degrees east twelve chains seventy-two links and east twelve degrees north twenty chains fifteen links on the north-east by the road from Yarrowa and Burrowang bearing north thirty-eight degrees thirty minutes west seven chains ten links and on the north-west by the Old Argyle Road to Sutton Forest aforesaid bearing south-westerly forty-nine chains seventy links to the point of commencement and containing an area of about thirty acres to the said several dimensions a little more or less.