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# EDWARDI VII REGIS.

A.D. 1901.

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## No. 768.

An Act relating to Village Settlements.

[Assented to, December 21st, 1901.]

**B**E it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament of South Australia, as follows:

### PART I.

PART I.

#### PRELIMINARY.

**1.** This Act may be cited for all purposes as "The Village Settlements Act, 1901," and shall come into operation on the first day of January, one thousand nine hundred and two. Short title.

**2.** Part VII. of "The Crown Lands Amendment Act, 1893," and sections 2 to 11, inclusive, of "The Village Settlements and Reduction of Rents Amendment Act, 1895," are hereby repealed, but this repeal shall not affect any right or interest already created or existing, nor anything lawfully done or suffered under any of the sections hereby repealed. Repeal.

**3.** This Act is divided into six parts, relating to the following subject matters:— Division of Act into parts.

PART I.—Preliminary.

PART II.—Constitution of Associations and Districts:

PART III.—Valuations:

PART IV.—Leases:

PART V.—Irrigation Works:

PART VI.—General.

**4.** In

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## PART I.

## Interpretation clause.

4. In this Act, unless the context otherwise required—

“Association” means one of the Associations mentioned in section 5 hereof:

“Commissioner” means the Commissioner of Crown Lands:

“Inspector” means the Inspector of Village Settlements:

“Improvements” means substantial and permanent improvements consisting of buildings, fencing, dams, tanks, wells, drainage and irrigation works, clearing, grading, cultivating, planting with fruit trees, vines, grasses, or cereals:

“Irrigation works” means all channels, watercourses, machinery, and other property and improvements constructed or erected in the District of any Association for irrigation purposes and belonging to an Association:

“Part VII.” means Part VII. of “The Crown Lands Amendment Act, 1893”:

“Prescribed” means prescribed by any Crown Lands Act or regulation:

“Reserved lands” means the lands at the time of the passing of this Act reserved for or occupied by the Associations mentioned in section 5 hereof, or by the members thereof:

“Rules” shall mean the rules prescribed for the management of Associations:

“Trustees” means the trustees for the time being of an Association.

## PART II.

## PART II.

## CONSTITUTION OF ASSOCIATIONS AND DISTRICTS.

Certain associations to continue.

5. Notwithstanding such repeal as aforesaid, the constitution and registration of the following Village Associations, pursuant to the repealed sections, except so far as the same are altered or modified by this Act, are confirmed, and each of such Associations shall continue a body corporate, having perpetual succession, a common seal (of which the corporate name of the Association shall form part), and the right and liability to sue and be sued, and shall have and be subject to the rights, authorities, duties, and liabilities hereinafter appearing:—

The Lyrup Village Association:

The Pyap Village Association:

The Moorook Village Association:

The Kingston Village Association:

The Holder Village Association:

The Waikerie Village Association

The Ramco Village Association.

6. “The

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**6.** “The Companies Act, 1892,” shall not apply to any of the said Associations.

PART II.

Companies Act not to apply.

**7.** Out of the reserved lands the Commissioner shall set apart for the purposes of this Act—

Lands to be set apart.

- (1) Such land as he shall consider fit for horticultural purposes, hereinafter termed horticultural land :
- (2) Such land as he shall consider fit for agricultural purposes, hereinafter termed commonage land :
- (3) Land whereon any irrigation works are situated.

**8.** The Commissioner shall cause the lands so set apart to be sub-divided as follows:—The said horticultural lands into blocks of as nearly as practicable equal unimproved value, and of about ten acres in extent ; and the commonage land into one or more blocks of such area as he may determine.

Lands to be surveyed and sub-divided.

**9.** The lands set apart shall in each case form the District of the Association.

Districts of Associations.

## PART III.

PART III.

## VALUATIONS.

**10.** Upon the completion of such sub-division as aforesaid, separate valuations shall be made of—

Valuations.

- (a) The irrigation works in each such District :
- (b) The improvements (if any) on each of the said horticultural blocks in each District, hereinafter termed horticultural improvements :
- (c) The improvements (if any) on each of the blocks of the said commonage land in each such District, hereinafter termed commonage improvements :
- (d) All the personal estate belonging to each of the said Associations.

**11.** The said property mentioned in section 10 hereof is hereinafter together included in the term valued improvements.

Meaning of term, valued improvements.

**12.** If the Commissioner and any Association shall not forthwith after the completion of such sub-division agree as to such valuation the amount thereof shall be decided by arbitration, to be conducted pursuant to “The Arbitration Act, 1891,” one arbitrator being appointed by the Commissioner and the other by the Trustees of the Associations not so agreeing, or if no unanimous nomination be made, then by a majority of such trustees.

Arbitration in event of disagreement.

**13.** (1) The

*The Village Settlements Act.—1901.***PART III.**

Procedure on arbitration.

**13.** (1) The date for the appointment of arbitrators shall be fixed by the Commissioner by notice in the *Government Gazette*.

(2) The decision of the arbitrators or umpire shall be reported in writing to the Commissioner and to each Association concerned forthwith after the same shall have been arrived at.

Basis of valuation.

**14.** No improvement shall be valued at a sum in excess of the value thereof considered solely in connection with its worth to the Association or to the members thereof at the time of valuation.

Excess of debts over valuations to be written off.

**15.** The amount of such valuations in respect of the District of each Association determined as aforesaid shall be deemed to be the total indebtedness of such Association to the Commissioner, and the excess (if any) over such valuation due by Association to the Commissioner shall in each case be deemed to be written off.

Sums so written off to be provided in Estimates.

**16.** The aggregate amount of the sums so written off, and also the total indebtedness of any settlement which has been or may hereafter be closed, shall be provided for in seven equal parts by the Treasurer on the Estimates during the seven years next following the year in which the decision of the arbitrators or umpire shall have been arrived at.

**PART IV.****PART IV.****LEASES.**

Determination of occupation.

**17.** (1) When the amount of the valuation in a District shall have been agreed or fixed, the Governor may by Proclamation determine the occupancy by any person or Association of the reserved land in such District, and thereupon such reserved lands shall revert to the Crown free from encumbrance.

Horticultural blocks to be leased to members of Association.

(2) The Commissioner shall forthwith lease such of the horticultural blocks in the District of each Association whose occupation shall have been so determined as he may think fit to individual members of such Association on perpetual lease, subject as hereinafter appears.

(3) The Commissioner may from time to time lease any of such blocks to a person not a member of any such Association, and thereupon such person shall be deemed for all purposes to become a member of the Association within whose District such block is situated.

(4) Not more than two blocks shall be leased to or held by the same member, and each lessee shall hold his block for his individual use and enjoyment.

(5) The Commissioner may, on granting any such lease, obtain from the lessee such premium (if any) as he may think fit, and any such premium shall be the property of the Association within whose District the land so leased is situated.

(6) The

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## PART IV.

(6) The said commonage lands shall be leased to and held by the respective Associations within whose District such lands are respectively situate on perpetual lease, subject as hereinafter appears.

Commonage lands to be leased to Associations.

18. The annual rent to be reserved by any such lease, whether of horticultural blocks or commonage lands, shall be fixed by the Land Board, and shall commence at a date to be fixed by the Commissioner.

Rent of horticultural and commonage lands.

19. The expression "lessee" whenever used in this Act shall include the executors, administrators, and assigns (voluntary and involuntary) of such lessee.

Definition of term "lessee."

20. The amount of the valuation of the improvements, excepting buildings, which shall be valued separately on each horticultural block, together with interest on such amount at the rate of Four Pounds Ten Shillings per centum per annum (all hereinafter included in the term "the members' debt") shall be a first charge upon such blocks respectively, and shall be deemed a debt due by the lessee thereof for the time being, and shall be paid to the Commissioner by the lessee by forty-two annual instalments, to be calculated at the rate of Five Pounds Fourteen Shillings and Six Pence per centum of such amount and interest, the first of such payments to be made on first day of January, one thousand nine hundred and four: Provided that the lessee may pay the whole or any portion of the balance due at any time during the term of the lease.

Value of improvements on each horticultural block, and interest thereon, a charge on that block, repayable by forty-two annual instalments.

21. The amount of the valuation of the irrigation works, the improvements on the commonage lands, and the personal estate as aforesaid of, or in the District of, any Association, together with interest on such amount at the rate of Four Pounds Ten Shillings per centum per annum (all hereinafter included in the term "the Association's debt"), shall be a first charge upon all the property of and shall be deemed a debt due by such Association, and such amount and interest shall be paid to the Commissioner by such Association by forty-two annual payments, to be calculated at the rate of Five Pounds Fourteen Shillings and Six Pence per centum of such amount and interest, the first payment to be made on the first day of January, one thousand nine hundred and four. If and so often as an Association shall fail to duly make such annual payment, the same shall be recoverable from the members of such defaulting Association, each member being liable to pay a proportion thereof, such proportion to be ascertained by dividing the amount of such annual payment (or the unpaid balance thereof) by the number of members of such Association at the time when the default occurred, and such proportion shall also be a charge upon the block of each such member, subject only to the charge created by section 20 hereof: Provided that the lessee may pay the whole or any portion of the balance due at any time during the term of the lease.

Value of irrigation works and of improvements on commonage lands and interest a charge on the property of Association, repayable in forty-two annual instalments.

If Association defaults, members liable for limited proportion.

22. Every

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Provisions respecting leases of horticultural blocks.

**22.** Every lease of a horticultural block granted pursuant to this Act shall be prepared by the Commissioner and be executed by the lessee within the time and in manner prescribed, and shall contain such covenants, conditions, and reservations as the Commissioner shall determine, and every such lease shall contain the right to assign the same with the consent of the Commissioner of Crown Lands.

Provisions respecting leases of commonage lands.

**23.** Every lease of commonage land granted pursuant to this Act shall be prepared by the Commissioner, and be executed by the Association within the time and in the manner prescribed, and shall contain such covenants, conditions, and restrictions as the Commissioner shall determine.

Lessee's interest may be forfeited.

**24.** If the lessee fails to comply with the provisions of this Act or of his lease in any respect, the Commissioner may, on sufficient proof thereof to the satisfaction of the Commissioner, forfeit the interest of the lessee in the block, and the Commissioner may cause such interest to be sold or disposed of to any person who is qualified to become a member of the said Association on such terms as he shall think fit. Any person so acquiring such block shall be deemed to stand in the position of the original lessee, and, if not already a member, shall be deemed to be one.

**PART V.**

Irrigation works vested in Commissioner.

To vest in Associations when debts satisfied.

Water in irrigation works vested in Associations.

Associations to manage irrigation works subject to Commissioner

**PART V.****IRRIGATION WORKS.**

**25.** (1) The property in all irrigation works is hereby vested in the Commissioner for the purposes of this Act.

(2) When the charges imposed by sections 20 and 21 hereof shall have been satisfied in respect of all the land in any District the Governor shall, by Proclamation, vest in the Association of that District the irrigation works within such District for the purposes of this Act, and such irrigation works and the Association within whose District the same are shall no longer be subject to any direction, control, or management by the Commissioner.

**26.** All water from time to time in the said irrigation works shall be the property of the respective Associations within whose Districts such irrigation works are situate, and shall be used by them for the purposes of this Act.

**27.** (1) The control and management of the irrigation works, including all extensions of or alterations and additions thereto, and the collection and distribution of the water by and through the irrigation works, shall belong to and be exercised by the Association in whose District such works are situate respectively, but subject to the direction of the Commissioner, who may at his discretion, at any time and from time to time, assume the control and management thereof, to the exclusion of the Association concerned.

(2) Each

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(2) Each Association shall at all times keep the irrigation works within its District in thorough repair and maintain and renew the same as occasion requires, all to the satisfaction of the Commissioner.

Associations to maintain, repair, and renew irrigation works.

(3) The expenses incurred by any Association or by the Commissioner in such control, management, maintenance, renewal, and repair (hereinafter termed the "irrigation expenses"), shall be payable by the members of such Association equally, as and when the Commissioner may from time to time determine. In the event of dispute, the decision of the Commissioner as to the proportion of such irrigation expenses to be paid by each member shall be final.

Expenses in respect of irrigation works payable by members.

**28.** The business and affairs of each Association shall, subject in all things to the approval of the Commissioner and to this Act and to rules, be managed by a Board to be appointed in manner prescribed.

Management.

**29.** The Commissioner shall have the following powers with respect to any Association whilst the whole or any part of the debts or amounts referred to in sections 20 and 21 shall remain unpaid:—

Powers of Commissioner.

- i. He may expel any member from an Association, and may summarily eject and remove such member from the District of such Association: Provided that this power shall only be exercised in cases where notice shall have been given by the Commissioner to the trustees requiring the expulsion of the member under the rules, and default shall have been made in such expulsion for at least fourteen days after such notice. Should the Association appeal against the decision of the Commissioner it shall be entitled to nominate an arbitrator, who, with one to be appointed by the Commissioner, shall have power to reconsider and may reverse the action of the Commissioner. Should they fail to agree the arbitrators shall nominate an umpire, whose decision shall be final:
- ii. He may control and direct the expenditure of any moneys by Associations:
- iii. He may call upon any trustee of any Association to retire from office in any case where, in his opinion, it is desirable for the welfare of the Association that such trustee should so retire, and such trustee shall retire accordingly:
- iv. He may require any Association to increase the number of members, and, if any such requisition is not complied with within six calendar months after the date of service of such requisition upon the Association, may cancel the lease to such Association:
- v. He may from time to time make, amend, and repeal such rules as he shall consider necessary for the management of the

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the Association, and for the regulation, maintenance, and control of the irrigation works, and for the supply of water for irrigation and other purposes, and for the payment of all expenses incident thereto, and generally for the better carrying out of the purposes of this Act.

Prior rules continued and rules to be prepared.

**30.** Until rules shall be made by the Commissioner all rules of any Association in force at the passing of this Act, and valid and issued or made under the provisions of the said repealed sections, or any of them, shall be and continue in force. Rules in accordance with the provisions of this Act shall be prepared.

Members' past credits written off.

**31.** No past or present member of an Association shall have any claim against such Association in respect of any credits or sums owing or accruing, or appearing to be owing or accruing, by the Association to such member prior to the coming into operation of this Act, and any such credits shall be deemed satisfied.

No further advances to Associations.

**32.** No advances or allowances shall be made by the Commissioner to any Association after the thirty-first day of December, one thousand nine hundred and one.

Lessee not to remove, destroy, or injure improvements while moneys owing.

**33.** So long as the whole or any part of the debts or amounts referred to in sections 20 and 21 remain unpaid it shall not be lawful for the lessee of any horticultural block to pull down or remove from the land whereon the same shall be, or knowingly suffer to be pulled down or removed, or wilfully or knowingly destroy, damage, or injure, or suffer to be destroyed, damaged, or injured, any permanent building, erection, or irrigation work erected or made upon the land in the District of any Association, without the consent of the Commissioner in writing first had and obtained. Any person offending against the provisions of this section shall forfeit his lease, and shall be guilty of a misdemeanor, and punishable, on conviction, by imprisonment, with or without hard labor, for any term not exceeding two years.

Appointment of inspector.

**34.** The Governor may appoint an officer, to be styled "The Inspector of Village Settlements," to assist the Commissioner in the execution of this Act.

Management of commonage lands.

**35.** (1) The commonage lands so to be leased to each Association as aforesaid shall be under the control and management of the Association within whose District the same are respectively situated, but subject to the direction of the Commissioner, and shall be worked by such respective Associations for the common good and benefit of the members thereof respectively upon the principles of co-operation and equitable division.

Members to contribute labor.

(2) Every member of each such Association shall provide or contribute towards the maintenance and working of the irrigation works and the care and cultivation of the commonage lands of the Association whereof he is a member such labor (not being less than **thirty-six**



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thirty-six days during every successive period of six months while he shall be a member) as the Commissioner shall require, or such sum in cash as the Commissioner may consider the equivalent of such labor, and every such member shall be entitled to credit in the books of the Association for the value of such work as such value shall be assessed by the Commissioner, or for such cash, as the case may be.

**36.** Each Association shall cause an account to be prepared once in every year of the working of the said commonage land, showing therein all expenditure and income in connection therewith, including the amount of the assessed value of the members' labor, and after making provision to the satisfaction of the Commissioner for rent, working expenses of the commonage lands (including a proportion of the irrigation expenses), and for depreciation and renewal of the plant, tools and live stock of, and the irrigation works in the District of, the Association, the surplus (if any), after deducting twenty-five per centum therefrom for a sinking fund for renewal of plant, *et cætera*, may be divided amongst those persons who are then members of such Association respectively, in proportion to the amount of their respective credits in the books of the Association for earnings since the coming into operation of this Act. A copy of each such account, certified to by the trustees of the District to which the same relates, shall be forwarded to the Commissioner.

Commonage lands accounts.

**37.** All disputes of a civil nature between members arising out of the affairs of the Association shall be settled by arbitration and umpirage of any three or more members not parties to such disputes, in manner provided by the rules, and the parties thereto shall not be entitled to maintain any action in respect of such disputes except for the amounts determined by the award. In case of difference the decision of a majority of such members shall be valid and effectual.

Arbitration.

**38.** Any process or document served upon a trustee of any of the said Associations shall be deemed to have been served upon the Association.

Service of proceedings on Association.

**39.** The proportion of irrigation expenses and the annual instalments of the Association's debts and of the members' debts payable by any Association or by any member of an Association shall, amongst other ways, be recoverable by distress and sale of the goods and chattels of the Association or person in default, together with such charges as may be prescribed.

Annual instalments of charge and irrigation expenses recoverable by distress.

**40.** Notwithstanding the charge imposed by sections 20 and 21 hereof any Association, with the prior consent, in writing, of the Commissioner (which he is hereby authorised to give on such terms as he may think fit), may in the ordinary course of business sell or dispose of any of the goods, chattels, and effects of such Association free from such charge.

Associations may, with Commissioner's consent, dispose of goods, etc., notwithstanding charge thereon.

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Documents furnished  
to Commissioner open  
to public inspection.

**41.** Every memorandum filed for the purposes of forming an Association, and every copy of the rules of the Association, and all the accounts of the Association rendered to the Commissioner, shall be open to public inspection on payment of Two Shillings for every such inspection.

*Gazette* evidence of  
Proclamation and  
facts.

**42.** The *Government Gazette* containing any Proclamation or Order made by the Governor under this Act shall be conclusive evidence of the fact, tenor, and validity of such Proclamation or Order, and shall be evidence of the facts stated, recited, or assumed therein; and no such Proclamation shall be invalid by reason of anything required as preliminary thereto not having been done or not having been duly done.

In the name and on behalf of His Majesty, I hereby assent to  
this Bill.

TENNYSON, Governor.