

1924

KENYA

2

C.O.
15165
31 MAR 24

DATE

26th March 1924

BRUNNER, SIR J.

Circulation

Mr. *B. H. H. H.*

Mr.

Mr.

Asst. U.S. of S.

Perm. U.S. of S.

Part. U.S. of S.

Secretary of State

MAGADI SODA CO. LTD. RECONSTRUCTION.

True statement with regard to position created by S. of S.'s decision as to reconstruction. Remarks that rejection of Brunner Mond scheme can only be disastrous to economic interests of Kenya in view of fact that Brunner Mond Co is now armed as result of information obtained during negotiations, with knowledge as to workings and costs of Magadi Co.

Previous Paper

7
14267

MINUTES *within*

to not think any further action is required on any of these papers.

*? Init by J.H.C.
31.3.24*

*W.S. 31.3.24
at once*

and 28 Mar 24 (20)

Subsequent Paper

5/33

The Bank
Sir H. R. ...
 6115
 272

Messrs Brunner Mond & Company's object is either to get ~~the~~ control of the property or to force the Company into compulsory liquidation, in the hope that the property will fall into their mouths. From this point of view it is essential that the alternative scheme, if it is to proceed at all, should have an absolutely clear field.

On the first page of Sir J. Brunner's letter there is little to say. We ^{know} note that Messrs Brunner Mond & Company have been very much in this since, about 15 years ago, ~~they~~ attempted to buy the property for a song in order to lock it up. We have not I think heard of the ^{April} 1923 negotiations, but it is significant that even the Receiver would not look at Messrs Brunner's terms. Later, at the instigation of Lord Delamere, who had a personal intermediary with Messrs Brunner, negotiations were re-opened, but they came to nothing.

As Sir J. Brunner properly points out, the scheme ^{underwritten} undertaken by Messrs Cull & Company came ~~to nothing~~, and it should not be prejudiced by any earlier negotiations in which Messrs Brunner & Company have appeared.

As regards the rest of the letter, I have marked certain passages:-

1. I have not the papers, but I understand that while the particular scheme was not finally approved at the Shareholders' Meeting, the resolution for liquidation went through because

4
it was not sufficiently opposed.

2. At the meeting with Mr. Gould, he was certainly told that the Government was prepared to agree, subject to certain modifications; but he was also told that there were other points to which importance was attached here, and that they must be considered before the scheme could go before the Secretary of State. These other points he refused to have anything to do with.

3. The idea that the scheme simply awaited the Secretary of State's formal approval is absurd. It was made clear that we had no final voice in this matter, and in any case the idea that in a matter of this kind the Secretary of State's approval should be formal, shows an innocence of Government methods, of which I think Sir J. Brunner cannot be ^{accused} found guilty.

4. As I have said, there were many points touched on at our discussion, and, when they were turned down by Mr. Gould, absolutely no indication was given on our side of the table that they could be regarded as withdrawn.

From my recollection of the discussion in the Secretary of State's room at the House of Commons, it is absurd for Messrs Brunner to express surprise at his decision to adhere to the previous approval of the original scheme. Mr. Thomas was absolutely definite at that Meeting that he was receiving Messrs Brunner's offer in order that he might later form his own conclusions on the matter.

6. It is not known whether, if the two schemes were the subject of an open vote, the shareholders would by a majority agree to the Brunner scheme. ^{That scheme} ~~It~~ has its attractive side; ^{to shareholders} but it is ^{open to argument} ~~open to argument~~ that the independent scheme will give the shareholders the best ultimate prospects. In any case it is the advantage of the Colony that the Secretary of State has to consider.

7. It is unfortunately true that the necessity for the Liquidator to make the most he could of Messrs Brunner's offer has exposed to their scrutiny the whole of the business working of the Old Company. It is equally obvious that the result of that scrutiny has ^{it is} ~~shown the necessity for~~ Messrs Brunner & Company ^{to} ~~use extreme efforts~~ in order to prevent themselves from being exposed to the competition of an independent Company.

8. The statement that the rejection of their scheme, though somewhat expensive to themselves, can only be disastrous to the economic interests of the Colony is a direct threat, and the Secretary of State would be justified in refusing to have anything to do with Messrs Brunner, ^{to} ~~simply~~ on that account. It is, however, doubtful whether the threat has any substance in it, and with the energetic action, which I am positive ~~we~~ ^{we} can rely upon from Mr. ~~Smith~~ the independent Company ^{will} ~~make good~~, in any case. If the independent Company breaks down and the Government is again left with the property on its hands, I do not see that ^{we should} ~~it would~~

Charles Rastey

be in a much worse position than ^h if Messrs. Brunner ^{had} got control of it now.

9. We have two schemes approved by the Government of the Colony, and it is absolutely ^{necessary} on that ~~ground~~ ^{alone necessary} for the Secretary of State to decide which shall be finally ^{accepted} ~~adopted~~.

10. I am not sure what Sir John Brunner's point here is; but it is to the good that he recognises that the Secretary of State is perfectly free to reject either scheme, or both.

11. The reference to the large amount of capital invested in the existing Company by British shareholders seems to be another ^{embarrassment to elsewhere} threat of ~~the~~ hostile criticism. Apart from the fact that a considerable proportion of these shareholders would rather lose their money than ^{hand} ~~sign~~ themselves over to Messrs Brunner & Company, ^{had} the point is not material, as if the Secretary of State decided ~~the~~ ^a question of importance to the Colony from the point of view of the interests of investors on this side, he would very soon get into deep water.

I have already minuted as to the position of Mr. Chester Beatty.

203
11 3 14

Mr. Bottenley

S. of S. thinks these minutes excellent and he would like you to draft an appropriate letter to Sir John Brunner on your lines. You should say in the course of it that Mr. Thomas is ^{that a reflection} sure he will regret having intimated that a firm of the standing of his would make use of information privately obtained for their own interests and in such a manner as to bring disaster on a British Colony.

He thinks that the balance of advantage is in favour of the Voting Trust.

representations on the

please call to inform of this on 28.3.24
146

See

28.3.24

He should say that these words were intended
Oct 10

*

Sir He Road
Mr. Marsh

27/11/44

I understand that Sir John Brunner saw the Secretary of State last night on the Magadi Soda Company affair and that he got no hope of the reconsideration of the decision. I understand also that Sir John Brunner referred to the fact that Mr. Chester Beatty, who is a leading spirit in the reconstruction of the Company, is an American citizen.

This fact came up for the first time in one of our discussions this year when Mr. Beatty mentioned it himself in the hope that it would not prejudice the prospects of the scheme.

Mr. Chester Beatty is not naturalised as a British subject, but I understand that he has for a long time been domiciled in this country and that he has paid super tax for twelve years. He has an estate on the Uasin Gishu Plateau in Kenya and is a maize grower on a large scale. He has also extensive interests in the Burma Corporation which I understand deals chiefly in copper.

Mr. Chester Beatty's nationality is not greatly in point, as the concession is not being given to him but to a British Company, which under the terms laid down must be and remain British in constitution and character, registered in Great Britain or a British Colony, and having its place of business within His Majesty's Dominions, and the Chairman of which and at least four fifths in number of the Directors must at all times be and remain British subjects. If at any time these conditions cease to be fulfilled the lease lapses.

for

by the preference shareholders themselves, as being adverse to their interests. The possibility of such a contingency seems to me to make it impracticable that the Government should have the majority on the Trust, and even if the numbers were such that they could secure a majority by attaching to themselves a minority of the unofficial trustees, there might be complaints.

On the other hand, their presence on the Trust might be very useful and it does not involve the Government committing itself to the general policy of the Company in the same way that a Government Director does. It is quite possible that by appointing two suitable persons (Sir R. Antrobus and Sir William Mercer) on the Trust the Secretary of State would be securing a valuable advantage for Kenya. Whether the two I have named would be willing to serve or not I cannot, of course, say. Presumably the appointment would carry nothing in the way of fees as a Directorship would.

W.C.D. 20.3.48

- (1) As to Mr Chester Beatty I agree
- (2) As regards the other names I think that it is highly probable that Sir R. Antrobus at any rate would be willing to serve.

We have a report of the fact that Antrobus is on the directors of the Trans-Jambesia R.R. but in this case the fact is directly interested and has guaranteed interest in the

for a period of 20 years. Also a
railway is in a different category
from an ~~ordinary~~ enterprise
like *Magadi*.

It is true that a *post. rep.* on the
Trust will be in a different position
from a *post. director*, but the general
public will probably consider that the
post. should be responsible for the policy
of the Co.

On the whole, I do not
propose with the proposal.

H. J. D.

27 Feb 1914

MORANI CAPITALSuggestion for a Voting Trust.Capital.

There will be in issue about :-

	396,250	Preference Shares	£396,250.-
Alotted to Shareholders	1,500,000	Ordinary Shares -	£375,000
To be allotted under options	750,000	" " -	<u>187,500</u>
			<u>562,500.-</u>
			<u>£958,750.-</u>

Give the Preference Shares 1 vote for £1.-

Give the Ordinary Shares 1 vote for £1.-

Form a voting trust of the Preference Shareholders for

.... years. Suitable Trustees to be decided later.

John Brunner, Bart. 11

28 March, 1924

My dear Brunner, Magadi Soda Company Limited

Thank you for your letter of the 26th of March giving me a statement of your view of the position arising from my acceptance of the reconstruction scheme underwritten by Messrs.Cull and Company.

I note your account of the negotiations in April 1923. I quite understand that the Receiver, Mr.Tait, approached your company in the first place, that the offer made by your firm was not acceptable and that he subsequently received a firm offer to finance a reconstruction scheme from Messrs.Cull and Company.

Messrs.Cull's scheme was discussed at a meeting of shareholders of the Magadi Company last January, when no final decision was reached, but I understand that the appointment of Mr.Tait as liquidator may be taken to have been confirmed. In any case Messrs.Cull's scheme, which has since been amended in certain particulars, will, if the Court approves, be submitted to the different classes of share-

holders

John Brunner, Bart., F.P.

its attractive side to shareholders, it is possible to argue ~~that~~ the alternative scheme will give the shareholders the best ultimate prospects. It certainly gives them an opportunity of retaining an equity in the business and sharing in the profits if the reconstruction scheme is successful. In any case I agree with you that it is the interests of the Colony rather than of the shareholders that must govern my decision.

It is true that your representative has had access to the accounts of the old Magadi Company and to confidential reports and documents, but I am sure that on reflection you will regret having intimated that a firm of the standing of Messrs. Brunner Mond and Company would, after information had been obtained in confidence for quite another purpose, make use of it for their own interests in such a manner as to involve possible disaster to the economic interests of a British Colony.

I can assure you I have given this matter the most careful consideration, and that my decision has been governed solely by what I conceive to be the economic interests of the Colony. I am still of opinion that these interests will be best served by the reconstruction of the Magadi Company

as an independent entity under the scheme submitted by Messrs
and Company. That scheme must now be given a fair trial

Yours sincerely,

7, CAVENDISH SQUARE,
LONDON, W. 1.

26th March, 1924.

My dear Thomas,

MAGADI SODA CO. LTD.

You asked me last night to let you have a statement with regard to the position created by your decision as to the scheme which had been put forward for reconstructing The Magadi Soda Co. Ltd.

In the first place I want to correct the impression you had that we had only recently come into these negotiations. The exact opposite is true. We have been repeatedly approached during past years by those interested in the Magadi Soda Co. with a view to coming to some arrangement with them under which the enterprise could be successfully carried on, and in April 1923 the Receiver, Mr. Tait and Mr. Samuel put before us figures which induced us to make them an offer. This offer was not acceptable to them, and owing to an impression wrongly held by them that it was final they did not resume the negotiations. The offer of Messrs. Gull & Co. to reconstruct the Company was put forward several months after these interviews took place.

To deal now with the negotiations which are the immediate subject of discussion I must remind you that the

TELEPHONE:
LONDON 2220.
LONDON 2221.

7. CAVENDISH SQUARE,
LONDON, W. I.

30th March, 1924.

scheme underwritten by Messrs. Gill & Co. was discussed by the Shareholders of the Lagadi Soda Co. at a Meeting held last January, which was called to liquidate the Company in order to carry out the scheme. At this Meeting the scheme was adversely criticised by Shareholders, and the resolution to liquidate the Company was not carried. Before this Meeting, however, the discussions between the Receiver of the Company and ourselves had been reopened, and a scheme was put forward by ^{the Receiver and} us which the Shareholders' Committee ^{approved when} thought much more satisfactory, and agreed upon. It was then submitted to the Colonial Office in order to obtain the opinion of the Government of the Colony upon it, and we and the Lagadi Company's Shareholders' Committee understood that the Government of the Colony agreed to it subject to our accepting certain modifications in the terms of the lease. These modifications were agreed to by us, and it appeared that the matter was settled and merely awaiting our formal approval in order that the necessary steps might be taken to give effect to ~~it~~ at the interview which I had with Mr. Wood and Mr. Gold, and with you on Monday, the 17th March, and it was understood from the Colonial Office officials that the only question upon which we had to satisfy you on was that we were going to work.

4.

TELEPHONE
LONDON 2330
LANSBURY 2221

7, CAVENDISH SQUARE,
LONDON, W. 1.

26th March, 1924.

the accounts of the Company and to all the confidential reports and documents connected therewith. If the agreement which we had come to with the Company is now to be prevented from operating by your decision, there will of course be a continuance of the fierce competition that there has been in the past, with this difference, that we are armed with full information as to the workings and costs of the Magadi Company. Under these circumstances it would certainly seem that the rejection of our scheme, whilst somewhat expensive to ourselves, can only be disastrous to the economic interests of the Colony. I therefore suggest to you that in the altered circumstances a reconsideration of the matter is required, and that unless it can be proved that it is not in the economic interests of the Colony the Agreement come to between ourselves and the Shareholders' Committee, and approved, as we understand, by the Government of the Colony, should receive your approval.

I will only add that we are prepared to give the most precise and formal assurances of our intention to work the concern to its utmost economic possibilities.

Yours faithfully,

John Brunner

The Rt. Hon. J.H. Thomas, M.P.

P. J. follows.

P.S.

In order to put all the points I have previously raised I continue.

I am advised that the Secretary of State for the Colonies is not concerned with the reconstruction of the Company. That is a matter for the shareholders subject to the approval of the Court. But as the lease ^{of Magadi Lake} has been forfeited the Secretary can approve or otherwise the terms of its renewal.

The terms of reconstruction of the Magadi Co offered by Bull & Co are that every £1 of shareholding is to be reduced to 5/- 1/6 paid up & that the shares will be forfeited unless a further 3/6 is paid up which amounts in many cases to confiscation.

Over £1,300,000 has been invested in the Co by British shareholders.

Mr T. Chester Beatty an American living in London is we understand supporting the offer of Bull & Co.

John Brunner

[For L. J. S.'s signature]

Magadi Soda Company Ltd.

28th March 1924

M B

DRAFT.

encl.

Bst

to John Bromley M.P.

Thank you for your letter

of the 26th of March giving

me a statement of your

view of the position arising

from my acceptance of the

reconstruction scheme undertaken

by Messrs Call & Co.

I note your account of

the negotiations in April 1923.

I quite understand that the

Receiver, Mr. Yait, approached

you company in the first

MINUTE.

Mr. Calder 28.3.24

Mr. Borthwick 28.3.24

Mr.

Sir C. Davis.

Sir G. Grindie.

Sir H. Ross.

Sir J. Moxerton Smith.

Lord Ronald

Mr. Grayson Gore.

Mr. Thomas

Duke of Devonshire.

(for common.)

place, that the offer made by your
firm was not acceptable and that
he subsequently received a firm offer
to finance a
reconstruction scheme from Messrs
Cull and Co.

Messrs Cull's scheme was discussed
at a meeting of shareholders of the
Mazadi Company last January, when
no final decision was reached, but I
understand that the appointment of
Mr. Yait as liquidator may be taken
to have been confirmed. In any case
Messrs Cull's scheme, which has since
been amended in certain particulars,
will now, if the Court approves, be
submitted to the different classes
of shareholders and creditors.

It is true that in January your

Company came forward again with
an alternative reconstruction scheme,
and that the Governor of Kenya was
willing to accept your scheme
subject to certain modifications
in the terms of the lease. I do
not think it is quite exact
to say that these modifications
were accepted by your
representative, and the result was
in my case it was made clear
that there were other points to be
which I felt that I was entitled
to have. Now so far as I am
concerned I would have been glad to agree
that the matter was settled.

DRAFT.

MINUTE.

Mr.

Mr.

Mr.

Sir C. Davis.

Sir G. Grindle.

Sir H. Read.

Sir J. Masterion Smith.

Mr. Ormsby-Gore.

Duke of Devonshire.

merely awaited my final approval.
I understand that it was made
quite clear by the Co. officers
that ~~the~~ were two schemes of
reconstruction, and that no indication
could be given as to which I should
finally accept. In any ^{case I took} ~~the~~
~~trouble to make~~ clear at my
~~thought~~ ~~document~~

interview with you on the 17th that
I was trying to elucidate the details
of your scheme, and would afterwards
form my own conclusion as to which
scheme I preferred. I scanned the letter from the
point of view of the Colony.

It is not possible to say
definitely whether of the two schemes
were the subject of your vote, the

shareholders would by a majority
adopt your scheme. While your
scheme has its attractive side
to shareholders, it is possible to
argue that the alternative scheme
will give the shareholders the
best ultimate prospects. It
certainly gives them the
opportunity of retaining an
equity in the business and
sharing in the profits of the
reconstruction which is
successful. In my case I
agree with you that it is the
interests of the Colony rather
than of the shareholders that
must govern my decision.

DRAFT.

MINUTE.

- Mr.
- Mr.
- Mr.
- Sir C. Davis.
- Sir G. Grindle.
- Sir H. Bond.
- Sir J. Masterton Smith.
- Mr. Ormsby-Gore.
- Duke of Devonshire.

It is true that your representatives
have had access to the accounts of the
old Mageddi Company and to confidential
reports and documents, but I am
sure that on reflection you will regret
having intimated that a firm of the
standing of Messrs Brunner Mond
and Company would ^{accept} ~~take~~
information ^{which} obtained in confidence
for quite another purpose, ^{namely} to ^{make use of it for}
their own interests, a such manner as to ^{infringe} ~~violate~~
bring discredit to the economic
interests of a British Colony.

I can assure you I
have given this matter the most
careful consideration and that my
decision has been governed solely
by what I conceive to be the ~~best~~

economic interests of the Colony.
I am still of opinion that
~~the reconstruction~~
those interests will be best
served by the reconstruction of
the Mageddi Company as an
independent entity & under
the scheme submitted by Messrs

Call & Co that scheme

It
must now be given a fair
field.

DRAFT.

MINUTE.

Mr.

Mr.

Mr.

Sir C. Davis

Sir G. Grindle

Sir H. Road

Sir J. Masterton Smith

Mr. Ormsby-Gore

Duke of Devonshire