

1925

KENYA

35689

DATE

7th July 1925.

OFFICE DEP NORTH COTE. 857

Signature: Bughe Allen

WAR CEMETERY AT KAJIADO ON LAND LEASED TO MAGADI SODA CO.

Company have agreed to surrender land occupied by Cemetery to the Crown and its conveyance in fee simple to War Graves Commission. State as to difficulty which has arisen with regard to transfer of an additional 1/2 acre.

Previous Paper

MINUTES

Send the substance of this despatch (with copy of the lease) to the Comd referring para 8 of their letter of 25.7.25

If they agree to the new proposed lease... the present... agreement... given by the... numbered...

If they agree... So that... referred in...

27 AUG 1925  
As send 927 (with copy above) 18 SEP 1925  
AC 403/40565/25

Subsequent Paper

M. J. 410865

KENYA

No. 857



GOVERNMENT HOUSE,  
NAIROBI,  
KENYA

7th July, 1925.

407

Sir,

*Case*  
*DAE 20686/15*

I have the honour to inform you that a War Cemetery is situate on land at Kajiado in the Masai Province, lease to the Magadi Soda Company. The lease of this land is shown on enclosure "E" to my despatch No. 490 of 9th April, 1925, and I would refer you in particular to Clause 7 of the despatch. I annex a copy of the lease.

2. The Imperial War Graves Commission, have already approached the Magadi Soda Company in regard to the War Cemetery and the Company has agreed to the surrender of the land occupied by the Cemetery to the Crown and its conveyance in fee simple to the Imperial War Graves Commission.

The Commission have now further requested from the Company an additional 1/2 acre of land adjoining the Cemetery on which to provide accommodation for a native caretaker. The new Magadi Soda Company have offered to grant the use of the land for the full remaining term of their lease at a rental of Sh.1/- per annum and certain conditions. I am advised, however, that under the terms of the Lessees' covenants there is no power for them to do this and the legal advisers are of opinion that it is

Yours faithfully /

HONOURABLE  
T. COL. L.C.M.S. AMERY, P.C., M.P.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET, LONDON, S.W.

KENYA

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OAC  
20686  
15

lease.

better that the  $\frac{1}{2}$  acre should be dealt with in the same way as the cemetery. 493

3. The matter could be arranged on the surrender of the present lease by the liquidator of the old Company, by reserving from the lease granted to the new Company the area of the cemetery and the additional  $\frac{1}{2}$  acre.

It is not possible to be more definite at present as that cemetery area - approximately some 4 $\frac{1}{2}$  acres in extent - has not yet been surveyed nor is it possible at the present owing to pressure of work and inadequacy of staff to detail a surveyor for this work. I am advised, however, that approval could be given to a grant of the present area less whatever the area of the cemetery and the ~~1/2~~ acre is found to be, an undertaking being given by the Lessee to agree to this reservation and to surrender the ~~land~~ when called upon.

I have the honour to be,

Sir,

Your most obedient humble Servant,

*J. C. S. Hartwell*  
GOVERNOR'S DEPUTY.

C O P Y.

TC  
409

THIS INDENTURE made the 22nd. day of October  
One thousand nine hundred and nineteen between HIS MOST  
GRACIOUS MAJESTY KING GEORGE THE FIFTH (hereinafter  
referred to as His Majesty which expression shall where  
the context so admits include His Heirs and successors)  
of the one part and THE MAGADI SODA COMPANY LIMITED a  
Company incorporated pursuant to the law of England  
under the Companies (Consolidation) Act 1908 and having  
its registered office at Nos. 25 & 27 Bishopsgate in the  
City of London (hereinafter referred to as the Company  
which expression shall where the context so admits in-  
clude its Successors and Assigns) of the other part  
WITNESSETH that in consideration of the payment of the  
sum of Rupees four hundred and ninety-seven and cents  
fifty and of the rents hereinafter reserved and of the  
covenants conditions stipulations reservations and pro-  
visions in the Crown Lands Ordinance one thousand nine  
hundred and fifteen and in the rules made or to be  
hereafter made thereunder and in these presents respect-  
ively contained His Majesty doth hereby demise unto the  
Company ALL those two pieces or parcels of land situate  
at or near Kajiadoc on the Magadi Railway in the Masai  
Reserve in the Naivasha Province of the East Africa  
Protectorate being subdivisions Nos. 1 & 2 of portion  
No. 1 (Land Office Nos. 1883/1 & 1883/2 respectively) of  
Meridional District South A. 37 comprising in the  
G. IV.d whole 1017.8 acres or thereabouts be the same more or  
less whereof 23 acres or thereabouts are excepted and  
reserved in respect of a road reserve approximately  
shewn on the plan hereto annexed by a dotted line and  
marked road reserve making a total of 994.8 acres or  
thereabouts the subject of this demise which said pieces  
or parcels of land (hereinafter referred to as the

the demised premises) are more particularly delineated and described on the said plan and thereon bordered with red. EXCEPTING AND RESERVING out of the demise hereby made All and singular the reservations specified in the said Ordinance AND in particular the land on which any Government Trigonometrical Station is or shall be situate which for the purposes of this reservation shall comprise all land within twenty feet of the centre mark of such station together with a right of way to and from the same Together with all liberties powers and such other rights and privileges over or in respect of the demised premises as are in the said Ordinance reserved and contained TO HOLD the same unto the Company for the term of ninety-nine years from the twelfth day of April One thousand nine hundred and eleven now past subject to the covenants conditions stipulations reservations and provisos in the said Ordinance and Rules made or to be hereafter made thereunder and in these presents respectively contained YIELDING and paying therefor for the said term the yearly rent of Rupees ninety nine and cents fifty payable in advance on the first day of January in every year and so in proportion for any less period than one year AND the Company doth hereby covenant with His Majesty in manner following that is to say:-

1. To pay the said annual rent hereinbefore reserved at the time and in manner aforesaid.
2. To bear pay and discharge all existing and future rates taxes charges assessments duties and outgoings whatsoever imposed charged or assessed upon the demised premises or upon any part thereof or upon any buildings erected thereon.
3. Not to transfer assign sublet or otherwise part with the possession of the demised premises or of any part thereof in any manner whatsoever.

4. To use the demised premises for the purposes of a residential area for the use of the Company and its employees only and for no other purposes whatsoever.
5. To observe the covenants conditions reservations and provisions expressed or implied in the said Ordinance and Rules thereunder not otherwise set out in these presents.

PROVIDED always and it is hereby agreed and declared by and between the parties hereto as follows:-

1. That if the term of the concession granted by Government to the Company by an Indenture dated the 12th day of April 1911 and registered in the Crown Lands Registration Office at Nairobi as Number three hundred and forty two of A. X 1912 shall be determined than these presents and the term granted thereby shall lapse and become absolutely null and void.
2. That if the said rent hereby reserved or any part thereof shall be in arrear and unpaid for the space of thirty days after the same shall have become due (whether legally demanded or not) or if there shall be any breach non-observance or non-performance of any of the covenants and agreement on the part of the Company herein contained or implied by virtue of the provisions of the said Crown Lands Ordinance 1915 then and in any such case it shall be lawful for His Majesty to enter into and upon the demised premises or any part thereof in the name of the whole and the same to have again and repossess as of His former estate and thereupon this demise shall absolutely cease and determine and all monies paid thereunder shall be forfeited to His Majesty but without prejudice to any right or action or remedy of His Majesty in



in respect of any antecedent breach of any of the covenants and agreements by the Company hereinbefore contained.

IN Witness whereof EDWARD MORTIMER, Knight Commander of the most Distinguished Order of St. Michael and St. George, and Companion of the most Honourable Order of the Bath, the Governor of the East Africa Protectorate hath on behalf of His Majesty caused the Public Seal of the said Protectorate to be hereunto affixed and also set his hand and the Company has caused its Common Seal to be hereunto affixed the day and year first above written.

Signed Sealed and Delivered }  
by the Governor in the }  
presence of }

The Common Seal of the }  
Company was affixed in the }  
presence of }

Seel 24.8.25  
Allen H. J.

Sud

35

411

- Wickley.
- Shuckburgh.
- Harris.
- Trindle.
- Masteron Smith.
- Masby-Gore.
- Mery.

Amad  
40665

6769. 35689/25 Kenya.

C. D.
R 24 AUG
D 26

27 August.

DRAFT.

Secretary.  
S. S. S. S. S. S. S.

10 SEP 1925

~~Jan cli. to~~  
with reference to para. 8.

From letter of the 25<sup>th</sup> 8/July,  
Jan cli. to inform you that  
he has received a despatch from  
the Acting Governor of Kenya  
on the subject of a War Cemetery  
which is situated on land  
at Kajiado, in the  
Masai Province of Kenya, which  
at present

33724/25  
copy to Sec. 927

enc. (enclos. to 35689)

The Nagadi Soda Coy. Ltd.  
to be leased to you. A copy of  
the lease in question is enclosed  
for reference purposes.

2. The As. Governor's despatches  
state that the Imperial War  
 Graves Commission have already  
approached your Company in  
regard to the Cemetery, and  
that the Company has agreed  
to the surrender of the to the Crown  
of the land occupied by the  
Cemetery, and its conveyance  
in fee simple to the Commission.

3. The Commission have now  
further requested from the Coy. an  
additional half-acre of land  
adjoining the Cemetery, for the

Mr. J. H. Mackenzie  
Mr. D. H. Davis  
Mr. G. H. Grindley  
Mr. Masterion Smith  
Mr. J. H. Goss

DRAFT.

Purpose of providing accommodation  
for a native caretaker. The new  
Nagadi Soda Company, it is  
understood, have offered to grant  
the use of the land for the full  
remaining term of their lease  
at a rental of one shilling per  
annum, under certain conditions  
but the As. Governor is advised  
that under the third covenant  
in the lease such action  
is beyond the power of the  
lessors. The As. Governor's  
legal advisers are of the  
opinion that it would be  
better that the half-acre  
should be dealt with in the

Same way as the Cemetery.

4. It is therefore suggested that on the surrender by the Liquidator of the former Nagadi Soda Coy. of the present lease, the area of the Cemetery, plus the additional half-acre now desired, should be reserved from the lease granted to the new Company. It is not possible at this stage to indicate more definitely the area to be reserved, as the Cemetery area, which is approximately some  $4\frac{1}{2}$  acres in extent, has not yet been surveyed, and the Gov<sup>t</sup> are not in a position to make arrangements for an immediate survey.

5. It is therefore suggested

whether you would be prepared to agree to the Gov<sup>t</sup> Governor's proposal that the new lease to be drawn up in respect of the property at Nagadi should cover the area of the present lease, less the area of the Cemetery plus half an acre, an undertaking being given by your Company in the lease to agree to this reservation and to surrender the reserved area when

Tracy.

Shuckburgh.

Davis.

Grindle.

Masteron Smith.

Ormsby-Gore.

Amery.

called upon to do so.  $\frac{1}{6}$  <sup>so</sup> years

~~Company~~ agree. The As. Governor

will be informed so that, in

the preparation of a new lease

in accordance with the proposal

mentioned in para. 2, of the

Order of the 19<sup>th</sup> of

the necessary modifications

therein may be made in the

lease.

H. T. Allen  
for Under Secretary of State