

1924  
1923

KENYA

C. O. 3  
5797  
FEB 24

24

*Linton,  
Commander  
R.O. 1000*

DATE  
*5th Feb, 1924*

CIRCULATION :-

*Magadi Soda Co*

U.S. of S.

*Co. will be warned against putting forward alternative reconstruction proposals without prior reference to Co. Send documents received from Co.*

U.S. of S.

U.S. of S.

Secretary of State.

Previous Paper

*S  
4662*

MINUTES

*See attached note of discussion on Feb. 6<sup>th</sup>.*

*Wait*

*W.C.S.*

*6.2.24*

*above*

*SECRET*

Subsequent Paper

*S  
4609*

MINUTES.

MINUTES NOT TO BE WRITTEN  
ON THIS SIDE.

Notes of a meeting in Sir H. Read's room  
on Wednesday, February 6<sup>th</sup> 1924, to discuss  
the affairs of the Nagadi Soda Coy.

Present: Sir H. Read

Mr. Bolton Leay

Mr. Bushe

Mr. Seel

Mr. Chester Beatty

Col. Symonds

Mr. Nicholham (representing

Mr. Cull etc. Underwritten  
or ? Michlam.

Read v 7/2  
H. Read 7/2

about 10 minutes  
later

Wed.  
6.2.24

at 10  
11.2.  
7/2/24

Col. Symonds stated that a meeting of  
shareholders of the Nagadi Soda Coy. was  
fixed for Monday <sup>28<sup>th</sup> Jan</sup> (Feb 4<sup>th</sup>) for the purpose  
of securing the assent of the shareholders  
to the Company's going into voluntary  
liquidation, but that immediately before  
the meeting the directors of the Coy had  
received notice from Messrs. Bannister Mond & Co.  
that they wished to make a proposal  
to be associated in the reconstruction  
of the Nagadi Soda Coy. ~~or to~~ The  
Sofas as they were at present known.  
The terms of their proposal made it clear  
that Messrs. Bannister Mond's object was  
to secure entire control of the Nagadi Coy.

it was possible  
and what their ultimate object was  
presumably ~~either~~ to free themselves from  
competition either by closing down ~~the~~ Magadi  
~~works~~ or by limiting its output to a safe amount  
This latter point Mr. Brunner Mond  
had offered to agree to the appointment of  
a Director nominated by the C.O. on  
the new board but it was doubtful  
whether such an appointment would be  
of any use in practice.

A further meeting <sup>of the Coy.</sup> was to be  
held shortly at which it was hoped  
to secure agreement to the voluntary  
liquidation of the Coy. The Comtee would  
then be asked to convene meetings  
of all shareholders. When a scheme  
for reconstruction would be proposed.  
This scheme would be <sup>either</sup> that already  
discussed with the C.O. or the scheme  
contemplated by Mr. Brunner Mond,  
whichever both would be put before the  
shareholders.

It was not horrible yet to state  
clearly what the position was, but the  
Directors had felt that the new developments

should be put before the C.O. from the start; and  
they were naturally anxious to learn, if  
horrible, what would be the attitude of the  
C.O. They quite recognised that setting the C.O.  
advised so far covered a deal of this kind.

Mr. Charles Beatty explained that the work  
done by the Coy. in the last few months  
gave the enterprise a firm air, which  
which was undoubtedly the reason for  
the sudden activity shown by the Board in London.  
He stated that the Coy. was not in  
competition with Brunner Mond; in  
time would even ~~lose~~ compete with  
that firm in England & probably bring  
down prices in their country. It was  
explained, however, that there was  
a danger that the smaller shareholders  
would be attracted by an offer from Brunner  
Mond which would appeal to them as  
being safer and making no immediate  
call on their pockets. ~~Mr. Beatty~~ In  
reply to a question by Mr. Burton he  
It was admitted that Mr. Fair represented  
the interests of the debenture holders,  
would also probably consider the Brunner Mond

mentioned confidentially  
re Coy. already  
plans for a soda  
at plant on the  
west side

holders as safer than those of the Nagadi  
Company, from the debenture holder's point of view.

On the question of the prospects of  
the Nagadi Coy, if reconstituted without  
being acquired by Brunner Mond, being  
ultimately in a position to compete with  
Brunner Mond in this country. Mr  
Bostonley remarked that there was  
no guarantee either that the Nagadi  
Coy. would in fact offer their soda in  
this country at a <sup>substantially</sup> lower price than  
Brunner Mond's, or that they  
would not ultimately come to  
a price agreement with that firm.

~~XXXXXXXXXX~~

The representatives of the  
Coy. said that they would  
express their views in a letter to the  
U.S.B.S. & it was agreed to await  
that letter.

Reprinted from *The Financier*, January 29th, 1924.

## MAGADI SODA COMPANY, LIMITED.

### VOLUNTARY LIQUIDATION OF THE COMPANY

#### MR. PENNELL'S AMENDMENT—A DEADLOCK.

An extraordinary general meeting of the Magadi Soda Company, Limited, was held yesterday at Winchester House, E.C., for the purpose of submitting a resolution providing that the company be wound up voluntarily and that Mr. A. W. Tait, C.B.E., be appointed liquidator. Mr. Samuel Samuel, M.P., presided.

The Chairman, in moving the resolution contained in the notice, said that the voluntary winding-up had become 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 one. Since the issue of the board's circular giving an outline of a scheme which, subject to the shareholders' approval, had been proposed to submit to the Court, the prospect has arisen of a reorganisation scheme emanating from a quarter in which the board had previously had discussions which they had thought to be abortive. They were not at present free to divulge the source of the scheme, but he could say that it would involve no assessment on the shareholders; on the other hand, it would mean that their capital interest would be considerably written down and that they would permanently lose any right to the future profits of the property with the exception of a small fixed interest.

Having explained that the year 1922 closed with a debit balance of £143,354, the Chairman referred to a circular issued by Mr. Pennell asking shareholders for their proxies. He pointed out that Mr. Pennell was not a shareholder at the time of the appointment of a receiver, and remarked that that gentleman had been able to secure his shares and Debentures at the rubbish prices at which he complained so much, and that under the new scheme he would make more than 100 p.c. profit on the Debentures that he had bought. This, added the Chairman, probably

accounted for Mr. Pennell's remark that he did not see much to take objection to in the scheme. (Laughter.) Mr. Pennell was not entitled logically to complain in any way of the conduct of the company prior to his becoming a shareholder. (Hear, hear.) Captain C. C. Moore, whose name came next to that of Mr. Pennell on the proxy sent out by the gentleman, also purchased his shares long after the appointment of the receiver, and had therefore no more to complain about than Mr. Pennell had. Mr. Pennell urged that he should be appointed joint liquidator with Mr. Tait, but he (the Chairman) failed to see in what way such appointment would improve the scheme or benefit the shareholders. (Hear, hear.)

#### CHAIRMAN'S RESPONSIBILITIES

Dealing in some detail with the history of the company the Chairman pointed out that during the war period the company's rail way, water supply and other materials were commandeered for military purposes and the whole of its operations suspended. When the war came to an end the company's resources were exhausted but they had to replace a lot of machinery at very high prices. To acquire this machinery Convertible Debentures had to be issued and later on it became necessary to borrow further money from the bank, a second Debenture being given as collateral security. Even on this the bank required a guarantee, and he gave his own personal guarantee. (Applause.) But he was not the owner of the second Debenture. In the hope of pulling the company round on a paying basis he also gave his personal guarantee for advances made in East Africa. To carry on the business for which the National Bank of India had no other security. He said, without hesitation and without fear of contradiction that there was no other man in the City of London who would have done

for any company what he had done with the sole object of serving on the company for the benefit of the shareholders. He hoped that they might be able to pull it round without the necessity of raising further capital. He had taken on the responsibility of £250,000. It was for the shareholders to decide whether they might they could raise more, taking the very large amount he had and having had it all through, or whether they would rather follow a man who had no interest in the company until after it was in the hands of a man.

He then asked the Chairman to read a letter from Mr. A. Chester Batty, who after very careful study of the prospectus and the statement of the company that 3s 6d per share was the minimum amount that must be available for the purchase of the new company. In this he expressed his full agreement.

Mr. David Yale then announced the adjournment.

THE AMENDMENT

Mr. Edward Harlow moved as an amendment that Mr. A. P. Pennell should be appointed as liquidator with Mr. A. W. Fatt. He explained that the circular letter seemed to suggest the state of the meeting was most adequate, it gave practically no information about the amount of the indebtedness of the company and an indication as to what the prospects were. A call of 3s 6d per share was a very serious matter for a large number of shareholders. It seemed to him that there was an attempt to push through quickly and a contribution of inadequate share capital to the shareholders were concerned.

Mr. Finlay suggested that shareholders would hesitate before making the request for the Debenture holders and a proposed increase of the new company under the scheme of liquidation. There should be some one to represent the Ordinary shareholders. Mr. Taylor proposed as an amendment to the amendment that two shareholders of five years or more standing should be appointed as a committee to work in conjunction with the liquidator. The shareholders would then be represented.

CAPTAIN SAMUEL'S PROPOSAL

The Hon. W. H. Samuel, M.C., said that he was the only member of the old board who it was suggested should become a member of the new board. He would point out to the meeting that in view of the proposals of Mr. Pennell, if the shareholders persisted in backing Mr. Pennell, it would only result in a deadlock. It required those in the majority to carry the resolution. Mr. Pennell had roughly 300,000 votes and that was sufficient to block the appointment of a liquidator. On the other hand other people could and would block Mr. Pennell. He would say this, however, on behalf of himself and his colleagues, that if a strong body of the old shareholders were

to select two colleagues to confer with Mr. Fatt to represent their interests, he was sure Mr. Fatt would have no objection, and he would have no objection either. Mr. Laan had said that M. Samuel and Co., Ltd., would be going into winding up in which there were a lot of money. (Laughter.) Tons of money had been put into the company, but it was the money of the company and Co., Ltd.; it had not met money out of a greater source than anybody else, but they were willing and were content to see the thing through. He had no objection and his interests were entirely those of the Ordinary and Debenture shareholders. He had no Doubts, but had his doubts with the exception of the Second Debentures, which represented the money he had put in afterwards. He had refused, moreover, to take the slightest interest in the undertaking. He would stand read out appointing Mr. Fatt, and to add to it the names of two shareholders and representatives of the Ordinary and Debenture shares to co-operate with Mr. Fatt in connection with the liquidation.

REPLY TO QUESTIONS

The Chairman, in reply to questions which had been raised, said that the total indebtedness of the company in this country and in New Africa was roughly £233,000. The old directors were leaving the board, but their advice would be of the service of the new company. He himself would still hold a quarter of the capital or perhaps more. He thought he might say as to the results of the past year, that without reckoning anything for Debenture interest or writing off his £40,000, he himself had been made in 1932. They had not incurred any claim they might have against the Government because they had not the money to fight it and because of the glorious uncertainty of the law. Production costs had been reduced by about 70 per cent as compared with four years ago. As to proposals he did not care to prophesy, the only thing he could say was that he was going to take up all the shares which he held, which, with the shares of other members of the firm, represented some 20,000 Ordinary shares and 160,000 Deferred shares. In addition he would hold something like 20,000 Preference shares, representing 10 per cent of the money he would have to pay the bank under the guarantee he had given.

Mr. A. P. Pennell made a personal statement which was received with some applause.

The amendment of Mr. Harlow was, on a show of hands, defeated by an overwhelming majority, and Mr. Pennell demanded a poll. Mr. A. W. Fatt appealed to the shareholders to avoid the deadlock that would ensue by withdrawing their support from Mr. Harlow's amendment.

The Chairman said that their objection to Mr. Pennell was that that gentleman had

ought his shares perfectly well knowing that the company was in the hands of a receiver so that he had no possible right to interfere in any way. Mr. Pennell had done perfectly well that the company would be obliged to go into liquidation, and therefore his sole object in buying shares was to get his friends to buy shares was to get a vote control.

SHAREHOLDERS' APPEAL

A further appeal by Mr. Pennell was made, but that had no effect. He said he thought that if it were made possible he would see Mr. Samuel and the other past members again and get half a dozen or seven. (Mr. Fatt's laughter.) He

further remarked: "My layout is as thin as stomachs, I will run it through. I will withdraw." (Loud laughter.)

Mr. Fatt, in answer to further questions, said that unless the scheme were carried the Debenture holders could foreclose on the property. The position in regard to proxies was that Mr. Pennell held 300,000 and the board 200,000. A Director's vote would be counted for any proxies. That meant that Mr. Pennell had a majority of 100,000 in proxies on an amendment, and if the result would be dead lock, it would be necessary to convene a second meeting.

The meeting then proceeded to put the question as to the result which was announced after



# THE MAGADI SODA COMPANY, Limited

NOTICE IS HEREBY GIVEN that an EXTRAORDINARY GENERAL MEETING of the Members of the Magadi Soda Company, Limited (hereinafter called "the Company") will be held at Winchester House, Old Broad Street, E.C., in the City of London, on Wednesday, the 13th day of February, 1924, at three o'clock in the afternoon for the following purpose:—

For the purpose of considering, and if thought fit, passing as an Extraordinary Resolution, the following Resolution:

## RESOLUTION.

"That it has been proved to the satisfaction of this meeting that the Company cannot, by reason of its liabilities, ~~continue its business~~, and that it is advisable to wind up the same and accordingly that the Company be wound up voluntarily, and that Mr. A. W. Tait, C.B.E., of Basildon House, Moorgate, E.C.2, be and he is hereby appointed Liquidator for the purposes of such winding up, and that two persons (to be chosen by the meeting) who were holders of Ordinary and/or Deferred Shares of the Company not less than two years before the appointment of the Receiver and are still holders of such shares be appointed to act as an Advisory Committee of Shareholders to co-operate with the Liquidator in the liquidation of the Company and the proposed reconstruction thereof."

By Order of the Board,

G. M. FAY,

*Secretary.*

"Shell" House,

25/27, Bishopsgate,

LONDON, E.C. 2

13th February, 1924.

To THE SHAREHOLDERS,  
OF THE MAGADI SODA Co., Ltd.

DEAR SIR (OR MADAM),

By the direction of my Board I enclose a copy of the account of the Extraordinary General Meeting held on the 28th January, reprinted from the *Financier*.

You will observe that the Resolution to place the Company in voluntary liquidation and to appoint Mr. A. W. Tait, C.B.E., Liquidator of the Company, was not carried owing to an Amendment being put that Mr. A. P. Pennell should be appointed Joint Liquidator with Mr. Tait. The Amendment was also not carried as it did not receive the required three-fourths majority, and consequently the Meeting ended in a deadlock.

I am desired to call your attention to two particular points in the account of the proceedings. Firstly, that Mr. Pennell is not acceptable to the Board, nor, as far as could be judged from the attitude of those Shareholders who were present at the Meeting, to Shareholders who had the opportunity of hearing him in person, for the reason that his interest in the Company was acquired subsequent to the appointment of the Receiver, and that the comparatively large number of shares he holds were acquired for a comparatively small sum at a time when he must have been perfectly well aware of the condition and prospects of the Company. It is, therefore, obvious that he can have no reason to complain of anything which occurred prior to his purchase of the Shares and that his intervention in this matter at this time would appear to be prompted by some motive which is undisclosed at present.

I am further desired to point out to you that the Board sent out no circular asking for proxies for the last Meeting, but left Mr. Pennell an entirely free field in the hope that Shareholders would respond to his invitation and come to judge things for themselves. Unfortunately, only 113 Shareholders attended the Meeting, and it is sufficient comment on the proceedings to say that of the 113 as many as 106 voted against Mr. Pennell's Amendment, and 7 only voted for it, including Mr. Pennell himself, and Captain Moor his co-proxy holder whose total monetary interest is £15 for 100 shares acquired in April last also after the receivership. In fact, Mr. Pennell's vote consisted almost entirely of proxies from people who were not able to be present in person, and who had been misled by his circulars. A certain number of Shareholders who had given their proxies to Mr. Pennell, and who attended the Meeting in person, actually withdrew their proxies at the Meeting.

So much is past history, but the Directors have now to deal with the steps to be taken if your interests are to be properly protected in the future.

The Chairman announced at the Meeting that since the circular of the Board had been issued, giving an outline of the scheme of reorganisation, certain negotiations had been resumed which had previously proved abortive, but which it now seems possible to bring to a definite proposal. If these negotiations are successfully completed, Shareholders would be relieved from assessment and be offered a fully-paid participation, although of a considerably less nominal value than their present holding. Their future interest in the business would necessarily be restricted to a fixed rate of interest on their new holdings.

It is essential, if either proposal for reconstruction is to be placed before the Debenture Holders, Creditors and Shareholders for their consideration and acceptance, that the Company should be placed in voluntary liquidation, and that a Liquidator should be appointed who will, after consideration of the whole position, petition the Court to order separate Meetings to be held of all classes interested in order that they may express their approval or otherwise of the proposals. The sanction of any scheme if approved by the requisite majorities of all classes rests with the Court.



Until these steps have been taken nothing can be done, and the Directors think it their duty to warn the Shareholders that their interests will be in distinct jeopardy so long as nothing is done. It must be clear to all concerned that unless a scheme of reconstruction which ensures the raising of adequate working capital is carried, the interest of the Shareholders will be non-existent, the concessions will be forfeited and the assets on realisation will not suffice to meet the claims of Debenture Holders and Creditors.

The Directors have therefore decided to call another Meeting of the Shareholders for the purpose of passing the Resolution set forth in the enclosed Notice of Meeting. The Resolution as now framed is that which was enthusiastically welcomed by the vast majority of Shareholders attending the last Meeting and was only defeated by the action of Mr. Pennell in using the proxies of those not present.

Finally I am desired by the Directors to make it quite clear that their objection to Mr. Pennell is mainly on the grounds that his interest is not one which entitles him in any way to represent the old Shareholders of the Company. They would welcome the co-operation of the Shareholders in the reconstruction, and for that purpose have embodied in their Resolution the formation of an Advisory Committee from the Shareholders who held their shares not less than two years before the appointment of the Receiver.

The Directors hope that after reading the account of the proceedings at the Meeting and this statement you will not hesitate to send your proxies to enable the business of the Company to be reorganised. It is absolutely necessary that the Resolution should be passed by a majority of three-fourths of those Shareholders present or represented by proxies at the Meeting, and unless the Directors receive sufficient proxies to enable them to obtain this large majority another deadlock will ensue with results which can only be disastrous to the Shareholders' interests.

**If Shareholders give proxies to interested parties in response to plausible representations they will gravely jeopardise the prospect of any settlement, which has already been sufficiently endangered by the delays arising out of Mr. Pennell's intervention.**

**Proxies in favour of the Board must be lodged at the Company's offices not later than three o'clock on February 11th. Proxies given for the previous meeting will not be available for the forthcoming meeting.**

By order of the Board,

G. M. FAY,

Secretary

Hubert W. Hoese,  
4827 Bishopsgate, E.C.  
11th February 1924.

GROTON, OSMANNEY & OLIVER.

E. G. OLIVER,  
H. M. OSMANNEY.

TELEGRAPHIC ADDRESS: "OSMANNEY" LONDON.

TELEPHONES: NO 1289 } LONDON WALL.  
NO 9316 }

C. O.  
5797  
6 FEB 24

31

3 & 4, GREAT WINCHESTER STREET,  
LONDON, E.C.2.

5th February, 1924.

Sir,

27491/23  
Crown Agents for the Colonies and  
Nagadi Soda Company Limited.

7662  
We beg to acknowledge receipt of your letter of  
4th instant.

In accordance with the suggestion contained in  
paragraph 2 of your letter, we are writing to the Company's  
solicitors to warn them against putting forward an  
alternative scheme of reconstruction without prior reference  
to the Colonial Office

-- We beg to hand you herewith 3 prints of a Circular  
and Notice to shareholders convening an Extraordinary Meeting  
for Wednesday the 13th instant and three prints of an account  
reprinted from the "Financier" of 29th January 1924 of the  
Extraordinary meeting held on 28th January last, which  
documents we have received from the Company today.

Our representative will attend the forthcoming  
meeting the result of which we will report to you in due course.

We have the honour to be,  
Sir,  
Your obedient Servants,

The Under Secretary of State,  
Colonial Office, S.W.1.

*Arthur Jameson*  
*Oliver*