

**BERMUDA**

1920—No. 25.

**THE BERMUDA DEVELOPMENT COMPANY
ACT, (No. 2), 1920.**

(26th August, 1920).

WHEREAS Furness Withy and Company, Limited, of London, England, petitioned the Legislature of these Islands in February last for the passing of an Act to provide for the incorporation of a local company to be called The Bermuda Development Company, Limited, with the object of developing the tourist and hotel business in these Islands, and praying that such Company should be empowered to acquire certain lands in Tucker's Town and the vicinity in the manner set forth in the Petition, except such lands as the Company should purchase at private sale:

AND WHEREAS subsequently to the presentation of the said Petition it was decided that it would be preferable to have one measure providing for the incorporation of the Company and matters incidental thereto, and another measure dealing with the acquisition of the lands required by the Company:

AND WHEREAS an Act has recently been passed by the Legislature providing for the incorporation and management of the Bermuda Development Company, Limited, and other matters incidental thereto, and it is expedient to confer on that Company the powers hereinafter contained

for the acquisition of the lands required by the Company for carrying on the business of the Company:

Be it, therefore, enacted by the Governor, Legislative Council and Assembly of the Bermudas or Somers Islands as follows:--

Interpretation.

1. In this Act and in any amending Act the following expressions and words shall, where not inconsistent with the context, have the meanings respectively assigned to them in this section:--

"the Company"

(1) "the Company" means the "Bermuda Development Company, Limited," when it shall have become a body corporate under that name under the provisions of the second section of the previous Act.

"the Commissioners"

(2) "The Commissioners" means the Commissioners appointed by the Governor under this Act, and for the time being holding office by virtue of such appointment.

"Rules"

(3) "Rules" means Rules of procedure made by the Commissioners under the authority of this Act, and includes any of such Rules.

"prescribed"

(4) "prescribed" means prescribed by this Act, or by the Rules, or by any order or direction of the Commissioners made or given under the authority of this Act or of the Rules.

"land required by the Company"

(5) "land required by the Company" means the lands described in the First Schedule to this Act, and includes any part of such lands.

"reputed owners"

(6) "reputed owners" means with reference to any land required by the Company, the persons reputed or claiming, to the knowledge, information or belief of the Company, to be the owners or part owners thereof, or to be entitled to any estate or interest therein, and includes any one reputed owner or claimant.

"owners"

(7) "owners" means with reference to any land required by the Company, the persons who make a satisfactory title thereto in fee simple, or in fee simple conditional, as the case may be, and includes any person who makes such title to the whole or any part of such land, or to any estate or interest therein.

"the previous Act"

(8) "the previous Act" means The Bermuda Development Company Act, 1920.

(9) "the Office of the Company" has the same meaning as in the previous Act. "the Office of the Company"

(10. "counsel" means any person enrolled as a barrister and attorney of the Supreme Court of Bermuda. "counsel"

(11) "Court" when used in connection with the payment of money into Court means the Supreme Court of Bermuda. "Court"

2. (1) The Governor is hereby empowered to appoint by a Commission under the Great Seal of these Islands three Commissioners for the purposes hereinafter expressed, one of whom the Governor may nominate as Chairman, and if either of such Commissioners shall die, resign, quit these Islands, (except on temporary leave of absence), or be removed from office by the Governor before the Commissioners have completed their duties under this Act, the Governor is empowered to appoint by endorsement on the Commission, or otherwise, another person as Commissioner in his place. Appointment of Commissioners,

(2) Each of the Commissioners shall, before entering on the performance of his duties under this Act, be sworn before the Governor faithfully to discharge such duties according to the best of his judgment, and without favour or partiality to the Company or to any of the owners of any of the land required by the Company. Commissioners to be sworn.

(3) The remuneration of the Commissioners shall be subject to the approval of the Governor, and shall be paid as part of the expenses of the administration of this Act. Remuneration of Commissioners,

3. (1) The Commissioners shall not be appointed until the Company has given security in a form approved by the Governor for the payment of the expenses of the administration of this Act. Company to give security for expenses.

(2) To meet such expenses the Company shall deposit in one or both of the local incorporated Banks, in the name of "The Commissioners under the Bermuda Development Company Act," such sums of money as the Commissioners shall from time to time direct, which shall thereupon be at the disposal of the Commissioners for the purpose of defraying the expenses of the administration of this Act. Money to be deposited in Bank to meet expenses.

(3) If the Commissioners shall at any time report to the Governor that the Company has failed to comply with the provisions of the last preceding subsection the Governor may by notice in the Gazette suspend the On failure of Company to make deposits Act may be suspended.

operation of this Act until such provisions have been complied with by the Company.

Commissioners to keep accounts to be Audited.

4. (1) The Commissioners shall keep accurate accounts of the expenses of the administration of this Act, and such accounts shall be audited at such intervals as shall be mutually arranged between the Commissioners and the Company by an Auditor appointed by the Commissioners and approved by the Company

Remuneration of Auditor.

(2) The remuneration of the Auditor shall from time to time be fixed by the Commissioners, and shall be paid as part of the expenses of the administration of this Act.

Copies of accounts to be furnished to Company prior to audit.

(3) Three days at least prior to each audit a copy of the accounts to be audited shall be forwarded by the Commissioners to the Office of the Company, and the Company may at any time prior to the audit submit in writing to the Auditor any objections which the Company has to any of the items in such accounts, with the reasons therefor, and such objections shall be considered and dealt with by the Auditor, whose decision shall be final, unless the Commissioners, on the application of the Company, shall otherwise direct, in which case their decision shall be final

Appointment of Secretary and other assistants.

5. (1) The Commissioners may also appoint a Secretary, and employ such other clerical and expert assistants as they shall deem necessary for the efficient performance of their duties under this Act, and may from time to time fix their remuneration, and the remuneration of the Secretary and of such assistants, and the travelling expenses of the Commissioners and their employees as determined by the Commissioners shall be paid as part of the expenses of the administration of this Act

Legal assistance provided for.

(2) The Commissioners may also procure such legal assistance as they may require in the preparation of any notices, orders, forms or other documents required or authorized by this Act to be given, made or prepared by the Commissioners, or which they may otherwise deem expedient, and may also obtain the opinion of counsel on any matters connected with the performance of their duties under this Act, and all charges and expenses thereby incurred shall be paid as part of the expenses of the administration of this Act

PROCEDURE THROUGH COMMISSIONERS

Procedure for acquisition of land through Commissioners.

6. The procedure for the acquisition of any land required by the Company, other than land purchased at private sale or at auction shall be as follows:—

(1) The Company shall give notice to the Commissioners in the Form A in the second Schedule to this Act with the particulars prescribed therein, which notice is hereinafter referred to as the Notice A.

Company to give Notice A to Commissioners.

(2) As soon as conveniently may be after the receipt of the Notice A the Commissioners shall fix a place and time for dealing with the proposed acquisition by the Company of the premises therein described, (hereinafter referred to as "the hearing," which shall include any adjournment thereof), and shall give written notice thereof to the Company.

Commissioners to fix time for hearing.

(3) Within three days after the receipt by the Company of the notice of the hearing a copy thereof and also a copy of the Notice A shall be served by the Company on each of the reputed owners, named in the Notice A who are resident in these Islands, and on the known attorney or agent in these Islands of any such reputed owner who is absent from these Islands, by delivering such copies to such owners, attorney or agent personally, or to some person at their or his usual place of abode in these Islands, and a written certificate of such service signed by the person effecting the same shall be delivered to the Commissioners at the hearing, and shall be prima facie evidence of such service.

Company to serve owners with notice of hearing and Notice A.

(4) If the Company is from any cause unable to effect such personal service within the prescribed time, the Commissioners may direct service in such other manner as they shall deem expedient, and such service shall be deemed sufficient, and a written certificate thereof signed by the person effecting the same shall be delivered to the Commissioners at the hearing, and shall be prima facie evidence of such service.

Alternative mode of service.

(5) If at any time after the Notice A has been given to the Commissioners they shall be credibly informed, either before, at or after the commencement of the hearing, that there are in these Islands reputed owners of the premises in question other than those named in the Notice A, and information is then or afterwards furnished to the Commissioners as to the names and places of residence of such other reputed owners or any of them, the Commissioners shall direct such steps to be taken by the Company as the Commissioners shall deem expedient to apprise such other reputed owners or any of them of the proceedings for the acquisition by the Company of the premises in question, and it shall be the duty of the Company to comply with such directions as far as practicable; and if thereafter such other reputed owners or any of them, or any other persons claiming to be owners of, such premises, shall appear personally or by counsel at the hearing the procedure hereinafter prescribed with respect to the appearance at the hearing of the

Provision as to reputed owners not named in Notice A.

reputed owners named in the Notice A shall be followed as to such other reputed owners or claimants to the extent applicable to the altered circumstances.

Procedure on appearance of reputed owners at hearing.

(6) At the hearing the reputed owners may appear personally or by counsel and inform the Commissioners verbally or in writing what estates or interests they claim in the premises in question and how the same were acquired, and also whether they accept or decline the offer of the Company for the purchase of the said premises at the price stated in the Notice A, or a proportionate part thereof according to the extent of their estates or interests, and if they decline such offer at what price (if any) they are prepared to sell the same, and on what other terms and conditions (if any) the Company may acquire the said premises or such estates or interests therein.

Procedure on appearance of Company at hearing.

(7) At the hearing the Company may appear by any of its officers or directors or by counsel and, in the event of the reputed owners declining the offer of the Company for the premises in question, may take such part in the proceedings as the Commissioners may permit with the view of arriving at an agreement for the acquisition of such premises by the Company on such terms and conditions as shall be mutually acceptable to the reputed owners and the Company.

Procedure if agreement arrived at at hearing.

(8) If the hearing results in an agreement being arrived at for the purchase or acquisition by the Company of the premises in question from the owners thereof, or of the estate or interest therein of any of such owners, such agreement shall be binding on the Company, and on the owners who are parties thereto and their respective heirs and assigns. The particulars of such agreement shall be noted in the minutes of the proceedings, and the Commissioners shall then or within three days thereafter have prepared and sign a Memorandum of the terms of such agreement, which shall be conclusive evidence, as between the owners who were parties to the agreement and the Company, of the terms of such agreement; provided always that if the Commissioners shall afterwards be satisfied, on the representation of any party to the agreement or otherwise, that the terms of the agreement are not correctly stated, or not fully stated, in the Memorandum, the Commissioners shall have prepared and sign an amended Memorandum, containing the correct and full terms of the agreement, and in such case such amended Memorandum shall be conclusive evidence, as between the owners who were parties to the agreement and the Company, of the terms of such agreement, and such owners and the Company shall, on request, be entitled to receive from the Commissioners a copy of such Memorandum or amended Memorandum as the case may be.

(9) Within such period as the Commissioners shall prescribe after any such agreement as is referred to in the last preceding subsection has been arrived at the owners who were parties thereto shall furnish in writing to the Commissioners full particulars of their title to the premises in question, or to such part thereof, or such estate or interest therein, as they claim title to, and shall leave with the Commissioners, for examination by the Company or its counsel, all deeds and documents of title in the possession or power of such owners or any of them relating to the said premises, or if such deeds or documents or any of them are not in the possession or under the control of such owners, or any of them, they shall give such information as they have concerning them to the Commissioners or to the Company or its counsel, and shall render any assistance in their power to secure the examination of such deeds or documents by the Company or its counsel.

Owners, parties to agreement, to furnish particulars and evidence of title.

7. (1) If no agreement is arrived at under the provisions of the last preceding section, the Commissioners may make such increase in the price offered by the Company in the Notice A as they shall consider just and reasonable under the circumstances, and such increased offer shall be binding on the Company, and shall thereupon, or at an adjourned hearing, at the discretion of the Commissioners, be submitted to the reputed owners, and the procedure prescribed by subsections (6), (7), (8) and (9) of the last preceding section shall be followed to the extent to which the same is applicable to the altered circumstances, or otherwise as the Commissioners shall prescribe.

Procedure if no agreement arrived at.

(2) If all the owners of the premises in question do not appear personally or by counsel at the hearing, the procedure prescribed by the said subsections (6), (7), (8) and (9) shall be followed with reference to those of the owners who appear personally or by counsel, unless the Commissioners shall deem it expedient to adjourn the hearing for the attendance of the other owners or any of them.

Procedure if all owners do not appear at hearing.

8. (1) If, after the investigation of the title of the owners who were parties to any such agreement as is referred to in either of the last two preceding sections, the Company shall be advised by counsel that such owners, or any of them, have not made a satisfactory title to the premises in question, the Company may by written notice to the Commissioners decline to carry out the terms of such agreement as to the purchase or acquisition by the Company of the share or interest of any of the owners with regard to whom the Company has been so advised, but such action on the part of the Company shall not affect the rights under such agreement of any other owners who are parties thereto. In any such case the Company shall furnish to the Commissioners, for their information only, a copy of the counsel's opinion on which the Company has taken such action.

Procedure if owners do not make satisfactory title.

(2) In any case in which the Company shall have given to the Commissioners the notice provided for in the last preceding subsection, and in which such notice does not refer to the title of all the owners who were parties to the agreement, the Commissioners may, if the agreement included the fulfilment by the Company of any terms or conditions other than the payment of the price, and if the Commissioners shall therefore deem it expedient, have a further hearing in the matter, after giving at least three days' written notice thereof to the Company and to such of the reputed owners who were parties to such agreement as the Commissioners shall consider necessary, and at such hearing the Commissioners shall have power to make such alterations in such terms or conditions as shall appear to them just and reasonable having regard to the altered circumstances, and such alterations shall be binding on the Company and on the owners who are thereby affected.

Commissioners may make vesting orders of same effect as deeds of conveyance.

9. (1) If, after the investigation of the title of the owners who were parties to any agreement made under the provisions of the sixth or seventh sections of this Act, the Company shall give written notice to the Commissioners that the Company is prepared to complete the purchase from all of such owners of the premises in question on the terms contained in such agreement, the Commissioners shall, on such terms being complied with by the Company, make an order in writing under their hands and seals vesting such premises in the Company its successors and assigns, in fee simple, or in fee simple conditional, as the case may be, and such order shall be of the same force and effect in all respects as if the owners who were parties to the agreement and the wife of every such owner entitled to any dower right in such premises had duly executed a proper deed of conveyance of the premises in question to the Company its successors and assigns in fee simple, or in fee simple conditional, as the case may be.

(2) The provisions of the preceding subsection shall apply mutatis mutandis in any case in which the Company shall give written notice to the Commissioners that the Company is prepared to complete the purchase of the shares or interests of only some of the owners of the premises in question, specifying which, and to pay into Court the proportion of the agreed price payable under the agreement to the other owner or owners, and on proof to the satisfaction of the Commissioners that such payment into Court has been made by the Company.

General powers of Commissioners to adjust differences between Company and owners.

10. The Commissioners shall, without prejudice to their other powers under this Act, have a general discretionary power to take such steps as they shall deem expedient with the object of adjusting any differences which may arise between the Company and the owners, or the reputed owners,

or any or either of them, as to the acquisition of any land required by the Company, in connection with any hearing before the Commissioners under this Act.

11. The Commissioners, and all persons authorized by them in this behalf, shall have the right of entry, at any time between nine o'clock in the morning and five o'clock in the afternoon, on any land required by the Company for the purposes of inspecting the same and any buildings thereon and of making such inquiries relative thereto as the Commissioners shall deem expedient in connection with any hearing before them under this Act; and any person wilfully obstructing the Commissioners, or any person authorized by them as aforesaid, in the exercise of the powers conferred on them by this section shall, on summary conviction before a Justice of the Peace, be liable to a fine of ten pounds and costs of prosecution.

Right of entry on land for inspection and inquiry.

12. The Commissioners may make Rules, not inconsistent with this Act, regulating the procedure before them under the foregoing provisions, and proceedings incidental to such hearings, and may prescribe forms for use in connection therewith, and may from time to time alter, amend, add to or revoke such Rules and forms as occasion may require, and such Rules, and such alterations thereof or amendments or additions thereto and revocations thereof shall become operative on being approved by the Governor-in-Council and published in the Gazette, and printed copies of such Rules and of any alterations or amendments thereof or additions thereto or revocations thereof shall be provided by the Commissioners for use in connection with the proceedings before the Commissioners under this Act.

Commissioners may make Rules of procedure and prescribe forms.

12a. If any hearing before the Commissioners under the foregoing provisions of this Act results in no agreement being arrived at for the purchase or acquisition by the Company of the premises in question, or of the estate or interest therein of some of the reputed owners thereof, the compensation to be paid by the Company for such premises, or for such estate or interest of such reputed owners, as the case may be, shall be inquired of and assessed by a Jury under the provisions hereinafter contained unless, within one week after the conclusion of such hearing, the Company or such reputed owners shall give to the Commissioners a notice in writing that the Company, or such reputed owners, as the case may be, require the question of compensation to be settled by arbitration, in which case such question shall be so settled under and in accordance with the provisions of the next succeeding section of this Act, unless it shall be otherwise mutually agreed between the Company and such reputed owners.

Assessment of compensation by Jury.

PROCEDURE BY ARBITRATION.

Incorporation of sections 15 to 25 of Act of 1882, No. 25.

13. (1) For the purpose of settling by arbitration questions of compensation which under this Act are required to be so settled, the provisions of sections 15 to 25, both inclusive, of The Public Land Act, 1880, are hereby incorporated with this Act, and shall have effect to the same extent in all respects as if the same were re-enacted herein with the substitution of "Company" for "Colonial Surveyor," and "Commissioners" for "Governor" in section 15, and "Company" for "Public Treasury" in section 23, and "Company" for "Colonial Surveyor" in section 24; and the expression "the Special Act" in any of the said sections shall be construed as referring to this Act.

Procedure where arbitrators fail to appoint umpire.

(2) If, where two arbitrators have been appointed they shall, for the space of fourteen days after their appointment, fail to appoint an umpire, the Commissioners shall appoint an umpire who shall have the same powers as if he were appointed by the arbitrators under the provisions of the 17th section of The Public Land Act, 1880, as incorporated in this Act.

Interpretation of "arbitrator."

(3) The word "arbitrator" in section 23 of the said Act shall be construed as including the arbitrators if more than one, and the umpire if the award is made by him.

Exclusion of persons interested from serving as arbitrator or umpire.

(4) No person who is an owner, part owner, or mortgagee of, or entitled to any beneficial estate or interest in, any of the lands required by the Company shall be eligible to serve as an arbitrator or umpire in respect of any arbitration, and if any such person shall so serve he shall be liable, on summary conviction by a Court of Summary Jurisdiction consisting of a Police Magistrate and any two Justices of the Peace, (neither of whom shall be an owner, part owner, or mortgagee of, or entitled to any beneficial estate or interest in, any of the lands required by the Company), to a fine of one hundred pounds and costs of prosecution.

Procedure where an ineligible arbitrator or umpire has served.

(5) If any person who under the provisions of the last preceding subsection is ineligible to serve as an arbitrator or umpire, shall so serve, the Company may at any time prior to, or within two months after, the making of the award give notice in writing to the Commissioners that the Company declines to be bound by the award of the arbitrators or umpire, as the case may be, and in such case the Commissioners, if satisfied as to such ineligibility shall order that the arbitration, if still pending, shall not be further proceeded with, or, if the award has been made, that the same shall be null and void; and in such case the like procedure shall be had as if the arbitration proceedings had not been commenced.

(6) Within one week after an award has been made under the foregoing provisions of this section the owners of the premises in question shall furnish in writing to the Company full particulars of their title to such premises, or to such part thereof or such estate or interest therein, as they claim title to, and shall submit to the Company, for examination by the Company or its counsel, all deeds and documents of title in the possession or power of such owners or any of them relating to the said premises, or if such deeds or documents or any of them are not in the possession or under the control of such owners, or any of them, they shall give such information as they have concerning them to the Company or its counsel, and shall render any assistance in their power to secure the examination of such deeds or documents by the Company or its counsel.

Particulars of title to be furnished by owners to Company.

(7) If after the investigation of the title of the persons claiming to be owners of the premises in question the Company shall be advised by counsel that such persons, or any of them have not made a satisfactory title to the premises in question, the Company may give written notice to that effect to the persons who have not made a satisfactory title to such premises, or to any part thereof, or to any estate or interest therein, and that the Company will pay to the owners who have made a satisfactory title to such premises, or to some part thereof, or some estate or interest therein, their proportionate part of the amount awarded by the arbitrators or umpire, as the case may be, and will pay the remainder of the amount so awarded into Court for the use of the other owners of such premises; and on the Company completing the purchase of the shares, estates or interests of those of the owners who have made a satisfactory title, and paying into Court the remainder of the amount awarded, the Company shall be entitled to the possession of the premises in question.

Procedure where satisfactory title is not made out.

PROCEDURE BY JURY.

14. (1) The Justices of the Peace respectively having the custody of the Registers of Jurors for the parishes of St. George, Hamilton and Smiths shall, on the request of the Commissioners, furnish them, with a list of the Special Jurors on the respective Registers of Jurors for those parishes.

Commissioners to be furnished with names of Special Jurors on St. George and Hamilton and Smiths parishes.

(2) The Commissioners shall select from the persons named in such lists thirty-six persons who in the opinion of the Commissioners are specially qualified to perform the duties of Jurors for the purposes of this Act, and who, as far as the Commissioners can ascertain, are not owners or mortgagees of, or entitled to any beneficial estate or interest in, any of the land required by the Company, and subject to the provisions hereinafter contained such

Selection of Jurors to serve for purposes of Act.

persons shall be liable to serve as Jurors for the purposes of this Act, and the Commissioners shall give to each of such Jurors written notice of his selection as a Juror for such purposes.

Jurors may be relieved from service by Commission.

(3) If within seven days after the service of such notice any such Juror shall inform the Commissioners that he desires, for specified reasons, to be relieved from serving as a Juror, and shall satisfy the Commissioners that he has reasonable grounds for not serving in that capacity, the Commissioners shall relieve him from such service, and shall select from the persons named in the said lists another person to fill his place, who shall be given a like notice of his selection, and who may in like manner be relieved from service, and so on until there are thirty-six persons available to serve as Jurors.

Remuneration of Jurors and their travelling expenses.

(4) Every Juror serving under this Act shall be entitled to receive the sum of sixteen shillings for every day on which he has attended the inquiry on which he has been summoned to serve as a Juror, and shall also be entitled to receive such allowance for his travelling expenses as the Commissioners shall prescribe, either generally or with reference to any special case.

Mode of settling compensation by a Jury.

15. Whenever any question of compensation is to be settled under this Act by a Jury the procedure shall be as follows:—

Commissioners to give notice for drawing Jury.

(1) The Commissioners shall fix a place and time for drawing the Jury, and shall have at least two days' written notice thereof served on the Company and on each of the reputed owners of the land in question, or on such of them as the Commissioners shall ascertain to be resident in these Islands, and, in the case of any absent reputed owner, on any known attorney or agent of his in these Islands, and a written certificate of such service signed by the person effecting the same shall be prima facie evidence of such service.

Service of notice in special cases.

(2) If the Commissioners are satisfied that from any cause personal service cannot be effected on any such reputed owner, or known attorney or agent, the notice shall be served in such manner as the Commissioners shall direct, and a compliance with such direction shall be deemed sufficient service.

Drawing of Jury.

(3) At the appointed place and time, or as soon thereafter as conveniently may be, the Commissioners shall proceed with the drawing of the Jury in the presence of such of the reputed owners and such of the representatives of the Company as are present, or represented by counsel.

(4) The names of the thirty-six Jurors each written on a separate piece of paper, all of such papers being of the same size and description and similarly rolled up or folded so as to conceal the names of the Jurors, shall be placed in a box and shaken up, and one of the Commissioners shall then draw out singly seven of such papers and shall read aloud the names thereon as they are drawn, and the persons whose names appear thereon shall, subject to the subsequent provisions of this Act, form the Jury for the inquiry in question.

Mode of drawing Jury.

(5) If, on the name of any Juror drawn being read aloud as aforesaid, any reputed owner of the land or his counsel, or any representative of the Company or its counsel, shall challenge such Juror for any specified cause which shall, in the opinion of the Commissioners or a majority of them, render it desirable that such Juror shall not serve on the inquiry, the Commissioners shall direct that such Juror shall not serve thereon, and in such case another Juror shall in like manner be drawn in his place who shall be subject to the like challenge, and so on until there are seven Jurors available to form the Jury.

Challenge of Jurors.

(6) As soon as conveniently may be after the Jury has been drawn the Commissioners shall fix a place and time for the holding of the inquiry, not being less than four clear days after the day on which the Jury is drawn, and shall as early as practicable give written notice thereof to the Company, and the Company shall within two days after the receipt thereof serve a copy of such notice on each of the reputed owners of the land in question whom the Company shall ascertain to be resident in these Islands, and, in the case of any absent reputed owner, on any known attorney or agent of his in these Islands, and a written certificate of such service signed by the person effecting the same shall be prima facie evidence of such service.

Commissioners to fix time for inquiry and notice to be given to reputed owners.

(7) If at the drawing of the Jury counsel appeared for the reputed owners or any of them service on such counsel of a copy of the notice referred to in the last preceding subsection shall be equivalent to service on the reputed owners or owner for whom he appeared unless such counsel shall prior to such service inform the Company that he has ceased to represent such owners or owner.

Service on counsel appearing for owners.

16. (1) Not less than two clear days before the day fixed for the holding of the inquiry the Commissioners shall issue a Warrant under their hands and seals addressed to some person employed by the Commissioners for the purpose, requiring him to summon the Jurors named therein to attend the inquiry at the place and time fixed therefor, and it shall be the duty of such person to summon each of such Jurors by delivering to him personally, or

Mode of summoning Jurors to attend inquiry.

by leaving for him at his usual place of residence, not less than one clear day before the day fixed for the inquiry, a written notice in the prescribed form to attend the inquiry; and the person to whom the Warrant is addressed shall endorse thereon a Memorandum of the date on which, and the manner in which, the Jurors named therein were summoned, and shall return the Warrant to the Commissioners, and such endorsement shall be prima facie evidence of the facts therein stated.

Punishment of Jurors failing to attend.

(2) If any Juror who has been duly summoned as aforesaid shall fail to appear at the place and time fixed for the inquiry, or if having appeared he refuses to be sworn or to affirm in the manner hereinafter provided, or in any other manner improperly fails to carry out his duty as a Juror, he shall, unless he show some reasonable excuse, be liable on summary conviction before a Justice of the Peace to a fine of ten pounds and costs of prosecution.

Inquiry may be adjourned.

(3) If in consequence of any such breach of duty on the part of any Juror it shall, in the opinion of the Commissioners, be impracticable or undesirable to proceed with the inquiry forthwith, the same may be adjourned to a future day or to a later hour on the same day, whether or not another Juror shall be drawn to serve in the place of the defaulting Juror.

Inquiry may proceed by mutual agreement.

(4) If the owners present or represented by counsel and the Company by its counsel or representative present shall mutually agree that the remaining six Jurors shall constitute the Jury for the purpose of the inquiry the Commissioners shall make an order to that effect, and in such case the inquiry shall proceed in the manner hereinafter prescribed.

Otherwise another Juror to be drawn.

(5) Unless such mutual agreement shall be arrived at another Juror shall be drawn in the manner prescribed by subsection (4) of the last preceding section from the remaining Jurors available to serve on such Jury and in such case the provisions of subsection (5) of the said last preceding section shall apply to the drawing of such other Juror, and the inquiry shall then be adjourned to a future day, or to a later hour on the same day if the attendance of such other Juror can be then secured and if the Commissioners shall so determine.

Power of Commissioners to administer oaths.

17. (1) Each of the Commissioners shall have authority to administer an oath to any Juror drawn to serve on any Jury under this Act and to any person to be examined before the Commissioners as a witness.

(2) The oath administered to and taken by a Juror shall be to the effect that he will truly and faithfully inquire of and assess the compensation to be paid for the premises in question on the inquiry.

(3) The oath administered to and taken by a witness shall be to the effect that the evidence that he shall give on the inquiry shall be the truth, the whole truth and nothing but the truth.

(4) The provisions of the twenty-sixth, twenty-seventh, twenty-eighth and twenty-ninth sections of The Evidence (Consolidation and Amendment) Act, 1905, shall apply to any person objecting to be sworn as a Juror or as a witness under the present Act to the same extent as if the same were re-enacted in this Act with the necessary verbal alterations.

18. At the inquiry the Jurors shall choose a foreman, and the foreman and other Jurors shall be separately sworn. Foreman of Jury.

19. (1) The Commissioners shall, either before or during the hearing, on the request of any party claiming compensation in respect of the premises in question, or of the Company, issue a summons to any person whom such party or the Company, as the case may be, shall desire to examine as a witness on the inquiry, and on the like request the Commissioners may order the jury to view the premises in question or any part thereof at any time during the inquiry in like manner as a view may be had on the trial of an action in the Supreme Court, or as near thereto as circumstances permit. Summoning of witnesses. View of premises by Jury.

(2) The summons to a witness shall be served on him either personally or by leaving the same for him at his usual place of residence, not less than one clear day before the day for which the witness is summoned, and the person employed by the Commissioners to serve the summons shall make a written return to the Commissioners of the time and mode of service of the summons, and such return shall be prima facie evidence of such service. Service of summons on witness.

(3) If any witness who has been duly summoned as aforesaid shall fail to appear in compliance with the summons, or if having appeared he refuses to give evidence, or in any other manner misconducts himself, he shall, unless he shall show some reasonable excuse, be liable on summary conviction before a Justice of the Peace to a fine of ten pounds and costs of prosecution. Punishment of witnesses failing to attend or misconducting themselves.

20. (1) Witnesses summoned to attend on any inquiry before the Commissioners shall be entitled to witness money at such rates not less than five shillings per day and not greater than fifteen shillings per day as the Commissioners shall consider reasonable, having regard to the time the witness is in attendance, his occupation, trade or profession, and the place in which he resides. Witness money.

(2) Witness money at similar rates may be allowed by the Commissioners to witnesses attending at the inquiry without being summoned and giving evidence which, in the opinion of the Commissioners was material to the subject matter of the inquiry.

(3) The Commissioners may disallow the witness money of any witness whose conduct at the inquiry disentitles him, in the opinion of the Commissioners, to witness money.

Procedure on inquiry to follow that of a civil action.

21. (1) Subject to the other provisions of this Act the procedure at the inquiry before a jury shall follow as nearly as practicable the procedure on the trial in the Supreme Court of Bermuda in a civil action tried with a jury, but the Commissioners shall have a discretionary power to vary such procedure to such extent and in such manner as shall appear to them desirable in the circumstances attending any such inquiry.

(2) For the purposes of the procedure at the inquiry the parties claiming compensation shall have the same rights and privileges as the plaintiff is entitled to at the trial in the said Court of a civil action with a jury, and the Company shall have the same rights and privileges as the defendant is entitled to at such trial, and the provisions of Order 36, Rule 15, of the Rules of the said Court shall be applicable to the addresses to the jury of the claimants or their counsel or of the representatives or counsel of the Company.

Procedure after conclusion of addresses to jury.

22. (1) After the conclusion of the addresses to the jury allowed by the last preceding subsection the Chairman of the Commissioners, or another of the Commissioners at the Chairman's request, shall sum up the evidence to the jury, and call their attention to any matters relative to the inquiry which appear to the Commissioners material for the consideration of the jury in arriving at their verdict, and at the conclusion of such summing up the jury shall consider their verdict.

Deliberation of jury on verdict.

(2) The jury may, if they so desire, deliberate on their verdict in private, in which case the Commissioners shall give the necessary direction to that effect and to prevent the separation of the jury or the holding of any communication with them while considering their verdict except any necessary communication sanctioned by the Commissioners.

Majority verdict.

(3) If, after the jury have been in deliberation for at least two hours they have not unanimously agreed on a verdict, it shall be competent for a majority of not less than five of the Jurors to find a verdict, and such verdict when delivered to the Commissioners, or to such of them as are

present when the verdict is delivered, shall have the same force and effect as if the whole jury had concurred therein, provided that in delivering such verdict the foreman shall declare in the presence of the jury that at least five of the Jurors have concurred in such verdict.

(4) If after two hours deliberation the jury, or at least five of the Jurors have not agreed on a verdict the jury shall be discharged, and, unless an agreement shall be arrived at between the parties as to the amount of compensation to be paid by the Company, another jury shall, on a subsequent day to be fixed by the Commissioners, be chosen in the manner hereinbefore provided to assess the compensation, and the subsequent procedure shall be as hereinbefore proscribed, except that none of the Jurors who served on the jury which failed to find a verdict shall be eligible to serve on the subsequent jury.

Discharge of jury on failure to find verdict.

23. (1) Within such period after the finding of the verdict of a jury under the foregoing provisions as the Commissioners shall prescribe the reputed owners of the premises in question shall furnish in writing to the Commissioners full particulars of their title to such premises, or to such part thereof, or such estate or interest therein, as they claim title to, and shall leave with the Commissioners for examination by the Company or its counsel all deeds and documents of title in the possession or power of such owners relating to such premises, or, if such deeds or documents or any of them are not in the possession or under the control of such owners, or any of them, they shall give such information as they have concerning them to the Commissioners or to the Company or its counsel, and shall render any assistance in their power to secure the examination of such deeds or documents by the Company or its counsel.

Procedure after verdict.

(2) If, after the investigation of the title of the reputed owners, the Company shall be advised by counsel that such owners, or any of them, have not made a satisfactory title to the premises in question, the Company may give written notice to the Commissioners to that effect, and furnish them, for their information only, with a copy of the counsel's opinion on which the Company has taken such action.

Procedure if reputed owners do not make satisfactory title.

(3) Such action shall not affect the rights of the other owners who have made a satisfactory title to such premises, or to any share, estate or interest therein, and the Company shall be liable to pay to such other owners their proportionate part of the amount of compensation assessed by the jury according to their respective shares, estates or interests in the premises in question and the remainder of such compensation shall be paid into Court by the Company in the manner hereinafter provided.

Saving of rights of owners who have made satisfactory title.

On giving notice of the acceptance of the title of all the owners Commissioners may make vesting order.

24. (1) If the Company shall give written notice to the Commissioners that the Company is prepared to accept the title made by all the reputed owners to the premises in question the Commissioners shall, on payment by the Company to the reputed owners of the compensation assessed by the jury, make an order in writing under their hands and seals vesting such premises in the Company its successors and assigns, in fee simple, or in fee simple conditional, as the case may be, and such order shall be of the same force and effect in all respects as if all the reputed owners of the premises in question and the wife of every such owner entitled to any dower right in such premises had duly executed a proper deed of conveyance of the premises in question to the Company its successors and assigns in fee simple, or in fee simple conditional, as the case may be.

(2) If the Company shall give written notice to the Commissioners that the Company is prepared to accept the title made by some only of the reputed owners of the premises in question, specifying which of them and their shares, estates or interests therein, the Commissioners, on payment by the Company to such reputed owners of their proportionate part, as determined by the Commissioners in case of dispute, of the compensation assessed by the jury, and on proof to the satisfaction of the Commissioners that the remainder of such compensation has been paid into Court for the use of the other owners of such premises, shall make an order in writing under their hands and seals vesting such premises in the Company its successors and assigns, in fee simple, or in fee simple conditional, as the case may be, and such order shall be of the same force and effect as a vesting order made under the preceding subsection.

Vesting orders to fix time for delivery of possession to Company.

25. A vesting order made by the Commissioners under the provisions of this Act shall fix the time at which possession of the premises in question shall be delivered to the Company, and the Company shall be entitled to possession thereof accordingly, provided that the Commissioners may, if they shall see fit so to do, vary such order by extending the time for the delivery of possession of the whole or any part of such premises.

Compensation to lessees or tenants.

26. (1) Whenever any land acquired by the Company shall be in the occupation of a lessee or tenant, and the Company shall require possession thereof before the termination of the lease or tenancy, the lessee or tenant shall be entitled to receive from the Company such compensation as shall be mutually agreed on between him and the Company, or, in the absence of such agreement, as shall be determined by the Commissioners, including compensation for any growing crops on the land at the time of its acquisition which the Company does not permit the lessee or tenant to

reap and carry away at maturity, and in the latter case the Commissioners may fix the time within which such growing crops shall be removed, and at the expiration of that time the Company shall be entitled to the possession of the portion of the land in which such crops were grown.

(2) If the compensation agreed on, or determined by the Commissioners, shall not be paid by the Company within the agreed time, or the time fixed by the Commissioners, as the case may be, the same shall be recoverable by the lessee or tenant from the Company before any two Justices of the Peace in like manner as debts not exceeding ten pounds are now recoverable.

Mode of recovering compensation.

(3) If the lessee or tenant shall not deliver up possession of the land at the time at which the Company shall be entitled to the possession thereof, it shall be lawful for any Justice of the Peace after reasonable notice to such lessee or tenant, and on due proof of the facts, to issue a warrant to a police constable, or to two more police constables, to oust such lessee or tenant and all persons occupying such land with or under him therefrom, and to deliver possession thereof to the Company, and it shall be the duty of such constable or constables to execute such warrant accordingly.

Mode of recovering possession of land by Company.

27. (1) Any money paid into Court by the Company under any of the provisions of this Act may be disposed of and dealt with by the Court, on the application by petition of the Company or of any person claiming to be entitled to such money, or any part thereof, and in any such case the Court may order that the costs of and incidental to the proceedings, or any part of such costs, shall be paid by the Company, unless the payment into Court resulted from the act or default of the petitioner.

Disposal of money paid into Court by Company

(2) In any case in which the money paid into Court by the Company shall not exceed one hundred pounds it may be disposed of and dealt with by the Chief Justice in Chambers on the like application, and with the like power as to ordering the payment of the costs by the Company.

28. (1) The Company is hereby empowered to purchase or acquire under the provisions of this Act, for carrying on the business of the Company under the powers contained in the previous Act, the lands in these Islands described in the First Schedule to this Act, the lands in these Islands specified in such Schedule, and to hold by its corporate name the lands so purchased or acquired.

Company empowered to purchase or acquire lands described in First Schedule.

(2) The Company is hereby empowered, with the previous sanction of the Governor-in-Council, but not otherwise, to purchase or acquire by

Company empowered to

purchase or acquire other land with previous sanction of Governor-in-Council.

agreement with the owner or reputed owner any other land in these Islands bona fide required for carrying on the business of the Company under the powers contained in the previous Act, not exceeding in the whole fifty acres, but nothing herein contained shall be construed to authorize the Company to acquire, except by private purchase, any lands in these Islands other than those described in the first schedule to this Act.

Powers of Company as to land acquired under this Act.

(3) The Company shall not, without the previous sanction of the Legislature of these Islands sell, or otherwise dispose of, except by mortgage, or by lease for terms not exceeding twenty-one years, more than one hundred acres of the lands in these Islands purchased or acquired by the Company under the compulsory provisions of this Act, nor shall the Company, without the like sanction, sell or otherwise dispose of, except by mortgage or lease as aforesaid, any of the said lands to any Company incorporated elsewhere than in these Islands.

29. In the event of the Company acquiring by purchase or under the provisions of this Act, or partly in one mode and partly in the other, the tract of land constituting the Glebe, situate in or near Hamilton Parish, which was sold at public auction under the authority of The Hamilton Parish Glebe Act, 1805, on the terms of the purchaser paying annually interest at seven per cent per annum on the sum for which the said Glebe and its appurtenances were sold, which annual interest, amounting to the sum of nineteen pounds sixteen shillings and five pence, sterling is payable on the nineteenth day of February, and now forms part of the emoluments of the incumbent or rector of the Church Living of Hamilton and Smiths parishes, the Company its successors and assigns shall hold the said Glebe and its appurtenances upon the terms and conditions upon which the same were sold under the said Act including the liability to pay the said annual interest in accordance with the provisions of that Act.

Saving of rights of Crown and others.

30. Nothing in this Act contained shall be construed to affect the rights of His Majesty, his heirs and successors, or of any body politic or corporate, or of any other person or persons except such as are mentioned in this Act, and those claiming by, from or under them.

Amendment of this Act during present Session.

31. This Act may be amended during the present Session of the Legislature, and shall not be construed so as to prevent any further legislation during the present Session relative to the acquisition of land in these Islands by the Company for any of the purposes of the Company.

FIRST SCHEDULE.

ALL THAT TRACT OF LAND delineated and coloured pink on the plan forwarded by the Agents of the Company to the Honourable House of Assembly on the fourteenth day of July, 1920, a duplicate of which plan was on the same date delivered by the Agents of the Company to the Clerk of the Honourable the Legislative Council for the use of the Council, and another duplicate of which plan was on the same date deposited by the Agents of the Company with the Colonial Secretary for the use of His Excellency the Governor, WHICH TRACT OF LAND COMPRISES (1) The whole of that part of the parish of Saint George known as Tucker's Town and (2) Two portions of land in Hamilton parish, one lying North and the other West of the said land at Tucker's Town, the latter portion including Trott's Pond coloured blue in the said plan, WHICH TRACT OF LAND is bounded on the NORTH partly by the other lands in Hamilton parish coloured yellow in the said plan, partly by Harrington Sound and partly by Castle Harbour, on the EAST by Castle Harbour, on the SOUTH partly by the Ocean and partly by two lots of War Department land coloured green on the said plan and on the WEST partly by the Westernmost of the said War Department lots, partly by the Eastern boundary line of Smiths parish, partly by Mangrove Lake and partly by other land in Hamilton parish coloured yellow, together with all houses buildings walls fences rights easements and appurtenances respectively appertaining to the several parcels of land comprised in the said tract of land or therewith held or enjoyed as part thereof or appurtenant thereto SAVE AND EXCEPT the public roads and the War Department road which traverse the said tract of land, and the several small lots or parcels of land coloured green on the said plan with the buildings thereon designated respectively "A.M.E. Chapel," "School House," "Methodist Chapel," "Methodist Cemetery" and "Cable House", and the three lots of War Department land also coloured green on the said plan and thereon designated by the letters "W.D."

SECOND SCHEDULE.

Form A.

NOTICE TO THE COMMISSIONERS.

To the Commissioners appointed under The Bermuda Development Company Act, (No. 2), 1920.

The Bermuda Development Company, Limited, hereby gives you notice that it desires to purchase under the provisions of the said Act the premises in parish hereinafter described.

Insert words in brackets when necessary.

The Company offers to purchase the said premises from all the owners thereof in fee simple [conditional] free from incumbrances [except the quit rent] at the price of pounds, or to acquire the same on such other terms and conditions as shall be arrived at in accordance with the said Act.

The Company is informed that the reputed owners of the said premises are [Insert the names and places of residence of the persons referred to as far as they are known to the Company.]

The Company requests that the prescribed proceedings be taken by the Commissioners to enable the Company to acquire the said premises under the said Act.

The Premises above referred to.

[Insert a description of the premises sufficient for the purpose of identification, including the approximate area and the names of the adjoining landowners as far as they are known to the Company; and stating what buildings (if any) there are on such premises].

Dated this day of 192

[Signature of Secretary].
Secretary of the above Company.



BERMUDA

1920—No. 26.

THE KING EDWARD VII. HOSPITAL
SECRETARY ACT, 1920.

(26th August, 1920),

WHEREAS it is expedient to amend The General Hospital Act, 1920. to make special provision with respect to the position of Secretary:

Be it, therefore, enacted by the Governor, Legislative Council and Assembly of the Bermudas or Somers Islands as follows:—

1. Section 13 of The General Hospital Act, 1920, is hereby amended by adding the following subsection thereto as subsection (4):—

1920 No. 15
Amended

(4) Whenever the Secretary appointed under subsection (1) shall be skilled as a bacteriologist and as a dispenser and shall perform bacteriological and other laboratory work and act as dispenser at the Hospital, the salary of such Secretary shall be three hundred pounds per annum.