CHAPTER 76.

An Act to make further provision respecting the Post Office Telegraphs.

[16th August 1878.]

BE it enacted by the Queen'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:

Short title.

1. This Act may be cited as the Telegraph Act, 1878.

Definitions.

2. In the construction of this Act, unless there is something inconsistent in the context, words and expressions shall have the same meanings as in the Telegraph Act, 1863, and in addition thereto—

The expressions "street" and "public road" shall respectively include any highway:

The expression "Act of Parliament" means any Act of Parliament whether public general, local and personal, or private, and includes the order confirmed by any such Act, and includes a certificate granted by the Board of Trade under the Railways Construction Facilities Act, 1864:

26 & 27 Vict. c. 112.
29 & 30 Vict. c. 3.
31 & 32 Vict. c. 110.
32 & 33 Vict. c. 73.
33 & 34 Vict. c. 88.

The expression "Telegraph Acts" includes the Telegraph Act, 1863, the Telegraph Act Amendment Act, 1866, the Telegraph Act, 1868, the Telegraph Act, 1869, the Telegraph Act, 1870, this Act and any Acts or parts of Acts incorporated with such Acts or referred to therein, any or either of them, and such several Acts may be cited together as the Telegraph Acts, 1863 to 1878:

The expression "undertaking" means the works or undertaking of whatever nature the execution of which is authorised by an Act of Parliament as above defined:

The expression "undertakers" means the parties, whether company, commissioners, trustees, corporations, or private persons, empowered by an Act of Parliament as above defined to execute an undertaking, and any lessee or tenant thereof:

The expression "agents" includes contractors, and also the officers, engineers, workmen, or servants, as well of the Postmaster General, undertakers, bodies, or persons, as of his or their contractors:

The expression "telegraphic line" means telegraphs, posts, and any work (within the meaning of the Telegraph Act, 1863) and also any cables, apparatus, pneumatic or other tube, pipe, or thing whatsoever used for the purpose of transmitting telegraphic messages or maintaining telegraphic communication, and includes any portion of a telegraphic line as defined by this Act:

The expressions "alteration," "alter," and "altering" in respect of a telegraphic line, include the substitution of any new line or portion of a line, either in the same place or in some other place, also any removal of or other dealing with any telegraphic line or any part of such line.

Amendment of 26 & 27 Vict. c. 112. as to consents.

3. Where any body or person (within the meaning of the Telegraph Act, 1863,) having power under the said Act to give or withhold their consent to the Postmaster General placing telegraphs and posts (within the meaning of the said Act) in, under, upon, along, over, or across a street or public road, or any estuary or branch of the sea, or the shore or bed of any tidal water, or where any proprietors, lessees, directors, or persons having the control of any railway or canal (within the meaning of the said Act), and having power under the said Act to give or withhold a consent to the Postmaster General placing telegraphs and posts under, in, upon, along, or across such railway or canal, fail within twenty-one days after being required to do so by the Postmaster General to give their consent, or attach to their consent any terms, conditions, or stipulations to which the Postmaster General objects, or withdraw a consent, a difference shall be deemed to have arisen between the Postmaster General and such body or person, proprietors, lessees, directors, or persons (as the case may be,) and that difference shall be determined in manner herein-after provided, and the authority by whom the difference is to be determined may, if after hearing all parties concerned they think it just, give their consent either unconditionally or subject to such pecuniary or other terms, conditions, and stipulations as

they may think just; and that consent shall for all purposes be of the same effect as if it were a consent given under the Telegraph Act, 1863, to the Postmaster General by such body or person, proprietors, lessees, directors, or persons.

Differences relating to a street or public road to be determined by stipendiary magistrate, county court judge, or sheriff.

4. Where any difference arises under this Act or the Telegraph Act, 1863, between the Postmaster General and any body or persons having any power, jurisdiction, or control over or relating to a street or public road, or having power under the last-mentioned Act to give or withhold a consent to the placing of telegraphs and posts in, under, upon, along, or across a street or public road, such difference shall in England or Wales and Ireland be referred to the police or stipendiary magistrate having jurisdiction within the district in which the difference has arisen, or if there be no such magistrate, then to the judge of the county court having jurisdiction within such district, and in Scotland to the sheriff, and such magistrate, judge, and sheriff are respectively empowered and required to hear and determine such difference, and sections thirty to thirty-three, both inclusive, of the Regulation of Railways Act, 1868, shall apply to every difference so referred to such magistrate, judge, or sheriff (as the case may be) in like manner as if he were an arbitrator appointed pursuant to those sections, and as if the Postmaster General, body, or person between whom the difference has arisen were companies within the meaning of those sections.

31 & 32 Vict. c. 119.

Provided always, that in case either the Postmaster General or the body or person between whom the difference has arisen shall be dissatisfied with the award or decision of such magistrate, judge, or sheriff, the party so dissatisfied may within twenty-one days after such award or decision require, by a notice in writing given to the other party, that the difference shall be referred to the Railway Commissioners.

General provisions as to arbitration.

5. The differences so required to be referred by the last preceding section to the Railway Commissioners and all other differences under this Act, except a difference between the Postmaster General and any body or person having any right, power, jurisdiction, or control in, over, or relating to any estuary or branch of the sea or the shore or bed of any tidal water, shall be referred to and shall be determined by the Railway Commissioners for the time being; and every difference referred to them under this Act shall be conducted by the Railway Commissioners in the same manner as any other proceeding is conducted by them under the Acts relating to those Commissioners; and it shall be the duty of the Railway Commissioners, and they are hereby empowered, to undertake and determine any difference referred to them under this Act; and any difference between the Postmaster General and any body or person having any right of property or other right, or any power, jurisdiction, or authority in, over, or relating to any estuary, branch of the sea, or the shore or bed of any tidal water shall be referred to and determined by the Board of Trade.

In the event of the Railway Commissioners ceasing to hold office, all differences directed under this Act to be determined by them shall be determined by the Board of Trade, and sections thirty to thirty-three, both inclusive, of the Regulation of Railways Act, 1868, shall apply to every difference to be determined under this Act by the Board of Trade, in like manner as if the Postmaster General, undertakers, body, or person between whom that difference has arisen were companies within the meaning of those sections.

31 & 32 Vict. c. 119.

Power of Postmaster General to establish telegraphic lines on certain undertakings authorised by special Act of Parliament.

6. Where an Act of Parliament passed after the first day of January one thousand eight hundred and seventy-eight authorises the construction of any of the following undertakings, namely, any railway, canal, tramway other than street tramways, highway, bridge, railway or river embankment, subway, aqueduct over or across a river, dock, harbour, or pier, it shall be lawful for the Postmaster General, by himself or his agents, to place and maintain telegraphic lines in, under, upon, along, over, or across such undertaking, and from time to time to alter the same, and he may from time to time, by himself or his agents, enter upon any land or works of the undertakers for the purpose of placing, maintaining, or altering any telegraphic line in pursuance of this section, or of examining or repairing any line so placed, and may there remain for such reasonable time, and execute and do all such works and things, as may be necessary or convenient for the purposes aforesaid, but shall not interfere with the traffic along or user of the undertaking, subject to the following conditions:

(1.) In placing, maintaining, or altering such telegraphic lines no obstruction shall be caused to the traffic along or the user of such undertaking:

(2.) The Postmaster General shall, not less than one month before he places any telegraphic line, give to the undertakers a notice specifying the course and position of the proposed telegraphic lines, and if within one month after such notice the undertakers object to the course or position specified in the notice, and do not agree with the Postmaster General on some other course or position, a difference shall be deemed to have arisen between the Postmaster General and the undertakers:

(3.) If any damage or injury be caused or any stoppage or delay be occasioned to the works of the undertaking by the placing, repair, or maintenance of such telegraphic lines, the Postmaster General shall at his own expense make good such damage or injury, and shall indemnify the undertakers against any expense to which they may be put by reason of any such damage, injury, stoppage, or delay:

(4.) If the undertakers shall incur any additional expense by or in consequence of the repair or maintenance of such telegraphic lines, the Postmaster General shall from time to time pay to the undertakers the amount of such additional expense.

This section shall apply to the several railways over which powers were conferred upon the Postmaster General by the Local Acts mentioned in the schedule to this Act, and to the undertakers empowered by such Local Acts respectively.

Provided that so far as relates to any railways belonging to or leased or worked by any of the railway companies mentioned in section nine, or in the schedule of the Telegraph Act, 1868, the powers of constructing, altering, or maintaining telegraphic lines by the Postmaster General shall not be exercised if and so long as the said companies respectively are able and willing themselves to construct, alter, and maintain such telegraphic lines, and such construction, maintenance, and repair shall be upon the terms and conditions in the said Act or the agreements thereunder declared: Provided also, that this section shall not affect any agreement between any undertakers and the Postmaster General.

If any difference arises between the Postmaster General and any undertakers in relation to the exercise of any power under this section, that difference shall be determined in manner provided by this Act.

Provision as to work done in pursuance of special Acts of Parliament which involves alteration in telegraphic line.

7. Where any work proposed to be done in the execution of an undertaking authorised by an Act of Parliament involves or is likely to involve an alteration either temporarily or permanently in any telegraphic line of the Postmaster General, and provision is not otherwise made by enactment, agreement, or otherwise with respect to such alteration or to giving notice to the Postmaster General thereof or to the expenses of or incidental thereto, the following enactments shall apply:

(1.) The undertakers or their agents shall give to the Postmaster General not less than seven nor more than fourteen days previous notice of the time and place at which the work will be begun and the nature of the alteration required:

(2.) Before the expiration of seven days after the notice is given the Postmaster General may give the undertakers or their agents a counter-notice either stating his intention himself to make, or requiring the undertakers to make under the supervision and to the satisfaction of himself or his agents, such alteration in the telegraphic line as he deems necessary or expedient to be made in consequence of the proposed work:

(3.) If the Postmaster General by his counter-notice states that it is his intention himself to make such alteration, it shall be lawful for such Postmaster General by himself or his agents to make the same, and the undertakers or their agents shall pay to the Postmaster General all the expenses incurred by him of and incidental thereto, and the amount of any loss or damage sustained by him in consequence thereof:

(4.) If the Postmaster General by his counter-notice requires the undertakers or their agents to make such alteration, the undertakers or their agents shall, at their own expense, make the same under the supervision and to the reasonable satisfaction of the Postmaster General or his agents, and the said undertakers shall pay to the Postmaster General all the expenses incurred by him of and incidental to such supervision, also the amount of any loss or damage sustained by him in consequence of the alteration:

(5.) If the Postmaster General fails to give a counter-notice, or if having undertaken himself to make the alteration he or his agents should fail to make within a reasonable time the alteration, the undertakers or their agents may themselves make the alteration to the reasonable satisfaction of the Postmaster General or his agents:

(6.) If any undertakers or their agents fail to serve on the Postmaster General such notice as is required by this section with respect to any work, or begin to do the work specified in a notice served under this section before the expiration of seven days after the notice is given, they shall be liable to pay a fine not exceeding ten pounds for every day during which they continue such work without the sanction in writing of the Postmaster General, and the Postmaster General may at the expense of the undertakers remove such work:

(7.) If any undertakers or their agents fail to comply with the reasonable requirements of the Postmaster General or his agents under this section, they shall be liable to a fine not exceeding ten pounds for every day during which such failure continues, or if the telegraphic communication is interrupted, not exceeding fifty pounds for every day on which such interruption continues:

(8.) Provided that nothing in this section shall subject any undertakers or their agents to a fine for omitting to comply with any requirements of the Postmaster General or his agents, or for executing without previous notice any work if they satisfy the court having cognizance of the case that any such requirement was unreasonable or that the immediate execution of the work was required to avoid an accident, or otherwise was a work of emergency, and that they forthwith served on the postmaster or sub-postmaster of the postal telegraph office nearest to the place where the work was done a notice of the execution thereof, stating the reason for executing the same without previous notice:

And where under section eight of the Telegraph Act, 1863, any body to or by whom any such pipe as in that section mentioned belongs or is used require that the position of any telegraphic line of the Postmaster General or any part thereof should be altered, the enactments of the present section shall apply, and for such purposes any such body shall be deemed to be "undertakers."

Compensation and fine for injury to telegraphic line of the Postmaster General and for interruption to telegraphic communication.

8. Where any undertakers, body, or person, by themselves or by their agents, destroy or injure any telegraphic line of the Postmaster General, such undertakers, body, or person shall not only be liable to pay to the Postmaster General such expenses (if any) as he may incur in making good the said destruction or injury, but also, if the telegraphic communication is carelessly or wilfully interrupted, shall be liable to a fine not exceeding twenty pounds per day for every day during which such interruption continues.

Where the undertakers, body, or person liable to pay such daily fine as aforesaid to the Postmaster General are not authorised to execute such works as may be required for remedying the interruption, the interruption shall be deemed to continue either for the time during which it actually continues or for such less time as in the opinion of the court having cognizance of the case would have been sufficient for remedying the interruption by the Postmaster General.

The Postmaster General may, instead of taking proceedings for the recovery of such daily fine as aforesaid, proceed for the recovery of a fine not exceeding fifty pounds, to which the undertakers, body, or person shall be liable on summary conviction.

An act done to a telegraphic line in the course of work undertaken by any undertakers, body, or person in the legal exercise of a right shall not be deemed to be wilful destruction of or injury to such telegraphic line, if due notice of the intended exercise of such right has been given to the Postmaster General, that is to say, the notice required to be given in pursuance of any Act of Parliament or agreement, or where there is no Act of Parliament or agreement requiring such notice, fourteen clear days notice.

This section shall be deemed to be in addition to and not in derogation of any other power or means which the Postmaster General may have of recovering damages in respect of any such destruction or injury as in this section mentioned under any other Act of

Parliament or at common law or otherwise, provided that he shall not proceed under this Act and under any other Act or law in respect of the same destruction or injury.

Penalty for obstruction.

9. Where any undertakers, body, or person or their agents obstruct the Postmaster General or his agents in placing, maintaining, altering, examining, or repairing any telegraphic line in pursuance of this Act, or of any consent given in pursuance of this Act, or in supervising or directing any alteration in any telegraphic line made by any undertakers or their agents in pursuance of this Act, such undertakers, bodies, or persons and agents respectively shall for every act of obstruction be liable to a fine not exceeding ten pounds, or in case such obstruction continues, ten pounds for every day during which the same continues.

Prosecution of offences.

10. All fines and penalties under any of the Telegraph Acts may be recovered by the Postmaster General in manner provided by the Summary Jurisdiction Acts before a court of summary jurisdiction, and for the purposes of this Act—

(1.) The expression "Summary Jurisdiction Acts" means—

as respects England, the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to facilitate the "performance of the duties of justices of the peace out of sessions within England "and Wales with respect to summary convictions and orders," and any Act passed or to be passed amending the same; and

27 & 28 Vict. c. 53.

as respects Scotland, the Summary Procedure Act, 1864, and any Act passed or to be passed amending the same; and

as respects Ireland, within the police district of Dublin metropolis, the Acts regulating the powers and duties of justices of the peace for such district, or of the police of that district, and elsewhere in Ireland the Petty Sessions (Ireland) Act, 1851, and any Act passed or to be passed amending the said Acts, or any of them; and

14 & 15 Vict. c. 93.

(2.) The expression "court of summary jurisdiction" means—

as respects England, any justice of the peace or other magistrate or officer to whom jurisdiction is given by the Summary Jurisdiction Acts, so, however, that any case arising under any of the Telegraph Acts shall be heard and determined either by two or more justices of the peace in petty sessions sitting at a court or other place appointed for holding petty sessions, or by some magistrate or officer sitting alone or with others at some court or other place appointed for the administration of justice, and for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace; and

as respects Scotland, means any sheriff or sheriff substitute; and

as respects Ireland, means any justice or justices or other magistrate, by whatever name called, having jurisdiction under the Summary Jurisdiction Acts.

All fines and penalties recovered in pursuance of any of the Telegraph Acts shall be paid into the Exchequer.

Provision as to Postmaster General.

11. In the Telegraph Acts the expression "Postmaster General" means Her Majesty's Postmaster General for the time being.

Any legal proceeding may be instituted by the Postmaster General for any of the purposes of any of the Telegraph Acts in the name of Her Majesty's Postmaster General for the time being, and shall not abate or be discontinued by reason of any change in the person who is Postmaster General, but may be carried on as if Her Majesty's Postmaster General for the time being were a body corporate; and where any sum is due or payable to the Postmaster General under any of the Telegraph Acts, or any contract, agreement, or regulations made in pursuance or for any of the purposes of those Acts or any of them, the Postmaster General may recover the same as a debt in any court and in any manner in which it might be recovered if it were a debt due to a private person.

Printing, authentication, and service of notices and other documents.

12. A notice under this Act may be in writing or print, or partly in writing and partly in print.

Any notice, appointment, direction, or document given, issued, or made for the purposes of this Act by the Postmaster General shall be sufficiently authenticated if purporting to be

signed by a secretary or assistant secretary of the Post Office, or by a superintending engineer of the Postmaster General, or by an officer appointed for the purpose by the Postmaster General, and when so authenticated shall be deemed to be given, issued, or made by the Postmaster General.

Where a notice is given by any undertakers, body, or person, the notice shall be sufficiently authenticated if purporting to be signed by the chairman, secretary, clerk, or other officer of such undertakers, body, or person.

A notice required to be given under this Act to the Postmaster General may be given by leaving the same at or by forwarding the same by post to the General Post Office in a letter addressed to the Postmaster General or to the Secretary of the Post Office, or to an assistant secretary of the Post Office, or by delivering the same to or forwarding the same by post in a letter addressed to the superintending engineer of the Postmaster General for the district in which is the work, telegraphic line, or other matter referred to in the notice and addressed to him at his office or usual place of abode.

A notice required to be given under this Act to any undertakers or body may be given by leaving the same at or by forwarding the same by post to the office, or where there is more than one office the principal office of such undertakers or body in a letter addressed to such undertakers or body, or to their chairman, secretary, clerk, or other officer.

A notice required to be given under this Act to any person may be given by delivering the same to such person or by leaving the same at or forwarding the same by post in a letter addressed to such person at his usual or last known place of abode.

Where a notice is forwarded by post it shall be deemed to have been given at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving the giving thereof it shall be sufficient to prove that the same was properly addressed and put into the post.

The expression "notice" in this section shall be deemed to include a counter-notice.

Saving existing rights.

13. Nothing in this Act contained shall vary or prejudicially affect the rights or obligations subsisting at the time of the passing of this Act, of any Railway or Canal Company, or of the Postmaster General respectively, under the provisions of the Telegraph Acts, 1868 and 1869, or under any deed, agreement, or award made between any Railway or Canal Company and the Postmaster General, whether confirmed by or made in pursuance of the Telegraph Acts; and in regard to all railways and canals now existing or authorised, the provisions of the Telegraph Acts, 1868 and 1869, shall not be affected by this Act except that the arbitrators on any difference between the companies and the Postmaster General shall be those provided by this Act: Provided always, that, notwithstanding the incorporation of the Telegraph Act, 1863, with the Telegraph Act, 1868, the provisions of the Telegraph Act, 1863, shall not be deemed to be provisions of the Telegraph Acts, 1868 and 1869, or either of those Acts, within the meaning of this section, or any part thereof.

Saving rights of trustees of Bridgewater Canal.

14. Nothing in this Act shall affect the rights of the trustees or proprietors of the Bridgewater Canal under section eleven of the Telegraph Act, 1868.

SCHEDULE.

Section 6.

LOCAL ACTS REFERRED TO.

Session and Chapter.	Short Title of Act.
40 & 41 Vict. c. ccxi.	Abbotsbury Railway Act, 1877.
40 & 41 Vict. c. ccxxvi.	Belfast Central Railway Act, 1877.
40 & 41 Vict. c. ccxiii.	Birmingham and Lichfield Railway Act, 1877.
40 & 41 Vict. c. clxxxix.	Brighton and Dyke Railway Act, 1877.
40 & 41 Vict. c. clxxiv.	Bromley Direct Railway Act, 1877.
40 & 41 Vict. c. clvii.	Bury and Tottington District Railway Act, 1877.
40 & 41 Vict. c. ccxiv.	Burry Port and Gwendreath Railway Act, 1877.

Session and Chapter.	Short Title of Act.
40 & 41 Vict. c. clxvi.	Clackton-on-Sea Railway Act, 1877.
40 & 41 Vict. c. clx.	Cranbrook and Paddock Wood Railway Act, 1877.
40 & 41 Vict. c. cxii.	Derry Central Railway Act, 1877.
40 & 41 Vict. c. ccxxxi.	Dover and Deal Railway Act, 1877.
40 & 41 Vict. c. clvi.	East London Railway Act, 1877.
40 & 41 Vict. c. ccxv.	Glencairn Railway Act, 1877.
40 & 41 Vict. c. clxxvii.	Golden Valley Railway Act, 1877.
40 & 41 Vict. c. ccxviii.	Lewes and East Grinstead Railway Act, 1877.
40 & 41 Vict. c. clxxix.	Limerick and Kerry Railway Act, 1877.
40 & 41 Vict. c. clxxx.	Loose Valley Railway Act, 1877.
40 & 41 Vict. c. ccxx.	Mersey Railway Act, 1877.
40 & 41 Vict. c. ccxxxiii.	Metropolitan District Railway Act, 1877.
40 & 41 Vict. c. cxcvii.	Penarth, Sully, and Barry Railway Act, 1877.
40 & 41 Vict. c. cxlviii.	Severn Bridge Railway Act, 1877.
40 & 41 Vict. c. cxliv.	Usk and Towy Railway Act, 1877.
40 & 41 Vict. c. ccxxv.	Welshpool and Llanfair Railway Act, 1877.
40 & 41 Vict. c. clxxxv.	Whitland and Taf Vale Railway Act, 1877.
40 & 41 Vict. c. cxcix.	Whitland, Cronware, and Pendine Railway Act, 1877.

CHAPTER 77.

An Act to amend the Law relating to Highways in England and the Acts relating to Locomotives on Roads; and for other purposes.

[16th August 1878.]

24 & 25 Vict. c. 70.
28 & 29 Vict. c. 83.

WHEREAS it is expedient to amend the law relating to highways in England, and to amend the Locomotive Acts, 1861 and 1865:

Be it enacted by the Queen'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:

Preliminary.

Short title.

1. This Act may be cited as the Highways and Locomotives (Amendment) Act, 1878.

Application of Act.

2. This Act shall not apply to Scotland or Ireland; and, save as is by this Act expressly provided, Part I. of this Act shall not apply to the Isle of Wight; nor to any part of the metropolis; nor to any part of a county to which the Act passed in the session of the twenty-third and twenty-fourth years of the reign of Her present Majesty, chapter sixty-eight, intituled "An Act for the better management and control of the highways in South "Wales," extends.

PART I.

AMENDMENT OF HIGHWAY LAW.

Highway Districts.

Highway districts to be made so far as possible coincident with rural sanitary districts.

3. In forming any highway districts, or in altering the boundaries of any highway districts, the county authority shall have regard to the boundaries of the rural sanitary districts in their county, and shall, so far as may be found practicable, form highway districts so as to be coincident in area with rural sanitary districts, or wholly contained within rural sanitary districts.

Power for rural sanitary authority of district coincident with

4. Where a highway district, whether formed before or after the passing of this Act, is or becomes coincident in area with a rural sanitary district, the rural sanitary authority of such district may apply to the county authority, stating that they are desirous to exercise the powers of a highway board under the Highway Acts within their district.