

[1 EDW. 7.] *Belfast and Northern Counties Railway* [Ch. cclix.]
Act, 1901.



CHAPTER cclix.

An Act to provide for the purchase by the Belfast and Northern Counties Railway Company of the Derry Central Railway from the Commissioners of Public Works in Ireland. A.D. 1901.
[17th August 1901.]

WHEREAS by the Derry Central Railway Act (in this Act called "the Act of 1875") the Derry Central Railway Company (in this Act called "the Derry Central Company") were incorporated and were authorised to make the railways therein described between the town of Magherafelt in the county of Londonderry and the town of Coleraine in the same county which railways are in this Act called "the Derry Central Railway":

And whereas by the Derry Central Railway Act 1877 (in this Act called "the Act of 1877") the Belfast and Northern Counties Railway Company (in this Act called "the Company") were authorised to appropriate and expend a sum of thirty-five thousand pounds towards the purposes of the Act of 1875 and the Act of 1877 and out of the said sum of thirty-five thousand pounds to subscribe a sum of ten thousand pounds towards the capital of the Derry Central Company:

And whereas the railways authorised by the Act of 1875 are completed and opened for public traffic and have been worked by the Company under the provisions of an agreement scheduled to and confirmed by the Act of 1877 but which agreement expired on the eighteenth day of February one thousand nine hundred and one:

And whereas the Commissioners of Public Works in Ireland (in this Act called "the Public Works Commissioners") have advanced the Derry Central Company by way of loan various sums and there is now due to the said commissioners the sum of one hundred and thirteen thousand seven hundred and twenty pounds

[Ch. cclix.] *Belfast and Northern Counties Railway* [1 EDW. 7.]
Act, 1901.

A.D. 1901. eighteen shillings and fourpence in respect of arrears of principal and interest on such loan :

And whereas by reason of the default made by the Derry Central Company in repayment of such loan and the interest thereon the Public Works Commissioners have in pursuance of the powers vested in them by the Public Works (Ireland) Act 1831 entered upon and taken possession of the Derry Central Railway and such railway is now vested in the said commissioners :

And whereas it is expedient to provide for the sale or transfer to the Company of the Derry Central Railway and to confirm and give effect to the agreement between the Company and the said commissioners having reference to such sale or transfer as set forth in the schedule to this Act :

And whereas it is expedient that for the purpose of effecting the purchase of the Derry Central Railway the Company should be authorised to raise further capital :

And whereas the purposes of this Act cannot be effected without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted and be it enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

Short title.

1. This Act may be cited for all purposes as the Belfast and Northern Counties Railway Act 1901.

Incorporation of Parts II. and III. of Companies Clauses Act 1863.

2. Part II. (relating to additional capital) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869 are incorporated with and form part of this Act.

Confirmation of scheduled agreement and transfer of Derry Central Railway to Company.

3. The agreement between the Public Works Commissioners and the Company as set forth in the schedule to this Act is hereby confirmed subject to the provisions of this Act and on payment by the Company to the said Commissioners of the sum of eighty-five thousand pounds in the said agreement mentioned the undertaking of the Derry Central Company shall be and the same is hereby transferred to and vested in the Company as an integral part of the undertaking of the Company freed and discharged from all incumbrances liabilities contracts debts and engagements of the Derry Central Company.

Act of 1875 to apply to undertaking

4. From and after the transfer aforesaid the Derry Central Railway Act 1875 with all rights powers privileges and authorities

[1. EDW. 7.] *Belfast and Northern Counties Railway* [Ch. cclix.]
Act, 1901.

thereby conferred on the Derry Central Company shall (except the provisions thereof relating to the constitution capital and directors of the Derry Central Company the appropriation of the net receipts of the undertaking and to baronial guarantees) remain in full force and continue to apply to the transferred undertaking in the hands of the Company in the same manner and as fully and effectually in all respects as if the Company had been named therein in the place of the Derry Central Company.

A.D. 1901.
in hands of
Company.

5. Notwithstanding anything in this Act contained the county council of the county of Londonderry (who now represent the grand jury of the said county) shall levy and pay to the Company half-yearly such a sum not exceeding the rate limited by the Act of 1875 as will provide for payment to the holders of the county guaranteed capital or B shares of the Derry Central Company of interest on the amount of the said B shares at the rate of five per centum per annum until the entire of the interest guaranteed by the said Act of 1875 for twenty-three years from the nineteenth day of February one thousand eight hundred and eighty shall have been paid and the Company shall receive the said sum and pay it to the holders of B shares.

County
guarantee
on B shares
to continue.

6. From and after the transfer aforesaid the agreement made between the Postmaster-General and the Derry Central Company with the concurrence of the Company by the letters hereinafter mentioned shall remain in force and be binding upon the Postmaster-General and the Company respectively as fully and effectually in all respects as if the Company had been named therein in the place of the Derry Central Company and the use of the Derry Central Railway by the Postmaster-General under such agreement shall not be deemed to be an exercise of his right of wayleave under the agreement made between him and the Company dated the eighth day of April one thousand eight hundred and seventy-three. The letters above referred to were dated and written by and to the persons named as follows:—

Agreement
with Post-
master-
General to
remain in
force.

31st March 1900 From James Walby a superintending engineer of the Post Office to Berkeley Deane Wise the engineer of the Company:

13th April 1900 From William Robert Gill the secretary of the Company to the said James Walby:

8th May 1900 From the secretary to the Post Office in Dublin to Frederick Dawson the secretary of the Derry Central Company:

[Ch. cclix.] *Belfast and Northern Counties Railway* [1 EDW. 7.]
Act, 1901.

A.D. 1901. 12th June 1900 From the said Frederick Dawson to the secretary to the Post Office Dublin:
16th July 1900 From the secretary to the Post Office Dublin to the said Frederick Dawson:
18th July 1900 From the said Frederick Dawson to the secretary to the Post Office Dublin:
21st July 1900 From the secretary to the Post Office Dublin to the said Frederick Dawson:
Same date From the secretary to the Post Office Dublin to the said William Robert Gill.

As to distribution of sum of 20,000*l.* mentioned in scheduled agreement.

7. The Company shall within two months after the passing of this Act distribute and apply the sum of twenty thousand pounds mentioned in the agreement scheduled to this Act in the manner following (that is to say):—

- (1) In payment to Mr. Frederick Dawson the present secretary of the said Company of a sum of five hundred pounds as compensation for his loss of office:
- (2) In payment to every holder of preference shares in the capital of the Derry Central Company of a sum of four shillings and sixpence in respect of every sum of one pound in such capital held by him:
- (3) In payment to every holder of ordinary and guaranteed shares in such capital of a sum of not less than three shillings and one penny in respect of every sum of one pound in such capital held by him.

For the purposes of such distribution and payments to the shareholders in the Derry Central Company the shareholders other than the purchasers whose names appear in the register of shareholders of that Company at the date of the passing of this Act or their personal representatives shall be deemed to be the holders of such shares and the Derry Central Company shall hand over and deliver to the Company such register of shareholders for the purpose of enabling the Company to make such distribution.

Power to raise additional capital.

8. The Company may subject to the provisions of Part II. of the Companies Clauses Act 1863 raise any additional capital not exceeding in the whole the sum of one hundred thousand pounds by the issue at their option of new ordinary shares or stock or new preference shares or stock or wholly or partially by any one or more of those modes respectively. But the Company shall not issue any share of less nominal value than ten pounds nor shall any share vest in the person accepting the same unless and until a

[1 EDW. 7.] *Belfast and Northern Counties Railway* [Ch. cclix.]
Act, 1901.

sum not being less than one fifth of the amount of such share shall have been paid in respect thereof. A.D. 1901.

9. Except as by this Act otherwise provided the capital in new shares or stock created by the Company under this Act and the new shares or stock therein and the holders thereof respectively shall be subject and entitled to the same powers provisions liabilities rights privileges and incidents whatsoever in all respects as if that capital were part of the now existing capital of the Company of the same class or description and the new shares or stock were shares or stock in that capital. The capital in new shares or stock so created shall form part of the capital of the Company. Except as otherwise provided new shares to be subject to same incidents as other shares.

10. Every person who becomes entitled to new shares or stock shall in respect of the same be a holder of shares or stock in the Company and shall be entitled to a dividend with the other holders of shares or stock of the same class or description proportioned to the whole amount from time to time called and paid on such new shares or to the whole amount of such stock as the case may be. Dividends on new shares.

11. Except as otherwise expressly provided by the resolution creating the same no person shall be entitled to vote in respect of any new shares or stock to which a preferential dividend shall be assigned. Restriction as to votes in respect of preferential shares or stock.

12. Subject to the provisions of any Act already passed by which the Company are authorised to raise capital by new shares or stock and to the provisions of this Act the Company may if they think fit raise by the creation and issue of new shares or stock of one and the same class all or any part of the aggregate capital which they are by such other Act and this Act respectively authorised to raise by the creation and issue of new shares or stock. New and existing shares or stock may be of same class.

13. The Company may in respect of the additional capital of one hundred thousand pounds which they are by this Act authorised to raise from time to time borrow on mortgage of their undertaking any moneys not exceeding in the whole thirty-three thousand three hundred pounds. Provided that in respect of each twenty-five thousand pounds of such additional capital issued and accepted and one half whereof shall have been paid up the Company may borrow a sum or sums not exceeding in the whole eight thousand three hundred and twenty-five pounds. Power to borrow.

14. No part of either of the sums of eight thousand three hundred and twenty-five pounds mentioned in the last preceding Borrowing powers not to be

[Ch. cclix.] *Belfast and Northern Counties Railway* [1 Edw. 7.]
Act, 1901.

A.D. 1901. section of this Act shall be borrowed until shares for so much of
exercised till the said portion of the additional capital in respect of which the
shares for borrowing powers are to be exercised as is to be raised by means
proportion of of shares are issued and accepted and one half of such capital is
capital raised paid up and the Company have proved to the justice who is to
and one half certify under the fortieth section of the Companies Clauses Con-
paid up. solidation Act 1845. before he so certifies that shares for the whole
of such portion of additional capital have been issued and accepted
and that one half of such portion has been paid up and that not
less than one fifth part of the amount of each separate share in
such portion of capital has been paid on account thereof before
or at the time of the issue or acceptance thereof and until stock
for one half of so much of such portion of the said additional
capital as is to be raised by means of stock is fully paid up and
the Company have proved to such justice as aforesaid before he so
certifies that such shares or stock as the case may be were issued
and accepted and paid up bonâ fide and are held by the persons
or corporations to whom the same were issued or their executors
administrators successors or assigns and also so far as the said
additional capital is raised by shares that such persons or corporations
or their executors administrators successors or assigns are legally
liable for the same and upon production to such justice of the
books of the Company and of such other evidence as he shall think
sufficient he shall grant a certificate that the proof aforesaid has
been given which certificate shall be sufficient evidence thereof.

For appoint-
ment of a
receiver.

15. Every provision in any Act passed before the present session of Parliament whereby the Company is authorised to raise by borrowing money for the purposes of their undertaking with respect to the appointment of a receiver for enforcing payment by the Company of arrears of principal money or interest or principal money and interest shall be and the same is hereby repealed but without prejudice to any appointment which may have been made or to the continuance of any proceedings which may have been commenced prior to the passing of this Act under any such provision. The mortgagees of the undertaking may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver and in order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than ten thousand pounds in the whole.

[1 EDW. 7.] *Belfast and Northern Counties Railway* [Ch. cclix.]
Act, 1901.

16. All mortgages and bonds granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act and subsisting at the passing hereof shall during the continuance of such mortgages and bonds and subject to the provisions of the Acts under which such mortgages and bonds were respectively granted have priority over any mortgages to be granted by virtue of this Act. But nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

A.D. 1901.

Former mortgages to have priority.

17. The Company may subject to the provisions of Part III. of the Companies Clauses Act 1863 and of section 47. of the Belfast and Northern Counties Railway Act 1899 raise the whole or any portion of the additional capital of one hundred thousand pounds by this Act authorised by the creation and issue of debenture stock.

Power to raise additional capital by debenture stock.

18. All moneys raised under this Act whether by shares or stock or debenture stock or by borrowing shall be applied only for the purposes of this Act and the general purposes of the Company being in each case purposes to which capital is properly applicable and the Company may apply to the purposes of this Act to which capital is properly applicable any of the moneys which they now have in their hands or which they have power to raise under any of the Acts relating to the Company and which may not be required for the purposes to which they are by any such Acts made specially applicable.

Application of moneys raised under this Act.

19. No interest or dividend shall be paid out of any share or loan capital which the Company are by this or any other Act authorised to raise to any shareholder on the amount of the calls made in respect of the shares held by him but nothing in this Act shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act 1845.

Interest on calls not to be paid out of capital.

20. The Company shall not out of any money by this Act authorised to be raised pay or deposit any sum which by any standing order of either House of Parliament now or hereafter in force may be required to be deposited in respect of any application to Parliament for the purpose of obtaining an Act authorising the Company to construct any other railway or to execute any other work or undertaking.

Deposits for future Bills not to be paid out of capital.

[Ch. cclix.] *Belfast and Northern Counties Railway* [1 EDW. 7.]
Act, 1901.

A.D. 1901.

Railway to
be subject
to general
Acts.

21. Nothing herein contained shall be deemed or construed to exempt the Company or the railways of the Company from the provisions of any general Act relating to railways or the better and more impartial audit of the accounts of railway companies now in force or which may hereafter pass during this or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the authorised maximum rates of fares and charges or of the rates for small parcels.

Costs of Act.

22. All the costs charges and expenses of and attending the passing of this Act or incidental thereto shall be paid by the Company.

[1 EDW. 7.] *Belfast and Northern Counties Railway* [Ch. cclix.]
Act, 1901.

The SCHEDULE referred to in the foregoing Act.

A.D. 1901.

ARTICLES OF AGREEMENT made the twentieth day of March one thousand nine hundred and one between THE COMMISSIONERS OF PUBLIC WORKS IN IRELAND (hereinafter called "the vendors") of the one part and THE BELFAST AND NORTHERN COUNTIES RAILWAY COMPANY (hereinafter called "the purchasers") of the other part.

WHEREAS under and by virtue of the Derry Central Railway Act 1875 and the Derry Central Railway Act 1877 certain railways for the purpose of connecting the town of Magherafelt in the county of Londonderry with the town of Coleraine in the same county (which railways are hereinafter sometimes referred to as "the Derry Central Railway") were made and completed by the Derry Central Railway Company (save certain portions which were constructed by the purchasers under the powers in the first-mentioned Act) And whereas the Derry Central Railway is owned by the Derry Central Railway Company but it is worked by the purchasers under a working agreement dated the 16th day of May 1877 and scheduled to the Derry Central Railway Act 1877 which expired on the 18th day of February 1901 And whereas by virtue of the said Acts and the Public Works (Ireland) Act 1831 and all other powers enabling them the Derry Central Railway Company executed to the vendors the mortgages the short particulars of which are specified in the First Schedule hereto and on the security of which the full sum of £100,000 is now outstanding And whereas the principal moneys secured by such mortgages respectively are repayable by instalments in the manner therein respectively set forth together with interest on the principal from time to time remaining due at the rate therein respectively mentioned And whereas the said instalments of principal and interest are largely in arrear and there is now due to the vendors on foot of the said mortgages for arrears of principal and interest an aggregate sum of £113,720 18s. 4d. And whereas under the Derry Central Railway Act 1877 the purchasers are in the events which have happened owners of certain inalienable shares in the Derry Central Railway Company of the face value of £10,000 And whereas in exercise of the powers in the Public Works (Ireland) Act 1831 section 46 and every other power enabling them the vendors have agreed with the purchasers for the sale to them upon the terms hereinafter appearing of the Derry Central Railway:

NOW THIS INDENTURE WITNESSETH and it is hereby agreed between the parties hereto as follows:—

1.—(A) The purchasers shall out of their own moneys if and so soon as they are empowered by Parliament so to do pay to and amongst the creditors (if any) and the shareholders of the Derry Central Railway Company (other

Agreement for sale.

[Ch. cclix.] *Belfast and Northern Counties Railway* [1. EDW. 7.]
Act, 1901.

A.D. 1901. than the purchasers themselves) a sum not exceeding the sum of £20,000 after deducting thereout a reasonable solatium to the present secretary of the Derry Central Railway Company :

(B) The purchasers shall also pay to the vendors immediately upon the Act hereinafter mentioned receiving the King's assent (in case Parliament should pass such an Act) the sum of £85,000.

2. The vendors shall at their own expense within one calendar month from the passing of the Act of Parliament mentioned in clause 3 hereof produce at the office of the purchasers' solicitors Messrs. Torrens Sons and Bristow No. 9 Wellington Place Belfast all title deeds and documents relating to the lands in their possession on which the said railway is constructed and shall show thereby a fair holding title to the line and upon the completion of the purchase all the said deeds and documents shall become the property of the purchasers and shall be handed over to them by the vendors.

Agreement to be carried out by Act of Parliament.

3. This agreement shall be carried out by Act of Parliament by which the purchased property shall be transferred to and vested in the purchasers and such Act shall contain all such provisions as may be necessary or expedient for giving full effect to the terms of this agreement and in particular shall contain or confirm the provisions respecting rates and facilities which are set out in the Second Schedule hereto.

Agreement to be scheduled to Act.

4. This agreement shall be scheduled to the said Act and it is hereby declared that the same is made subject to such alterations as Parliament may think fit to make therein and the provisions of the 104th Standing Order of the House of Lords shall apply thereto.

Purchasers to promote Act.

5. The purchasers shall forthwith at their own expense proceed to promote and obtain such Act of Parliament and the vendors and purchasers respectively shall use their utmost endeavours to obtain the same.

Interim provision.

6. Pending the application for the said Act and until the same shall have been passed the following provisions shall have effect:—

(A) The vendors will put the purchasers into possession of the Derry Central Railway and for that purpose shall under their statutory powers enter upon and take possession of that line :

(B) The purchasers will receive possession from the vendors so soon as they can give it and from and after receiving such possession until the passing of the said Act and payment of the said purchase money shall well and sufficiently work and maintain the line at their own expense giving not less facilities than are given by the existing service and in accordance with the provisions of clause 4 in the Second Schedule hereto and shall indemnify the vendors against all actions damages costs claims and demands arising out of or incidental to such working and maintenance:—

(C) The purchasers shall during the period aforesaid pay to the vendors thirty per cent. of the gross receipts arising from the Derry Central Railway including the receipts arising from through traffic.

not to be taken

7. This agreement is conditional on the said Act of Parliament being obtained within two and a half years from the date hereof and shall be void unless the same shall be obtained within the time aforesaid And it is

[1 EDW. 7.] *Belfast and Northern Counties Railway* [Ch. cclix.]
Act, 1901.

A.D. 1901.

hereby agreed and declared that upon such cesser the vendors shall be let into possession of the line by the purchasers discharged from all claims for any moneys paid or work done or materials supplied by the purchasers under this agreement save such as might have been made by the purchasers against the Derry Central Railway Company if that company had not ceased to exist to the extent of the percentage of the gross receipts payable to such company and for this purpose section 5 of the said working agreement of the 16th day of May 1877 as herein modified shall be continued and kept in force as between the vendors and purchasers until the cesser of this agreement and the adjustment of all claims which may arise in respect of the said moneys paid work done or materials supplied the owning company and the working Company in the said agreement mentioned being taken to be represented by the vendors and purchasers respectively Provided always that in case the aforesaid percentage of the gross receipts shall be insufficient to discharge any moneys paid work done or materials supplied by the working Company the loss shall be borne by the purchasers.

IN WITNESS whereof the parties aforesaid have hereunto caused their respective common seals to be affixed the day and year first herein written.

Present when the common seal of the Commissioners of
Public Works in Ireland was affixed

JOHN H. CANNON
Office of Public Works
Civil Service Clerk.



H. WILLIAMS Secretary.

Present when the common seal of the Belfast and
Northern Counties Railway Company was affixed

W. R. GILL Secretary.



[Ch. cclix.] *Belfast and Northern Counties Railway* [1 EDW. 7.]
Act, 1901.

A.D. 1901.

The FIRST SCHEDULE referred to.

No.	Date of Instrument.	Nature of Instrument and Amount of Advance secured thereby.	Amount now due on Foot of Principal Instalments in arrear.	Amount now due on Foot of Interest to 30th November 1900.
1	5th May 1879 -	Deed poll under the seal of the Derry Central Railway Company to secure £70,000 repayable by 23 yearly instalments as therein mentioned together with interest at the rate of £5 per cent. on the amount of the principal from time to time remaining due.	£82,000	£31,720 18 4
2	17th November 1879	Deed poll endorsed on said last-mentioned deed under the seal of the said Company to secure £20,000 repayable by 23 yearly instalments as therein with interest at £5 per centum.		
3	5th June 1880	Deed poll under the seal of the Derry Central Railway Company to secure £5,000 repayable by 23 yearly instalments as therein with interest at £5 per centum per annum on the principal from time to time remaining due.		
4	22nd August 1881	Deed poll under the seal of the Derry Central Railway Company to secure repayment of £5,000 by 23 instalments as therein with interest at £5 per centum per annum on principal outstanding £100,000		

H. WILLIAMS
 Secretary to the Commissioners of
 Public Works in Ireland.

[1 EDW. 7.] *Belfast and Northern Counties Railway* [Ch. cclix.]
Act, 1901.

The SECOND SCHEDULE referred to.

A.D. 1901.

1. On and after the date of vesting notwithstanding anything in the Acts of Parliament relating to the purchasers or to the Derry Central Company or either of them the following charges and provisions with respect to the use of "the railway" and the conveyance of traffic thereon shall apply and have effect as follows:—

Provisions as to charges &c.

The maximum fare for the conveyance of passengers upon the railway including every expense incidental to such conveyance shall not exceed the following (that is to say):—

For every passenger conveyed in a first-class carriage threepence per mile;

For every passenger conveyed in a second-class carriage twopence per mile;

For every passenger conveyed in a third-class carriage one penny per mile.

2. The maximum rates and charges which the purchasers shall be entitled to charge and make in respect of merchandise traffic on the railway shall be the rates and charges specified in the Railway Rates and Charges No. 26 (Athenry and Ennis Junction Railway &c.) Order Confirmation Act 1892 and the said rates and charges shall be calculated and charged as if the railway and the purchasers' railways were one railway.

Rates and merchandise.

3. On and after the date of vesting the following provisions shall have effect:—

As to rates to be charged by purchasers after vesting.

(1) The actual rates charged on the first day of March one thousand nine hundred and one on the railway or partly on the railway and partly on the railway of the purchasers shall not be increased directly or indirectly without the consent of the Railway and Canal Commissioners:

Provided always that in the event of the Commissioners sanctioning any such increase the Commissioners shall have power to require a proportionate increase to be made in respect of any similar rates charged in respect of corresponding traffic under similar circumstances upon any other portions of the railway system of the purchasers:

(2) The rates charged in respect of traffic conveyed or carried between any stations or places on the railway shall where higher be reduced to the level of the rates for the time being charged by the purchasers in respect of corresponding traffic conveyed or carried under similar circumstances and for similar distances on the railways heretofore owned by the purchasers:

(3) The rates charged in respect of traffic conveyed or carried between any station or place on the railway and any station or place on the railways of the purchasers or between any station or place on the railways of the purchasers and any station or place on the railway shall where higher be reduced to the level of the rates for the time being

[Ch. cclix.] *Belfast and Northern Counties Railway* [1 EDW. 7.]
Act, 1901.

A.D. 1901.

charged by the purchasers in respect of the traffic of a like nature conveyed or carried under similar circumstances and for similar distances on the railways heretofore owned by the purchasers :

(4) If the purchasers intend to propose any increase in rates or charges the provisions of subsection (6) of section 33 of the Railway and Canal Traffic Act 1888 shall apply to such intended increase except that one month's notice of any application to the Railway and Canal Commissioners shall be substituted for the fourteen days' notice mentioned in that section :

(5) In this section the expression "rates" includes special or exceptional rates as well as all other descriptions of rates terminals and charges.

4. The purchasers shall after the passing of this Act at their own expense well and sufficiently equip work develop manage and maintain the railway in perpetuity affording reasonable facilities to the public having regard to all the circumstances of the railway but not less than such facilities as at present exist and shall in no way or under no circumstances work or use the railway to prejudicially affect the full and free flow of traffic of every description over same for and from Dublin Belfast Londonderry Larne and all other intermediate points between such places and to ensure such shall give a system of through rates and fares similar to that on their own line for such passengers parcels merchandise and live stock that may offer themselves or be offered for conveyance.

H. WILLIAMS

Secretary to the Commissioners of Public Works
in Ireland.

W. R. GILL

Secretary Belfast and Northern Counties
Railway Company.

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