

1923

KENYA

330

27491

REC 1 JUN 23

FROM
STON, GIBNEY
AND GUYER.

DATE
1st JUNE 1923.

TO: CIRCULATION:—

SUBJECT

Mr.
Mr.
Mr.

MAGADI SODA COY. LIQUIDATION.
GOVT'S RIGHTS UNDER FORFEITURE.

1st U.S. of S.

+ *See Mr. [unclear]*
2/1/23

Encs three copies of Mr Bighton Pelleck's
Opinion, together with three copies of the Case
upon which it is founded. If course suggested
is approved, requests early intimation in
order that Summons may be prepared.

2nd U.S. of S.

3rd U.S. of S.

Secretary of State.

Previous Paper

MINUTES

23/1/23

let Broughton

Naturally I advocate the
Course ~~now~~ suggested by Counsel -
see 'A', since, subject to questions
of procedure, it is the course I have
always urged

If it is approved - you will
no doubt so instruct the solicitor, sending
a copy of the Receipts letter (27/2/23)
& reminding him that the same
Not an incorporated body & that
the Govt Kenya cannot sue as
such. *AGB 1/6*

*Ans'd 11 June 23
copy comb to Govt 11 June 23
for 1768 5 June 23*

Subsequent Paper

S/28373

Council's opinion. We should
 not be afraid to
 Dr. Fisher's advice.

In view of the suggestion
 that C.A. should say
 that they have been asked
 to get up for a report, etc.,
 it will be well to answer
 the Director's attention
 specially to the promise
 in 27127 of the Council
 provide information.

- In case time, I think

we can answer the
 Director's direct. and if

C.A. a copy of complete
 also all: to Govt. explaining
 our case very soon
 for early info. as to
 the terms, the Govt.

will be aware. Tell

him of the request

27127 for information

of the request, and so

589. by report.

331

6.6.23

at once

W. J. G.

2/17/23

SUTTON, OSMANNEY & OLIVER.

E. O. OLIVER

H. M. OSMANNEY

TELEGRAPHIC ADDRESS: "OSMANNEY, LONDON"

122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

R

27491 382
JUN 23

3 & 4, GREAT WINCHESTER STREET

LONDON, E. C. 2.

See this

1st June, 1923.

Dear Mr. Bottomley,

I have pleasure to hand you herewith as arranged three copies of Mr. Dighton Pelleck's Opinion together with three copies of the Case upon which it was founded.

If you approve of the course suggested by Mr. Pelleck will you kindly let me know as soon as possible that I may give instructions for the necessary ~~Summons~~ to be prepared.

I shall, of course, hold myself available for further discussion if you think this desirable.

Believe me to be,

Yours sincerely,

By Hand.

W. U. Bottomley Esq., C.M.G., C.B.E.,

Colonial Office.

HEREWITH the following documents:-

- (1) Print of Lease of 12th April 1911
- (2) Do. Contract of 13th April 1911
- (3) Do. Lease of Railway
- (4) Copy Order of 2nd March 1923 appointing
a Receiver of Lagadi Soda Company Ltd.
- (5) Copy Correspondence
- (6) Draft letter to Solicitors for Receiver.

Council is requested to advise the Crown Agents for the Colonies acting on behalf of the Government of Kenya Colony and Protectorate (formerly the East Africa Protectorate) in the following circumstances:

By an Indenture of Lease dated 12th April 1911 and made between the Crown Agents of the one part and Lagadi Soda Company Limited of the other part Lake Lagadi together with other lands in Kenya Colony therein specified was leased to the said Company for a term of 99 years subject to payment of royalties and performance and observance of covenants and conditions contained in the said Lease.

Clause 21 of the Lease contains provisions for re-entry in case of royalties being in arrears or of breach or non-observance of the covenants and conditions or insolvency or "if a Receiver of the Lessees' undertaking or any part thereof shall be appointed by any court of competent jurisdiction" or in case of winding up and provides that thereupon the lease and liberties thereunder granted shall nevertheless determine but without prejudice to any right of action which may be lawfully exercised by the Crown Agents

or the Government in respect of any breach of covenant and it is provided that the proviso for re-entry shall be subject to all restrictions and conditions on and such relief against forfeiture as shall be for the time being applicable under the laws of England to provisos for re-entry contained in leases of similar property or rights in England.

By a contract dated 13th April 1911 (herein after referred to as the "Construction Contract" made between the Crown Agents of the one part and the Nagadi Soda Company Limited (referred to as the Contractors) of the other part the Contractor undertook to construct and equip a railway in the Protectorate and a pier and other works at Kilim in accordance with the Contract.

By Clause 15 of this Contract it was provided that subject as therein mentioned the Crown Agents would grant and the Contractors accept a lease of the railway to be constructed under the contract and other lands provided by the Government there during the term granted by the Lease of 12th April 1911 at a yearly rent of 5/- Such Lease to conform with the provisions of the Contract and a proviso for re-entry on non-payment of rent or breach of any of the covenants. Such proviso for re-entry to be subject to such restrictions and conditions in relief against forfeiture as should for the time being be applicable by laws of England to provisos for re-entry contained in leases of English land.

And it was provided that until the Company should be entitled to a grant of any such lease they should be deemed to be tenants at will of the Government in respect of any lands provided for the railway.

By Clause 47 of the Construction Contract it was provided that in case the lease of land should be determined otherwise than by effluxion of time or in case of insolvency of the contractors or "if a Receiver of the Contractors" (understanding of which part I do not know) should be appointed by any court of competent jurisdiction in any case of liquidation or otherwise, the rights and interests of the Government in the lands provided for the railway should not be affected and the Government should be entitled to exercise its rights to the lands provided for the railway in the same manner as if the lease had not been made. That is to say:

- (a) In case the lease of land should be determined otherwise than by effluxion of time or in case of insolvency of the contractors or "if a Receiver of the Contractors" (understanding of which part I do not know) should be appointed by any court of competent jurisdiction in any case of liquidation or otherwise, the rights and interests of the Government in the lands provided for the railway should not be affected and the Government should be entitled to exercise its rights to the lands provided for the railway in the same manner as if the lease had not been made.
 - (b) In case the lease of land should be determined otherwise than by effluxion of time or in case of insolvency of the contractors or "if a Receiver of the Contractors" (understanding of which part I do not know) should be appointed by any court of competent jurisdiction in any case of liquidation or otherwise, the rights and interests of the Government in the lands provided for the railway should not be affected and the Government should be entitled to exercise its rights to the lands provided for the railway in the same manner as if the lease had not been made.
- The following clause of the Construction Contract is in accordance with the above:
- The Crown Agents of the one part and the Nagadi Soda Company Limited of the other part do hereby certify that the above is a true and correct copy of the Construction Contract as between the Crown Agents of the one part and the Nagadi Soda Company Limited of the other part as shown to them by the Contractors on the 12th day of April 1911.

parties but it has never been exchanged.

Counsel will observe that Clause 30 of this lease contains a proviso for re-entry similar to that contained in Clause 47 of the Construction Contract.

On 2nd March 1923 an order was made by Mr. Justice Romer in a debenture holders' action appointing Andrew Wilson Tait (a partner in the firm of Messrs. G.A. Tait & Co.) to be receiver on behalf of the debenture holders of the Magadi Company and to manage the business of the Company with a proviso that the Receiver is not to be removed as Manager after 30th June 1923 without the leave of the Court. The order provides for the usual enquiries.

No notice of the appointment of a Receiver was given by the Magadi Soda Co. and the Crown Agents first became aware of the appointment of the Receiver on or about 13th March through advertisements in the Press. The attention of the Solicitors to the Magadi Soda Company was immediately drawn to the effect of the appointment of a Receiver and some correspondence ensued.

The debenture holders action was launched and a receiver appointed with a view to a reconstruction of the Magadi Soda Company Limited which is said to be in liquidation but no details of the reconstruction scheme are yet available.

The Magadi Soda Company is a Limited Company incorporated in England under the Companies Acts.

It is clear that under Clause 29 of the Lease of the Magadi the appointment of a Receiver has caused a suspension of that Lease and brought into operation the powers of the Government under Clause 47 of the Construction Contract.

The question therefore arises as to what action should be taken by the Government.

It is thought that some action should be taken immediately to assert the powers of the Government as it is apprehended that there is grave risk of a waiver occurring if there is further delay.

The Government would not be disposed to take extreme measures, and would still allow the Company to develop the industry in the Colony provided they are satisfied with the reconstruction scheme of the Company, and that their rights under the lease and Construction Contract above referred to can be preserved intact.

They would however require some modifications in their favour in respect to the rates fixed by the existing Contract for the Conveyance of Soda.

One course would be to make demand for immediate possession and if not complied with to commence proceedings for ejection.

Another course, which it is submitted would be effective, would be to obtain from the Receiver an admission in writing of the rights of the Crown Agents in a form which would keep them alive for a definite period to give time for the reconstruction scheme to be brought forward and considered.

If the first course is taken it appears improbable that the receiver would give up possession without a judgment against him, and it is likely that hostile proceedings would seriously damage the chances of a successful reconstruction of the Company.

In the event of legal proceedings for ejection becoming necessary it is apprehended that a judgment in England could be obtained against the receiver which would afterwards be

enforced against the property in the Colony. Possibly a Receiver could be appointed who would by a paramount titleoust the receiver appointed by the debenture holders of the Company

Counsel is requested to advise

- (a) Whether a formal demand should be made upon the Company for possession with a view to legal proceedings for ejection in the event of a refusal, or
- (b) Whether a letter from the receiver or a formal agreement formally recognizing the rights of the Crown Agents and agreeing that they should be kept alive for a limited period would be effective and binding upon all necessary parties.
- (c) Whether if legal proceedings are necessary, what action should be taken in England or the Colony.
- (d) Whether it would be possible for the Crown Agents to get a Receiver appointed with title superior to that of the Receiver appointed by the Debenture holders.
- (e) Generally.

In the event of Counsel advising that course should be pursued, he is requested to settle the accompanying draft of a letter which it is suggested should be written to the Receiver's Solicitors, and recommend an alternative course.

OPINION.

336

(a) & (b). It is clearly, in my opinion, advisable that some step should be taken to make it clear that the Crown Agents are keeping alive their rights under the forfeiture that has occurred and to obviate any risk from a plea of waiver. If some step with this object is not taken, I think that there might possibly be a risk of such a plea being successfully raised.

With this object in view, there are, in my opinion, two alternative courses open:-

(1) to commence legal proceedings to enforce the rights existing under the forfeiture, the nature of which rights I deal with below in answer to Question (c), and contemporaneously with the service of the summons mentioned in the answer to (c), to send a letter to the Receiver stating in effect that, as the Crown Agents have been unable to obtain the information which they require with regard to the proposed reconstruction, they have on their Counsel's advice issued the summons in order to safeguard their interests under the forfeiture and, if necessary, to enforce the same, but that, if within a reasonable time it is made clear to them that the proposed reconstruction is going forward on terms which are satisfactory to them and which would have to include modifications in their favour in respect to the rates fixed by the existing contract for the conveyance of soda, they would be willing to delay further proceedings until the scheme of reconstruction is satisfactorily settled, and if and when it is so settled, of course to stay all further proceedings; and putting forward as a further term of staying their hands that it should be arranged for them to attend all proceedings

relating to the reconstruction.

(2) not to commence legal proceedings but to rely on an admission from the Receiver in the form of a letter to the effect that the rights of the Crown Agents are not to be prejudiced in any way by their not taking action at present until the results of the negotiations for reconstruction are evident, and for that purpose to write a letter to the Receiver on the lines of the draft letter with the papers.

On the whole, I am of opinion that course (1) is the preferable one, inasmuch as it definitely asserts and maintains the rights of the Crown Agents and at the same time opens up a way to a compromise and does not so far as I can see, jeopardise the prospect of a successful reconstruction; and this is, accordingly, the course which I advise.

(c). In my opinion, the legal proceedings should be taken in England and should, and, according to the authorised practice, must, be by a summons pro interesse quo taken out in the Debenture Holders action. No action can be taken against the Company without the leave of the Court, as, the Receiver being in possession under the order of the Court, proceedings without such leave would be a contempt of Court (see cases cited below). It is, I think, clear that the Receivership under the Order of the 2nd March 1923 extends to the foreign property of the Company, and in that case the application by summons should be in the action in which the Receiver was appointed (see *Searle v. Cheat*, 25 D. 723). The summons will ask that the Receiver may be directed to deliver up to the Crown Agents possession of the property which has been forfeited or that the

Crown Agents may be at liberty to commence an action against the Company for possession of such property with mesne profits and the appointment of a receiver or alternatively that the Crown Agents may be allowed to come in and be examined pro interesse quo (see *Angel v. Smith*, 9 Ves. 535; *Brooks v. Greathed*, 1 J. & W. 178, *Russell v. East Anglian Railway Company*, 3 Mac. & G. 117, *Exparte Cochrane*, L.R. 20 Eq. 282; *Richards v. Mayor of Kidderminster* 1896, 2 Ch. 212; *Marriage, Neave & Co.*, 1896, 2 Ch. 663; *Henry Found, Son & Hutchins*, 42 Ch. D. 402; *Slade v. Hulme*, 18 Ch. D. 655). The Receiver of the Company should not be made a party to such an application (see *General Share & Co. Company v. Whetley Brick & Co.*, 20. Ch. D. 260). Probably the Court, if satisfied, as it no doubt would be, as to the title of the Crown Agents under the forfeiture, would direct the Receiver to give up possession without putting the Claimants to the expense of an action. There may be a difficulty as to the Crown Agents themselves being the applicants (see *Robertson's Civil Proceedings by and against the Crown*, pp. 107 and 108), and it may be that the Attorney General may have to apply: but this I should like to consider further.

(d). I think it would be possible in the circumstances of the present case to get a receiver appointed; and, if so, I think that they might be able to get their receiver appointed of the forfeited property in substitution for the receiver appointed under the order in the Debenture Holders action.

(e) Generally. I have nothing to add except that, even if the Court orders possession of the forfeited property to be given up to the Crown Agents, it will probably still be necessary to take steps in the Colony to obtain effective execution of the Order.

DIGHTON POLLOCK,
Linc. Inn.

31st May 1923.

3c

MI. 27491/23 Kenya
7.2.44

Coded & sent
3.10 p.m. - 4.6.23
C.P.

Priority A.

4 June

DRAFT. Code Tel

Your tel 15 May No 141

Governor
Nairobi

MINUTE.

- Mr. Seel ^{2/6/23}
- Mr. Parkinson ^{2/10/23}
- Mr. Burke &
- Mr. Bottomley & f.
- Mr. Davis.
- Sir G. Grindall.
- Sir H. Road.
- Sir J. Masterton Smith.
- Mr. Ormsby-Gore.
- Deputy of Deacons.

Copy to be sent to 4 June 23

Magadi After
consultation with Counsel
instructions have been
issued for commencement of
legal proceedings to enforce
rights of Crown Agents
under forfeiture but for
letter to be sent to Receiver
at the same time stating that
this is to safeguard
interests of Crown Agents
and that if within reasonable
time reconstruction is in

L. G. S.

progress on terms
 satisfactory to Crown Agents
 and including modification
 of freight rates for soda
 further proceedings will be
 delayed and that if and when
 reconstruction satisfactorily
 settled all further proceedings
 will be stayed ○

Immediate and
 definite information required as to
 terms you wish to secure

- i.e.
- (a) whether
 - (b) whether to be charged according to
 quantity used or
 on weekly or quarterly averages
 - (c) to what quantities
 each step of duty scale
 new rate should apply ○

In this connection you should
 consider question of

(cf. last page of
 minutes of meeting
 on 26/5/15)

* let's strongly
 suggest the price
 of (b) should
 be same as

DRAFT.

MINUTE.

- Mr.
- Mr.
- Mr.
- Mr. Davis.
- Mr G. Orinole.
- Mr H. Reid.
- Mr J. Macartney Smith.
- Mr. Orinole-Gore.
- Deputy of Devonshire.

minimum payments for
 freight
 (c) any other modifications

Receiver has requested
 postponement of payment
 of royalties due on
 June 1st pending
 reconstruction without
 prejudice rights of
 Government ○

Despatch follows by
 next mail ○

Secer.

Understand
as special mail
via on
day June 5

M.L. 27491/23 Kenya.

7th

5 June 1923

~~S3~~ Sir

DRAFT.

In continuation
~~I have etc. to confirm~~

NO ~~32~~ 68 Draft
herein

C.A.G.

My ltr. of the 4th of June,
is with
and to transmit to you for
your information. The acc^y
copies of correspondence, as
noted in the margin,
regarding the affairs of
the Nagadi Soda Coy.
Ltd.

MINUTE.

- Mr. Seel 2/6/23
- Mr. Dickinson 21/6/23
- Mr. Bottomley 4/6
- Mr. Davis.
- Sir G. Grindle.
- Sir H. Read.
- Sir J. Masterton Smith
- Mr. Ormsby-Gore.
- Under Secretary.

- Meeting (26857/23) ✓
- Mr. Ormsby-Gore, Officer ✓
(27491/23)
- Case and Opinion (27491/23) ✓
- Receiver. 30 May (27127/23) ✓
- Receiver 1 June (27127/23) ✓
- Mr. Ormsby-Gore, Officer 4/6/23 ✓
Appointments
- (without encl.)

2. Copies of my
ltr. of the 4th of June has
been sent to the C.A. for
the Colonies for their information,
in addition to the documents
mentioned in para 5 of

17.2. 27471/23 Kenna.

7th

Gentlemen

4th June 1923

DRAFT.

82

With reference to ~~the~~ the

C.A.

letter from this Dept. No
24786/23 of the 22nd of

May, I am ref. to you. to
you, for your information
and guidance, the

acc^y copies of correspondence,
as noted in the margins,
on the subject of the

action to be taken in the

cases created by the app^t
on behalf of the Government
of a Receiver to manage
affairs of

the affairs of the Nagadi

Soda Co. Ltd. etc manage

MINUTE.

- Mr. Seel. 2/6/23
- Mr. Anderson. 4/6/23
- Mr. B. M. ...
- Mr. ...
- Mr. G. ...
- Mr. H. ...
- Mr. J. ...
- Mr. ...
- Mr. ...

at (to) ... ✓
 Mr. ...
 and Opinion (27/4/23)
 Mr. ...
 Mr. ...

11. 2. 23 H. W. C. Bowen

Immediate

4¹⁵ June 1923.

Dear Gentlemen
28373

DEPART.

Messrs. Sutton,
Omanney & Oliver

MINUTE.

Mr. Seal 2/6/23

Mr. Parkinson 4/6/23

Mr. Bushe 4

Mr. Robinson 4

Mr. Smith

Mr. G. Smith

Mr. H. Smith

Mr. J. Herbert Smith

Mr. Gandy

Date of Decision

Copy to Mr. Bowen
for your file

I am etc to act. the receipt
of your letter of the 8th of June,
addressed to Mr. W. C. Bowen,
transmitting copies of the
Case submitted to Mr. Wright
Pollock, and of his Opinion,
on the subject of the action to
be taken by the C. A. for the
Colonies in the case created

by the appointment of a Receiver
in whole of the shares held of
the [unclear] Ltd company etc and
to manage the affairs of the

Receiver [unclear] Ltd

2. In reply I am

to request you to take
immediate steps to carry

30 Mar (27117/23)
7/23 ✓
27/27/23 ✓

4/23

11. 7. 22 1/23 Memo.

Immediate 9th

4th June 1923.

Kind
28375 Gentleman

DEPT.

Messrs. Sutton,
Osnestrey - Oliver

MINUTE.

Mr. Seal 4/6/23

Mr. Parkinson 4/6/23

Mr. Bushe 4/6/23

Mr. Botmanley 4/6/23

Mr. Smith

Mr. G. G. G.

Mr. E. E.

Mr. J. J. J.

Mr. C. C. C.

Mr. D. D. D.

Copy to letter 24 June 1923

I am etc to act. the receipt
of your letter of the 8th of June,
addressed to Mr. W. C. Botmanley,
transmitting copies of the
Case submitted to Mr. Dighton
Pollock, and of his Opinion,
on the subject of the action to
be taken by the C. A. for the
Colonies in the event created
by the appointment of a Receiver
- whole of the adventure taken of
the merged Soda Company Ltd and
to manage the affairs of the
Ragwort Soda Coy. Ltd.
2. In reply I am
to request you to take
immediate steps to carry

30 Mar (27117/23)
27/5/23

4/6/23

out the course advocated
by Mr Dighton Pollock in
Paragraph (1) of his Opinion,
that is to say, to commence
legal proceedings to enforce
the rights of the Gov^t of Kenya
under the forfeiture by the
Company which has occurred,
and, contemporaneously with
the ~~start~~ commencement
of such proceedings, to
send a letter to the Receiver
in the terms suggested by
Mr Pollock.

3. I am to enclose,
for your information, a
copy of a letter from the
Receiver dated the 30th of May,
regarding the payment of
royalties ^{due} to the Gov^t of Kenya

27/27/
125

(The letter dated the 30th of May in connection
refers to the "1st Inst." as an ~~act~~ ^{order} in which
royalty is payable). 393

out the course advocated
by Mr Dighton Pollock in
Paragraph (1) of his Opinion,
that is to say, to commence
legal proceedings to enforce
the rights of the Gov^t of Kenya
under the forfeiture by the
Company which has occurred,
and, contemporaneously with
the ~~start~~ commencement
of such proceedings, to
send a letter to the Receiver
in the terms suggested by
Mr Pollock.

3. I am to enclose,
for your information, a
copy of a letter from the
Receiver dated the 30th of May,
regarding the payment of
royalty ^{due} to the Gov^t of Kenya

27/12/20

on the 1st of June. Having
regard to Mr Pollock's suggestion
that the C.A should say
that they have been unable
to obtain the information
which they require with
regard to the proposed
reconstruction of the Rasadi
Soda Coy, your attention
is especially drawn to
the promise given in para.
3 of the enclosed letter, that
the draft scheme of reconstruction
will be submitted ^{to this Dept} for comment
as soon as it has been
formulated. A copy of the
reply sent to his file in June
is below.

DRAFT.

MINUTE.

- Mr.
- Mr.
- Mr.
- Mr. Davis.
- Sir G. Grindle.
- Sir H. Ross.
- Sir J. Macartain Smith.
- Mr. Ormsby-Gore.
- Duke of Devonshire.

4. It should be
borne in mind, in
contemplating the course
advocated by Mr Pollock

and now approved in this
letter, that the C. A. for
the Colonies are not an
incorporated body, and
that the Govt. of Kenya
as such cannot sue in a
Court of law.

5. Copies of your

letter under reply, and
of this letter ^{(with the} and, enclosures)
are being sent to the C. A.
for their information.

(Signed) H. J. Read.

and now approved in this
letter, that the C. A. for
the Colonies are not an
incorporated body, and
that the Govt. of Kenya
as such cannot sue in a
Court of law.

5. Copies of your

letter under reply, and
of this letter (with the
enclosures) are being sent to the C. A.
for their information.

(Signed) H. J. Read.