

1924
1929

KENYA

4662

9
30 JAN 24

H. OSMANLEY & OLIVER
ESSERS

DATE
29TH JANUARY 1924

LOCATION

MAGADI COMPANY

Reports Meeting of Shareholders re voluntary winding up of Coy resulted in a deadlock, and that a further meeting will be necessary.

By
U.S. of S.

U.S. of S.

U.S. of S.

U.S. of S.

Previous Paper

MINUTES

*As to the Preamble of the minutes
on 4/31367.*

*We have now ^{finally} definite figures
("over £250,000") for Mr S.*

*Samuel's personal commitments
towards keeping Magadi
alive.*

*You will see that they have
hope of help (by a revival of
a project previously abandoned)
which will obviate the need for
a call on the shareholders. If
this means *Kenneth Brunner*
know, we have to consider the*

Subsequent Paper

5/5797

possibility of L. Napier being locked up for good.

Perhaps Mr. Burke will consider our position in relation to the possibility of the Union, necessary we can discuss otherwise, I Presby C.S.

30.1.24

I think we leave the Whip-hand & can wait & see.

Perhaps however it would be as well to ask: this & to say that the colors may think it desirable to warn the directors against putting forward an alternative Scheme without prior reference?

A.H.B.

31/1

Rev. J. Sturgeson 1/2/24
Write to the Solicitor as proposed by Mr. Burke?

31/12/24

Yes. I consider it advisable to do so.

1/2/24 Sturgeson

Sturgeson
1/2/24

C. O.
4662

30 JAN 24

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SUTTON, OSMANNEY & OLIVER.

E. O. OLIVER.

H. M. OSMANNEY.

TELEGRAPHIC ADDRESS: OSMANNEY, LONDON.

TELEPHONE: NO 1258 (LONDON WALL).

NO 9212

3 & 4, GREAT WINCHESTER STREET,

LONDON, E.C.2.

1462/1924

29th January 1924.

Sir,

Magadi Soda Co. Ltd.

We have to report that we yesterday attended the Meeting of the Shareholders of the Magadi Soda Company Ltd. The discussion lasted more than two hours but resulted in a deadlock. The Resolution for the voluntary winding up of the Company, and the appointment of Mr Tait as sole Liquidator was opposed by Mr. Pennell one of the shareholders who stated that he held proxies covering 308,000 shares. Mr Pennell proposed an amendment that he should be appointed Joint Liquidator with Mr. Tait. This amendment was opposed by the Board, and a great majority of the shareholders present. A second amendment was suggested by Captain Samuel for appointing two old shareholders of the Company as representatives of the Ordinary and Deferred Shareholders to act as a Committee with Mr Tait in connection with the Liquidation. But this amendment was opposed by Mr. Pennell and was not put to the Meeting. Mr. Pennell's amendment was then put, but it was defeated on a show of hands. Thereupon, Mr. Pennell demanded a

29th January 1924.

Pell the result of which should be known to-day. [It will be necessary to convene another Meeting.]

The Chairman in moving the resolution for Voluntary Liquidation stated that since the issue of the circular a further proposal had been made for the reorganisation of the Company which would involve no assessment on the shares but would necessitate a considerable reduction. He stated that the Board were not at liberty to divulge the source of this alternative scheme as the negotiations had not proceeded far enough.

We enclose a full copy of the Chairman's speech from which you will see that he stated that if Mr Pennell persisted in his attempts to have himself appointed as Joint Liquidator a deadlock must arise as the Board held proxies covering 189,000 shares. Mr Pennell however said that he would persist and he refused to consider any other suggestion or amendment stating that he was "there to fight."

The Chairman reported that the liabilities of the Company as at February 1923 were as follows:-

In this Country	2303,000
In West Africa	<u>10,900</u>
	2313,900

29th January 1923.

He said it was impossible to give any later figures as returns had to be made from India Japan and East Africa but he considered there had been no trading losses since the receiver took possession if the Debenture Interest were left out of account.

Another Meeting will be convened shortly which we propose to attend, and the result of which we will report to you.

It appears that many of the shareholders who had given proxies to Mr. Pennell were desirous of withdrawing them, but we were unable to gauge the extent of this defection. Only shareholders at the Meeting could have withdrawn before the proxies were used.

Mr. Pennell's amendment will probably be passed as a result of the poll and this will render the proceedings at the Meeting abortive.

It is intended to summon a fresh meeting and again to propose a resolution for voluntary liquidation, probably accompanied by the alternative reconstruction scheme.

We understand that in spite of the apparent difficulties the Board are sanguine of being able to pass a scheme, and it often happens in such cases that some arrangement is made at

29th January 1924.

the last moment with less difficulty than might be anticipated.

We have the honour to be,

Sir,

Your obedient servants,

Arthur J. ...

The Under Secretary of State.

Colonial Office.

THE MAGADI SODA COMPANY LIMITEDEXTRAORDINARY GENERAL MEETING, 28th JANUARY 1924.CHAIRMAN'S SPEECH.

Ladies and Gentlemen,

The Secretary has read you the Notice convening this Meeting, the object of which is to pass a Resolution for the voluntary winding up of the Company, which became necessary owing to the heavy liabilities incurred and the consequent necessity of raising fresh Capital by means of a New Company to be formed to take over the old Company.

It was impossible to call the Shareholders together at an earlier date, as the different proposals for the Reconstruction involved considerable negotiations and consequent unavoidable delays beyond the Board's control. In fact the negotiations with the Colonial Office which are referred to in the next paragraph were not definitely completed until the 17th January of this year.

Your Directors have been able to consult some of the larger Debenture Holders and Creditors and also - most important - with the Colonial Government with regard to the terms of the reconstruction scheme. We gave you an outline of the scheme which was proposed to present to the Court which will be asked to convene meetings of Shareholders and creditors for the purpose of considering and if thought fit approving the proposals.

Since we issued our circular the prospect has arisen of a re-organisation scheme emanating from a quarter which we had previously had discussions which we had thought

abortive. We are not at present free to divulge the source, but I can say that this Scheme would involve no assessment on the shareholders, but would on the other hand mean their Capital interest would be considerably written down and they would permanently lose any right to the future profits of the property with the exception of a small fixed interest.

This meeting has not been called, as you might gather from Mr. Fernell's circular, for the purpose of passing any binding Resolution in connection with the Scheme but only for the purpose of placing the Company in voluntary liquidation and of giving Shareholders preliminary information in regard to the Scheme.

It is essential, if we are to have a Reconstruction in which the Ordinary and Deferred Shareholders can participate, that this Resolution for the Voluntary Liquidation should be carried to-day, because we believe that all the principal creditors, except the Clearing Office for Enemy Debts, to whom the Company owe £9050. 4. 5. have agreed to the settlement proposed.

As this is probably the last time that the old Board of the Magadi Soda Company will call the Shareholders together, I should like to put before you the figures showing the position of the Company at the end of December 1922. That year closed with a Debit balance of £143,354.11.10. In this there is, however, included interest on Debentures and Bank Interest £35,680.14.9. Depreciation £57,713.0.6. and a Debit Balance brought forward from Trading Account of £35,954.19.9. which, of course, is owing to the expenses of working the small quantity which we could produce.

Shareholders have received a circular from Mr. Pennell asking for their Proxies. In this circular Mr. Pennell states that he is a holder of 15,000 Ordinary Shares and 14,000 Deferred Shares, and also 3,000 Debentures. He does not tell the Shareholders that he was not a Shareholder at the time of the appointment of the Receiver. Mr. Pennell in his remarks in his circular also states "Many shares and Debentures were sacrificed at rubbish prices". Mr. Pennell ought for this small mercy to thank the Directors of the old Company because he has been able to secure his Shares and Debentures at these rubbish prices which he complains about so much, and under the new scheme Mr. Pennell will make more than 100 per cent profit on the Debentures that he has bought. This probably accounts for his remark that he does not see much to take objection to in the Scheme, Knowing perfectly well that the Company was in the hands of a Receiver, he also does not tell the Shareholders what his reason was for buying shares. The majority of his Ordinary Shares were bought at under 2/6, and I believe the bulk of his Deferred Shares were bought at certainly not more than 6d. each. According to the Transfer Book, the last purchase he made of Debentures was at £42.10.0. I say here publicly that Mr. Pennell is not entitled to any sympathy, and he is not entitled logically to complain in any way of the conduct of the Company prior to his becoming a Shareholder, as he bought the Shares with his eyes open for some ulterior object, and not as a philanthropist for the benefit of the old Shareholders of the Company.

Mr. Pennell also states that his friend, Capt. C.C. Moor, whose name comes next to his on the proxy

he has sent out, had bought shares in the Magadi Soda Company on his persuasion. On reference to the Register I find that Capt. Moor invested certainly not more than £10 in April last, long after the Receiver had been appointed, to purchase 100 shares, and that is all he holds to-day. Here again, I do not think any Shareholder present will disagree with me in saying that Capt. Moor has no more to complain about than Mr. Pennell. He, like Mr. Pennell, knew exactly the position of the Company in April last, when he bought the Shares. Nobody except Mr. Pennell asked him to buy the shares.

With the exception of offensive personalities Mr. Pennell's circular contains two main points (1) that he sees no real objection to the scheme (2) that he should be appointed joint Liquidator with Mr. Tait. I may be permitted to remark that so far I fail to see in what way the appointment of Mr. Pennell as joint Liquidator will improve the scheme or benefit the Shareholders.

It may be well at this point to give a short summary of the Magadi Soda Company's creation and work.

The proposal was brought to my firm by a concern called the East African Syndicate. We sent out to East Africa an expedition of experts to examine the Lake and to report on the prospects of working it at a profit, and to draw up plans for machinery and other material. The reports were very favourable. The samples which were brought home were treated by experts and produced a very fine soda. We then decided that we would take

up the business and form a company for development. This was done, and the company formed. Before, however, we could get all our Machinery out the world was plunged into the Great War and much of the Machinery was lost, when we started the work with that part of the Machinery that we could get, it was found inadequate, and we had to get the Soda by hand labour, which was very costly. Soon after, our Railway, our Water Supply, and other materials were commandeered for military purposes and the whole of our operations suspended. We had a number of skilled men out in East Africa under contract, and we had to pay and maintain them, which, of course, involved the Company in very heavy losses.

When the War came to an end, our resources were exhausted, but we had to replace a lot of Machinery at very high prices. To acquire this Machinery we found that it would be necessary to have more capital which was found by the issue of Convertible Debentures. Later on for the purposes of the Company it was necessary to borrow further money from the Bank. On our Balance Sheet of course, we could borrow nothing, and the Company gave to the Bank as collateral security a Second Debenture, Even on this the Bank required a guarantee, and I gave my own personal guarantee, but I am not the owner of the Second Debenture. In the hope of pulling the Company round to a paying base I also gave me personal guarantee for advances made in East Africa to carry on the business for which the National Bank of India had no other security. I say without hesitation, and without fear of contradiction, that there is no other man in the City of London who would have done for any company existing

what I have done, with the sole object of carrying on the Magadi Soda Company for the benefit of the Shareholders, in the hope that they might be able to pull it round without the necessity of raising further capital. I have taken on responsibilities of over £250,000. In addition to that, Captain Walter Samuel, my brother and myself hold 58,000 Ordinary Shares which we have paid for and held from the beginning of the Company, and Captain Walter Samuel and myself hold about 160,000 Deferred Shares which we had allotted to us at the formation of the Company. Our efforts have resulted in bringing the Company to a point very near success. The Dredger is gaining economically and the method of pumping the Soda Ash to the Washers has resulted in very great economies. We are doing away with manual labour. It was only owing to the urgent pressure of creditors for payment that we were unable to carry on.

I therefore put it to the intelligence and good feeling of the Shareholders of the Company whether they think they can trust me, having such a very large interest and having had it all through, and having done everything I can to safeguard and promote their interests, or whether they would sooner follow a man who had no interest in the Company until after it was in the hands of the Receiver, and who, apparently in my opinion, only acquired his interest with ulterior motives for his own benefit, because what he claims is: "Put him in as a Joint Liquidator and put him into the new Company as a Director" with - naturally - a director's fees.

Another false statement in Mr. Bennell's circular is that none of the new Directors have been in East Africa.

Mr. Chester neatly has very large interests in Kenya Colony, and has been there more than once, and is prepared to take a large interest financially in the new Company. He is himself a Mining Engineer of great repute.

Mr. Pennell, in a further postscript, in red ink, begging for Proxies, states: "If you go to the Meeting, do not pay any regard to statements which I am not given a chance of answering, as was the case at the last meeting. I want all I can to give their proxy and attend the meeting. We do not want a packed meeting". So far as your Directors are concerned, there is no attempt to have a packed meeting. We have not asked anybody to come here, and we have issued no circular asking for proxies. Therefore, Mr. Pennell evidently has been trying to pack the meeting. At the last meeting Mr. Pennell said all he had to say which consisted mostly of personal abuse and the shareholders refused to hear him further. Many who had given him their proxies withdrew them at the meeting.

In reference to the statement of Mr. Pennell about Mr. Tait, everybody who knows the firm of George A. Touche & Co. recognises that they are a firm of the very highest repute, and stand second to no firm of Accountants in this country. Mr. Tait, was therefore, appointed by the Trustees for the Debenture holders to safeguard their interests.

Mr. Tait, on taking up his position, of course, had for a short time to stop all work in Kenya, but operations were recommenced in July last and the output since that time has been steadily increasing.

Mr. Pennell's statement that the board had not met

for is not correct, and if he were less ignorant of business matters he would know that on the appointment by the Court of a Receiver and Manager who takes possession of the assets of the company and manages its business, the Board have no further executive duties to perform.

The new Dredging plant, when it was at work, has proved to be highly successful, and could produce three times the quantity of Soda that can be handled by the other parts of the Machinery. We have also introduced pumping to the shore which is a great economy. When the Company is reconstructed, it will be essential to increase the capacity in all the different departments of production and provide reserve plant so that the whole machinery will not be brought to a standstill by any part giving out.

The Shareholders have received an outline of the Scheme for Reconstruction which the Board recommend. This is a possible scheme which, with the approval of the Shareholders, could be submitted to the Court. You will see from the circular that we shall pay nothing for the underwriting of the new Company, We have, as compensation, given underwriters a call on 750,000 Ordinary Shares at 5/-. That is the par value, which you will agree, shows their faith in the soundness of the undertaking.

We are pleased to inform the Shareholders that our negotiations with the Colonial Office have been, in our opinion, successful. For the first five years, the Railway Carriage and Royalty combined will show a

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reduction of 5/- per ton, taking a production of 50,000 tons only per annum. If the production exceeds 50,000 tons, as we believe it will (and at the present time the rate of production is in excess of that figure) then the rates will be still more reduced. We further have a promise, which the present Company has never had before, namely: a maximum rate of railway freight after the first five years have expired. This maximum again is more favourable than the terms which the present Company have.

From what I have said, the Shareholders will see the absolute necessity to liquidate the present Company at once, and the Resolution suggests the appointment of Mr. A.W. Tait, who has carried on the work of the Company in a most satisfactory way during the time he has been in charge, under very difficult circumstances. As to having a Joint Liquidator, it would only put the Shareholders of the New Company to unnecessary expenses and, therefore, as a large Shareholder and a Creditor, I strongly recommend you to appoint Mr. Tait the Sole Liquidator. I would point out that this Resolution requires a three fourths majority and that if Mr. Pennell persists in his desire to have himself appointed as Joint Liquidator a deadlock must occur.

I have received a letter from Mr. A. Chester Beatty which I will read. In this he says that three shillings and sixpence per share is the minimum amount that must be available after very careful study of the requirements and position. In this I quite agree. Mr. Pennell who knows absolutely nothing of the position says two shillings and sixpence will be sufficient. On what does he base his calculation? Perhaps before I put the Resolution Mr. Pennell will kindly explain.

L. 4662/24 Kenya

G. D.
R. G. I. B.
D. V.
23

DRAFT.

4 Feb 1924.

Sutton, Ommanney Joint
Oliver

Jan 2 to act. the sect

MINUTE.

- Mr. Owen Feb 2
- Mr. Calder 2 2
- Mr. Bottanley 2 2
- Sir C. Davis
- Sir G. Grindle
- Sir H. Read
- Sir J. Masterton Smith
- Mr. Ormsby Goss
- Duke of Devonshire

of your letter of the 29th of
Jan, regarding the proceedings
of the meeting of the Share-
holders of the Magadi
Soda Company, Limited,
held on the 28th of January.

2 Jan 2 to observe that you may

think it desirable to
warn the Directors of
the Company against
putting forward an
alternative scheme for
the reconstruction of the
without prior referce to
this Office.

HJ

(Signed) H. J. READ