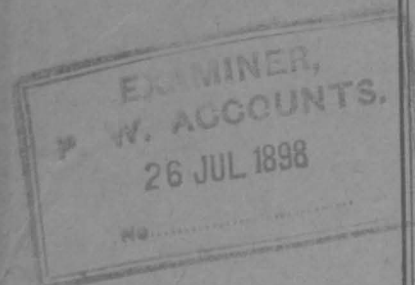


Public Works (1898) Department.

RAILWAY BRANCH.

G.O., No. 815 Ry

DATED 15th June 1898



[Despatch Abstract.]

Railway Crossing in the Benhope Estate

Passing orders on a claim made by Mr. W. Rhodes James to be given a light bridge instead of a crossing on the level at certain path, connecting two paths of his coffee estate "Behhope", where it is crossed by the Kilgiri Railway in a deep cutting.

Indexed.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

The papers read above relate to a claim made by Mr. W. Rhodes James to be given a light bridge instead of crossing on the level at a certain point, connecting two parts of his Coffee Estate "Rethope", where it is crossed by the Nilgiri Railway in a deep cutting. On a full consideration of all the circumstances of the case, and on a comparison of the cost of such a bridge as is necessary and of diverting the path so that Mr. James' position may be no worse than it was before the railway passed through his estate, except for clearance for ^{awarded} which he has already been compensated, Government is pleased to order that Rs. 3000, to be debited to Land Acquisition Nilgiri Railway, be paid by the Collector of the Nilgiris to the Agent and Chief Engineer of the Nilgiri R.L., and that the latter make a bridge to the satisfaction of the Consulting Engineer for R.L. square to the line, as near as may be to the

etc of the original path.

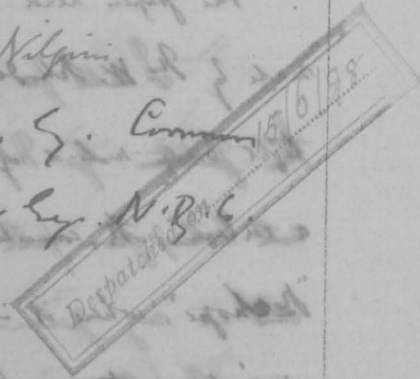
I meeting Mr. W. Rhodes James' wish for
his no way about his right to the concession was
made, and has been guided solely by comparative
estimates.

F.V.S.

R.

14/6/98

- To The Collector Nilgiris
- To Mr. Rhodes James Esq. Commr.
- To The Agent of the N. B. Co.
- To The Secy.



Done by D.D. & no.
Locust line 21.6.6-88.

Form No. 10.

PUBLIC WORKS DEPARTMENT

RAILWAY BRANCH.

C. No.

SUBJECT.

HIS EXCELLENCY THE GOVERNOR.

~~THE HONBLE MR. HENRY BLISS, K.C.M.S.~~

~~THE HONBLE MR. CROSE, C.M.E.~~

Railway crossing
in the Bankope Estate.

FOR ORDERS.

I take for your Excellency's view on
the petition of Mr. W. Rhodes James. My
note below gives full particulars of what I
saw at my personal inspection of the locality
with Mr. James and Mr. Wightman.

I consider that Mr. James has a legitimate
grievance because the path to the land was
which it would be necessary to make for him,
and the making of which he has prevented because
he did not wish to lose 80 or 100 tons of
which would not be nearly as good as the original
path.

It is then - Mr. Wightman says that he
has been compensated for clearance. But he
has not been compensated for getting a much worse
path.

The matter is really a very small one
and Mr. Wightman ought not I think to have

fought it: it was surely not this. But
in order of fact. is now necessary and if H.S.
accepts my view of the matter the order
would be that Rs 300, debited to Land Acquisition,
be made over to the Civil Engineer & the
Eng in Chg Nilgiri R.G. who shall be directed
to build a light crossing to the approval of
the Consulting Engineer.

But if your Excellency wishes to inform
Mr Rhodes James that Govt declines to
interfere with the discretion of the Collector
in this matter, this can be done. Had I
not personally seen the place I should have
advised the latter course. But the former course
will be accepted by both parties & there
shall no longer be any ill feeling, which is
itself not an undesirable thing in the case
of a rack railway crossed on the head of
coolies. The amount is insignificant small. &
will not affect the Govt. in any way
as it is required.

F.H.S.

10/6/98

To accept the Govt's view of the case, this
order should issue.

A.S.H.

12.6.98

Ref No. 524/98

C.N. called for

Nilgiri/Collector's Office

Collected on 7th June 1898.

J. W. S. J. Current No 2709

7

Mr James Esquire

13/6/98

Collector of Nilgiris

7

The Consulting Engineer for Railways

Sir,

1/0

I have the honor to acknowledge receipt
of your No. 524 of 1898. on the subject of
11th April
Mr Rhodes James' crossing over the Nilgiri
Railway near Benhope.

2 In the note therein enclosed you say
"One way out of it (the difficulty) would
be to compulsorily acquire the little
strip of land necessary for the division"
and you proceed to found an argument
on the cost of this acquisition. But in

* Facilities
for foot-paths
are to be provided
whenever required

Extract from
Award. It
should also
be noted that
compensation
was given for
severance.

my opinion, there should be no question
of acquisition; the path is to be not-
public, but private; the arrangement
was to supply Mr James with a Crossing
that is, with a reasonably convenient-
Crossing; if, as I considered, the
level Crossing would be reasonably
convenient, the duty of Government
is confined to making the Crossing

and cutting approaches to it; if in the making of the approaches it is necessary to cut down any of his Coffee trees, he will be entitled to Compensation for the trees, but, it seems to me, he would not be entitled to Compensation for the approaches, since they would still vest in him.

3 You will thus see that I am unable to go with you in the argument contained in your note. And with reference to para 2 of your letter I cannot agree that Mr. James is entitled "to an overhead bridge."

4. If however Mr. James is not entitled, neither is any other State owner, so far as my knowledge extends. Hence a concession made to him need not be feared as a precedent, provided it is clearly laid down that no legal right

is admitted in his case. And I am ready to admit that considering the local conditions described by you the concession of an overhead bridge might well be made by the Railway. In that case however no portion of the Cost - I submit - should fall upon Government.

I have the honor to be
sir

Your most obedient servant.

For Collector

C. P. L.
C. P. L.

From

The Consulting Engineer
for Railways,
Madras,

To

The Collector of
Nilgiris.

Dated

16th May

1898

Received

Second reminder 7th June 1898
for 1/19
7/6/98

No.

1/10 1/20

The undersigned has the honour to request
the favour of an early reply to his letter No.
1/10 dated 11th April 1898.

7 JRS.

16/7/98

SUBJECT.

Forwarding in original
petition from Mr. Rhodes James
with papers regarding the con-
struction of an overhead bridge
instead of a level crossing at
Benhope, on Nilgiri Railway,
and enquiring whether in his
opinion the arrangement pro-
posed is an equitable one.

Despatched on 16/5/98

Consgr. Engr. for Railways.

From

The Collector of the Nilgiris

To

The Consulting Engineer
Railways,
Madras.Dated 7th June 1898Refn Account No 524/98
Enclom 10
Overbridge across the Railway
Crossing in the Benhope
EstateSatisfy that an — may be
constructed to the Railway on
conditions stated within.

N^o 1 dated 11/4/98

From Mr. C. E. for Br.

L. Mr. Collector Virginia.

Sir

I shall be obliged if ~~the collector~~ ^{you} will read through the attached original papers (to be returned) and will inform me whether in ~~the~~ ^{your} opinion the arrangement proposed in my Note below of this date, is an equitable one.

2.- The important point in regard to which I shall be glad of ~~the collector's~~ ^{your} opinion, is this.

Have arrangement in regard to other cases of clearance of estate, and in regard to road and prototype division, already proposed so far that there is no fear of other people regarding the question of whether or not they are entitled to an overbridge instead of to a level crossing?

3.- I take it that in all such matters a certain stage of finality is reached beyond which such question are not likely to be reopened. ^{You will doubtless be able to} ~~The collector~~ ^{say} whether such a stage has or has not been reached in all other cases.

4.- It is quite possible, ~~for the collector~~ ^{for the collector} may be of opinion, for reasons unknown to me, but in record with ~~the~~ ^{you}, that it would be preferable to temporarily acquire the necessary little strip of land, and make

Enclosed:

original papers referred to
to be returned (8)

the division is originally intended. But if so, it is only right that action should be taken immediately. There is no reason that I know of why the land acquisition officer should not be on the spot in two days and make his survey and take possession of the land in two hours more. Once the land is acquired the P.W.D. need not take long in making ~~the path in two days~~ ^{and not take long in making} ~~the path in two days~~ ^{the path in two days}. But unless promised they will not do so.

5- ^{Do you} ~~Does the~~ Collector recommend this course, or that the bridge be made as proposed in my Note? And is there any risk of the giving of the bridge being relied on elsewhere as a precedent?

6- It seems scarcely necessary to explain that it will not happen, as Mr. Wightman assumes, on every occasion of a land crossing occurring. That there is a moral claim to a bridge. Such a claim can only arise when, as in Mr. James' case, the area of the path is placed, by the substitution of a land crossing for a bridge, in a considerably worse position than he was in before.

7- For all I can tell to the contrary, the price paid to Mr. James for clearance may have been intended to cover all his inconvenience. ^{you} ~~The~~ Collector ^{should} ~~will~~ know about this.

J.R.S.

10/9/98

Self
10/9/98

Nalgiu Railway.
Mr. Rhodes James' petition to H.E. The Governor

The Rhodes James' coffee estate was cut through by the Nalgiu Ry. He was paid for land, and also for 'clearance'. One small footpath which can just, and only just, be climbed by loaded pack bullocks, and which is perhaps used by 10 to 20 coolies daily, happened to come just at one of the Railway cuttings. Mr. Wightman did not like to build a footbridge, because there are many more similar places where other plantations might, he says, equally equitably ask for similar accommodation. So it was arranged by the Collector of the Nalgiu that the path was to be shifted 40 or 50 yards further on to a place where it could cross on the level. The arrangement was that the Railway Company should make the portion of the path lying within their boundary, and that the P.W.D. should make the portion lying outside railway land.

But Mr. James has forbidden anyone to touch his coffee bushes (except what the division must pass) so that the path remains unused, because cleared, in its old location, and unusable, in its new.

One way out of it would be to long-sidely acquire the little strip of land necessary for the division. But that would cost perhaps half as much as the bridge. To make the path would perhaps nearly cost the other half. Because it

must dig - dig about amongst rocks.

Mr James undoubtedly has a grievance. I saw the place with him & Mr Wightman. The diverted path will be fully 100 yards longer than the old one. It will if made, involve some 60 or 80, or more, coffee bushes which he naturally does not want to lose, and it will be a steeper and more difficult path.

Mr Wightman & I think that a foot bridge across the cutting of old path, will cost nearly Rs 400. The very least I can put down for the new division, including payment for longinally acquired land, making the path, and two payees each for coffee bushes is Rs 300.

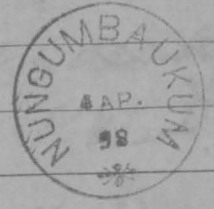
I advise that land acquisition be debited with Rs. 300. and that the amount be made over to the Agent Nilgiri R. Co. and that he be told that he must build a suitable foot bridge at the old site. Thus Mr James' grievance gets dissipated, Govt. (English) spend exactly what they would spend in any case, and the Nilgiri R. Co. spend perhaps Rs 100 more than they intended, and save them right, for allowing things to go on for without somehow trying to square Mr James. Personally I want having to climb up and down rocky precipices to save the Company a few rupees. Government ought not to be dragged into so small a matter.

But before taking final action I pass this on to the Collector Nilgiri, with certain inquiries.

J.V.S.
10/2/98

Class. <i>dp</i>				INDIAN TELEGRAPH.		Monthly Local No. <i>68</i>	
To <i>Madras</i>				From <i>Coonoor</i>		Station	
Words. <i>dp</i>				Day. <i>4</i>	Hour. <i>7</i>	Minute. <i>5</i>	OFFICIAL INSTRUCTION.
To (Person)				From (Person) <i>Rhodes James</i>			
<i>F. J. C. Spring</i>							
<i>Esq. Madras Club</i>							
<i>Kindly notify as arranged</i>							
<i>when inspecting railway</i>							
<i>Benhope &</i>							
<i>Reps. from Co. Esq. to Rhodes James Esq</i>							
<i>Benhope Coonoor</i>							
<i>67 D. H. has asked Wightman arrange with</i>							
<i>you meet me at crossing on Sunday</i>							
<i>Despd</i>							
<i>7/11/98</i>							
RECD. FROM <i>5/4/98</i> L. N.				SENT TO L. N.			
At Hrs. Mts. By				At Hrs. Mts. By			
Date				Postmaster.			

Limited.



at 2 1/2 - 3y about amongst rocks.

RATES OF CHARGE FOR INLAND TELEGRAMS.

The address (including name of Sender, and name and residence of Addressee) is transmitted free.

	First 8 words.	Each additional word.	
Deferred Message	... 8 Annas	... 1 Anna.	A group of 3, or less figures, is reckoned as one word.
Ordinary "	... 1 Rupee	... 2 Annas.	
Urgent "	... 2 Rupees	... 4 Annas.	

No charge for delivery within a distance of 5 Miles.

NILGIRI RAILWAY

21/3

emo—

Nilgiri Railway Company Limited.

Engineer in Chief's Office.

March 25th 1898

My dear Spring, Your D.O. of 21st:

I return Mr James petition: I thought it was a copy only & filed it —

You ask why I have not made the diversion long ago: The level crossing & the diversion within Ry land limits has been made about a year. The portion outside Ry limits has to be done by the P.W.D & would have been made long ago if Mr James had not objected.

Mr James knows the cost will not fall on him —

f.O. no 245 (copies) being returned to you officially —

Please let me know your programme when coming up, date, time & no. of parties & whether you will breakfast

was what was contemplated from the first" is not in accordance with facts: a reference to Mr J. D. Rees C.E.C. who held the enquiry will effectually dispose of

Nilgiri, with certain inquiries.

J.W.S.

10/4/98

at Burtian -

Yr sincerely

W. H. Wrightman

P.S. There are 2 or 3 places I want you to
see very much so I hope you will be
able to halt in Coonoor -

Memo

NILGIRI RAILWAY

COONNOR, 21/3 1898

From

THE AGENT AND CHIEF ENGINEER.

My dear Spring: I enclose
a memo which will
enable you to reply to
James' petition to H. E.

You will see it is the
precedent more than
anything that I fear:
there must be at least
100 footpaths crossing the
Ry - I propose to adopt



whilst the signs thus
as in America -
The traffic over
these cotate paths
is very small, say
20 coolies in the morning

— Memo —

"do" returning in the
evening: in the picking
season it is
true but very different
from a public footpath.

Yours sincerely
L. Weightman

25-26 about amongst rocks.

Handwritten notes on a separate piece of paper, including names like "Mr. James", "Mr. Tremble", and "Mr. D. D. Pies", and dates like "10/2/48".

Memo

Mr. James Petition to L. C. The Governor.

The point raised by Mr. James regarding the inadequacy of the level crossing at ch: 245 is not a new one: it has been referred by Mr. James to each successive Collector who have all agreed with me that it meets the requirements of the case and Mr. Tremble's decision, arrived at after a lengthy correspondence and conversation with me, had, I thought, finally disposed of the matter.

The points which influenced this decision were:-

- (1) That the foot-path is a very insignificant one & rarely used and terminates entirely at a very short distance beyond the Railway.
- (2) That Mr. James has already been paid compensation for severance.
- (3) That when the enquiry regarding the acquisition (at which Mr. James was present) was held it was clearly explained that level crossings would be given wherever there was a footpath but that in most cases where they occurred in a cutting, it would be necessary to divert them to the nearest balance point: this was explained by a sketch.
- (4) That at the enquiry there was no promise or even mention of providing bridges; Mr. James Statement "it was always understood that an overhead connection was what was contemplated from the first" is not in accordance with facts: a reference to Mr. J. D. Pies C. S. C. who held the enquiry will effectually dispose of

of this contention.

(5) The question of the provision of bridges arose comparatively recently in this way: in the Kuslar Estate there are two roads which it was quite impossible to divert, consequently the Railway Company built overbridges, since then every one who has a path crossing the Railway imagines he has a right to an overbridge.

(6) The number of such paths is probably not less than 100: many of them of far greater importance than the one referred to in the petition, consequently if a bridge is given in this case, it will be expected in all the others.

(7) The cost of the deviation will not fall on Mr. James, as he imagines, the portion in Railway Territory will be paid for ^{by} the Railway, that outside by Govt.

(8) The deviated ^{path} ~~road~~ will be equal in all ~~one~~ respects to the original ^{one} path.

L. J. W. Seymour

AGENT AND CHIEF ENGINEER.

His Excellency

Sir A. E. Havelock. G. C. M. G., G. C. I. C.
Governor of Fort St. George.

The Memorial of W. Rhodes James
Respectfully Sheweth.

Your Petitioner prays your Excellency-in-Council that with reference to Section 11 of the Railway Act, of which a copy is attached, the portions of a bridle-road in the Benhope Estate which has been intersected by a deep Railway cutting, and which is referred to in the enclosed copy of a letter from the Collector Mr. Tremenhare, may be connected by an overhead bridge instead of by a level crossing.

After receiving the letter above referred to your Petitioner had an interview with the Collector, and then intimated to him that his communication would not be regarded as in any sense a final order on the subject, as he (Mr. Tremenhare) had not seen the spot for himself; that it would be necessary for him to inspect it before he could form an opinion as to the necessity or otherwise for an overhead way, and that a visit from him would also be required in connection with the question of compensation for Railway damages, of which not a Rupee has yet been paid. Mr. Tremenhare indicated his assent to this view, and promised to come down very shortly and look personally into the matter of the Petitioner's complaint.

Before this could be done, however, Mr. Tremenhare was transferred to Madras, and his letter of the 8th of September last, not having been either cancelled or modified by him, must be regarded by his successor as a final order: it is against this order that your Petitioner now desires to appeal to your Excellency-in-Council.

about Rs 3500
7/11
1000
12
1000
Total Rs 3000
7/11
Rs. 50
200
50
Total Rs 3000
7/11

The accompanying 3 Photographs marked A. B. C. will serve to show your Excellency the position of the road intersected by the cutting, and of the level crossing lower down the line which the Railway Company wish us to accept.

Photo. A. shows the depth of the cutting, a cooly stands at each end of the divided road, i.e. one on each side of the cutting.

Photo. B. looks across the cutting from the top, the coolies shown in it mark the ends of the intercepted road; the man facing to his front being in the same position as the cooly appearing on the steep bank on the right of A. The proposed level crossing is also shown down the line at the spot where a woman is standing.

Photo. C. shows the level crossing proposed, the hill of coffee which has to be traversed in order to reach the level crossing, and the very steep and rocky ravine immediately in front.

It will be evident to your Excellency that a road to the level crossing and from thence to the intercepted end of the road on the upper side of the cutting must necessarily be one of considerable length and be carried by zigzags up through the coffee; this could be done only with very much difficulty, and with the loss— a very serious one— of a large number of coffee trees. Further the distance of transport of Manure and Produce— an appreciable consideration— would be materially increased, and the very severe loss which the construction of the Railway has already involved, and which has, it may be observed, been very inadequately covered by the compensation awarded, will be still further increased. The destruction of valuable coffee trees which the proposed diversion entails, and the greater length of road which that deviation involves, can be easily avoided if the Railway Company constructs the overhead way which the Petitioner desires to connect up the intercepted ends of the road directly. It was always understood that an overhead connection was what was contemplated from the first.

It will, the Petitioner trusts, appear to your Excellency inequitable that private individuals, should be made to suffer losses owing to the Railway Company's not unnatural desire to save themselves all the outlay they can, however trifling; and that the request now preferred is in no way unreasonable will, the Petitioner hopes, be clear from the Photographs which he has submitted.

D. No 2317.

Nilgiri Collectors Office,
Dated 8th September 1897.

From.

J. H. A. Tremenheere Esq^r,
Collector of Nilgiris.

To.

W. Rhodes James Esq^r,
Coonoor.

Sir,

I have the honor to reply to your letter of
29th July.

2. I have now gone through all the papers and have
been in correspondence with the Chief Engineer Nilgiri Railway.

3. The question is whether the level crossing proposed by
the Chief Engineer reasonably meets the objections entailed
by the acquisition of your land. Considering, as fairly as I can,
all the circumstances, and especially the distance, I find
myself obliged to answer this question in the affirmative.

4. For the removal of the coffee bushes which the
deviation will necessitate, compensation will be given.

I have the honor to be,

Sir,

Your most obedient servant.

(Signed)

for Collector.

(True Copy)

Section 11 of the Railway Act.

(1) A Railway administration shall make and maintain the following works for the accommodation of the owners and occupiers of lands adjoining the Railway, namely:—

(a) Such and so many convenient crossings, bridges, arches, culverts and passages over, under or by the sides of, or leading to or from the Railway, as may, in the opinion of the Governor-General-in-Council be necessary for the purpose of making good any interruptions caused by the Railway to the use of the lands through which the Railway is made.