

1923

KENYA

CO
32314
REC'D
JUN 18 1923

TON, OMMANNEY
AND OLIVER.

DATE
27th JUNE 1923.

CIRCULATION :-

SUBJECT

Mr.
Mr.
Mr.
Asst. U.S. of S.

MAGADI SODA CO. LIQUIDATION.

Perm' U.S. of S.
Pub' U.S. of S.
Secretary of State.

Fwds copy of letter sent to C.A. reporting result of application in Debenture Holders action. Considers Order which has been obtained is satisfactory. States there can be no harm in accepting royalties up to 2nd March last, but none should be accepted after that date.

Previous Paper

V
31363

MINUTES

Mr. Bushe.

I showed you this letter yesterday and you considered that no present action was required. Subsequently the Crown Agents rang me up and asked what we wanted them to do on it.

Until the situation develops further, the only question at issue is that of royalties, ~~which~~ raised at the end of the Solicitors' letter. You will see from 27127 below that the royalties concerned are those on Soda exported up to the 31st of December, on which payment fell due on the 1st of June. It would appear that these royalties can be accepted without in any way prejudicing our position with regard to the future. If we accept payment from the Receiver, we are merely recognising him as responsible for the

Subsequent Paper

V
32684

assets

I advised the other bodies:

425

- (2) Copy of Summary — handed in by the Clerk 22 June
- (3) Copy of letter to Russia 20 June — d.o.
- (4) Copy of letter to C.A. 20 June — how received from C.A.

WCS
7.23

S. H. [unclear]
Mr. Battley

I do not myself see why we should not accept these royalties, but having placed the matter in the hands of solicitors it is a little difficult to ignore their advice. There does not seem to be any point in pressing for the royalties at the moment and so perhaps it will suffice to tell the Crown Agents that they need not press for them and that if they are tendered they should not accept them or give a receipt until they have consulted their solicitors?

H.B. 67
WCS
7.7.23
at once.
H. J. R.
9/10/23

also 31367

~~H. J. R.~~

MINUTES

assets of the Company, and not in any way as tenant of the property.

As regards royalties on exports between January 1st and March 2nd (the amount must be very small), these are not due under the lease until December 1st next, and I do not think that the Company's present difficulties in any way alter the fact that our claim for them is not yet mature. The case would be different if the Company were definitely in liquidation.

It is left ^{to the Board} ~~to the Board~~ on 27/27 whether we should claim now the royalties due on the 1st of June. I think we can give the Receiver a little extra time so long as we bear in mind, as we shall, that these royalties and the still unpaid charges for freight must be taken into consideration in any discussion of terms of reconstruction.

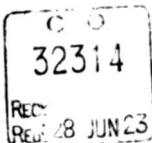
It might be as well to write to the Green Agents in that sense referring to our letter of 4th Inst on 27/27 and to the Committee's report.

SUTTON, OMWANNEY & OLIVER.

E. G. OLIVER

H. M. OMWANNEY.

TELEGRAPHIC ADDRESS: "OMWANNEY, LONDON"

TELEPHONE: NO 1288 } LONDON WALL.
NO 2316 }

3 & 4, GREAT WINCHESTER STREET,

LONDON, E. C. 2.

27th June, 1923.

Sir,

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

We beg to hand you herewith a copy of a letter
which we have written to the Crown Agents for the Colonies
reporting the result of the application in the Debenham
Holders action today.

We have the honour to be,

Sir,

Your obedient servants,

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

O/Sec Kenya 31a

27th June, 1925.

Gentlemen,

Magadi Soda Company Ltd.

We beg to report that the Summons in the Debenture Holders Action in which you are appearing through the Attorney General was heard before Master Keen this morning.

An Order was made by consent under which, without prejudice to your rights, the application was allowed to stand over generally with liberty to any part to restore it, upon the understanding that you will be at liberty to attend all further proceedings in the Action in connection with the proposed scheme of reconstruction.

You are also to be furnished with full information from time to time as to the progress and terms of the scheme of reconstruction. We think this Order may be considered as satisfactory from your point of view.

We do not know how the question of payment of royalties under the lease stands. There can be no harm whatever in the Government of the Kenya Colony accepting royalties up to and

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We beg to report that the Summons in the Debenture Holders Action in which you are appearing through the Attorney General was heard before Master Keen this morning.

An Order was made by consent under which, without prejudice to your rights, the application was allowed to stand over generally with liberty to any party to restore it, upon the understanding that you will be at liberty to attend all further proceedings in the action in connection with the proposed scheme of reconstruction.

You are also to be furnished with full information from time to time as to the progress and terms of the scheme of reconstruction. We think this Order may be considered as satisfactory from your point of view.

We do not know how the question of payment of royalties under the lease stands. There can be no harm whatever in the Government of the Kenya Colony accepting royalties up to and

March last the date of the appointment of the Receiver
but no royalties should be accepted or a receipt given
after that date.

We will report further if and when any important
developments occur

We have the honour to be,

Gentlemen

Your obedient Servants.

The Crown Agents for the Colonies.

IN THE HIGH COURT OF JUSTICE

CHANCERY DIVISION

Mr. Justice Romer.

In the Matter of the Magadi Soda Company Limited

B E T W E E N

TRUST UNION LIMITED on behalf of
 themselves and all others the holders
 of Six per cent Convertible Registered
 Debentures entitled to the benefit
 of the Indenture mentioned in the
 Indorsement on the Writ in the Action
 Plaintiffs

and

THE MAGADI SODA COMPANY LIMITED, The
 British Trusts Association Limited
 and Lloyds Bank Limited Defendants.

L E T ALL PARTIES CONCERNED attend at the Chambers of
 the Judge Room No. 237 Royal Courts of Justice, Strand,
 London on *Wednesday* the *27th* day of *June* 1923, at *12.15*
 o'clock in the *after-noon* on the hearing of an application
 on the part of His Majesty's Attorney General.

1. That Andrew Wilson Tait of Basildon House Moorgate in
 the City of London, the Receiver appointed in this action by
 Order dated the 2nd March 1923 may be ordered to deliver up
 to the Government of the Colony and Protectorate of Kenya or
 to the Crown Agents for the Colonies on behalf of such
 Government possession of all property in the possession of
 the said Receiver which the said Government is now entitled
 to take possession under or by virtue of the following
 instruments or either of them that is to say (a) an Indenture
 of Lease dated the 12th April 1911 and (b) a Contract dated
 the 13th April 1911 and each made between Sir Reginald
 Laurence Antrobus K.C.M.G., and others the then Crown Agents
 for the Colonies acting for and on behalf of the Government
 of the said Colony and Protectorate (then and therein called

"the East Africa Protectorate") of the one part and the above named Magadi Soda Company Limited of the other part

2. Further or in the alternative that the said Government or the Crown Agents for the Colonies on its behalf may be authorised to commence and prosecute in the name of the Applicant or otherwise as it or they may be advised an action against the said Company for possession of the said property with mesne profits and for the appointment of a Receiver thereof with such further or other relief as the said Government may be entitled to under or by virtue of the said Lease or the said Contract

3. Further or in the alternative the Applicant may intervene in the action and that an inquiry may be made whether the said Government or the Crown Agents for the Colonies on its behalf has or have any and what interest in the property taken possession of by the said Andrew Wilson Tait as such Receiver as aforesaid or in any and what part thereof and

4. That the costs of this application may be provided for.

DATED the 20th day of June 1923.

L. S.

THIS SUMMONS was taken out by SUTTON OSMANNEY & OLIVER of 3 and 4 Great Winchester Street, London, E.C.2. Solicitors for the above named.

20th June 1923.

Dear Sirs,

Kenya Colony
Crown Agents for the Colonies and Karadi Soda Co.
Ltd.

With reference to recent conversations over the telephone and to a letter of 30th ultimo from your client the Receiver to the Under Secretary of State for the Colonies, we are instructed to inform you that our clients are much disappointed that no details of the proposed scheme of reconstruction of the Karadi Soda Co have yet been furnished.

We have again to remind you that a forfeiture of the lease of 12th April 1911 and of your clients' rights under the construction contract of 13th April 1911 has occurred.

As our clients have been unable to obtain the information which they require in regard to the proposed reconstruction, they have, on the opinion of Mr. Dighton Pollock, issued the accompanying summons in order to safeguard their interests under the forfeiture and if necessary to enforce the same.

If, however, within a reasonable time it is made clear to them that the proposed reconstruction is going forward on

20th June 1923.

Dear Sirs,

Kenya Colony
Crown Agents for the Colonies and Magadi Soda Co.
Ltd.

With reference to recent conversations over the telephone and to a letter of 20th ultimo from your client the Receiver to the Under Secretary of State for the Colonies, we are instructed to inform you that our clients are much disappointed that no details of the proposed scheme of reconstruction of the Magadi Soda Co have yet been furnished.

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20th June 1923.

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terms which are satisfactory to our clients, and which would have to include modifications in their favour in respect of 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.

In that case, if and when the scheme is so settled of course our clients would be ready to stay all further proceedings.

As a further condition of staying their hands our clients ask that it should be arranged for them to attend all proceedings relating to the reconstruction.

We are Dear Sirs,

Yours faithfully,

Messrs Slaughter & May.

R.C. Slaughter & May

20th June 1923.

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terms which are satisfactory to our clients, and which would have to include modifications in their favour in respect of the rates fixed by the existing contract for the conveyance of coals, they would be willing to delay further proceedings until the scheme of reconstruction is satisfactorily settled.

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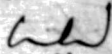
Yours faithfully,

Messrs Slaughter & May.

R. C. P. [Signature]

Mr. Bottomley,
Colonial Office.

As arranged I send you a copy of
our solicitors letter to us of the 20th
June relative to the Magadi Soda Co.


"O" Department,
Crown Agents,
30th June, 1923.

3& 4, St. Winchester Street,

London, E.C.2.

20th June, 1923

Magadi Soda Co. Ltd.

Gentlemen,

We write to report that in accordance with instructions received from the Colonial Office, we have today issued a summons in the debenture holders action settled by Mr. Dighton Pollock pro interesse quo with a view of obtaining leave to take proceedings on your behalf for enforcement of your rights.

In view of the difficulties of taking action in your name referred to in paragraph 4 of a letter of 4th instant which we received from the Colonial Office, we have applied for and obtained the fiat of the Attorney General to use his name in the action on your behalf, and permission for our firm to represent him.

We will report the result in due course.

We have etc.

(Sgd) SUTTON OSMANNEY & OLIVER

3& 4, St. Winchester Street,

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32314/1923 Kenya



Downing Street,

16 July, 1923

52
DRAFT.

OWN AGENTS
R THE COLONIES.

MINUTE.

Mr. Bottomley ^A 7/17/23

Mr.

Mr.

Mr. Davis.

Sir G. Grindle.

Sir H. Read.

Sir J. Masterion Smith.

Mr. Ormsby-Gore.

Duke of Devonshire.

Gentlemen,

With reference to the letter from this Department of the 4th June, and the connected correspondence regarding the Magadi Soda Company, Limited, I am etc., to inform you that Messrs. Sutton, Osmanney & Oliver have communicated to him a copy of their letter to you of the 27th of June.

2. With regard to the outstanding royalties of soda exported by the Company, His Grace considers that it is not necessary for you to press for payment of the royalties and that if they are tendered you should not accept them or give a receipt until you have consulted your solicitors.

I am, etc.

J. H. Read

32314/1923 Kenya

C. D.
R 12 JUL
D 1923 34

Downing Street,

16 July, 1923

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DRAFT.

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H. J. Read