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**Extracts from the Debates in the  
South African Parliament on the  
Asiatics (Transvaal Land & Trading) Bill  
May 1939.**

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EXTRACTS FROM THE DEBATES IN THE SOUTH AFRICAN PARLIAMENT  
ON THE ASIATICS (TRANSVAAL LAND AND TRADING) SCHEME.

\*The Minister of the Interior :  
I move—

That the Bill be now read a second time.

Mr. Speaker, the Indian Government when they were informed by the Agent-General for India regarding the proposals I have made in order to deal with separate residential areas for Europeans and Indians, addressed a communication to the Government asking if they could have the opportunity of consulting with us with regard to the terms of that legislation. The Government felt that it would be only courteous to the Government of India to give them the opportunity of expressing their opinion on that legislation. For that reason it became impossible to bring in the main legislation this session. But it required legislation for three purposes. The first purpose that this interim legislation is for is to extend the protection to Indians on the Witwatersrand, which has been extended from 1935 to 1937, and again from 1937 to 1939, and now from 1939 to 1941. That is necessary in order that the work of the Feetham Commission should not be thrown away. The Government also thought that if we suspended action this session there was the other side also to be considered. That was that in order to stabilise the whole position we should legislate that no new trading licences should be granted in the Transvaal during that period, and no occupation of land should take place by Asiatics of areas which had up to that time been in the occupation of Europeans. As I say, this is a Bill that has been drafted to carry that intention into effect. It will be noticed

that I have extended the protection for two years, and other conditions also, to the 30th April, 1941. It may be asked why extend them to 1941 when surely another year is sufficient for us to have consultations and to get on with the work? I did this because I did not want to be faced in April of next year with the necessity of bringing in another suspending Bill, because I could not get legislation completed by the 30th April. Further, if and when the Feetham resolutions are adopted by this House there is a certain quantity of administrative work which will take a few months to do, and during which period the protection must continue. Now, I do not wish the House to think for one moment that I do not consider that it is very important that the Feetham resolutions should be carried by this House. It seems to me one of the fundamental things that we have to do before we can clear the decks for dealing with the rest of the problems of Indian occupation, that we should adopt the Feetham resolutions, and in that way clear up the illegalities which have been continuing since 1919 with regard to Indian occupation on the Reef. As hon. members will remember, in 1919 a Bill was brought in and put on the statute book condoning the illegalities of Indian occupation on the Reef up to 1919. We felt satisfied that that was the end of the trouble, and now we could start square. It was found, however, that that happy condition of affairs did not last, and by 1932 we had to legislate still further, and we decided then to appoint a commission to investigate the whole matter of those Indians who had broken the law since 1919. It was

with those Indians particularly that the Feetham Commission was concerned. That commission, unfortunately, took a great many years to do its work. It did (its work) very thoroughly. We have a register now of all stands which are, or were, in the occupation of Indians at the dates when the commission took evidence, and we do know where we are as a jumping-off place for any legislation with which we wish to deal. Now, Mr. Speaker, if you look at the Bill you will see that the first clause is to extend the protection, as I say, on the gold Reef. The first clause comes into force as from the 1st day of May 1939. That is the day after the protection ceased in the old Act. The second clause provides that no certificate authorising the grant of a new licence shall be given between the date of the passing of this Bill, and 1941. It also enables me to deal with such certificates for new licences which have been issued from the 1st May to the date when the Act comes into force. In the same way, clause 3 deals with the occupation by Asiatics of any property which to-day is occupied by Europeans, and not by Asiatics. Clause 4 is a permissive clause enabling the Minister in certain cases to grant exemptions. I think those are the principal clauses of the Bill. Clause 5 is quite a simple one. It enables new licences to be granted for trading in Asiatic bazaars. Now I want to emphasise that this Bill is purely an interim measure, and it does not prejudice the main issues in any way, or in any direction. The main issue is easy to define, but very difficult to solve. The Europeans ask that they should be allowed to live apart from other races. The Indians object to them doing that, their attitude being that it casts a stigma on the Indian people. I am not to-day

going to discuss that point, but, as I say, that is the main issue, that the Europeans demand the right of living apart if they wish to do so. My solution, which I suggested, was that in any area the Europeans in that area should ask for a referendum, and if in that area two-thirds of the European owners voted in favour of a servitude on their properties restricting those properties to Europeans, then the other 25 per cent. of those Europeans had to agree to the same servitude going on their properties. But in my legislation I did not move a single Indian from property which he occupied or owned. I simply put a term to any further infiltration of Indians. Now, Mr. Speaker, I am sorry if I am very dense, but I do not consider that that is any grave hardship on the Indians. They are not moved from where they were; they are not driven out. The only people that I see who really have a grievance are the 25 per cent. of Europeans who, against their will, have a servitude put on their properties. I think they have a complaint, but so far as that is concerned, they will have to put up with it, because in the interests of the country it is necessary for it to be done. The solution, as I say, has been violently objected to by the Indians. It has also been objected to by several Europeans whose opinion I very much value. My solution has also been objected to by lawyers who do not think much of my capacity for drawing up Bills.

**Mr. Madeley :** Surely that is the general opinion ?

†\***The Minister of the Interior :** I am perfectly fair, and I have been asked to see whether I cannot do something better. I am prepared to try and draft another Bill, which I hope will meet with a better reception from the Indians, and with less

criticism from my legal friends, but I still maintain that it is the only way we can settle this friction which is constantly going on in this country, and which the hon. the leader of the Opposition will tell you constantly recurs every three or four years. When people cannot agree with each other we must arrange for them to live apart. I do not mind whether the European lives apart from the Indian, or whether the Indian lives apart from the European. It amounts to the same thing. A strong point of my solution was that the European had to take action if he wanted to seclude himself in the way he suggests he wants to do. Pending this solution, which I hope to find, I have brought in this Bill, and I hope that before next session we shall have solved, in some way or other, this problem. I do hope that the Indian Government will give us any help that they can, and not only the Indian Government, but the Indian peoples here will also give us what help they can, so that we can solve this problem. I, therefore, move the motion standing in my name.

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**\*Dr. Malan :** The Bill consists of two parts. The first part deals with proclaimed land, and the other with the areas outside of it. So far as the proclaimed area is concerned, I think it is not necessary to try and give a clear idea of the position, because the history of the legislation on the Witwatersrand has been dealt with in this House over and over again, how Act after Act was passed from the days that the gold law first came into force in 1908, and how the proper machinery was treated at the same time in order to put the Acts into effect, to carry out the Acts, and how there were contraventions of and evasions of the Acts. That was fol-

lowed by new legislation to fill up all the holes, but new legislation in accordance with the agreement which the Minister of Justice had made at the time with Mr. Gandhi—the Smuts-Gandhi Agreement. The contraventions so far as they created vested rights were always protected, and it was only in 1932 that his matter was taken in hand by me, with a view to the removal of the bad conditions, the conditions of confusion which subsequently grew upon the Witwatersrand. It was clear at that time that it was impossible just to pass measures after so many years, and to create the necessary machinery to remove all illegal acts on the Witwatersrand, and not the least objection was made by hon. members of this House, representatives of constituencies in the Transvaal, because their objection was that if you closed the hundreds and possibly thousands of businesses which had been illegally established on the Witwatersrand you would get an impossible position. You could not deport the people, because a large section of them were born in South Africa—the Government of India simply refused to accept them, and so they had to remain in South Africa. In such circumstances you will only drive the thousands of Asiatics to the countryside, and the countryside does not want them. Accordingly there was no alternative to appointing a commission, and so the Feetham Commission was appointed to go into the matter to see what could be done on the lines of segregation. That was the clear intention and instruction to that commission that it should make recommendations to continue these people on the Witwatersrand, but to clear, of Asiatics, the areas which could be regarded as European areas from the point of view of occupation or trade without giving them offence.

That is the reason why that commission was appointed. Now, Mr. Speaker, I come to this Bill which is being moved. The first thing I want to say about it is that there is absolutely no reason why the Minister should come at this stage and ask the House for a further postponement in connection with the matter. In other words, there is no reason at all why the Minister should not now come to a decision in regard to this matter. It was estimated that the Feetham Commission would need three years to do that work. Because the work was not completed those three years became five years, and when the five years had passed, the commission had not yet completed its work, and the five years became seven years until it brought us to the year 1939. But that excuse which could be made that the Feetham Commission had not yet finished its work, is no longer available now, because the Feetham Commission finished its work a considerable time ago, therefore there is not the least reason why finality should not be come to with regard to this matter. If the Minister says that the Government of India would like to be heard on the matter, then all I can say is this, that the Government of India, in regard to this matter, was in touch with conditions in South Africa, was in touch with the Feetham Commission and was in touch with our Government all these years, and if the Government of India wants further consultations with the Government of the Union on this matter, then it does not need to be given two years for that purpose, as the Minister is now asking the House to do. The Government of India has its representatives here; the matter concerned has been disposed of, and is plain, and clear, and it should not be a matter which ought to take more than four-

teen days, or at most a month. I think there must be some other reason why the Minister asks for two years. The Minister himself has admitted by the actions which we noticed him do recently that the time has come to get to finality about the Feetham report. He himself introduced a motion last session that Parliament should approve of that report. He asked for Parliamentary confirmation, and he did not get so far at that time to get the matter to reach finality, not because the Government of India objected, but simply because there was trouble inside of his own party, and because he was afraid of a split on this question within his own party. It is for party political considerations that that took place, and it was not a question of the consideration of the interests of the country. The question is moreover this, what use is the Minister going to make of the powers which this Bill is entrusting to him? The Minister is here taking out of the hands of the existing authorities the power of giving certificates on proclaimed land in connection with applications for trading licences, that they when they illegally occupy the ground where they are carrying on business can continue doing so with those certificates. He is taking that out of the hands of the existing authorities, and in that way he is taking away the granting of licences from the provincial authorities and taking them into his own hands. What is more is this. Under a subsequent clause the Minister can give instructions that such certificates shall be given when an application is in order. You must not forget that this Bill is going in future to confirm for two years the illegal business which is now going on on the Witwatersrand. What does it all amount to? It amounts to this, that the Minister by

making use of the powers which he is taking under this Bill, if it is passed, places himself in the position, without authority of Parliament, of carrying out that report of the Feetham Commission for the next two years, and in that way to create a position in future that will make it practically impossible to undo his action again. But because all those illegal businesses are protected for two years, and because he is able to order the issue of certificates or permits, the Minister has even gone further than the Feetham Commission, to perpetuate those conditions on the Witwatersrand, and put it into force. He went even further than that. I think that as such extraordinary powers are being given to the Minister to go so far, without the authority of Parliament, it is necessary that we should know very clearly how he is going to use those powers, and what his attitude is towards the Feetham report in general. So far as the areas outside proclaimed land are concerned, there the Minister wants to maintain the status quo. But I cannot do otherwise than, if we take into account all the considerations, come to the conclusion that that maintenance of the status quo, is purely and solely eye-wash in view of the electors in the Transvaal. The status quo according to the evidence, and the information, so far as we have it available, is not altered in the direction that it is in any way worth mentioning, increasing the trading licences. On the contrary, the evidence is that in some areas they are actually being reduced. Now the Government comes and wants to prevent the status quo, or rather any increase, any increase in the trading licences of Indians, outside of proclaimed land. But it seems quite unnecessary to prevent it. It is unnecessary to the extent that the municipalities throughout the

Transvaal are watching this particular matter, the municipalities in the Transvaal are insisting on the position of having as few trading licences being given, to Asiatics as possible. I believe that the municipalities in the Transvaal feel much stronger on this matter than the Government does. It is purely eye-wash to pretend that anything is being done in the matter.

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†Mr. Hofmeyr: The hon. member for Piquetberg (Dr. Malan), forgetful of his past, forgetful of the policies which he himself initiated, forgetful of the obligations into which he led South Africa, has reduced this debate to the level of a mere party wrangle. He has introduced matters which are entirely irrelevant to the subject under discussion. He has confused the issue of coloured segregation and Asiatic segregation, and he has even brought in the question of the purchase of native land. I think it is about time that we got back to the real merits of the case. It is with the Bill, as a Bill, that I propose primarily to deal. This Bill is a short one, but potentially it is one of the most important measures which have been introduced into this House this session. Its direct effects will probably be very small; its indirect effects may, however, be very considerable, and the issues against the background of which it must be viewed are some of the most important issues affecting South Africa. When I refer to the indirect effects of this Bill, I have in mind the consequences that it might have on the relations between the European and Asiatic sections of the population of South Africa. I also have in mind the consequences it may have on the relations in a time of crisis between the Government of the Union and the

Government of India, colleague states in the British Commonwealth of Nations. I don't propose to deal with the indirect effects of this Bill. I can only assume that those aspects have received due consideration and weight from the Government which has introduced this measure. I want to deal more specifically with the legislation itself. The Minister emphasised time and again that this is interim legislation, and I think we must accept the position that this is interim legislation designed to peg the existing state of affairs, and so to make possible a new effort towards the solution of the wider problem. There are two respects in which the existing state of affairs is to be pegged. First of all in regard to proclaimed land. That is dealt with in clause 1. There the proposed pegging of the existing state of affairs is absolutely essential. In existing circumstances the alternative to what is provided for in clause 1 of this Bill would be chaos, and that consideration itself would make it extremely difficult for any member of this House with a sense of responsibility to vote against this Bill. The rest of the Bill deals with the other aspect of the matter in respect of which pegging is proposed. It deals with unproclaimed land, which means Pretoria and the rest of the Transvaal. There it cannot be said that the pegging is essential. In reality it is a concession to a contention which has not been established. That contention is that Asiatic penetration has been increasing to such an extent in the Transvaal as to make legislative interference essential. The Minister, however, considers that it would be wise to make this concession to which I have referred. It might be argued that it is necessary to do so, having regard to the attempt which is to be made to find a solution

to the wider problem, as otherwise there might be a rush to secure what would have to be regarded as vested rights when legislation comes ultimately to be put forward. But there are two other considerations which seem to me to be a good deal more important than that. The one is that the practical effects of this Bill, apart from clause 1, will be very small indeed, and the other is that it is indicated almost in every clause of this Bill that what we are dealing with here is interim legislation. And for those reasons I am prepared to support the Bill, so as to give the Minister the necessary breathing space in order to enable him to tackle the problem in its wider aspects. Because this Bill is so clearly interim legislation, it cannot be regarded as committing the House to acceptance of the principle of segregation based on legislative compulsion. The Minister said this Bill is purely an interim measure. It does not pre-judge the main issue in any way or in any direction. This Bill, therefore, does not commit the House in any way to the principle of segregation.

**An Hon. Member :** Hear hear.

†**Mr. Hofmeyr :** I am merely repeating what the Minister has said. May I say that it would be impossible for the Government, in my opinion, to come forward with legislation which did involve the acceptance of that principle unless it had first specifically terminated the agreement with the Government of India, for which the hon. member for Piquetberg (Dr. Malan) was responsible. Let me recall the facts with regard to this matter. In 1925 the government of the day introduced a Class Areas Bill. It was simply a segregation measure under another name. The result was the round table conference. In consequence of that conference the Class

Areas Bill was dropped. Moreover, in consequence of that conference an agreement was entered into with the Government of India. In that agreement the Government of the Union of South Africa bound itself to take steps for the upliftment of the Indian community. South Africa is still bound by that agreement to-day, and because of the importance of this matter, and because I think that hon. members of this House, and hon. members opposite in particular, should realise what we are bound by, I am proposing to read the essential clause of that portion of the round table agreement—

The Union Government firmly believe in and adhere to the principle that it is the duty of every civilised government to devise ways and means and to take all possible steps for the uplifting of every section of their permanent population to the full extent of their capacity and opportunities, and accept the view that, in the provision of educational and other facilities, the considerable number of Indians who will remain part of the permanent population should not be allowed to lag behind other sections of the people.

And then, sir, that section of the agreement went on to specify in more detail in what respects upliftment was to take place. The respects mentioned were education, housing, wages and trading licences. That agreement implied the abandonment of the Class Areas Bill. It implied the acceptance of the principle of upliftment of the Indian community.

**An Hon. Member :** What is the date of that agreement ?

†**Mr. Hofmeyr :** 1927. It was entered into by the Government as a whole, and the responsible Minister

was the hon. member for Piquetberg. In 1930 the issue was again raised, and a Bill was introduced by the Leader of the Opposition to deal with the occupation of illegally occupied land on the Witwatersrand. The proposal contained in the original Bill was to make certain illegal occupation legal, but to confine it to certain specified areas in such a way as to raise the principle of segregation. Once again objection was raised. Once again there was a round-table conference, and as a result of that conference that particular portion of that Bill was dropped, and the continuance in force of the round-table agreement with those clauses to which I have referred, was affirmed on behalf of this Government. Now I bring the matter a little bit nearer our own time. At the end of 1937, the Government appointed the Murray Commission to investigate the evasion of the Asiatic Land Laws. Representations were made to the Government to extend the scope of that commission's work, so that it might investigate Asiatic penetration in the unproclaimed areas of the Transvaal. The commission, owing to an uncertainty as to its terms of reference, raised the same question with the Minister, and received a reply which indicated that the Government did not regard the question of segregation as a matter even for investigation. I repeat, therefore, that pending a specific declaration to that effect by the Government, and pending the termination of the round-table agreement, segregation by legislative compulsion is not, and cannot be, the policy of the Government. That issue, therefore, does not arise in this present Bill. Now let me deal with what this Bill sets out to do. First of all, it deals with the question of proclaimed land. Other hon. members have referred to

the way in which the present position has developed. It goes back, of course, to the Gold Law. The Gold Law generally made Asiatic and coloured occupation of proclaimed land illegal. It did so generally, but it did not do so absolutely. All along there have been certain types of occupation of proclaimed land by Asiatics and coloureds which have been perfectly legal. That has been the cause of the difficulty. It is because you have had legal and illegal occupation side by side, and because you have had no register of legal occupation, that illegal occupation grew. The Act of 1919 dealt with that situation by legalising vested rights, with the intention of not allowing any further illegal occupation, but it did not really alter the position. After that Act you still had legal and illegal occupation side by side and you still had no register. In practice, therefore, the Act of 1919 could not be enforced. That was the position which was dealt with by the Act of 1932. The Act of 1932 faced the position much more logically than the Act of 1919. It extended the prohibition of occupation of proclaimed land by Asiatics and coloured people, but, at the same time, it gave the Minister of the Interior power to demarcate areas in which despite the provisions of the Gold Law such occupation would be legal. And to determine those areas the Feetham Commission was appointed in 1932. It was in 1935 that the Feetham Commission produced its first most important reports. It made not only recommendations for the setting aside of areas, but it also made recommendations for the amendment of the law in the light of the experience gained. A select committee of this House was set up in 1936. That committee had before it the Act of 1932, the recommendations of the Feetham Commis-

sion for the amendment of that Act, and also the recommendations of the Feetham Commission for the setting aside of areas. That committee, in effect, in its report endorsed the principles of the Act of 1932. It recommended all, or nearly all of the amendments proposed by the Feetham Commission to the law. It also proposed certain further amendments. But it also went further. It conceded the principle of the right of ownership of land to Asiatics and coloured persons in respect of areas set aside for them as distinct from individual stands, but it made that subject to the passing of resolutions by both Houses of Parliament. It is those resolutions, based on the Act of 1936, which gave effect to the committee's recommendations, and based also on the specific recommendations of the Feetham Commission, that have come to be known as the Feetham resolutions. The select committee of 1936, and the Act of 1936, were dealt with while I was Minister of the Interior. After that it became necessary to translate words into actions by submitting the resolutions, and that was when I ceased to be Minister of the Interior. In the meantime protection was given to the illegal occupation existing in regard to proclaimed land on the Witwatersrand. That protection was extended to 1939. Now, sir, failure to pass section 1 of this Bill, failure to extend the period of protection, would, in view of the fact that the Feetham resolutions have not been passed, mean that all that occupation would now be illegal. It would mean that occupation up to the 30th April of this year would, from the 1st May, become illegal. And that is why the adoption of clause 1 of this Bill is absolutely essential. I agree with other hon. members that it is a matter of profound regret that the Feetham

resolutions have not been passed, and I say that for more reasons than one. I believe that this House is under a moral obligation at some time or other to pass the Feetham resolutions or resolutions on similar lines. I say that in view of the history which I have set forth, the history of the Act of 1932, the history of the select committee of 1936, and the Act of 1936, and I say that with greater confidence because that select committee of 1936 was representative of all possible points of view on this measure, and was, except on one or two points of detail, absolutely unanimous. I say it also because the Act of 1936 was passed unanimously by this House. On that account I believe, and I think the Minister agrees with me, that we cannot get away from the obligation, at some time or another to pass these resolutions. I regret the failure to pass those resolutions for another reason, and that is that the consequences of failure to pass them are beginning to be most serious. They are serious from the point of view to which the hon. member for Fordsburg (Mr. B. J. Schoeman) referred, though incorrectly. He asked the Minister now to enforce the law on the Witwatersrand, but the trouble is the Minister cannot enforce the law until these resolutions have been passed. That is the difficulty. It is only when they have been passed that the machinery of the Act of 1932 comes into operation. But apart from that, this failure to deal with the matter is very embarrassing to the City Council of Johannesburg. That Council has most important schemes of town planning under consideration, and has made strong representations to get this matter disposed of, and as one of those who represent a Johannesburg constituency, I must express my regret that the matter has not been dealt with.

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Anyhow, these resolutions have not been passed, and I can only repeat that that makes it essential in order to avoid chaos in the present circumstances, to have the first clause of this Bill passed into law. If that does not take place what will be the effect? It will mean that probably 12,000 Asiatics and probably 20,000 Cape coloured people resident on the Rand today, will be reduced to the position of being in illegal occupation of the premises which they have been occupying, in many cases, for a very large number of years. That, I say, would be a chaotic situation, and on that account Clause 1 must be passed. Now I come to the remaining clauses dealing, in effect, with the position of non-proclaimed land. I said that that represented a concession to an agitation which is based on a contention that has not been established. The contention is that Asiatic penetration in the Transvaal has been increasing to such an extent as to necessitate legislative interference. That contention has not been established. Last year we had a Transvaal Asiatic Land Laws Commission. That commission established the fact that there are evasions of the law to-day in regard to the ownership of land. It did not, however, deal with the question of the occupation of land or with trading which was not within its reference. Of course, many statements are made to the effect that this evil of penetration has been growing very rapidly of late in the Transvaal. Such statements have been made on more than one occasion, but only once have they been subjected to a real test. As the present Minister of Justice will remember, they were made in great vehemence twenty years ago. Then the Asiatic Enquiry Commission, presided over by Mr. Justice

Lange, produced a report which I shall read—

There seems to be a strong and widespread impression throughout the Transvaal, and particularly in the country districts, that Indians in the province have greatly increased during the recent years, and fears are entertained that that influx is still continuing, but a careful consideration of the evidence tends to show that there are no solid grounds for those fears.

Then, later on, the report says—

In the Transvaal the evidence and statistics which have been summarised in this report, should go far to remove the misconception and allay the ill-founded alarm prevailing amongst some sections of the community regarding the Asiatic menace.

That was in 1921, and that was the last time that this matter was properly investigated. In 1936, while I was Minister of the Interior, I took steps to check up on the position as far as I was able to do so, and taking the facts put forth in the Lange report as a basis in regard to individual districts, I asked the magistrates of certain districts to advise me in what respect the position had changed, and the evidence that I collected in that way indicated that there had been no substantial change. There is another factor which applies only to trading, but the two things, residential and trading, are closely intermingled, certainly so far as the rural districts are concerned. An important thing has happened, and that is the enactment of legislation by the Transvaal Provincial Council in regard to the control of the issue of trading licences. Today no trading licences can be issued without a certificate granted by the

local authority, or by the Rural Licensing Board. New licences can be refused by those bodies at their complete discretion. There is no need for a single new licence to be issued to an Asiatic to-day, except with the consent of the municipality or the Rural Licensing Board, and in practice the policy adopted by those bodies has been a most restrictive policy. That confirms what I have said, that there has been little increased penetration in recent years. Evidence was also laid before the Murray Commission in regard to this question of penetration. I do not think that evidence can fairly be adduced as proof. The commission has not pronounced on that evidence, because it was outside its terms of reference, but that evidence, if one reads it, tends clearly and definitely to confirm the contention I have put forward here this afternoon. I think, then, that the statement about excessive penetration, which is alleged to have taken place, has not been established and cannot be established. Of course, that contention of mine can be used in two ways, it can be used to prove that the later clauses of this Bill are unnecessary, and it can also be used to prove that the later clauses of this Bill will have very little practical effect, and therefore to that extent this Bill is unobjectionable. I am prepared to accept that argument. I have said already that I believe this Bill, as far as its later clauses are concerned, will have very little practical effect. Let me analyse it a little more in detail. Clause 2 deals with the restriction of trading. Well, already, as I have said, trading licences, new trading licences are issued very rarely indeed to Asiatics by local authorities in the Transvaal. Section 3 deals with the restriction of Asiatic occupation; no Asiatic may occupy premises which were not occupied by an Asiatic

or coloured person on the 30th April, 1939. Well, sir, that may have some effect, but I think the history of anti-Asiatic legislation, legislation dealing with this matter in the past, shows how very difficult it is to enforce it without a register. We have no register of occupation on the 30th April, 1939, and the Minister is not going to find it easy to enforce that clause. Furthermore, the Minister, under this Bill, has complete powers of exemption. Although I have said there has been no substantially increased penetration, obviously you are dealing with an increasing population, and the strict application of Sections 2 and 3 over a term of years, must create hardships, there must be individual hardships. The Minister can deal with those cases under Section 4, and I have no doubt that he will I am strengthened in that belief by the terms of the round-table agreement, by which he is still bound. Under that agreement the Government is bound to use its influence with the provinces to make the licencing laws less restrictive. I can hardly believe that the Minister will administer one of his own laws dealing with this matter, in an unduly restrictive manner. I want to make one other point in regard to Clause 4. I want to suggest that it is a matter for consideration whether the Minister himself should have these wide powers of exemption. The Minister after all is a political officer, I speak with a certain amount of experience in regard to the administration of similar clauses, and I know the extreme difficulty in which a Minister is placed by having powers of this kind committed to him in regard to individual cases. I say that it would be in the interests of the Minister himself and also create a better response to this Bill from those whom it primarily affects if the Minister were not to take that power, but rather give it to an impartial board. I don't say that

it is necessary for the Minister even to create a new board for this purpose. I know the Minister of Finance does not like boards, but I think there is one ready to hand in the body appointed under the Act of 1937 dealing with individual cases of proclaimed land and I would suggest to him that he should allow that board to deal with individual cases under this Bill. I am strengthened in that appeal by the fact that under the round table agreement the principle was virtually accepted that there should be a right of appeal, in the case of a refusal of further applications for licences, to the courts, or some other impartial tribunal. So much for the Bill. I have said that this is an interim measure designed to create a breathing space for a solution of the whole problem, and I would like to say a few words on the method by which that solution should be sought. I want to commence by recalling to the House words spoken by the Minister of Justice at the Imperial Conference in 1917. That was shortly after the right hon. gentleman had disposed of the problem of Asiatic Immigration—

I feel sure I have always felt sure, that once the white community in South Africa were rid of the fear that they were going to be flooded by unlimited immigration from India, all the other questions would be considered subsidiary, and become easily and perfectly soluble. That is the position now the fear which formerly possessed the settlers there has been removed. The great principle of restricted immigration is now on our statute book, with the consent of the Indian population in South Africa, and the authorities in India.

It is these last words I want to emphasise. The right hon. Minister in 1917 pointed the way as to how this problem should be solved. It can only be solved

by co-operation and consent. I want to urge my friend, the Minister of the Interior, in approaching the solution of this problem, to keep ever before him that principle of upliftment enshrined in the 1927 agreement by which we are still bound. What is at the root of that principle? It is this, that we regard the great mass of the Indians in South Africa as part of the permanent population of South Africa, that it is in the national interest that no part of our population should lag far behind other parts of the population, and, further, here I am quoting from what the hon. member for Piquetberg (Dr. Malan) said at the time, "That Indians who are willing and able to conform to Western standards of life should be enabled to do so." I ask the Minister of the Interior to bear these considerations in mind. I do so not merely because our national honour is involved; not merely on account of the agreement into which we have entered, but I do so even more from the point of view of national interests. You cannot permanently keep one section of your permanent population in the ditch without staying there yourself. You cannot make a ghetto without damaging not only those you force to stay in the ghetto, but those who force them to remain there. I want to ask the hon. the Minister to remember that concessions to the ghetto-making mentality—and we have seen it again this afternoon—concessions to the ghetto-making mentality always produce their nemesis. Secondly, I want to ask the Minister not to attempt to solve this problem along the lines of segregation, based on legislative compulsion. I say that would be unjustified. It is certainly not justified by any established facts. I am appealing to my hon. friend not to do so in the future. I am not concerned with his servitude

scheme which is a dead scheme, and he has not persuaded anybody about the merits of that scheme. I am appealing to him for the future: do not do any thing on a basis of segregation by legislative compulsion. The question has not been investigated since the Lange Commission reported. This is the conclusion at which that commission unanimously arrived—

We find ourselves wholly unable to support the policy of repression which was advocated by some of the witnesses. Indiscriminate segregation of Asiatics in locations and similar restrictive measures would result in eventually reducing them to helotry. Such measures apart from their injustice and inhumanity would degrade the Asiatic and react upon the European.

That is the kind of thing my hon. friend there wants.

**Dr. Malan:** Does that not apply also to the natives?

†**Mr. Hofmeyr:** No, it does not apply to the natives in the same sense and I will tell the hon. member why. The trouble is that my hon. friend here, and other hon. members, do not realise the nature of the people with whom we are dealing in this matter. The Indians in South Africa are a relatively small number of people but they are the outpost of a great nation, not only a great nation numerically, but a nation with a great cultural history. In the cultural history of the world the pages written by the people of India is a bright page. Their cultural heritage goes back further than ours does, and that nation today is producing outstanding men in the world in science, in culture, and in philosophy, and it is proving that it is not unworthy of that heritage. We are dealing with people here in South Africa who are conscious of these facts.

They are proud of their association with that nation, and with the past of that nation and they have reason to be proud of that association. People of that kind you cannot humiliate, except at your own cost. If you drive them into the ghetto, the spirit of the ghetto will come back upon yourself. Do not let us forget that the discriminating treatment of the Indians in South Africa in the past has produced a Mahatma Gandhi. It was here in South Africa that a creative direction was given to Mahatma Gandhi's life. That is his own statement. It was here in South Africa that those weapons of passive resistance and civil disobedience were forged, which ultimately proved strong enough to be able to defy the great British Raj in India. History may repeat itself. I ask the Minister not to be unmindful of these facts. I ask the Minister not to seek for a solution of the problem based on segregation of a compulsory nature. I want to say this to the Minister, that he should not in any case come forward with such a solution, unless he has first of all by a proper investigation established a case for such a solution, or unless he has arrived at an agreement with those concerned. Unless he does that he will not find myself amongst those who will support him in regard to such a measure. But I do not want to be merely negative. I believe that there is another and better way of dealing with this problem. I believe that is the way which the hon. the Minister of Justice pointed out in 1917. It is the way of co-operation, of consultation and consent. I believe that the time is now ripe for such a solution. What after all is the aim of segregation? It means that the peoples of different races should live separately. Now, sir, if you are prepared to combine that ideal with the ideal that we accepted in 1927, that

those Indians who are willing and able to conform to Western standards, will be enabled to do that, then we can all accept that ideal, and I believe that the Indian community in South Africa is fully prepared to accept that ideal. I do not speak without the book. I have had some experience on which to base my remarks. I can recall as Minister of the Interior having discussions in regard to complaints as to Asiatic penetration in Natal with the Natal Indian Congress. That congress was prepared to accept this principle, and as a result an arrangement was come to between the Natal Indian Congress and the Natal Municipal Association in terms of which that congress agreed to stop such penetration proceeding where cases were brought to its notice. The hon. the Minister of the Interior has assured me that that system has worked satisfactorily.

**An Hon. Member :** No.

† **Mr. Hofmeyr :** The hon. Minister has assured me that it has worked satisfactorily, and many people have heard the Minister giving that assurance.

**The Minister of the Interior :** No, no!

† **Mr. Hofmeyr :** There may have been cases where it has not worked satisfactorily. It has not perhaps worked 100 per cent. satisfactorily, but that is a basis upon which we can work, and while the Minister now seems to be disposed to go back upon the assurance he gave me.....

**The Minister of the Interior :** I do not go back on anything.

† **Mr. Hofmeyr :** I believe I am right when I say that he said that it did work satisfactorily, and it is on that foundation that I ask the Minister to go

forward and seek to arrive at a solution of the problem as a whole.

**The Minister of the Interior :** I must ask the hon. gentleman to take my assurance that I never made that statement.

†**Mr. Hofmyer :** I am perfectly prepared to accept the assurance that the hon. the Minister never made that statement, but I can only say that my memory must be seriously at fault. [Time extended.] I thank the hon. member who moved for an extension and I also thank the House for granting it. I just want to say one final thing to the hon. the Minister of the Interior. I hope he will remember in approaching a final solution of this matter that the Indian community with which he is dealing is a permanent part of the population of South Africa. It does share in our weal and woe. It is a contribution to our prosperity. I ask the Minister not to humiliate that community. Do not let us drive them back upon the extremists and agitators. Do not let us force them into desperation and despair. This Bill may possibly arouse bitter feelings. I do not think those bitter feelings are really justified. In the light of my remarks that must be clear. But, sir, whatever feelings this Bill may arouse I think the position will still not be lost. I believe it will still be possible for the Minister to find that solution on the basis of consent and co-operation. I ask him, once he has put this Bill on the Statute Book, to make some sort of gesture to that other community just as he has made a gesture in this Bill to the European community, and it is in that hope, and with the intention that the Minister should have the necessary time to find a solution in that way, that I am prepared to support this Bill.

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†**Mrs. Fallinger :** Mr. Speaker, like the hon. member for Johannesburg (North) (Mr. Hofmeyr) I propose to direct my remarks to the Bill which has been introduced by the Minister of the Interior. Actually I am very much tempted to spend the time at my disposal in discussing the amendment which the hon. member for Piquetberg (Dr. Malan) has proposed in this House to-day, for I greatly fear that, in moving this amendment, he has dictated that where today we are discussing an apparently simple and innocent measure affecting Indians, tomorrow we shall be discussing a measure to introduce full coloured segregation. However, we have to choose, in the limited time at our disposal, and I feel impelled this afternoon to discuss the Bill which the Minister has introduced on which I wish to express my opinion. I want to say at once that I am entirely opposed to the Bill, both on grounds of principle, and on grounds of tactics. I am opposed to it for practically the same reasons as those which the hon. member for Fordsburg (Mr. B. J. Schoeman) put forward as the basis of his reasons for supporting it. I am opposed to the first clause, because it does not implement the Feetham Commission's resolutions, but holds up the resolutions; and I am opposed to the further clauses, because, as the hon. member for Fordsburg quite rightly said, it introduces a new principle into our legislation in regard to Asiatics. In my opposition, I would claim that the arguments which have been so extremely ably put forward by the hon. member for Johannesburg (North) afford a strong foundation for my contention. I shall use his argument to support my immediate and full opposition to the Bill. I am not going to traverse again the ground which he has covered since I believe he has explained

the whole position so lucidly that there is probably nobody in this House now who is not conversant with the position. I believe he has shown that there is an obligation on the part of the Government to settle the specific question of the Reef area, and that that specific question is in fact isolated from the rest of the Asiatic situation in the Transvaal. He has shown the history of the Feetham Commission which goes back to 1932, when the House agreed to make an attempt to stabilise the Asiatic situation on the Witwatersrand, and again in 1936 agreed to the principle of these resolutions. I would remind the House that the hon. Minister introduced the Feetham resolutions last session, but for some unexplained reason, withdrew those resolutions as soon as opposition appeared. I am satisfied that the Indian community and the Indian Government were under the impression that the Government was committed to the implementing of those resolutions, and they now feel that they have been seriously betrayed, because instead of bringing in those resolutions again this year, the Minister has now brought in a Bill which merely extends, under protection, the duration of illegal tenancy on the Reef, and ask for powers to continue the present anomalous situation for another two years. I would point out that at the end of that time we have no guarantee that we shall be any nearer a settlement of the question than we are to-day. The hon. member for Fordsburg (Mr. B. J. Schoeman) welcomes the holding up of the commission's report, but on grounds which I do not consider this House can regard as having any real weight. This country has spent thousands of pounds in financing the investigation made by the Feetham Commission. The commission has presented a weighty and complete report,

and there seems no justification whatever for us now to yield to pressure of individual members who, no matter what their ability to judge the situation, have not behind them the weight of authority and experience for which we have actually paid. I feel that the country has got into the habit of paying for expensive commissions, and then doing exactly the opposite of what those commissions recommend. Here we have another instance where we have given authority to people at considerable cost to investigate a situation, and then we do nothing to carry out the proposals which they have made. For that reason alone I am opposed to this Bill, and I consider a responsibility lies upon the Minister now to again bring in the resolution which he brought in last session to enable us to clear up the issue in Johannesburg and on the Reef. I am entirely opposed to the further clauses for the reasons upon which the hon. member for Fordsburg advanced for his support, viz., that they introduce a new principle into our methods of dealing with non-Europeans, and let me say I fail to follow the careful reasoning of the hon. member for Johannesburg (North) in the matter. He faced the fact that the implication of the clauses in this Bill amount in actual fact to segregation, but he agrees to support the Bill because, he says, the Government is not explicitly committed to segregation. The suggestion was that when the Government meets representatives of the Indian Government it will probably go back on the position taken up in this Bill. Well, sir, I cannot see any guarantee for that. I feel that if the Government takes its stand on what is in effect a segregation measure, it has in spite of the assurances of the Minister, prejudiced the issue. The issue is fully and completely prejudiced by the

assumption in this Bill that we wish to peg the present situation, and that we are not in actual fact prepared to allow the further penetration of Indians in the European areas. I am opposed to this measure on two grounds. I am opposed to it because it does in fact prejudice the issue. The Minister has claimed our support for this Bill on the ground that it is interim legislation, but I maintain that no interim legislation should prejudice any future consideration of an issue when it is considered, by laying down certain new principles in regard to that issue. The Minister's justification is that he does not effect any change in the situation, but a very serious principle is introduced in the discriminatory implications of these clauses, which prejudice the issue much more seriously than we may be aware of at the present moment. I am satisfied that the Indian Government will see the clauses of this Bill in that light; they will see them as already prejudicing the situation, and foreshadowing a departure from the principle which has been recognised as lying behind the gentlemen's agreement arrived at. I think that the willingness of the Indian Government to collaborate with us in finding a solution of the situation is not going to be as wide and generous as it would otherwise have been. To my mind this is important for two reasons. The hon. member for Johannesburg (North) has already stressed the importance of preserving amicable relations with the Indian Government. That is an obligation on us as members of the British Commonwealth, but there is another reason, and that is that we are at the present moment exploring the possibility of expanding our trade relations in India. The whole future of our industries in this country depends on our finding markets northwards and eastwards, because

we cannot find them to the west. We have embarked upon the maintenance of trade commissioners, for trade agents in India, but I do not see much hope of building up important trade connections unless we maintain the confidence and good-will of the Indian Government. I am not going to traverse all the ground that has been so effectively covered by the ex-Minister of the Interior. I think he has shown very completely that the allegations of increased penetration have never been proved, and I do not think that his argument is weakened by the facts adduced by the hon. member for Newcastle (Mr. Nel). I think the hon. member has largely overlooked a fact that is overlooked by many of the people of Natal, and that is that since the gentlemen's agreement of 1936, there has been an artificial agitation in favour of coloured and Indian segregation, the natural result of which has been a certain feeling of insecurity on the part of the weaker partner to that gentlemen's agreement, which has made it extremely difficult for the Indian community to play their part in that agreement. The natural impulse of people threatened with isolation in areas which will give them very little chance of economic advance, is rapidly to buy any property that they can buy up in the hope that they may thus stake claims for the future. I think that is the real explanation of the weakness of the gentlemen's agreement in Natal. I want to say one word in conclusion. The hon. Minister has said that this Bill does not prejudice the segregation issue, but he concluded his address to the House by offering us his own proposals which amount, in fact, to coloured segregation. He said he could not see why coloured people objected to segregation, that he could not see why segregation was regarded as casting a stigma upon them. He

said he did not understand why people should object to being put in separate areas, but as a business man he must realise that the capacity of people to rise in the economic scale, does depend upon their ability to trade and work in areas where there is opportunity for expansion. It is one of the features of this situation that there is much talk about equal rights for the different sections of the people in their own spheres, but how can there be any equality when one section maintains a monopoly in those areas where there is opportunity for expansion in industrial life, and the rest are limited to the small opportunities which their own small and poor communities can offer. Much has been said about racial friction, but I would point out that there is friction in communities where Europeans are a homogeneous block. People, even Europeans, resent the intrusion into their area of people of a lower level in the social scale, largely because it not only tends to annoy, but it reduces property values. That extends all through the economic life of the western countries, but we exaggerate it here by talking of it in terms of colour. Frictions are based on economic competition, and I would be interested to know how much of the move to introduce coloured segregation has originated in the desire of certain commercial interests to push out competition by the Asiatic trader. I am satisfied that this compulsory segregation, the idea of which has suddenly become such a force in this country, is not entirely the doing of hon. members here, the Nationalists, who genuinely believe, I accept, that you ought to separate people into watertight compartments. I am perfectly certain that it is backed by commercial interests who would be very glad to see the competition from our Asiatic community, removed from their sphere.

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I have in actual fact, I hope, explained the grounds upon which I propose to vote against this Bill. I feel that what the hon. Minister should do—and I shall appeal to him to do it—is to withdraw this Bill. The hon. Minister laughs. I was afraid that he would not receive the suggestion sympathetically, but I think the obvious duty on the part of the Minister is to withdraw this Bill, and again to introduce once more the resolutions he introduced into this House last session. The hon. member for Johannesburg (North) has stated that he will vote for this Bill on the ground that if the first clause of the Bill is not passed, we shall have chaos on the Reef, and that must be avoided at all costs. I am prepared to accept that contention on the part of the hon. member. I agree that we must have something passed in order to avoid chaos. But I shall not support the Bill on those grounds. I say that we should have passed the resolutions which were introduced into this House last session. I ask the Minister to introduce those resolutions, and to leave the rest of this Bill to be considered without prejudice when this Government meets the Indian Government, and comes, we hope, to an agreed conclusion on these matters.

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Mr. Grobler : \* \* \* \*

Now I would like to say a few words in connection with the speech of the hon. member for Johannesburg (North) (Mr. Hofmeyr). It was a very good speech. Without the least doubt one received that impression from that speech, but when one analyses its contents, then I fear that I cannot agree, at any rate, with a large portion of it. In the first place, he spoke about compulsory segregation. Now I would like to ask the hon. member, when Europeans object to Indians living

amongst them, whether the Europeans then have the right to protect their interests? If the Government takes step to remove the Indians, then the hon. member apparently loses sight of the fact that that class of Indian in our country is for the most part a class which practically is taken no account of in India. There are exceptions, but that applies to the great majority of the Indian population of South Africa. When we were visiting India I obtained the impression of how nine-tenths of the Indians there lived. I can give you the assurance that Indians who are living in the poorest circumstances here are living in better circumstances than 50 per cent. of the Indians in India itself. What right have they then to protest if the Government considers it necessary to take steps for the maintenance of white civilisation, and for the protection of rights of Europeans. I cannot understand it. I say that the Indians in South Africa, taken as a whole, have not the least reason to complain or to protest against the treatment they are getting here. How many poor Indians are there in our country? They are indeed not all rich, but you find some of the richest in the country, and if we compare the position with India, then we find that the percentage of poor Indians in India is much greater than it is here. And I want also to ask if the Indians are being treated so unfairly here, why do they not go back to India? Nobody is keeping them here. I say that if the Indians really felt that they were badly off here, and that they would be better off in India then they would at the first opportunity go back. But even Indians who went back to India under the repatriation scheme of 1937 came back again, because they found that the position is better for them here than there. Then the hon. member for Johannesburg (North)

further said that the Government was bound by the agreement with India. I quite agree. I want again to say what I have said before, viz., that in my opinion a proper solution of the Indian question cannot be found while that agreement subsists. The agreement is obsolete. It was obsolete in 1932. As long as that agreement is in force, I fear that the Government will never be able to do what is necessary, because when it takes steps that are considered necessary, then it is a breach of an agreement with another country.

\* **Mr. J. G. Strydom** : Is this Bill also a breach of the agreement?

†\***Mr. Grobler** : No, most certainly not. I say, therefore, that if negotiations take place with the Government of India, our Government should seriously consider putting an end to the agreement with India. Then the hon. member for Johannesburg (North) further says that proper enquiry was never made as to whether there has been any infiltration of Indians in the country areas of the Transvaal. He referred to the Lange Report of 1920, and tried to show that no infiltration had taken place. But what the hon. member quoted here is this. The Lange Commission reported that there had been no infiltration of Indians into the Transvaal from the other provinces, especially from Natal. That was the report of that commission, and as far as I know no mention was made of the penetration of Indians into the rural areas in the Transvaal. The hon. member further said that when he was Minister of the Interior he got into communication with the magistrates of the Transvaal to find out whether infiltration was taking place. He said that the magistrates reported that conditions were not so serious as had been alleged. I assume that they had told him that. I, however, also instituted an enquiry.

I wrote to all the municipalities in the Transvaal, and I submitted a list of questions to them to find out how many trading licences were held in 1920 by Europeans and how many were in the possession of Asiatics. I asked them also to give me the figures of the number of trading licences in the possession of Indians, and the number of them in the possession of Europeans in 1930. From the data supplied by the municipalities it appeared that in practically fifty per cent. of the cases the number of Indian licences had increased, while the number of European licences had decreased. That occurred in ten year's time. I take it that the municipalities would not intentionally give wrong information to me. Therefore that there was no penetration taking place by Indians into the villages in the Transvaal simply does not tally with the actual facts. Everyone who is acquainted with smaller villages, like Zeerust, Zwartuggens, Brits, etc., must admit that penetration is taking place, and that in some cases there are hardly any European traders left now. How anyone, therefore, can say that there has been no infiltration of Indians beats my comprehension.

\***Mr. B. J. Schoeman** : Just read the report of the minority of the Murray Commission.

†**Mr. Grobler** : Yes, from the minority report of the Murray Commission it appears that what I am saying is absolutely true. I, therefore, say that penetration is actually taking place, and I say that the sooner the Government takes steps to prevent penetration, the better it will be. We must look facts in the face, not acting like the ostrich—hiding our head in the sand and imagining that there are no difficulties. If we follow that line of action, then there will be still more unpleasantnesses, such as

those which took place at Rustenburg. They must inevitably follow. My hon. friends who speak so easily in the House on the Indian question do not know the feeling on the Transvaal countryside in connection with this matter. The average Afrikaner is not hostile to the Indians, but what he will not allow is that all the trade should go into the hands of the Indians. Further, the hon. member for Johannesburg (North) said that the Government was morally bound to accept and carry out the recommendations of the Feetham Commission. I cannot subscribe to and take up that attitude. What Government has ever yet been bound to accept and carry out the recommendations of a commission? There have been hundreds of commissions in the past which have made reports, not one single recommendation of which has been accepted by the Government concerned. The Feetham Commission made certain recommendations, and stated certain facts, but we cannot take up the attitude that the Government is morally bound to accept and carry out those recommendations. The second reason why we cannot adopt that attitude is the fact that nine-tenths of the Indians who occupy areas which fell within the enquiry of the Feetham Commission are living there illegally. They forced their way in there, without having had the right to be there. They moved into those areas in conflict with the law, and, therefore, we cannot accept the recommendations of that commission. I feel that the time has come for us to attack this question. It is no use postponing it indefinitely. We have been struggling with it for nearly 50 years. We have done patchwork, and when I say that, I am referring to all the Governments. We introduced Bill after Bill, but most of those Acts have never even been carried out. The

Indians simply took no notice of that legislation, and we had to introduce legislation every time to condone their contravention of the previous Acts. As long as that kind of thing goes on, we will never reach a solution of this question. The time has come that we in this House should make the Indians realise that they cannot continue on those lines, and constantly evade our laws. I have already made mention of that; the hon. member for Waterberg said it again here this afternoon, and I fully agree with him that there is no individual who can so well succeed in the matter, and who is an expert in evading the law, as the Indian. It seems to me as if they specially entrust someone with the task of looking for the possibilities of evasion there are in an Act. The Indians must now once and for all realise that they cannot go on in that way. The time has come to put an end to that kind of thing, and if the Indians continue acting in that way, then they will have to suffer the consequences.

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†Mr. Nicholls: Although this Bill deals with the specific matter of the Transvaal, it is generally admitted that its implications are far too wide to be dealt with purely on provincial considerations. Any international repercussions which may come as a result of this measure, or of any other measure, will not be confined to the Transvaal, but will be felt by the whole of the Union. I, therefore, offer no apology to the House for trespassing upon its patience in discussing the broader aspects of the Indian problem. The position in the Transvaal is no doubt more irritant than it is in other parts of the Union, particularly in Natal. It is a comparatively minor matter compared with what it is in Natal. The people with

whom this Bill deals, the people whose interests are affected by this Bill, form a separate class from the mass of the Indian population. Many of them are not Indians at all. They belong to that section, a large number of them, of the Arab people who have traded for centuries along the East Coast of Africa. They have associated themselves with the Indians, and they have formed this liaison with India on a very nodding acquaintance with that country. Practically all of them are Mohammedans, in contradistinction to the mass of the Indian population. Miscegenation is common amongst them. That is a consideration which is often overlooked. This does not apply to the Hindoo. Trade is in their blood. No European can compete with them in retail business. So it happens that this class of Asiatic throughout Africa, in Kenya, Tanganyika, Uganda, and in Mozambique hold a monopoly of the retail trade of those countries. The question is one of number. In Natal in 1934 there were 3,434 inland revenue licences, and there were 6,578 municipal licences issued to Asiatics to trade. It was computed in 1934 that 80 per cent. of the total of the native trade in Natal was in the hands of these people. Had there been no restriction in trading licences in Natal, in Durban especially, there is not the slightest doubt that very few European traders would be left to trade in the Main Street of Durban to-day. If South Africa wished the commerce of the whole country to pass into the hands of Asiatics, all that would be necessary to do would be to remove all restrictions on trade, and it would be accomplished in a single generation. Most of the Indians do not belong to this trading class. The mass of the Indians is Hindoo. They form a microcosm of Mother India. They speak a number of languages from Tamil to

Gujerati, and cling vehemently to the vernacular of their ancient culture and religion. This mass deserves the consideration, and the sympathy of the Europeans of South Africa. They and their children form the immigrant community in this country. We brought them here. The trading class came as their camp followers, self-invited, and the latter own the mass of the wealth of the Indians, and they create most of the trouble. Most of the Hindoos living in Natal to-day have their feet in two civilisations, the East and the West. Their children are being well-educated. Their capacity for education may be judged from the fact that not only are they being educated in European methods, and in our own education, but they are also being educated during their spare hours after school, in the vernacular. They retain a pride in their Eastern heritage; and though they are adapting themselves to the European environment, they remain essentially different. More and more they are evolving their own economic life. They are leaving the avocations of their fathers and are embarking upon independent enterprises, which I think, with proper recognition, may result in the development of spheres of industry in South Africa which will be complementary to our own. Such an assumption, however, depends upon limitation. The attempt to establish limitation of the Indian population is the very core of our Indian policy. We have been prepared to deal very generously with the Indian population, provided it is limited to a given residue. Agreements which we have hitherto made have been based upon the attainment of a manageable residue. I think it is probable that it was this limited residue which the Minister of Justice had in mind when he spoke at the Imperial Conference in 1917, the

speech which the hon. member for Johannesburg (North) (Mr. Hofmeyr) referred to in an endeavour to support his rather nebulous arguments. I cannot follow the hon. member for Johannesburg (North); I must confess also that there is a vagueness about his speeches which defies the possibility of extracting any positive political content. In his speech he ruled out completely any legislative compulsion, which he said was caused by a ghetto mentality. Yet, sir, he accepted the Feetham resolutions, which, if they are accepted at all, have their fundamental basis in the principle of limitation. He told us that there was no proof which could satisfy him regarding Indian penetration in the Transvaal. He advanced that as an objection to the Bill. The only inference one can draw from that fact was, if he were satisfied that penetration were taking place on a large enough scale, he would favour the principle of limitation. Anyway, he is going to vote for limitation. What was the positive suggestion that he made? In all these matters we should proceed by means of co-operation, consultation, and consent. With whom are we going to co-operate? With the Transvaal traders to-day? They have already told us they will not co-operate. With the Indian Government? To do what? Surely there must be some specific object advocated if we are asking for co-operation and consultation with consent. Are we to consult about limitation, which, after all, we are told comes from a ghetto mentality? If we do, have we to make such limitation contingent upon consent? And, if so, whose consent? The consent of the Transvaal trader whose interests are threatened, or of the Government of India? If consent is not given, what happens? Must we

drop everything, and pursue a complete policy of *laissez faire*? We know that consent will never be given. The stand of the Indian Government, which we all appreciate, is that there should be no discrimination whatsoever of any kind against the Indians. There can, therefore, be no limitation based upon the consent of the Indian Government. There was one sentence in the speech of the hon. member for Johannesburg (North) which I think contained the germ of a solution. It would be impossible, he said, to accept the principle of segregation until the 1927 agreement with the Indian Government had been terminated. I fully agree with that; and I am going to address myself to that point. The 1927 agreement was based upon an anticipated reduction of the Indian population. It was expected that the assistance which would be given by the Indian Government in furtherance of the repatriation scheme therein adopted would become effective; and, ultimately, we should be left with a residue to which the whole principle of the uplift provided in the agreement would apply. That expectation has not been realised. The Indian population in 1921, according to the 1921 census, was 165,731. The Indian population, according to the 1936 census, was 219,691, a 32 per cent. increase in fifteen years. Distributed throughout the Union that Indian population would not be a very great matter. But the bulk of the Indian population is confined to-day to Natal. In Natal there are 189,000 Asiatics, and 196,000 Europeans. The Asiatics are increasing at a higher rate than the Europeans. In Natal, therefore, the density of the Indian population is of paramount importance. From that fact arises economic and political problems of the first magnitude; economic problems, because of the difference in standards, which are not confined

merely to wages, or to hours of work, or to profits, or to licences, or to anything of that kind, but which despite all the stock arguments to the contrary, are due very largely to the complete difference in racial outlook. And the political problem, sir, arises from the fact that the Indian population will soon be greater than the European population, and unless we are prepared to see the undermining of European dominance in South Africa by a form of franchise which will obtain the consent of the Indians, the solution is not going to be very easy. So, in whatever fashion we approach this question, it bristles with difficulties. The way the Union Government has always approached it, I submit, is by way of limitation of population, and in order to deal with this policy, I want to start with the Asiatics Commission's report of 1921. That commission made two definite proposals amongst others; the first was that there should be voluntary repatriation; that that should be encouraged in order to bring about the desired diminution. The second was that there should be segregation on a voluntary basis. Since that day, and of course, long before, voluntary repatriation and segregation was the accepted policy of the Union. After 1921 repatriation was speeded up, and the public demand for residential segregation became insistent. In order to meet that demand the Minister of the Interior of those days, Sir Patrick Duncan, brought in his Registration and Immigration Restriction Bill. It was the first legislative attempt to deal with the general position. It was an effort to lessen the continual racial friction by residential segregation and by a diminution in the Indian population. The introduction of that legislation in the House led to the intervention of the Indian Government. The despatches of that period make very

interesting reading, the Union formally claiming the right to deal with its own population, in its own interests, and the Government of India gently but firmly maintaining its right to interfere. That was before 1926. Then we had a change of Government and a new Minister came along, the present Leader of the Opposition (Dr. Malan). In trying his rather apprentice hand, if I may say so without offence, at writing despatches, he was beaten all along the line. We had the Round Table Conference, and it is very important to understand that the standpoint of the Union through the whole of that period, and throughout all the negotiations, was that there must be a diminution of the Indian population, which was the very essence of the problem. The Indian population at that time was still in an interim stage; permanency in residence was not generally accepted, and the immigration population was gradually being repatriated. Many believed that repatriation could be made effective. The terms, under which the conference of 1927, was held, were stated by the Minister of the Interior, the present Leader of the Opposition, in the House. These are the terms under which the conference was called:—

South Africa had intimated to the Government of India that it was not in principle opposed to the holding of a round table conference, but if it did hold one, then in the proposed discussions must be included this particular point, that the Government of India shall be asked to be willing to co-operate with the Government of the Union to assist that Government in making the scheme of voluntary repatriation more effective.

They were very particular that the possibility of holding out with the

assistance and co-operation of the Government of India additional inducements to the Indians to leave the country by holding out to them the possibility of an advantageous land settlement in India or in the adjacent territories. Well, it is very clear from that statement that the declared policy of the Union in entering into the conference was to achieve a diminution in the Indian population, for which the co-operation of the Indian Government was sought. The conference was duly held under the chairmanship of the present Leader of the Opposition. I don't know what happened at that conference; the only information we have about it is, of course, the agreement itself. Now, that agreement contains two obligations. The first is one imposed upon the Indian Government to adopt measures to assist in bringing about a speedy diminution in the Indian population; and the second obligation was one placed upon the Union Government to proceed with a measure of uplift for the Indians that were remaining or would remain afterwards. In order to keep a watchful eye on the Union Government to see that it carried out that obligation, an Indian Agent-General was appointed in the Union. But the Union had no such diplomatic representative in India to see that the Government of India was encouraged to maintain its part of the agreement. So from the outset the agreement became one-sided. The Union immediately set about measures for Indian uplift. Commissions were appointed in Natal for Indian education and native education considerably benefited. The general attitude of the European population in Natal after this agreement changed entirely to one of benevolent interest; and that was due largely to the charm and personality of the first Agent-General of the Union, Mr. Sastri. In India there was a

different tale to tell. Interested political circles set themselves out to defeat the agreement and obstacles against the carrying out of the repatriation scheme were everywhere created. The Indian Government had undertaken in the agreement to protect the repatriates, to settle them in occupations in which they were best suited ; and it was assumed, and it is mentioned, as you see in the announcement of the Minister in the House, that some land settlement schemes would be developed in India when they got there. The assumption at any rate was that these repatriates would be looked after and would be absorbed back into the body politic of India. Instead of that they drifted down to the slums of Calcutta and Madras, to become objects of pity and reproach to the Government of India for connivance at such a scandalous state of affairs which could permit the casting away of these outworn derelicts of this imperial economic system. A picture was painted in very lurid colours in India. There arose an all-India agitation against repatriation from the Union. Even the Agent-General here in South Africa found himself making representations to the Government of the day against their persuading Indians to offer themselves for repatriation. So the number of repatriates dwindled. It was in these circumstances that a second round-table conference was held in 1932, of which I, with yourself, sir, was a member. That conference was presided over again by the Leader of the Opposition, then Minister of the Interior, and he placed fairly before the conference what the reason for the conference was. The 1927 agreement had failed and it must either be ended or mended ; it had been experimental and the experiment had failed ; it had depended upon the diminution of the Indian population and that expected diminution

had not taken place ; so the scheme of repatriation had come to an end. These facts were admitted by the Indian delegation which endeavoured to explain the causes of the failure. They said the economic standards in India were much lower than they were in South Africa ; that the Indian repatriates found it almost impossible to merge themselves back into the lower economic system of India ; the wages for similar work in India were much lower ; the methods of living were entirely different ; and the children of the South African immigrant had lost all contact with Indian village life and could not any longer be absorbed by the community. The health conditions, too, were said to be much worse in India than they are in South Africa. Moreover, the bulk of the Indian population were South African born, their home was in South Africa, and it was no good, therefore, looking any longer for any diminution by means of repatriation to India. The scheme was dead as a door nail. Now, at this juncture the conference almost broke down. The present Minister of Defence who was present at the conference, took the strongest objection to the continuance of the agreement. He held that no useful purpose existed in the agreement, and it should not be continued ; he demanded that it should be terminated and that the Agent-General should be recalled. Under those circumstances he claimed that India would have no right to interfere. Since it was admitted that the Indian population was now South African it must conform to the laws of South Africa, and we should no longer permit agitation to be carried on, nor should we be deflected from legislation in the interests of South Africa wherever we deemed it necessary. I agreed with that attitude. The Minister of Defence and I discussed this matter with the

Minister of the Interior and asked him to draft a resolution signifying that the agreement must terminate. Just at that period I was approached by members of the Indian delegation with a plan for colonisation which might get us out of the difficulty—colonisation in countries other than India, which had been provided for in the agreement of 1927. In view of what has since happened I would like to give the House my impression of those negotiations which I reduced to writing some time afterwards—

The 1932 Round Table Conference agreed that the repatriation scheme had failed for various reasons, and the renewal of the agreement was in doubt. There was a feeling at the time that the conference might break down, in which case the Agent-General would disappear, and South Africa would revert to its former policy of class segregation. Fearing that this might happen, members of the Indian delegation suggested that a way out could be found by reverting to the idea of colonisation in countries other than India, provision for which had been made in the 1926 agreement. The suggestion was made to me personally by members of the Indian delegation, and their argument ran as follows—

The South African Indian community of some 200,000 was a negligible factor compared with the three hundred and fifty millions of India, yet their grievances were a perpetually running sore in the body politic of India, and their grievances were continually exploited by the Indian politicians to the constant embarrassment of the Indian Government. Any assistance, therefore, which the Indian Government could possibly give in the development of a

colonisation scheme, which would lead to an effective reduction of the South African Indian population, would be willingly agreed to. There existed in India a strong national feeling in favour of colonisation. Indians had gone to all parts of the world as indentured labourers, and had remained in a state of serfdom which prevented their attaining the rights of citizenship in the countries in which they settled. The Europeans, on the contrary, had always left their country as free men, and become the owners of the soil on which they settled, and the ultimate governors of the land of their adoption. The stigma of serfdom, placed upon Indians under the system of indenture, could only be removed by the development of a colonisation scheme which would show the world that Indians, too, had the capacity and the initiative to colonise other countries. The Indians in South Africa were eminently fitted to be the pioneers of an Indian national colonisation movement. They were all trained in Western methods, and skilled in many of the arts of colonisation. They had outgrown the communal life of India. They were accustomed to grapple with difficulties in a new land. They contained amongst themselves all the essential trades and callings necessary for a pioneer community. Therefore, if a national Indian colonisation movement could be established which would appeal to the patriotism of the South African Indians, and offer them some economic reward greater than that which they now enjoyed, these Indians would certainly take part

in it. When discussing the possibilities of such a scheme Mrs. Naidu said that she spoke for Mahatma Gandhi in this matter, and, therefore, for the Indian Congress. She gave an assurance that she, herself, would come to South Africa and tell the resident Indians that they owed in to their mother country, upon whom they had placed the stigma of indentured serfdom, to lead the van of the new national movement.

These arguments were repeated at the round table conference. Now that memorandum has been seen by one of the Indian members of the delegation, and he has taken no objection to it, or stated that it is not a true interpretation of what took place. I leave it to the hon. members who were present on that occasion to determine for themselves the correctness of that memorandum. I was very much impressed by these arguments [time extended]. I know sufficient of the British Colonial Empire to know that it was possible to obtain a colony on the lines suggested. After this discussion I explained what had taken place to my colleague, now Sir Patrick Duncan, and we saw the leader of our party, the right hon. the Minister of Justice. They agreed that the suggestion, at any rate, should be explored. The suggestion was considered by the conference. As a result the Minister of Defence withdrew his objection, provided that it did not mean a perpetuation of the agreement in case of failure. He was not very sanguine. It was agreed by the conference that, if the approval of the Indian Government could be obtained, and if the local Indians themselves would agree to this, then the two Governments would appoint a joint commission within the next twelve months to study the whole position, and report to a further

round table conference to be held here in Cape Town. The Indian Government was communicated with, and gave its consent. The local Indian community also gave its consent in writing, and 15 of the congress signed their names to it, and also the Rev. C. F. Andrews, who was here from India taking part in the representations in Cape Town. All these negotiations occupied some days. Finally it was decided to reject the previous suggestion that the conference should stand adjourned for twelve months, so that the committee could report back to it, and finish with the conference. It was felt that if we adjourned the conference it would give rise to misunderstanding, and that a fixed date for resumption might prove inconvenient. The report of that conference was given by the Minister in the House, as follows:—

It was recognised that the possibilities of the Union's scheme of assisted immigration to India are now practically exhausted, owing to the economic and climatic conditions of India, as well as to the fact that 80 per cent. of the Indian population of the Union are now South African born. As a consequence, the possibilities of land settlement outside India, as already contemplated in paragraph 3 of the agreement, have been further considered. The Government of India will co-operate with the Government of the Union in exploring the possibilities of a colonisation scheme for settling Indians, both from India and from South Africa, in other countries. In this investigation, which should take place during the course of the present year, a representative of the Indian community in South Africa, will, if they so desire, be associated. As soon as

the investigation has been completed, the two Governments will consider the results of the enquiry.

Now, sir, that was not a unilateral statement. The statement was agreed to by the Government of India. The agreement was not renewed. This was an agreement to explore the possibility of colonisation. I understand, I am not sure about it, but I believe, that an identical statement was made by the Government in India. As far as I know, that obligation has been completely ignored by the Government of India. I don't know what the action of the Minister was at that date, whether in that twelve months succeeding the conference he made any representations to India with regard to the carrying out of the contract in the agreement. If the hon. member for Piquetberg (Dr. Malan) has anything to say upon that, I would be prepared to sit down now and let him say it.

**Dr. Malan :** I will speak on the third reading.

†**Mr. Nicholls :** Sir, I do know this, that the hon. member for Johannesburg North (Mr. Hofmeyr), when he was Minister of the Interior, took the matter up with the Indian Government, and they refused to implement the agreement. The hon. member does not seem to agree, will he now say what they did do.

**Mr. Hofmeyr :** When I became Minister of the Interior, about a year after the Indian Conference, I found that this matter was still hanging fire, not, as far as I can recall, because of any lack of activity on the part of the Government of India. I then took up the matter, and discussed it with my colleagues. I found there was some hesitation in regard to the advisability on our side of committing ourselves to

an investigation of the nature which had been contemplated a year before, and therefore, on my recommendation, in terms of the statement made in this House, the Government of this country appointed a preliminary Asiatic Colonisation Committee, on which the hon. member for Zululand (Mr. Nicholls) served, but at that stage there was no question of the Government of India having refused to carry out its obligation.

†**Mr. Nicholls :** Well, sir, I cannot understand it. I don't understand now from the hon. member whether he asked the Indian Government to implement this agreement, and they refused, or whether it was decided to go on with it. If we have been negligent ourselves in this matter, then obviously the Government of India cannot be held liable, and much of my criticism falls to the ground.

**Mr. Werth :** What about that colonisation committee of which you were a member?

†**Mr. Nicholls :** I will come to that. I assume, and I was informed at the time as far as my recollection goes, that in default of the Indian Government having anything whatever to do with this Colonisation Commission, this joint commission, which had been agreed upon, we had decided in the Union to appoint a local committee, in order to prepare the ground for a joint commission if it should be appointed.

**Mr. Hofmeyr :** Not because of any default on the part of the Indian Government.

†**Mr. Nicholls :** I should be glad if the hon. member would make that clear. This Colonisation Committee explored the ground as well as it was able, and it produced a report. That report, I am sorry to say, did not have

a very good Press, either here or in India, because, I assume, that those writing upon it did not understand really what the committee had set out to do. But, sir, on this point I can read an extract from a letter from one of the Indians themselves, who was a member of the Indian Delegation, who wrote to me, and this is what he said—

Ever since the Cape Town Conference, in which you and I participated, national attention in this country has been focussed entirely upon the constitutional issue. Government has also had its hands full with the dual problem of considering how best to promote India's constitutional advance, and to fight the subversive forces which were unchained early in 1932. It is not, therefore, want of will on the part of members of the Indian delegation to the last Cape Town Conference which has prevented propaganda for overseas colonisation from India, but want of suitable opportunity.

I assume that the delegation when it got back to India, did not consider the time propitious for carrying on this investigation. The hon. member for Johannesburg (North) (Mr. Hofmeyr) would like to make a further statement on the matter.

†Mr. Speaker : We cannot go on in this way. Perhaps the hon. member for Johannesburg (North) can make a personal explanation when the hon. member for Zululand has finished. I will allow him to do so.

†Mr. Nicholls : I think it is very unlikely in the present state of the world that the opportunity which presented itself in 1934 will recur. One country which might have offered the opportunity of becoming an Indian colony is to-day being explored as a

home for European refugees. That is the one place which the Indians considered to be quite unsuitable. I do not know at this stage, after what the hon. member has said, that the Government of India should be completely exonerated from my charge that it refused to carry out this agreement. Whether the reason for its not being carried out lies with the Union Government or with India, I say that the time has arrived when we should put an end to this indecision. If these Indians are a part of our population, if they have no further links with India, if the repatriation scheme has come to an end, then it seems to me there is no justification for continuing any longer with the 1927 agreement. It was based in its terms upon a reduction of the Indian population. If that cannot be brought about and we are to be faced with a continually increasing Indian population, then I say we must be left free from any interference from outside in the conduct of our own business.

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†Mr. Blackwell : Whether we agree with the hon. member who has just spoken or not, the House will feel that it is under a considerable debt to him for the scholarly and well-reasoned speech he has made. My main criticism of his speech is that it is not a speech dealing with the Bill before the House. The Bill before the House is a Bill to make further provision with regard to restrictions on trading by Asiatics in the province of the Transvaal and the occupation of land by them in that province. It is not unfair to state that five-sixths of the speech of the hon. gentleman had no relation whatever to the problem with which this Bill seeks to deal. Before I begin my own speech there are certain points made by the hon. gentleman which I

think I might reply to. In the first instance, he began by drawing a distinction between the trading classes of the Indian community, the so-called Arabs, and the rest of the Indian population, if I may use the word without offence, the coolie or labouring classes. The hon. member seemed to suggest that we should look much more favourably upon the indentured Indian class in Natal, who, of course, have been found useful to certain classes of Europeans in Natal, than we should look on the trading class whom he said were out to get all the wealth of this country into their hands.

**Mr. Nicholls :** I did not say that.

†**Mr. Blackwell :** I am trying to paraphrase what the hon. member said. He said that that class owned most of the wealth and created most of the trouble. I would remind the hon. gentleman that the Indians in the Transvaal have been there since the early eighties. They are just as much ingrained into the population of the Transvaal, in fact even more so, than the indentured Indian population is ingrained into the population of Natal.

**Mr. Rooth :** You did not say that in 1919.

†**Mr. Blackwell :** The hon. member is making an interjection in regard to a speech I made in 1919, twenty years ago. In twenty years one learns a lot in the political life of South Africa. I am very glad indeed that the hon. gentleman in quoting that speech gave the date. He does not always give dates, but I am glad to learn from him that in quoting this speech he did give the date. The hon. member for Zululand went on to quote the growth of the Indian population in South Africa. He said that from 1921 to 1936 it had grown from

165,000 to 219,000. He did not make the point clear as he should have done, that practically the whole of that growth has been in Natal and is not material to the present Bill. The Indian population of the Transvaal has grown at a slower rate. Speaking from memory I think it is from 22,000 to 23,000, and no one will suggest on the population basis that that population constitutes any real problem in the province of the Transvaal. My hon. friend went on to give the history of the 1927 agreement and he did so quite fairly. That is a matter I wish to deal with also later on. He then went on to deal with the conference of 1932. While he was speaking I asked him a question as to whether in 1932 we did or did not renew the agreement of 1927. My hon. friend's answer was, no. All we did in 1932, he said, was to make an agreement that we should explore the question of colonisation. That is not the case. He told the House of a statement by the Minister of Defence, who said unofficially that the agreement should be terminated and the Government of India be told that it had no right to interfere with the internal affairs of South Africa. He did not tell the House that in spite of that statement advanced by the Minister of Defence, and in spite of the feeling so widely held that the agreement should be terminated, it was not terminated but renewed.

†**Mr. Nicholls :** To a point of explanation. What I intended to convey was this, that the extension of the agreement was dependent entirely upon the carrying out of the exploration of Indian colonisation.

†**Mr. Blackwell :** I have before me a statement made by the Minister of the Interior of the 5th April, 1932, in which he announced to this House the extension of the agreement made in

1927. After the passage which my hon. friend has quoted, the Minister went on to say—

The Government of India will co-operate with the Union Government in exploring the possibilities of a colonisation scheme for settling Indians, both from India and from South Africa, in other countries. In this investigation which should take place during the course of the present year, a representative of the Indian community in South Africa, will, if they so desire, be associated. As soon as the investigation has been completed, the two Governments will consider the results of the enquiry. No other modification of the agreement is for the present considered necessary.

Therefore, in 1932 this Government continued the agreement of 1927 and that agreement is still in force to-day. It has never in any way been denounced, and I am speaking this afternoon on the basis of the fact admitted that the Cape Town agreement of 1927 is as full and effective to-day as it ever was. In a vague way it is true, that the two Governments agreed to explore the possibilities of the colonisation scheme. I do not know that it came to anything. The House has heard the statement made by the hon. member for Zululand (Mr. Nicholls) and the statement made by the hon. member for Johannesburg (North) (Mr. Hofmeyr). I think I am right in saying that from that day to this, there has been no denunciation of that agreement, and that the Cape Town agreement is as effective today as it was in 1927, and we have every right therefore, and in fact the duty lies upon us, to examine the proposed legislation in the light of that agreement. That is what I propose to do.

**Dr. Malan :** It was definitely stated that we adhered to the agreement.

†**Mr. Blackwell :** Therefore all the history given to us by the hon. member for Zululand, his story of the failure of the repatriation scheme and the abortiveness of the further colonisation scheme, has no relevance whatever to the present Bill. We must examine this Bill and discuss it solely in the light of the Cape Town agreement, and that is what I propose to do. In the same statement which I read the Minister of the Interior said—

Both Governments consider that the Cape Town agreement has been a powerful influence in fostering friendly relations between them, and they should continue to co-operate in the common object of harmonising their respective interests.

That was made in 1932 after the failure of this scheme of assisted immigration, and with the knowledge that that scheme had already petered out. Therefore, the arguments of my hon. friend, that a cardinal essential of the 1927 agreement was this scheme of assisted immigration is not correct. It is true that at the time when the Cape Town agreement was made, part and parcel of the consideration was that the two Governments should co-operate in that scheme of immigration. By 1932 it was obvious that the scheme of assisted immigration had failed, and the two Governments nevertheless renewed the agreement. Then it was agreed that they should explore the possibilities of the colonial settlement scheme. From that day to this nothing has been done by our Government actively to push forward such a scheme. I come back, therefore to what I said previously, that we have to regard the Cape Town agreement as still of force, and we have to examine the Bill in the light of that agreement. I think

it would be well if I were now to remind the House of the circumstances which led up to that Cape Town agreement. It is quite right to say that this policy of segregation was not the exclusive property of either of the political parties in this House. The Bill was drafted by the Smuts Government, which fell in 1924, and when the Hertzog Ministry came in they took over from the files of their predecessors this draft Bill. It was brought before the House, and at once a furore occurred amongst the Indian community, which grew in force as the months proceeded. Nevertheless, the Government of the day let it be understood that it was their intention to proceed with this Bill. I well remember that day in 1926, when without any notice whatever so far as we were concerned, the Minister of the Interior, the present Leader of the Opposition, came to this House in very dramatic circumstances, and announced this new policy of consultation and co-operation with the Government of India. If I may be permitted, I would like to recall one or two of the things which the hon. gentleman said on that occasion. He began by saying that with the assistance of informal conversations between the Prime Minister and himself on the one hand, and the leader and secretary of the Indian delegation on the other, a formula was evolved which, if accepted by the House, would determine the nature of the round table conference, which, before legislation was further proceeded with, would make a serious and honest attempt to arrive at a real and effective, but at the same time amicable solution of the Indian problem. This formula definitely excluded the possibility of a conference which could justly be interpreted as a mere attempt from outside to prevent the Union Government from dealing with its own problems in its own way, and

which as such would be resented by the people of South Africa, and would remain unacceptable. On the contrary it definitely ensured the co-operation of the two Governments in exploring all possible methods of settling the Asiatic question in South Africa on the basis of the maintenance of Western standards of life on just and legitimate means. The Minister then read the formula which was as follows—

The Government of the Union of South Africa, and the Government of India have been in further communication with each other regarding the best method of arriving at an amicable solution of the Indian problem. The Government of the Union has impressed on the Government of India that public opinion in South Africa will not view with favour any settlement which does not hold out a reasonable prospect of safeguarding the maintenance of Western standards of life by just and legitimate means. The Government of India are prepared to assist in exploring all possible methods of settling the Asiatic question, and have offered to enter into a conference with the Union Government for the purpose. Any proposals that the conference might make would be subject to confirmation by the Governments of the two countries. The Union Government have accepted the offer of the Government of India, and in order to ensure that the conference should meet under the best auspices have decided, subject to the approval of the select committee and Parliament not to proceed further with the Areas Reservation and Immigration and Registration Provision Bill until the results of the conference are available.

Then having made that announcement, the hon. gentleman went on to make

a wise and statesmanlike appeal to public opinion in South Africa to regard this matter in its proper and just perspective. He said—

Under these circumstances I have a right to appeal—and I know that I shall not appeal in vain—to the good sense and the wise discretion, and the patriotism of the hon. members of this House, when they shall proceed to discuss the report of the select committee, or the Asiatic question generally, inside or outside the House, before the conference is held. I have an equal right to appeal and I know I shall not appeal in vain to the good sense, and the wise discretion, and the patriotism of the Press and of the people of South Africa. If Parliament should think it worth while to agree to the holding of a conference, then it is surely worth while to make the most of the opportunities which that conference offers in the interests of South Africa.

I am glad to report that that appeal of the Minister was received by the House in the same spirit in which it was made ; there was a total absence at that time of any wish to make party capital out of the Asiatic question, and we did in fact approach the Round Table Conference in 1926 in the best of all possible spirits. The result of that was that the Minister of the Interior was enabled to come back to the House the following session, 1927, and to announce the conclusion of the Cape Town agreement. Again, sir, at the risk of detaining the House, I would like to recall the terms in which that agreement was presented to the House, and the manner in which the House received it. The Minister began by saying that the conference had assembled at Cape Town in December, 1927, and

finished on January 11th. He continued—

There was in these meetings a full and frank exchange of views which have resulted in a truer appreciation of mutual difficulties and a united understanding to co-operation in the solution of a common problem in a spirit of friendliness and goodwill. The Union Government recognised that aliens domiciled in the Union who are prepared to conform to western standards of life should be enabled to do so.

In summing up the results of the agreement, the hon. Minister said this—

The results achieved cannot therefore be looked upon as reflecting a diplomatic victory in whole or on any particular point for either side, but as the fruit of a common purpose carried out in the spirit and by means of friendly collaboration. It will also be obvious that the agreement which has been reached is more in the nature of an honourable and friendly understanding than of a rigid and binding treaty. By their decision not to proceed with the particular legislation which was contemplated last year, the Union Government have not in any respect or to any extent surrendered their freedom to deal legislatively with the Indian problem whenever and in whatever way they may deem necessary and just. Nor, on the other hand, have the Government of India bound themselves either permanently or for any limited period to co-operate with us in the practical solution of our problem in the manner agreed upon. The position truly described is rather that both Governments have agreed upon the solution which to some indeed may not seem ideal, but which is at least practical and peace-

ful and which holds out every hope of being effective and that both have further agreed, by means of mutual goodwill and co-operation, to give this solution a fair and reasonable trial.

He concludes by saying that in these circumstances there seemed to be no reason why any section of the community should be otherwise than friendly disposed towards the working of a scheme (of assisted repatriation) which, successful and effective, will go very far to assure that peace and happiness of the Indian community which will remain permanently settled in the Union, and to establish lasting friendship and goodwill between the two great nations on either side of the Indian Ocean. May I pause here to say in parenthesis that my hon. friend the member for Zululand (Mr. Nicholls) would be the first to admit that it never was in the contemplation of either Government, that this scheme should relate to the Asiatics of the Transvaal who are entirely a trading community. The failure of the scheme, if it did fail, could not in any way affect the Asiatic portion of the Transvaal. Finally, at the end of his peroration, the Minister used these words—

I feel assured that both this House and the people of South Africa will join in the fervent hope that the reward of their labours will be the inauguration of a new era of peace and friendship in the true interests of both, between our country and the country they serve. I lay on the Table a summary of the conclusion reached by the Round Table Conference on the Indian question in South Africa.

The hon. member for Johannesburg (North) has already read one portion the uplift clause of the Cape Town

agreement, but there is a portion which he has not yet read and which I am going to read. I refer to sub-paragraph 4 of the uplift clause—

When the time for the revision of the existing trade licensing laws arrives, the Union Government will give all due consideration to the suggestions made by the Government of India delegation that the discretionary powers of local authorities might reasonably be limited in the following ways:—(1) The grounds on which a licence may be refused should be laid down by statute. (2) The reasons for which a licence is refused should be recorded. (3) There should be a right of appeal in cases of first applications and transfers, as well as in cases of renewals, to the courts or to some other impartial tribunal.

No one can tell me that the licensing provisions of the draft Bill conform to this sub-paragraph 4 of the agreement. Now I am going to deal with my hon. friend the member for Newcastle (Mr. Nel), who has been interrupting me. There were only two members of this House who raised a discordant note in regard to the Cape Town agreement. I was in the House at the time and I make this statement without fear of contradiction that excepting those two members, the House received that Cape Town agreement with obvious relief and in the spirit in which it was introduced by the Minister of the Interior. The one member I refer to was the member for Newcastle, and the other the present Minister of Agriculture (Col. Collins). On the first occasion that they got an opportunity of telling the Minister of the Interior what they thought about it, they did so, and I now want to read his reply. The matter was raised on the Part Appropriation

Bill in 1927. This is what the Minister said in reply—

The actual kernel of the agreement between our Government and that of India is that there shall be co-operation in the future between the two Governments for the solution of the Asiatic question in South Africa, in such manner as at any rate the larger part of the population of South Africa regard as the only practical way, namely, along the way of repatriation or assisted emigration of Indians out of South Africa.

Then he goes on to say—

I had the opportunity last year and again this year to appeal to the press to do their best for South Africa in this delicate matter, and try and keep the whole matter above party politics, and to keep out of the papers everything which could excite feeling either here or in India and which would hinder that satisfactory solution. Last year and again this year before the agreement was published, I had an opportunity to take the leaders of the press into my confidence about everything that has taken place, and I am glad to say that the press almost without exception did its duty and fully justified the trust reposed in it. What I said here about my hon. friends outside is said in general. I am sorry I cannot say it of all the hon. members who took part in the debate a few days ago. I am speaking more particularly of the hon. member for Ermelo (Col.-Cdt. Collins), and the hon. member for Newscastle (Mr. Nel).

When I think of their two speeches, then I must say that I have seldom heard more irresponsible speeches in this House in connection with such a delicate matter, as the relations

between ourselves and India, and the agreement which has been entered into. The hon. members must not forget that every word uttered in this debate is probably cabled to India.

Then he went on to deal with these hon. gentlemen in a later portion of his speech—

What does the hon. member actually mean by saying that we have abandoned the policy of the past entirely? Is it not a duty of the Government of the country to uplift all portions of our permanent population? I ask the hon. member if it is the policy of his party that a portion of the permanent population of South Africa should not be uplifted, that we should adopt a policy of repression towards a portion of the population. If the hon. member says that that is not his policy, then I ask him what objection he has to the clause in the agreement where we speak of the upliftment of the Indians who are permanently established in South Africa.

The Rev. S. W. Naude: who said that?

†Mr. Blackwell: This is the hon. member for Piquetberg (Dr. Malan). He went on to say—

A policy of repression would not only be heartless, but also short-sighted.

Mr. Werth: Who wants a policy of repression?

†Mr. Blackwell: When the hon. member for Piquetberg makes the third reading speech he has said he will make, I extend to him an invitation to square, or to attempt to square....

Dr. Malan: I will do that.

†Mr. Blackwell: I extend to him an invitation to square, or to attempt to square the declarations of policy.

made by him as Minister of the Interior in 1927, with the policy pursued by his party of recent years, and the pressure they have brought to bear upon the Union Government from the platteland, which very largely has resulted in the production of the present Bill. I would invite him also to reconcile the proposed provisions of this Bill, if he can, with the uplift clause of the Cape Town Agreement. My hon. friend the member for Newcastle (Mr. Nel) was perfectly correct, and was perfectly honest about this matter. This did represent a definite departure in Asiatic policy. It represented as complete a change in our policy towards the Asiatic, as Mr. Chamberlain's recent policy in Europe represented a change as compared with the Munich Agreement. I ask the hon. member for Piquetberg why he has gone back on that policy, and what has happened to justify such a change of outlook. With those introductory words, which I am afraid have been very long, I will try to come to the present Bill. Even to deal with the present Bill one must go back to 1930. The Minister of the Interior, the same Minister we have been discussing all the afternoon in 1930 for the appointment of a select committee to deal with this question of Asiatic land ownership in the Transvaal. He said in effect, "This policy of drift which has been going on for so long cannot be allowed to go on any longer, and the matter must be once more examined by a select committee". As a result of that select committee this House passed an Act in 1932, which represented a new orientation of our policy in regard to Asiatic land ownership in the Transvaal. In that Act we said in effect that wherever there has been long continued ownership of land, or occupation of land, in the mining districts of the Transvaal by Asiatics we will condone that occupation, but in order to do so

there must be enquiry into the nature of that occupation, and a register must be prepared of persons in occupation, and we admitted that we cannot draw the line and prevent further encroachment without finding out what can be regarded as legitimate occupation up to the moment. Therefore, in 1932 we agreed to set up the Feetham Commission. That commission was to enquire into the actual conditions of occupation in the mining districts of the Transvaal, and to make representations, as to what areas or portions of areas should be allowed to remain in the permanent occupation of Asiatics. It was hoped that that commission would complete its work in two years. Sir, I have never forgiven the Feetham Commission for taking so long a time in conducting its enquiry, and presenting its report. It was not until the end of 1935 that the first portion of its report was presented, and in 1936 we had another select committee to sit on that report, and to deal with the recommendations in that report to the extent to which they required legislation. For the first time, sir, you had a select committee then which submitted a unanimous report on this question. The most important recommendation was that where the Feetham Commission had recommended the setting aside of certain blocks, that within those blocks full ownership should be given also in their own bazaars, and in certain coloured townships where by title coloured persons and Asiatics were allowed to own land. The statement I want to make in this House is that that committee had before it the Feetham report, it was aware of the recommendations of the Feetham report, and in endorsing the Bill of 1936 it gave its assent in principle to the Feetham report, and merely dotted the i's and crossed the t's of that report. One thing we did add, I

am reminded, was to say that the confirmatory resolutions in relation to any particular area or stand should come to this House, and be agreed to by this House. In the beginning of 1937 the matter was then ripe to come to this House. The consent of the municipality had been obtained, and everything was ripe for the resolutions confirmatory of the Feetham report to be introduced and passed by the House. Had action been taken in 1937, when opinion was virtually unanimous, there would have been no trouble whatever in getting these Feetham resolutions through the House, but because the matter has been allowed to drift from session to session, with each ensuing session the matter has become more difficult, until to-day the Minister has been compelled to confess partial or temporary defeat, and has asked us not to tackle the matter of the Feetham recommendations until 1941. But the endorsement of the Feetham resolutions would have been but the natural following-up of the action previously taken. I say, without fear of contradiction, that the Government of this country and the Parliament of this country, are committed up to the hilt to the acceptance of the Feetham resolutions.

**Mr. Rooth :** Oh !

†**Mr. Blackwell :** And of all the members of this House that are committed to the acceptance of the Feetham resolutions, the hon. member for Zoutpansberg (Mr. Rooth) is more committed than anybody else. He said with me in 1936 : "Let us do the generous thing to the Asiatics. Let us give the full right of ownership in these special cases."

**Mr. Rooth :** On a pint of personal explanation, sir, I said no such thing.

†**Mr. Blackwell :** I was not professing to quote the hon. gentleman's

ipsisissima verba, but by joining in the unanimous report of the Select Committee of 1936 and in giving his assent to the Bill of 1936, he did in effect give assent to the Feetham report, and the House of 1936, by passing that Bill, did give assent to the Feetham report.

**Mr. Rooth :** That is illogical.

†**Mr. Blackwell :** If anybody denies it, sir....

**The Minister of the Interior :** But the whole of the report was not published then.

†**Mr. Blackwell :** I am dealing with the portions of the report which relate to the Witwatersrand, and that had been published.

**The Minister of the Interior :** What do you mean by the Witwatersrand ?

†**Mr. Blackwell :** The whole objection to the Feetham report has arisen in regard to that portion of it which deals with central Johannesburg. That portion of the report was published in 1935, and was before the Select Committee of 1936, and before the House when it passed the Bill of 1936, and I say that if anyone doubts my statement that the House and the Government were committed to the acceptance of the Feetham report, let him read the speech of the Minister of the Interior in introducing that Bill in 1936, and it will be seen that he was introducing that Bill to implement the Feetham report. I won't deal with that controversial matter any more. The present Bill, sir, like ancient Gaul, is divided into three parts. The first part is the part which extends the period of protection to 1941. The original Bill was passed in 1932. In 1935 the Government had to come along for an extension to 1937, and in 1937 they had to come along and ask for an extension to

1939, and in 1939 we are asked for an extension to 1941. I ask the Minister of the Interior, what is the Government's policy with regard to the Feetham report? Is it the intention to scrap that report, to throw overboard the policy which we have followed since 1932, or is it the intention to carry out that report? If it is the intention to carry out that report, then we have all the information before us to enable us to pass the necessary resolutions this session. [Time extended.] If we are not going to pass these resolutions, then obviously the period must be extended, and we have no option but to vote for the second reading of the Bill, if only for the sake of section one of it, which extends that period. I now come to the second part of the Bill. That provides that in the meantime for two years no new licence shall be granted to Asiatics. I should like hon. members to realise what this section two means--

Whenever after the commencement of this Act and before the 1st day of May, 1941, any person applies for a certificate which in terms of any law must be granted before he is entitled to obtain the issue of a licence to carry on any business or trade in the province of the Transvaal....

He must prove that he is not an Asiatic. For the first time in all its stark crudity we propose to set down in the legislation of this country that if a person is an Asiatic that fact alone shall in a province of the Union debar him from obtaining a licence.

**Mr. Rooth :** It is only doing now what you wanted to do in 1919.

†**Mr. Blackwell :** That is a cheap interjection, and you have had the benefit of it already. I see that the hon. the Minister of Justice is here. He will remember a discussion which took place more than thirty years ago

between himself and Mr. Gandhi in relation to the immigration laws of this country. Mr. Gandhi then made it plain that the Eastern peoples have a complex and that they will not submit to legislation which is directly derogatory of their dignity. In regard to immigration in those days, Mr. Gandhi said to the Minister of Justice in effect, "You can keep us out of South Africa by your immigration laws if you wish to. We admit that you cannot submit to an unrestricted influx of Indians into South Africa, but we shall never submit to immigration laws which mention us as Asiatics, and keep us out as such." That resulted in an ingenious compromise by which no particular race is mentioned as such, but the authority is given to the Minister of the Interior in a deeming clause, to the effect that a class or race may be deemed to be unfit on economic grounds to come to this country, and the Minister of the Interior by that deeming clause can apply to the inhabitants of India, and no one has objected. To-day you are departing from that policy. You are saying that no person may get a licence in the Transvaal in the next few years if that person is an Asiatic. That is the head and fount of the offending of this Bill, as it appears in the eyes of the Asiatics in South Africa, and in the eyes of the Government of India. It is all so absolutely unnecessary. This clause two could be left out of the Bill, and the position would not be changed one inch. Under the present law there can be no new licences issued in the Transvaal unless the local authority or the Rural Licensing Board gives authority for the issue of a licence. You may assume, with the state of public opinion as it is in the Transvaal, that no such authority will be given for such a licence. If they do, it will be because they are convinced that there is an overwhelming

public demand for such a licence. In the 1932 Act moreover it was laid down that no person might obtain a licence if he is not entitled legally to occupy the premises in respect of which the licence is to be issued. If there is illegal occupation, there can be no licence issued. With these double safeguards I ask the Government what in heaven's name prompts them to put into this Bill a clause of this sort? It is unnecessary, and will do no good, and it opposes categorically the spirit of the Cape Town agreement. It will stir up infinite trouble for this country, both here and abroad. I now come to the third part of the Bill, *viz.*, the occupation portion. Here again I say that without any preliminary enquiry, and in the face of the facts themselves, that we are proposing to set down in black and white, that no Asiatic may occupy a property if he has not occupied it before this Bill came into operation. I say that ever since the Transvaal became a Republic nearly hundred years ago, save in the gold law areas, there has been no such legislation on the statute book. The Act of 1885 prohibited ownership, but not occupation. There has been no such Act prohibiting occupation, as distinct from ownership, on the statute book of the Transvaal. Although the Murray Commission has completed its sittings, and although the Government did not include in the terms of reference a mandate to enquire into the question of occupation, and although therefore there has been no enquiry, we propose to set down in black and white that there shall be no further occupation. A more unwise thing to do I cannot possibly conceive. There is another point. I should like to make. The hon. Minister of Justice will remember that under the Smuts-Gandhi agreement of 1914 certain protection was agreed to be given to vested interests of

traders on the Rand. Those special vested interests were confirmed by the Act of 1919, and I should like to recall to members the language of that Act, and the way that special protection was given. Section 1 of Act 37 of 1917 states that the provisions of the gold law which prohibits occupation by Asiatics shall not apply to any British Indian—

Who on the 1st day of May, 1919, was under the authority of a trading licence lawfully issued, carrying on business on proclaimed ground, or on any stand, or lot in such township, or to the lawful successor in title of any such Indian in respect of such business, or to any person bona fide in the employment of such a British Indian, or his successor in title, so long as such British Indian, or successor in title continues so to carry on business on the same ground or stand, or lot, on which, or on any other ground, or stand, or lot in the same townships in which it was being carried on on the 1st day of May, 1919.

Thus by statute a special protection clause for the Indian trader was created. He was entitled either himself or his successor so long as he remained in the same township to carry on his trade unrestricted. As I read this Bill, this protection is not to be continued. That must be an oversight on the part of the Minister, or on the part of the draftsman, because I am sure under this Bill he would not undo the effects of the Smuts-Gandhi agreement of 1914, or take away a protection which has lasted for twenty years. I have endeavoured at considerable length to give my reason why I am against this Bill. I believe that the Bill will be an evil Bill for South Africa. Its effects on the Indian community one can already see. We are playing into the hands of the

extremist element among the Indians in South Africa. I have read accounts of a meeting of 3,000 Indians that was held at Johannesburg at which some fiery language was used at the commencement and at the expense of the hon. member for Johannesburg (North) (Mr. Hofmeyr). He is now denounced as public enemy No. 1, the hon. member for Piquetberg (Dr. Malan) is public friend No. 1. But it has its serious side. The conveners of that meeting and the speakers were not members of the Transvaal Indian Congress, not the men we have hitherto looked upon as responsible leaders of Indian thought in this country. No, they are the extremist element amongst the Indians, and we are driving them back along the lines of a common non-European front. This movement, in my opinion, is fraught with very grave potentialities for this country. The second and third portions of this Bill will have the worst possible effect on the Indian community. May I say a word also about its effects overseas and in India? In 1926 when the force of Indian opinion was strong enough, shall I say, to compel my hon. friend the hon. member for Piquetberg to make the Cape Town agreement or to induce him to do it, the world of 1926 was a different world from the world we are living in to-day. It was a world of comparative peacefulness, over which the shadow of war did not hang. In 1926 the Government was wise enough and statesmanlike enough to make this Cape Town agreement, and to put into cold storage for at least ten years any segregation proposals it had contemplated before that agreement was made. This Bill is being introduced in 1939 when the world is living under the shadow of war, when it is necessary for all the component parts of the Empire to pull together and to have the same thought, and not to do things which may antagonise

each other. Yet it is this year-1939, in the world as we know it to-day, that we are choosing as the time to antagonise the people of India and to stir up all the trouble which this Bill will bring in its train. If I have any power or influence in this House, or if my word has any weight with the Minister, I would say let him scrap this Bill except clause 1 which gives protection up to 1941, and leave alone the mischievous provisions that we find in the second and third portions of the Bill.

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†\*Mr. Kentridge: Mr. Speaker, the hon. member for Zululand (Mr. Nicholls) today, followed by the hon. member for Illovo (Mr. Marwick), has introduced irrelevant matter into this discussion by dealing with the Asiatic question in Natal. It is always pleasant to listen to the hon. member for Zululand, but, as I followed him this afternoon, he was rather plausible, and in some respects not quite in accord with facts, quite unconsciously, of course. Towards the end of his speech he had to admit that if premises upon which he based his whole argument, namely that the Cape Town agreement had been broken by the Government of India was not so, then his case fell away. Secondly, I think he will admit that one of the implications of his remarks was that the Indian question, from the point of view of population, was becoming much more acute. I find that in the very report of the committee to which the hon. member referred, the Indian Colonisation Enquiry Committee, on page 39, the figures with regard to repatriated Indians are given, and it appears that from the year 1922 to the year 1932 23,065 Indians were repatriated, 15,499 being adults and 7,566 being children. In that same report we find, on page 48, that

from the years 1922 to 1932 the birth-rate was reduced from 50·96 in 1922 to 42·82 in 1932, while the death-rate increased from 12·988 in 1922 to 20·45 in 1932. I submit that those figures, showing a decrease in the birth-rate and an increase in the death-rate, indicate that the point upon which the hon. member laid so much stress does not bear examination. Unless the hon. member for Zululand assumes that we have to get rid of the Asiatic population by killing them off it must be expected that a natural increase will continue, but it must be remembered that the European population in Natal has increased to a greater extent than the Indian population.

**Mr. Acutt :** No.

†**Mr. Kentridge :** My friend should read the official figures. I have here the official Year Book for 1938.

**An Hon. Member :** It is very unreliable.

†**Mr. Kentridge :** On page 1039 the population of Natal will be found. It will be seen that in 1921 the European population of Natal totalled 136,838 and the Asiatic population 141,649, whereas in 1936 the European population had increased to 190,549 and the Asiatic population totalled 183,661. That makes it quite clear that my statement was correct, that the official figures show that the European population in Natal has actually increased to a greater extent than the Indian population.

**An Hon. Member :** Immigration.

†**Mr. Kentridge :** But there has been no immigration. These arguments are based on panic, on the fear that the European population is being swamped by the Asiatic population, which the figures do not justify. Sir, if we wish to get rid of this panic and get rid of

the disparity in number between the European and non-European population we should encourage immigration from Holland and Britain and other countries to increase the numbers of the European population in relation to the Asiatic and native population. But now, sir, I want to deal with the Bill itself rather than with arguments which are irrelevant so far as the measure is concerned. The Bill before the House has nothing to do with Natal or the Free State, but it deals with the Transvaal. I want to say at once in connection with the Bill before the House that I very much regret that the hon. the Minister has seen fit to attach to clause 1, which is urgent and essential, a series of irrelevant, unnecessary and undesirable clauses which have nothing whatever to do with the main object of the Bill before the House. The main object of the Bill before the House, as I take it, was to see that the Act of 1932, legislation which gave protection to the Indian population on proclaimed areas on the Witwatersrand, shall not be vitiated. In 1932 the hon. member for Piquetberg (Dr. Malan), when he was Minister of the Interior, introduced the Bill and stated that when he started dealing with the matter his idea was to take the Indians away from the proclaimed area in the Witwatersrand, and to place them on some other area. Then he said he came to the conclusion that it would be better and more reasonable to allow those people to remain there, and to legalise that position and to ascertain what the actual acts were, in order to enable him to carry out that policy. He stated that it would be impossible for him to make the investigation in connection with every individual case, and therefore he appointed the Feetham commission to make that investigation, and that commission was merely a fact-

finding commission, and the report was accepted by the Minister and by the House of Assembly. I rather regret the attempts that have been made to quote that action on the part of the hon. member for Piquetberg against him. In my view the attitude of the hon. member for Piquetberg in 1932, when he was able to override panic and prejudice by broad-mindedness and a sense of responsibility, and the policy for which the hon. member was responsible as Minister of the Interior, was an attitude that in my view is not to the discredit of the hon. member, but is something which, when history comes to be written, will be regarded as a most creditable episode in his career. I think it is right that that should be said when efforts are being made to make party capital out of the attitude taken up by the hon. member. This matter should be taken out of party politics, and dealt with in a responsible and broad-minded way, as was done in 1932. That Bill was passed in 1932, and a commission was appointed and that commission went meticulously into these cases to such an extent, that it was impossible to deal with the matter in the time specified, with the result that in 1936 a Bill was introduced which, amongst other matters, extended the period of protection pending the matter being dealt with. In 1937 a similar protection was extended, and the Minister of the Interior (Mr. Stuttaford) in introducing the Feetham resolutions in 1938, explaining the 1932 Act, said: "The idea was to make a complete survey in detail of all cases of illegal occupation, to legalise that, and thereafter to make it permanently impossible for any further extension of the trouble to take place." Sir, I have given the Ministers recollection and conception of what took place in 1932, but unfortunately the resolutions were introduced by the Minister late in the

session, and for one reason or other the Minister was unable to deal with them. To-day he comes to this House with a measure in which he asks for an extension of another two years. I take it that I am not exaggerating when I say that I take clause 1 of the Bill to mean that the Minister intends to give effect to the Feetham report, and that today he is asking for another period in which to give effect to it. Now, having done that, which perhaps is not a very courageous thing but the right thing, rather than let the thing be killed, he asks for an extension for two years. He deals essentially with the question of the proclaimed areas on the Witwatersrand and he suddenly comes along and adds a number of other clauses that have nothing to do with the proclaimed areas on the Witwatersrand. He adds clauses which he says are interim measures to prevent the present position from being altered in any way in those areas outside the Witwatersrand. According to figures quoted by the hon. member for Fordsburg (Mr. Schoeman) he showed that the European population in Burgersdorp is practically nil, only 0·8 per cent. and because of that he objects to the Feetham report being given effect to. The whole tendency from the economic point of view is for the population to shift from one district to another. The hon. member for Cape Eastern referred to that the other day. To a great extent this idea of separation comes very largely from economic circumstances and economic consequences under which as people rise in the scale economically, they desire to get away from those below them regardless of whether they are English, and they are getting away from Englishmen, or Afrikaners getting away from Afrikaners, or Jews getting away from Jews. That is the history of every place. To give an illustration. In my own constituency, Troyeville was

essentially an English-speaking district, and some years ago was largely populated by the smaller middle class and the smaller section of the civil service. Today they have shifted out and it is now a district of the working classes, and those in a slightly better economic position have cleared away. Doornfontein was largely a district populated by Jewish people. When I had the honour of being elected to represent Doornfontein, its population was largely Jewish. It still is so but I do not think there is a single voter, certainly very few, in Doornfontein today who were voters in 1924 when I won my seat. They have shifted to the Berea and to Yeoville and to other places, and a poorer section of the Jewish population have come in and that is the case everywhere. It is an economic question. We should be doing more good if we tried to improve the lot of the working class by raising their standard of wages and their standard of life to enable them to shift of their own accord, regardless of their position. If you were to shift every Indian from Burgersdorp you would still leave the European population there in a hopeless position. Now, sir, I come to the other resolutions, and I say they are unnecessary and undesirable. I say they are unnecessary, because, in reality, in spite of general statements that have been made, the figures that we have at the present moment reflect that there has been no change in the position outside of the proclaimed areas on the Witwatersrand. I have here the report of the Murray Commission, and I take just briefly a number of facts, not arising out of the question of segregation or separation, but a number of facts which the Murray Commission found. At page 20, paragraph 58, they give the figures of the Asiatic population in the Transvaal. The Asiatic population of 1936 is given as

25,561, an increase of some 9,000 odd between 1921 and 1936. The European population for the same period has increased from 543,000 to 820,000. Now, sir, the interesting feature there is that the bulk of these Asiatics are to be found on the Witwatersrand which is the part to be dealt with under section 1. In the same report, at page 55, you have the total population, town by town, in the country districts of the Transvaal. It is very interesting to note that from 1921 to 1936 the total increase of Asiatics in the small towns in the Transvaal was 1,747, which is by no means a position justifying a panic, and in the rural areas the total increase was 808 for the same period. In the light of that statement, for the Minister to come along and say that because of that position he must really interfere with clause 1 by adding to it other clauses which have nothing to do with it, I think is unreasonable and unwise. Then there is the question of licences. What are the facts in the Transvaal as regards licences? In the first place, the power to issue licences under the present law is vested in the local authorities, and in the local authorities of the rural areas also. It is wrong for the Minister, having given powers to those public bodies to deal with these matters—it is wrong unless he is in a position to say that they have misused the power—I submit it is wrong to interfere with the local authorities and to take away the power vested in them. The question of licences I find is dealt with on page 22 of the report, paragraph 60. There they give a list of licences. There again the Government licences for 1932 were 711, in 1936 it went up to 760 and in 1938 it was reduced to 748. Government licences, including hawkers and traders, have increased from 1932 to 1938 from 493 to 602. These figures are for Johannesburg and Pretoria. In so far

as the rural areas are concerned the commission states—

In the country towns visited by the commission the evidence given did not disclose any increase in the number of Asiatic trading licences disproportionate to the total number of the population.

I would ask the Minister in all seriousness, what has occasioned an alteration in connection with this matter? If there was no urgency in 1932, if there was no urgency in 1936, no urgency in 1937, and obviously there was no urgency in 1938 when the Minister introduced these resolutions, what has occasioned the urgency between the end of 1938 and the present date to make him introduce clauses of this kind? I say that it can only be due to political panic as a result of the agitation that is going on in different parts of the country for political purposes.

**An Hon. Member :** You should vote against the Bill.

†**Mr. Kentridge ;** I am not going to vote against the Bill because otherwise those who have had protection up to the present will be left without any protection whatever. What has occasioned this, unless it be political pressure? With all due respect to hon. members of this House, that unfortunately is a factor which is frequently taken into consideration. The hon. member for Piquetberg (Dr. Malan) was honest in connection with the matter in 1932 when he was being assailed by the then hon. member for Ermelo, and he told us that there had been competition in promises, and he said he would try to take the whole matter out of the political arena and deal with it from a broad point of view. He did that to his credit, and I appeal to the Minister to take a leaf out of the book of the

hon. member for Piquetberg and have the same disregard of the possible political consequences in the next few months and leave these clauses out so that you can afterwards deal with the general question on a broad basis without prejudice. I say that I am as strong as anyone in this House against promiscuous mixing. Under the economic conditions as they exist, I accept the fact that there is to be a certain amount of social separation, but I say that being the case, there is a vital difference between social separation by consent, by agreement, by consultation and co-operation, and social separation brought about by compulsory legislation which has in it the sting of undesirability and the stigma of inferiority. At this late hour I suggest to the Minister that he should consider the desirability of deleting the clauses from the Bill.

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\* \* \* \* \*

†**The Minister of the Interior :**  
Er. Speaker, this debate must have somewhat reminded you of that celebrated rugby football match between two very rough Welsh teams. One member punted the ball out of the ground into a pond, and they failed to find the ball, and another member solved the difficulty by saying, "Well, don't let us worry about the ball; let's get on with the game". So they returned to the field and continued the fight. The hon. member for Piquetberg (Dr. Malan) tried to do the same thing with his amendment, tried to punt my Bill out of the House, and all those behind him during a two days' debate have not dealt with the Bill at all. They have simply used this debate for their own political fight, and, therefore, very largely I am not interested. The hon. member for Piquetberg, in speaking this amendment,

complained about continuous delays, and a policy of vacillation. I should like to know, Mr. Speaker, who set the example of vacillation. The hon. member had eight years in which to do this job, and he wobbled, and wobbled, and wobbled until he eventually wobbled out of office. Why did the hon. member not bring in the legislation, which he now suggests, during those eight years which he had at his disposal?

Mr. Warren : He will tell you that.

†The Minister of the Interior : When ?

Mr. Warren : During the third reading.

†The Minister of the Interior : Somebody says that he is going to tell me. I will tell the hon. gentleman who interjected why the hon. member for Piquetberg did not introduce legislation during those eight years. It was because when he was in office, and had some responsibility he followed the policy of which the hon. the Minister of Lands reminded him yesterday, a policy of responsibility, and a policy which would lead to appeasement and not to trouble in this land. The hon. member by his amendment now wants us to solve the question of coloured and Indian separation. Sir, I will be perfectly clear to the hon. gentleman so that he can make no mistake. We are going to deal with that matter at our time, and in our own manner, and I believe that it can be done without the friction and trouble which the hon. gentleman, and those hon. members behind him would like to see ensue from such action. Now the hon. member complained of my rights under clause 4. Nobody who is fair-minded can object to them. No man who has any sense of justice can object, provided the spirit of this Act is not broken

in any way, that it be carried out with the least harm and trouble to the people who have to suffer owing to the necessity of bringing in this Bill. The hon. member does not complain of my rights under clause 2 subsection (2), where I have the opposite rights, and that is to deal with the Indians if they try to break the spirit of the law. He is perfectly prepared for me to use a sledge-hammer in that direction, but he is not prepared for me to use a sledge-hammer in a direction where he does not wish action taken. So much for what the hon. the Leader of the Opposition said. As I have remarked, the bulk of his speech dealt with subjects which had no tittle of bearing on the Bill. I should like to say a word regarding the speech of the hon. member for Fordsburg (Mr. B. J. Schoeman). In the first place he gave the House a very clear and concise history of this most intricate question, and I am grateful to him for having done so. Possibly I ought to have done so myself in introducing the Bill. It would have been in accordance with parliamentary usage if I had followed in the steps of my two predecessors, and given a history of this controversy, but it is so intricate, that I felt it would take hours to explain all the incidents of this controversy. Another reason perhaps is that I am temperamentally unfitted to do it. I have been brought up in a school which follows the old Arab advice : first think, then act, and then, if you must, speak, but make it as short as possible. However, I thank the hon. member for having given that knowledge to members of the House who have not followed this controversy. The hon. member made a very important point that, as regards the Feetham Commission's resolutions, the areas exempted were not adequate for Indian residential occupation. There is a great deal of force in that

suggestion. Personally, I am one of those people who believe that it was unwise in the past to prohibit ownership of land to Asiatics, provided they were allowed to own land in areas set apart for their habitation. I think it is a much sounder principle to allow them to own land in such areas, and that it would not have tempted them, as they have been tempted, to break the spirit of our laws, which prevent them from acquiring ownership of land. In any future arrangements that we come to, I should very much like, if I had the co-operation of the Indians, to deal with that question of residential rights and ownership on the lines which I suggest. The hon. member wants to know whether I will see that the 1932 Act is carried into effect. I should like some more details with regard to that from the hon. gentleman. I don't propose to start another racket, but if the hon. gentleman can point out to me in what way my department is dilatory in seeing that the laws of this country are carried out, I shall be prepared to consider it. As regards this Act, if the hon. gentleman reads the Act, he will see that there are sanctions under section 3 (3) which mean that if anyone calls the attention of the police to an infringement of the Act, the police, or the law authority, must proceed to deal with that infringement. I think the hon. gentleman can be satisfied that this Act will be carried into effect. Now, sir, I should like to say a few words with regard to the speech of the hon. member for Johannesburg (North) (Mr. Hofmeyr). He presented the case for the Indians with all the great oratorical force which he commands. It could not have been put better ; if it was meant to convince anybody who was willing to be convinced, it would have convinced them. My trouble is that the hon. member for Piquetberg only sees this question from

the point of view of a rather narrow-minded section of the Europeans, not of the whole of the Europeans, but of a narrow racialistic section. The hon. member for Johannesburg (North), on the other hand, only sees the question from the Indian point of view. I have the much less spectacular duty of holding the scales between these two opposing factions, and of seeing that the Europeans are treated fairly, and that the Indians are treated fairly. I should like to clear up one point which has been brought forward by the hon. member for Johannesburg (North), and by the hon. member for Capetown (Castle) (Mr. Alexander) and others, and that is that the Murray Commission did not report that there had been penetration by Indians. Well, sir, the terms of reference, as the hon. member pointed out, did not include an enquiry into penetration and segregation. The terms of the reference were that they should enquire into the question as to whether with regard to ownership the Asiatics have broken the spirit or the letter of the law. The reasons why they did not enquire into the penetration were fourfold. In the first place, the Indians themselves urged me not to do so ; prayed me. The hon. member for Johannesburg (North) knows that right up to the very time that the terms of reference were published I was being urged on one side to include this question of penetration, and on the other side not to do so. I agreed to accept the view of the Indians for other reasons too. The second reason that I had was that I did not wish to complicate the main issue, which was to decide whether in the matter of ownership in the Transvaal they had broken the spirit or letter of the law. The third reason was that if I had included that, it would have meant a Union-wide investigation, which would have taken months, and

months, and months, and we should not have had the report for another twelve months, and we should not have been able to get on with anything, and, as I say, it would have prevented our getting promptly the answer to our question, which has been answered in the Murray report, and that is that by the use of a certain method through the Companies Law there is no doubt that certain sections of Indians have largely evaded the law against Indian ownership of land in the Transvaal. Now, Mr. Speaker, the very Indians who asked me not to deal with the question of segregation and penetration are now using that as an argument that there has been no proof of it. They have turned round on me for doing the very thing that they asked me to do, and are now raising strong objections. Of course there is no proof of penetration in the Murray Commission report. They were not asked to deal with the matter, and the whole of the Indian case in that regard is based on some irrelevant statements of certain witnesses which were not subjected to any criticism.

**Dr. Malan :** How do you know that there has been penetration ?

†**The Minister of the Interior :** I did not say there had been. I said there has been no enquiry.

**Dr. Malan :** Oh, I see, no statistics.

†**The Minister of the Interior :** Now I want to say another word with regard to the hon. member's wish that I should co-operate, and show some real spirit of co-operation. I can only say that if one is to co-operate, one must have someone to co-operate with. You cannot co-operate by yourself, and I have for five solid months tried to get co-operation. I have been interviewed by dozens of people, and I am not talking only of Indians. I have

been interviewed by dozens of Europeans as well as Indians, and the only thing I have asked is, "Give me some help; tell me what I can do; suggest something." The only thing they are prepared to do is to turn everything down every time and say, "We don't agree with you." I will give you some idea, sir, of my hopes for co-operation. On the 30th April I got a wire from the leader of the Nationalist Group of the Transvaal Indian Congress, in which he said that they protested against the legislation, and that they hoped to be spared the painful duty of resisting it by all means at their disposal, to defend the honour and interests of their community. That did not look much like co-operation. This section of the people made up their minds that they were going to resist our legislation by all the means at their disposal. We know what that means. We have seen the way they resisted the obligation under the law not to own property in the Transvaal. I should also like to refer to the next telegram I received. I had a request last Monday week to receive a deputation before the second reading. I wired back to say that I could not postpone the second reading, but I would receive a deputation on Thursday. I have plenty of work to do just at the moment, and it was not very easy for me to devote what would have been at least a whole morning to receiving these gentlemen. However, I thought it was only fair to give them an opportunity of stating their case. They wired back accepting the appointment. Before they came down they again approached me and asked me to make it Monday instead of Thursday and again I said "yes". I thought I had done a good deal in my attempts at co-operation. But what happened? They having arranged two days—I have forgotten what day the last occasion was—but I think it must have

been on Monday, they sent a wire to say that in all the circumstances they were not coming to see me at all, because I was going to take the second reading before consulting them. I told them, in the first instance, that I was going to take the second reading before consulting them. Time after time I tried to get them to co-operate and every time they got out of it. What do we find now? These same people that I am asked to co-operate with, and I urgently want them to co-operate with me, sent a wire yesterday saying that they are now going to enlist volunteers to make all representations and arrangements necessary for the successful carrying on of the struggle to its final end. That is passive resistance.

**Mr. Hofmeyr :** Are these the same people who asked for the deputation ?

†**The Minister of the Interior :** It is from the leader of the Passive Resistance Council. The man who started off this thing is a man called Dado, who is going to resist in all possible ways the carrying out of this Bill of mine. He is the leader of the Nationalist Group of the Transvaal Indian Congress. I want to make it perfectly clear that I myself do not believe that this class represents the real Indians. It represents a noisy crowd of people who are the people who make all the trouble, and prevent, if they possibly can, any co-operation with me. Then the hon. member asked me to give some gesture to the Indian community. If any man gave a gesture to the Indian community, it was the hon. member for Johannesburg (North) (Mr. Hofmeyr) when he spoke on the second reading of the Bill. If any man gave a gesture to them of his wish to help them and do all he could for them, it was the hon. member for Johannesburg (North), and no man

has done so much for them as that hon. member. But they now pass resolutions.

**Mr. Warren :** They do not know where he is.

†**The Minister of the Interior :** They pass resolutions that he is public enemy No. 1. The hon. member has supplanted me, and I am rather jealous of it. He is now public enemy No. 1.

**Mr. Warren :** Is that because he has so much gas ?

†**The Minister of the Interior :** He suggests that I should make a gesture. What is he going to do? Is he going to turn the other cheek? If so, I would remind him of an old couplet—

Wisdom has taught us to be calm  
and meek,

To take one blow and turn the  
other cheek.

It is not written what a man shall  
do,

If the rude Caitiff smite the other  
too.

I suggest I am willing to consider any gesture which will help us to solve this impenetrable tangle. I shall always be willing, but I must also have some sign of willingness from the other side. Then the hon. gentleman said that there was no necessity to curtail the new trading rights. I ask the hon. member, when I am in possession of a telegram from at any rate one portion of the National Congress, saying that they are going to queer this Bill by all the means they can, am I not right to take powers to put up a fight ?

**Mr. Warren :** Did you not take any powers before you got the telegram ?

†**The Minister of the Interior :** I have no wish to humiliate the Indians. No one with any sense wants to humiliate anybody, particularly another race

who, it is quite true, have very little political say in this country. I agree with what all the hon. gentleman says about the cultural attainments of a great many Indians, but do not run away with the idea because there have been great thinkers and men of high intellectual attainments in India, that every Indian in this country is the same. The bulk of the Indians who came into this country were recruited from the depressed class of Indians, who are not received with much enthusiasm by the high-class Indians.

**Mr. Blackwell :** That is not the case in the Transvaal.

**†The Minister of the Interior :**

The hon. member goes on and suggests that I should not become ghetto-minded. I hope I shall not. But I do say this, that unless we people are reasonable enough to come to some arrangement to solve our difficulties, then a great many more people will become ghetto-minded in this country than there are to-day. Now the hon. gentleman will continuously talk about segregation. He talks about segregation, and every hon. member fighting on the other side, talks about segregation, thereby meaning forced segregation. That is what they mean. They mean taking a man by the scruff of the neck and putting him into a location. Nothing is further from my idea than that. I think I can best explain by referring to the hon. member's own language, and saying that it is the difference between " afskeiding " and " segregasie." I will take the question of the gentleman's agreement, which was an example of the attempt of the hon. member for Johannesburg (North) to solve the problem of residential penetration in Natal. I think that was the reason. To a certain extent it worked. It is quite true that very soon after I took office, I had

a deputation from the Pietermaritzburg Council saying that it did not work, but so far as I can gather, the reason for that was owing to some domestic differences between the various parts of the Indian congress in Natal. That, for a certain time, suspended action, and some cases occurred which were not dealt with. There was one weakness, and there is still to-day a weakness in existence, and that is the terms of the agreement. If anybody refers any case to the Indian congress of penetration, they will enquire into it and see that the matter is put right. The difficulty is that everybody does not know these arrangements going on. I have numerous cases, not which I have taken simply from people who put them in front of me, but I have enquired into these cases myself, and they have been enquired into by independent people, who agree that in one year quite a number of cases of penetration have been established. That shows the weakness of this gentleman's agreement. So far as I am concerned, I very much prefer to see something put down on the Statute Book, and then I know where I am, and the whole of the Union also will know where they are. Then the hon. member suggests that under clause 4, where I have very wide powers of exemption—it is the clause to which the hon. member for Piquetberg (Dr. Malan) also drew attention—that I should give those powers under clause 4 to a board. If the hon. member will draft some amendment which will be reasonably effective, I am prepared to consider it. I rather feel that if you submit those powers to a board you will have also to submit very elaborate instructions to the board, because largely it is a case of individuals that you can honestly say are not trying to evade the law, and that is a very hard case. Of course, though I shall act, I shall not do so without

referring to my department that deals with these matters, and which investigates these cases. Personally, so far as the board is concerned, I should love to get away from the responsibility. I will next refer to the hon. member for Cape Eastern (Mrs. Ballinger). Her speech was only interesting from one point of view. That is, that when you have two professorial persons having been given exactly the same facts on which to frame a decision, they come to diametrically opposite conclusions. The hon. member for Cape Eastern does not agree with the hon. member for Johannesburg (North). Personally I think the hon. member for Johannesburg (North) is right. That is typically the professional type of mind. The hon. member for Durban (Umlazi) (Mr. Goldberg) made a speech strongly against the Bill. Well, Mr. Speaker, if I as an old man can give some advice to a young hon. member of this House, it is that he should vote against the amendment of the hon. member for Piquetberg, and then vote against the Bill. That is the solution of his troubles. I wish to thank the hon. member for Zoutpansberg (Mr. Rooth) for having very largely answered the hon. member for Johannesburg (North). I will now deal with the speech of the hon. member for Kensington (Mr. Blackwell). His speech was largely carried on as a side debate with the hon. member for Zululand (Mr. Nicholls), who maintained that the 1932 agreement had been broken by the subsequent action of the Indian Government, and, therefore, we were no longer bound by it. Well, it is a very interesting question, but I do not think that it is germane to this Bill. I am sorry that the hon. member for Kensington spent so much time in dealing with it. It is a very interesting question, and it is a question which will have to be considered at some

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future time. The hon. member has very little objection to my clause 2, provided I do not use the word "Asiatic." That has been the curse of our legislation for generations, that we do all kinds of things, as the hon. member for Piquetberg knows, under clause 4 (1) (a) of the Immigration Act, but without mentioning Asiatics. We call them prohibited immigrants, and the hon. member for Johannesburg (North) has done the same, and I have done exactly the same. What I say is this, is it not just as well if we mean Asiatics to say Asiatics? The hon. member then brought up the case of those Asiatics with 1919 rights.

**Mr. Blackwell :** Yes.

†**The Minister of the Interior :** Under the 1919 rights the Asiatics who were at that time in illegal occupation had their occupation condoned, and they had the right, amongst other things, of moving a business from one place to another in the same municipality.

**Mr. Blackwell :** No, in the same township.

†**The Minister of the Interior :** Now under this Bill I am preventing Asiatics, unless they get exemption under the permissive clause in the Transvaal, from moving their business from one place to another. They have had that right since 1885, and they ask me to exempt people who have only had the right from 1919, and not to exempt the people who have the right ever since they have been in the country.

**An Hon. Member :** They had special rights given to them by statute.

†**The Minister of the Interior :** These people had the right all the time. It would be unjust to the other Indians in the Transvaal if I penalise them

and did not in any way penalise the people who have only had the rights since 1919.

**An Hon. Member :** You are deliberately going back on the Smuts-Gandhi agreement.

†**The Minister of the Interior :** I say it would be entirely unfair, and if there is any hardship which is not necessary, I say that a man should be able to move his shop from this door to the next door, and it does not break the spirit of this law, and I have the power of granting him that right. The hon. member for South Coast (Mr. Neate) wants me to extend this to Natal. It is only a temporary measure, and I want hon. members from Natal to appreciate the fact that their case was too complicated to deal with, and the whole case in Natal will come into the picture when we are dealing with the general main legislation. The hon. member for Klip River (Mr. Friend) asked me to state that the policy in this Bill in clauses 2 and 3 should be the policy which would be followed in the main legislation. The hon. member for Kensington asked me that the policy in clause 1 of this Bill should also be carried out in any new legislation. I want to make it perfectly clear that this Bill does not prejudge any of the issues in any way. I shall not be bound by anything I have not said in my second reading speech, which gives the House a fairly clear idea of what I consider the problem is.

**Mr. Warren :** That is the problem I want you to solve.

†**The Minister of the Interior :** If the hon. member has any ideas of a solution, perhaps he will give me some suggestions.

**Mr. Warren :** Yes, I can.

†**The Minister of the Interior :** All right, get on with it. The hon.

member for Klip River brought up another important matter, viz., the question of trading. I agree that in our solution we shall have to deal in some way fairly with the question of trading, but it will have to be dealt with from a very fair standpoint. The hon. member for Troyeville (Mr. Kentridge), the hon. member for Cape Western (Mr. Molteno), and many other hon. members upbraided me for not having carried out the Feetham resolutions at last session. Well, none of those heroes were here when the fight was on, or if they were here, they hid behind their desks. The hon. member for Cape Western frankly says in his case it was purely a case of being ignorant of the procedure of the House. I accept that. But surely the hon. member for Troyeville has been long enough in the House to know the procedure.

**Mr. Kentridge :** But you accepted the adjournment.

†**The Minister of the Interior :** The hon. member's speech indicated that he never had a chance of firing off a gun. I think that I have dealt with all the matters connected with the second-reading debate. I want to emphasise that this Bill does not prejudge any portion of the controversy. I do want to appeal also not only to the Indians, but also to the Europeans, for goodness sake let us try and be reasonable and keep calm, and arrive at a sensible and fair solution, which will be fair to both sides. I believe it can be done, but it can only be done with goodwill. So far as goodwill is concerned, I say in reply to the hon. member for Johannesburg (North), that I have got ample goodwill towards the real, sound, solid Indians, and I will do what I can to help them to find a fair solution.

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ASIATICS (TRANSVAAL LAND  
AND TRADING) BILL.

First Order read: House to go into  
Committee on the Asiatics (Trans-  
vaal Land and Trading) Bill.

\* \* \* \* \*

HOUSE IN COMMITTEE :

\* \* \* \* \*

†Mr. Blackwell \* \* \*

\* \* \*

We were told that this clause is a pegging clause, and I understood by that that there were to be no new Asiatic businesses opened. Now it seems that the Minister will not allow an existing business to be transferred, or to have its personnel changed, or even to move from one township to another. I don't think the Minister will venture to differ from me that that goes very much beyond pegging, and that you are laying on existing businesses a quite unnecessary hardship. It is no answer to say that exemption will be granted by the Minister. I say that that is going beyond the scope of the Bill as introduced at the second reading. I intend moving that in line 14, before the word "licence" the word "new" be inserted, to make it perfectly plain that these pegging provisions apply only to new licences. I am sure that the Minister of the Interior has only the intention to peg the existing position, and to prevent the coming into existence of new businesses in the period for which the Bill is to operate. It is obvious that the section as drafted does not square with the intention of the section as described in the side note. The courts will be guided, of course, by what the section says, and not by what the side note says. The section as now drafted goes beyond that intention, and in a perfectly unwarrantable manner prevents the

ordinary circulation of business. It prevents an Indian taking a new partner, or a new manager, or moving to better premises. In fact, it completely clogs and stultifies his ordinary freedom of commercial action. I am totally opposed to clause 2 for reasons which I have given in my second reading speech, and which I will give at a later stage if I may, but I do wish now to point out that the clause as drafted will inflict an intolerable hardship on the existing Indian businesses. I move, sir—

In line 14, before "licence" to insert "new".

†Mr. B. J. Schoeman : I cannot support the amendment proposed by the hon. member for Kensington (Mr. Blackwell). I think the whole object of this clause is to prevent further penetration. If you insert the word "new" it means that any Asiatic, who has an existing licence will be permitted to move his place of business to another place.

Mr. Blackwell : Read it.

†Mr. B. J. Schoeman : I am going to move a further amendment to this clause. I move—

That the following be new sub-sections to follow sub-section (2) :

- (3) Any licence issued in pursuance of any certificate referred to in paragraph (a) of sub-section (1) granted after the commencement of this Act shall be void, if at any time before the first day of May, 1941, the person in actual control of the business or trade licensed is an Asiatic.
- (4) For the purposes of this section a licence shall be deemed to be held by an

Asiatic if it is held on behalf of or for the benefit of an Asiatic.

As this clause stands at present it deals with two different aspects of the problem. First it deals with the granting of certificates after the commencement of this Act, and, secondly, with certificates granted after the 30th day of April, but before the commencement of this Act. In regard to sub-section (2) it is laid down that unless the Minister has within one month after the commencement of this Act approved in writing of the grant of any certificate referred to in sub-section (1) granted after the 30th day of April, 1939, and before the commencement of this Act, any licence issued before or after the said commencement in pursuance of that certificate, shall be void, if the holder of the licence is an Asiatic. It means therefore that if a European has obtained a licence before the commencement of this Act, he shall not be permitted to let or hire that business before 1941 to an Asiatic. In regard to licences under sub-section (1) there is however no provision made, and the first part of my amendment is designed to cover that. As this sub-section reads at present it means that the applicant must prove that he is not an Asiatic, but having submitted the necessary proof, and having obtained the certificate and the licence there is nothing to prevent him from immediately letting or hiring his business to an Asiatic. As I have said, sir, my amendment will cover that. With regard to sub-section (4) of my amendment, it is designed to prevent European nominees from obtaining certificates and licences on behalf of Asiatics. We have had evasions in the past in that manner. Under my amendment no European nominee will

be able to obtain a certificate on behalf of an Asiatic.

†**Mr. Hofmeyr**: If I understand the position correctly the amendment which has been moved by the hon. member for Fordsburg goes very far indeed, and if my interpretation is correct then I hope the Minister will not accept the amendment. It seems to me that the effect of the amendment, so far as the new sub-section (3) is concerned, will take away the effect of section 4 of this Bill. Under section 4 of the Bill the Minister may issue a permit authorising the issue of a certificate and that may be done to an Asiatic. Now the hon. member says that if any licence is issued in terms of a certificate which is referred to in paragraph (a), whether it is issued on the basis of a permit of the Minister or not, it shall be void if the business is under the control of an Asiatic. If the Minister in the exercise of his discretion chooses to authorise that an Asiatic shall get a certificate, then the amendment simply makes that void and of no effect, so long as an Asiatic is in actual control of a business. I am sure that the Minister does not intend that to be the position and I hope he will not accept the amendment.

**The Minister of the Interior**: Will you suggest any words that you want added to the section?

†**Mr. Hofmeyr**: I think it is up to the hon. member who moved the amendment to make his amendment watertight, or it is for the Minister to say, if it is put forward, that he cannot accept it. This is not the Minister's amendment and it is not for me to try and move amendments to an amendment which the Minister has not moved. Generally, so far as the section is concerned. I repeat what I

have said before, that I have been prepared to accept the latter part of the Bill, including sections 2 and 3 in order to provide the Minister with breathing space to deal with the solution of the problem as a whole, and on the understanding that reasonable use will be made of his powers of exemption under section 4 in the spirit of the round-table agreement by which we are still bound. When I said that, I was not aware of the far-reaching nature of this clause as now revealed. I would point out in the first place that this clause goes very far beyond pegging down the present position. The hon. member for Kensington is perfectly correct in making that statement. This is because of the fact that the Licence Control Ordinance of the Transvaal requires the issue of a certificate and therefore brings within the scope of this clause cases also where there has been a change in the personnel or ownership or management of a business, or in a partnership in a firm, or in the style or nature of a partnership under which the business is carried out—if such changes are made impossible then we are going a long way beyond pegging down the present position. The hon. member for Kensington has said in order to meet that, that he would put in the word "new" before the word "licence". I have very grave doubts whether that is very satisfactory because there is no definition of what a new licence is and I think it will have to be more explicit. I should like to meet that particular point by moving a different amendment as follows—

To insert at the commencement of the clause "subject to the provisions of sub-section (3) of this section"; in line 32, before "unless" to insert "subject to the provisions of sub-section (3) of this section";

and that the following be a new sub-section to follow sub-section (2):

- (3) Nothing in sub-sections (1) and (2) shall be deemed to apply in respect of certificates required to be granted where—
- (a) there has been a change in the personnel of the ownership or management of the business, or in the membership of the firm or partnership, or in the style or name under which the business is carried on, unless the change referred to is in the nature of the substitution of an Asiatic for a European; or
- (b) there has been a change in the nature of the business.

I have not had much time to consider this but I think it meets the position more satisfactorily. I come to the other point that I made before, that if I am to accept this clause then I must be satisfied as to the way this clause, read together with section 4, is to be administered. Section 4 gives the Minister power to grant exemptions. I have already pointed out that in fact there are very few new licences that are being issued today, except so far as hawkers and pedlars are concerned. But there will be cases of hardship, and I am assuming that the Minister will meet these cases under section four. In that connection I would recall that under the Round Table agreement, the Government is, by implication, committed to a relaxation of the laws in regard to trading licences affecting Asiatics. I must assume that. Does the Minister suggest that the agreement of 1927 as continued in 1932 has no longer any effect? The statement in Hansard is perfectly explicit on that point, and I should be happy to quote that to the Minister later on,

as I have not now got the Hansard before me. Apart from that there is this position. As the Feetham Commission accepted, we are faced with the fact that the Asiatic community consists mainly of traders. Secondly, apart from trade, the opportunities of employment available today to Indians in the Transvaal are very restricted. Therefore provision must be made for the normal increase of the Asiatic population, and I should like to receive an assurance from the Minister that in administering section four he will take account of the normal increase of the Asiatic population.

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†The Minister of the Interior: I think I might clarify the position with regard to the amendment by the hon. member for Fordsburg (Mr. B. J. Schoeman), because I want to meet the hon. member for Johannesburg (North) (Mr. Hofmeyr), and I think the following words would do it. I am now referring to the hon. member for Fordsburg's amendment on page 723, and I move—

As an amendment to the new sub-section (3) proposed by Mr. B. J. Schoeman: In the third line, after "Act" to insert "other than a certificate granted under the authority of a permit issued under section 4."

Would that meet the case? Well, Mr. Chairman, I will move that. With regard to the other points that have been brought up I am told this is not pegging, and I am told that I knew nothing about removals. But, Mr. Chairman, if you refer to the Bill, and the hon. member for Kensington (Mr. Blackwell) has had it in his hands for days, clause 2 (b) mentions the question of removal. The position

that I take up is this, that I intended it to cover removals. It is quite clear that the original legislation attached considerable importance to the facility with which Indians changed their names and their managers, and everything connected with their business, and the original framers of this legislation dealing with the issue of licences insisted that when a business changed either its manager or its name or partners they should come back to the authority and ask for the grant of a new certificate. I follow that advice, and I say that it is equivalent to a new licence and shall not be granted except by my authority. That is the position, and therefore I cannot accept the amendment suggested either by the hon. member for Johannesburg (North) or the hon. member for Kensington in this regard. I do intend to peg the position. The hon. member for Johannesburg (North) and the hon. member for Kensington wish me not to peg it, and that is the trouble. These suggested possible hardships that the two hon. members have referred to is the reason why I have got clause 4, in order to try to minimise the hardships as much as possible, provided the action taken by the Indian is not intended to upset the spirit of the law.

†Mr. Blackwell: We are discussing this present clause on the basis on which it was presented to the House, namely that it is an attempt to peg for a period of, two years the existing Indian trading position in the Transvaal. If I understand the meaning of the word "pegging" it means that all the existing businesses are to be protected, but no new businesses are to be allowed to come into existence. That is what I understood the Minister to put forward. If he means anything different let him say so.

**The Minister of the Interior :** I mean exactly what you say, existing businesses.

†**Mr. Blackwell :** When I say an existing business, I mean that the owner of that business shall have the right to bring in a new manager or a new partner, or to move that business from one place to another.

**The Minister of the Interior :** That is not pegging.

†**Mr. Blackwell :** I deny that a change in the personnel, a change in the manager, or a change in the partnership of that business, or a removal to another place, is a change in the existing position. If such a business is to be regarded as a new business, then I say that this Bill is very much more harsh than it was ever thought to be. It was put up to this House and to the public as a piece of interim legislation, what the courts call an interlocutory order, to preserve the status quo for two years. But the Minister now says that every time a business changes its manager, or changes a partner, or moves from one place to another, the holder of the licence must go to him and take the chance of whether he succeeds or fails with him. All that the hon. member for Johannesburg (North) wishes to do is to lay it down that a mere change of management or partnership shall not be held to be a change in the existing business. There is also the amendment of the hon. member opposite as to a removal of the business from one place to another. If the Minister wants to peg the existing position he can accept the amendment of my hon. friend, the member for Johannesburg (North). We are trying to see that this process of pegging may be shorn of as much of its natural iniquity as possible. May I address a question to the hon. the Minister of the Interior ?

Did I understand him when my hon. friend the member for Johannesburg (North) was addressing this Committee some half an hour ago, to say that there was no longer any such thing as the Cape Town Agreement with India ?

**The Minister of the Interior :** No, I did not say that.

†**Mr. Blackwell :** I am very glad, because I would like to have the position clarified. Sir, I am entitled to ask whether the agreement still stands, or whether it has been repudiated or denounced. Certain interjections the hon. the Minister made when the hon. member for Johannesburg (North) was speaking led me to understand that the Minister implied that he adopted the argument of the hon. member for Zululand (Mr. Nicholls) that that agreement has been abrogated. We want to know where we stand. Does the Government consider that that agreement is in force, or does it not ? If it is not in force, when and by what means and in what manner was it abrogated ; and, if it is in force, how does one square the present clause 2 with the uplift clause of that agreement ? These are matters of very great moment for this House. My friend, the hon. member for Zoutpansberg (Mr. Rooth) said : " Let us give a harsh interpretation of those laws because Indians are notoriously ingenious in evading them ".

**Mr. Rooth :** I did not say that.

†**Mr. Blackwell :** It is perfectly true, sir, that Indians have developed ingenuity in evading these laws, but they cannot be blamed for that. You might as well blame the chicken for evading the axe, and expect it to lay its head quietly upon the block. If my hon. friend were being legislated against, as this community is being legislated against, he and his legal

advisers would also develop the same kind of ingenuity. You might as well blame an ox in an abattoir because it does not walk peacefully and calmly to be slaughtered.

**Mr. Burnside :** I would appeal to the Minister to accept the amendment of the hon. member for Johannesburg (North) (Mr. Hofmeyr). The Minister has said that he wants to produce a Bill which the Indian will not be able to evade, and he wants to be satisfied that the Bill is a measure that cannot be evaded: but I think we are also entitled to ask him to produce a Bill which will make sure that the administration will not be able to evade the position laid down in the second reading speech. As I understood the second reading speech this is interim legislation. The hon. the Minister used the phrase, "pegging the position", but the burden of his song was that it was legislation aimed at the prevention of any extension of licenses. When we come to this particular clause we can see quite clearly that whether the Minister was quite cognisant of the effect of this particular clause, read in conjunction with the Transvaal Provincial Ordinance, or not, the effect of this clause will be to limit Indian licences, in other words, to take away some of the existing licences. The hon. the Minister pretends to be horror-stricken at the thought that an Asiatic may change his name, or his manager, or the title of his business, but I would suggest to the Minister, as a business man himself, that if it suited him in his private business he would not be averse to altering the name of his business from Stuttaford & Co., to Stuttaford Ltd., or the "Anti-Asiatic Stores". Why should he deny to these people the rights which he demands for himself? The Minister has travelled a long way in the last twelve months. Formerly he

was satisfied that the Feetham resolutions should be passed, but in a short twelve months he has become one of the chief reactionaries, and he is determined to outdo my hon. friend the Leader of the Nationalist Party.

**Dr. Malan :** He remains the champion of consistency.

**Mr. Burnside :** No Minister has wobbled more on this question than the hon. the Minister of the Interior. He has even thrown the uplift clause in the gentleman's agreement in the teeth of the hon. member for Piquetberg (Dr. Malan), and here we have him to-night denying an Asiatic the right to have a new manager, or a new partner. If an Asiatic manager of a business or managing-director dies within the next two years while this Bill will be operative—some of them will die—it will be necessary for other persons to be appointed in their stead.

**Mr. Rooth :** If it is a bona fide case, an Indian can get the Minister's permission.

**Mr. Burnside :** Imagine the hon. member for Zoutpansberg (Mr. Rooth) talking about a bona fide case, with his anti-Asiatic mentality. We know in this House that if the hon. member was the Minister of the Interior, clause 4 would be completely valueless and useless. I am inclined to think that the hon. member, and a few of his friends over there have a great deal more influence with the Minister than the liberal elements of this House have. It is not always the Minister. For the most part he is an easy-going gentleman.

**An Hon. Member :** But he wobbles a bit.

**Mr. Burnside :** He wobbles when some of the anti-Asiatic members from the Transvaal speak to him. I

am inclined to the opinion that when he comes here, making decisions, he will bow to the storm of reaction, and we want to save him from having to make that choice. There is no question of justice in this Bill at all, but there are some things that we can still talk about in this country. We are prepared to take the Minister's own statement. He gave it at very great length, and he elaborated the position. He said that this particular measure was not designed to take away from the Asiatics of the Transvaal anything that they had, and that it would not interfere with existing rights. But he makes a provision the utilisation of which can deprive probably, a considerable number of Asiatics in the Transvaal of their licences in the next two years. The Minister has adopted a sanctimonious attitude in regard to the Press. We are becoming accustomed to Cabinet Ministers making statements to the Press which should properly be made in this House. We find today, for instance, that the Minister was riding his high horse with reference to the Government of India. He says that in no circumstances will he have a round table conference. Round table conferences are for the reactionary Leader of the Nationalist Party. The liberal leaders of the United Party which stands for fusion will have none of them. You can hear a whisper of Herr Hitler running through the speech of the hon. Minister. This Herr Hitler says that he will have no round table conference on any account, and this latest edition of the Führer says that he will not be like the hon. member for Piquetberg (Dr. Malan) and he will not have any round table conference. He says that he is prepared to meet a deputation or to carry on the whole subject by correspondence. The other day it was an entirely different story.

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He was deferring to the Indian Government and was telling us, in view of the request of the Indian Government working it as an honourable and democratic statesman should do, he had told them that he was prepared to hold a conference with them, and that this Bill was only a very temporary measure to peg down the position, and to keep the position as it was until such time as an agreement could be threshed out between himself and the representatives of the Indian Government. He got the House to agree to the second reading of the Bill under that pretext. I realise the hypocrisy of stating that this Bill is intended to peg down the existing position, whereas among the reactionaries it is realised that it contains all the possibilities, and probably all the probabilities of reducing to a very considerable extent, within the next two years, Asiatic licences before any kind of conference is held with the Indian Government, if such a thing can ever be held. [Time limit.]

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†Mr. Hofmeyr: I am grateful to the Minister for moving an amendment to the amendment of the hon. member for Fordsburg (Mr. B. J. Schoeman) of which I think really the Minister is the father. I think it was his bantling and he has allowed it to be changed.

The Minister of the Interior: No, I didn't know anything about it.

†Mr. Hofmeyr: \* \* \* \*

\* \* The effect of this Bill read together with the Provincial Council Licences Control Ordinance is this, that when there is any change in the style or name or nature of an Asiatic business, whether it is a change of personnel of the managership or ownership, or if the

owner dies and the business is bequeathed to the son, or any change in the membership in a firm or a partnership, the licence automatically lapses. Surely, there is a fundamental injustice in that and it is simply to rectify that injustice that my amendment has been moved. Surely, this does take us a long way beyond pegging. I don't think the Minister contemplated that this clause was going as far as it does when he introduced the Bill. May I make it clear that my amendment definitely excludes from its scope a possible case of evasion where an Asiatic is substituted for a European. My amendment will not cover that case. In the second place, I want to satisfy the hon. member for Fordsburg in the case which he mentioned, where for instance the butcher becomes the greengrocer or the bottlestore keeper. Again my amendment will not be applicable, because he will have to get a new licence anyhow. Well, sir, I say again that this clause, as we now understand it, takes us a good deal further than pegging down an existing position, and I must, therefore, press my amendment in regard to this particular point. The member for Cape Western has gone further. He has moved an amendment which would exclude from the scope of this Bill, a removal of a business from one place to another. That, of course, was before us when the Bill was introduced. We knew it was meant to cover a case of that kind. I have been wanting to ask the Minister why is that particular provision necessary, and I would like to have his explanation on that point, before I can decide whether I can vote for the amendment of the member for Cape Western. Finally, I want again to come to the general question, and before I can decide how to vote, I want to know whether the Minister can give me an assurance that he will administer clause 4, the

exemption clause in the spirit of the last section of the uplift part of the Round Table Agreement dealing with trading licences, and having due regard to the necessity of providing for the annual increase of the Indian population. I would like a definite assurance on that point.

†Mr. Blackwell: I want to deal with a new point altogether and I do not want to continue the discussion on the points that have already been raised. I want to revert to the case of some eighty traders in the mining areas of Johannesburg, who are by contract protected. In 1914 an agreement was made between Gen. Smuts, then Minister of Justice, and Mr. Gandhi, and that agreement had relation to such traders on the mining areas who, though technically illegally there, had established a foothold by long custom. That agreement terminated the passive resistance campaign of 1914.

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†Mr. Blackwell: \* \* \*  
I am trying to address an argument to the Minister, and to point out that he is in serious danger, if clause 2 remains unaltered, of breaking the solemn agreement entered into by Gen. Smuts and Mr. Gandhi in 1914, and enshrined by this Parliament in an Act of 1919. In that agreement which was committed to writing, it was provided that vested rights would be protected, and then it was left to Mr. Gandhi to define what vested rights are, and this Mr. Gandhi did in a letter dated the 7th July, 1914, which is quoted in the report of the Lange Commission of 1921. In this definition of vested rights Mr. Gandhi said—

As you know, after maturer consideration I refrained from pressing for the insertion of a special clause

defining vested rights in connection with the Gold Law, and Townships Amedment Act, because I felt that any definition in the correspondence might result in restricting the future action of my countrymen. However, so far as my interpretation of vested rights is concerned, I think that I should reduce it to writing. Gen. Smuts was good enough to say that he would endeavour to protect vested rights as defined by me. The following is the definition I submitted to Sir Benjamin Robertson, who I understood submitted it to Gen. Smuts. My letter to Sir Benjamin, containing among other matters the definition, is dated 4th March, 1914. By vested rights I understand the right of an Indian and his successors to live and trade in the township in which he was living and trading no matter how often he shifts his residence or business from place to place in the same township.

The Lange Commission report of 1921 points out that when the Gold Law of 1908, which prohibits occupation by coloured persons of the mining area, was under discussion the British Government asked what its intention was, and they were told by the Minister of Mines, Mr. De Villiers, later Chief Justice of the Union, that there was no intention of taking away any right or privilege which a coloured person had at the present time. So that by a solemn agreement between this Government and Mr. Gandhi to end the Passive Resistance movement which took place in 1914, it was agreed that those traders who could show that they had vested rights on the mining areas on the Rand, should be entitled to continue those rights. In 1919 an attempt was made to peg the existing position, and special provision was made in regard to those traders, and the actual formula used by Mr. Gandhi was put into an Act of

Parliament, and it is law today. It says that sections 130 and 131 of the Gold Law—

Shall not apply to any British Indian who on the 1st day of May, 1919, was, under the authority of a trading licence lawfully issued, carrying on business on proclaimed ground, or on any stand or lot in such township, or to the lawful successor in title of any such Indian in respect of such business; or to any person bona fide in the employment of such a British Indian, or his successor in title, so long as such British Indian, or successor in title continues so to carry on business on the same ground or stand, or lot, on which, or on any other ground or stand, or lot, in the same township in which it was being carried on the 1st day of May, 1919.

So that it is perfectly plain not only that the Smuts-Gandhi agreement gave this limited protection to this class of people, but it was enshrined in this Act, which is law today. I asked the Minister of the Interior what he was going to do about that class of person, and in an airy way he said, "But we are taking away the rights of all Indians. Why not these?" That is not the case. There is a general prohibition in regard to all gold areas, as to coloured persons having rights of occupation, but there was a solemn agreement between this Government and Mr. Gandhi in 1914, which was put on the statute book.

The Minister of the Interior: You cannot see the injustice of your proposal?

†Mr. Blackwell: Does the Minister use the word injustice to me. As I say, sir, there was a solemn agreement. I move—

That the following be a new sub-section to follow sub-section (2):

(3) Nothing in this section contained shall be deemed to derogate from

or impair the provisions of section 1 of Act No. 37 of 1919.

In other words, sir, I propose that those persons who solemnly by an agreement made between Gen. Smuts and Mr. Gandhi in 1914, and continued for 25 years, and enshrined in an Act of our Parliament, who had certain rights under this agreement shall have their rights continued. If the Minister tells me that he is prepared to take away those rights without enquiry, and without giving these persons an opportunity of being heard, then I don't envy his political conscience if he can do so.

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†Mr. Blackwell : \* \* \* \* \*  
 \* \* \* \* \* is there one canon of justice in this country which applies to the Europeans, and another which applies to the non-Europeans? That is the question I want answered. If there is a flaw in the case that I put up as affecting our honour under a solemn treaty, and we are bound as I claim not to pass clause 2 in respect of that protected class of people, I shall be glad if he will tell me where the flaw is in my case. My case in defence of the amendment that I have just moved, to remove these people from the operation of section 2, is in my opinion impregnable. I am certain that the hon. the Minister did not appreciate the merits of that case when he replied to the second reading debate. If he did then it amounts to this. That solemn agreements made by this Government, by its elected representatives, no longer are to be honoured in this country. This point has nothing to do with the Indian question at all. It is a question of the solemnity of engagements and agreements made. Therefore the hon. Minister must take this onus upon

himself. He must either show that the agreement was not made, or that it had departed from or 'abrogated in some way or other. If the agreement stands then he cannot, in face of the pledge given in 1914, and repeated in 1919, depart from that pledge. The hon. member for Fordsburg (Mr. B. J. Schoeman) in reply to me repeated an observation which I made, that if we care to pass oppressive legislation, bearing particularly on one section of the community, you cannot blame them if they endeavour, by legal means, to wriggle out of the terms of that legislation. He asked me a question as a temperance reformer in regard to prohibition. There is no comparison between the two cases. In one case you have legislation which is directly oppressive to one particular class of the community, an unrepresented class in this House. All I said was that, human nature being what it is, it is absurd for hon. members like the hon. member for Zoutpansberg to protest indignantly if the members of that class do their best to escape the results of this oppressive legislation. There is no comparison possible between that case and the case of legislation of general application with regard to temperance or with any other social question, which every citizen of this country must obey like any other. In regard to Asiatics, for reasons that I shall not go into now, we have from time to time brought in discriminating legislation, and again and again with the assistance of the courts, who are more liberal in their outlook on the Asiatic question than is this Parliament, they have on some occasions managed to escape the full implications of that legislation. To stand up and strike an attitude of moral indignation and to complain because the Asiatics have endeavoured to escape the full weight of oppressive legislation is

absurd. May I make this appeal to my hon. friend? I have given him a full and frank answer to his question in regard to my speech. May we now put into operation the law of prescription to which I have referred, and forget it?

†The Minister of the Interior: I think, Mr. Chairman, I may as well, I hope for the last time, put my views regarding this 1919 Act. In the view of the ordinary man law and justice are not synonymous terms. Now, I base my argument on justice. The hon. member may base his on law, but I base mine on justice. The position as I see it is this: In 1919 there were a number of people who were illegally on the Reef. Am I right or wrong?

Mr. Blackwell From 1914 onwards the legality of their occupation was expressly recognized.

†The Minister of the Interior: No, they had their illegality condoned. In 1919 we condoned the illegal occupation of land by these Asiatics. I have in this Bill taken the power to prevent any Asiatics in the Transvaal from moving their businesses without my express consent, and the other people who had businesses in 1919 outside the Reef were there quite legally; they had not tried to do anything illegal, and the hon. gentleman's argument appears to be this, that the people who had committed a crime and been let off should be better treated than the people who were perfectly innocent and had never required any condonation on the part of the Government. I go further. The hon. gentleman referred to eighty on the Reef out of ten times that number in the Transvaal. Now, he wants me to apply what he calls harsh treatment to the 700 or 800 people who never committed an illegality, who never had to have their offence condoned, and I am to let off the eighty

people whose offence was committed and condoned.

Mr. Blackwell: You are bound by contract.

†The Minister of the Interior: I say, as a matter of justice, that is a very unjust thing for me to do. Whether it is legal or not, I have nothing to do with. I am talking about justice, and it is not justice to put a burden on people who never committed a crime and not at the same time put it on the people who did commit a crime and whose crime was condoned. Then the hon. member says I am breaking the Smuts-Gandhi agreement. Well, I am not going into all the agreements of the past. I quite agree that the hon. and legal members of this House can tie me up by referring to what happened in 1914, but I am speaking of the justice of the case, and justice demands that these people shall be treated, at any rate, no better than the people who never committed a crime, but who are to be subjected to these restrictions. If the hon. gentleman will not worry me about legal technicalities, but will show me that I am unjust in that, then I am prepared to argue with him. But I am not prepared to convince him that he is wrong, because I could not do that. I am satisfied in my own mind that I am doing what is right. As long as I do that it does not matter to me what any body thinks. I don't want to bring any acrimony into this, but I do want to come to some finality. Now the hon. member for Johannesburg (North) (Mr. Hofmeyr) wants me to say whether I will carry out clause 4 in the spirit of the 1927 statement as confirmed in the 1932 statement. Now I have read that statement; it is the kind of windy statement so dear to the hearts of my two predecessors. I don't mean that in any nasty sense, but

I mean it in the sense that the ordinary man does not know exactly what all these words mean. There are words, and words and words, and as far as I take it, what it means is, you shall give these fellows a fair deal provided that in doing that you don't give anybody else an unfair deal. That is the spirit in which I wish to carry out clause 4 but if you ask me to give you a categorical statement that I am prepared to stand up to every line of that statement and to accept the interpretation of either of my two predecessors, I say, no, I cannot. If what that statement means is, that we are to give the Indians a fair deal provided in doing so it does not give anybody else an unfair deal, well then I am with it all the way. So much for the second point. The third point is this question of management. The member for Kensington (Mr. Blackwell) had a tremendous lot to say at the beginning of the afternoon on this point, that every time a manager is changed you have to get a new certificate. Well, management does not connote exactly the same as manager. If you read that paragraph you will see that it is management that is mentioned. I can appreciate why the Provisional Council insisted that when any of these changes took place, the Indian firm should go back to the people who granted the original certificate and ask if it could be confirmed again. Some of you gentlemen have had no experience in dealing with these gentlemen. I remember in my youth a very similar case to this, where a certain Indian firm owed my company money, and when we applied for it, the gentleman in charge said that he was the manager, but the owner was in India, and would I agree to wait until the owner came back. In the innocence of my heart I said, yes, as I thought that was a reasonable proposal.

Well, a few months afterwards my representative went back and said to the man who had by this time come back from India: "Well, now what about this money? Pay up." The man said: "Oh, I am the manager, when I came back from India we changed places, and the owner is now in India". The man who we had got hold of before had been turned into the owner and had gone to India. That will give you an instance of the necessity which the Provincial Council found of insisting when any of these paper changes of management took place the people must come back to get a new certificate. I maintain that.

**Mr. Blackwell:** This is of general application to the whole European community.

†**The Minister of the Interior:** No, Mr. Chairman, I must maintain that I cannot accept these amendments which as I have already indicated I do not think suitable.

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†**Mr. Hofmeyr:** I am grateful to my friend over the way for his support of my amendment, which he is prepared to translate into a vote, but I am sorry that I cannot express equal gratitude for the remarks made by the hon. the Minister. I asked the Minister two definite questions. I asked him first of all to give us reasons why we should vote against the amendment of the hon. member for Cape Western (Mr. Molteno). He did not do so. After all, the Minister has only recently been assured that the members of his party are not robots, and when we ask him for reasons why we should vote with him, I think the question is a reasonable one. In the second place, I asked the Minister if he could give me an assurance that he would administer clause 4 in the spirit of the Round Table Agreement, and with regard to

the natural increase in the Asiatic population. That means simply this. The Feetham Commission emphasised the point that in the Transvaal the Asiatic population is virtually limited to trade, that apart from trade there are very few openings in the matter of employment, that therefore as there is to be expected that there will be a natural increase, you must have some provision for expanding trade facilities. I asked the Minister if he would give me that assurance. He did not do so. Now, sir, I want, in the first place, to express my regret that he is still unwilling to accept my amendment. That amendment is a reasonable one, and a natural one, and it is not enough to evade the arguments in favour of that amendment by reminding the House of unfortunate incidents in the Minister's own past. I think the amendment can stand on its own feet.

**Mr. Madeley :** Oh, he got his money.

†**Mr. Hofmeyr :** I am pretty sure the hon. the Minister got his money. Sir, the most remarkable part of the hon. the Minister's speech was his attitude towards agreements entered into by this country. He said, in effect, that he cannot be worried about agreements. That is a very unfortunate attitude for a Minister in relation to agreements by which he, his Government, and the country are committed. With regard to this specific agreement, the Round Table Conference Agreement, he said that if he could interpret it as meaning that he must be generally fair to the Asiatics, while he is not unfair to anybody else, he would be prepared to act in that spirit. Surely the hon. the Minister must know that that agreement is much more definite than that. In regard to trade licences the spirit of the agreement is not a spirit of restriction; it is a spirit rather of

expanding facilities. I have asked the Minister in administering clause 4 not to administer that clause in a spirit of restriction, but at least to go so far as to take account of the natural expansion of the Asiatic population, having regard to the fact that, in effect, its employment opportunities are limited to commerce. That is the least the Minister can do, if he has any respect whatever for the spirit of that agreement of 1927. Then, sir, the hon. the Minister apparently has no respect either for the Smuts-Gandhi Agreement. That agreement is an agreement entered into by a colleague of the hon. the Minister, and it is an agreement which is entitled to respect. The hon. the Minister was at pains to make a distinction between law and justice. The hon. member for Kensington (Mr. Blackwell) is not basing his case on law; he is basing his case on justice, and the consideration of justice is simply this, that justice demands that when rights have been conceded in terms of an agreement binding the nation conceding those rights, those rights should be honoured, and not taken away in an arbitrary manner. I am not basing my case on law. An agreement was entered into, and that agreement was honoured in the terms of the law. Now, sir, it is not right that we should come along afterwards and wipe away that law based on that agreement. I know the kind of argument that is put up. "Oh, the Smuts-Gandhi Agreement was not observed by the Asiatics". I would like my hon. friends to tell us in what way that agreement was not observed by the Asiatics. In any case Parliament in 1919 was not convinced that that agreement had ceased to be valid, and Parliament in 1919 gave effect to our side of the bargain. Justice demands that we should honour that bargain to which we gave effect in 1919.

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†Mr. Davis : I would vote for the amendment of the hon. member for Kensington (Mr. Blackwell) if I believed that it would in any way bring about a juster solution in this question, but I think the hon. member has lost sight of the main provisions of this Bill. This Bill lumps together on the basis of equality Indians who are trading on proclaimed and unproclaimed ground. The hon. member wishes to entrench the position of some eighty Indians, who in terms of the Smuts-Gandhi agreement are entitled to continue to trade on proclaimed ground. That seems to me quite unfair because there are many Indians trading on unproclaimed ground whose rights are, if any thing, as great as those of the eighty Indians who are mentioned by the hon. member for Kensington (Mr. Blackwell). If the position of these eighty is to be entrenched in this Bill, then it seems to me there is a very strong argument for entrenching the position of every other Indian who has equally valid rights on unproclaimed ground. I do not think this would be fair, nor do I think it is possible to do this in the present Bill. The only solution is to treat them all on a basis of equality. I think it would be unfair to pick out a particular section and say these people have rights which are different from those of everybody else when that is not the case.

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†Mr. Blackwell : I don't propose to detain hon. members much longer, but I do feel constrained to utter a word of protest against the speech made by my hon. friend the newly elected member for Pretoria (Central) (Mr. Davis). He, like myself, is a lawyer of long standing, and quite frankly I never expected to hear him get up in this House and deliberately and in cold blood suggest that we

recede from an agreement honourably made by a member of this Government. I must now recall to his recollection, if he does not know them, the circumstances under which that agreement was made. There was war in this country, war between the Indian community and the Government, a war in which not a single shot was fired, but one in the course of which many hundreds of Indians went to gaol. That war lasted for twelve months, in the course of which Mr. Gandhi went to gaol on many occasions and the whole life of the Transvaal and Northern Natal was upset. This agreement was a treaty of peace between Gen. Smuts on the one hand, the Minister of the Interior of the day, and Mr. Gandhi, as representing the Indian community. No one will deny that. It was agreed, among other things, that the Indian traders who at that moment could show they had vested rights on the mining areas of the Rand should have those rights protected in perpetuity, and this protection was to apply not only to actual traders themselves, but to their successors in title, and they were to be entitled to move from place to place inside the same town as long as they wished. Now, here is an hon. member of this House, a lawyer of standing, a man who would stand up and denounce in unqualified terms all forms of tyranny applied to other people, and all forms of treaty-breaking, standing up in cold blood and trying to tell us that we shall tear up that agreement without even an enquiry.

Mr. Rooth : [inaudible].

†Mr. Blackwell : Does my hon. friend say that he never suggested that ? I will ask him this question : Was that agreement made and was it not confirmed in the Act of 1919 ?

Mr. Rooth : Then it was broken.

†**Mr. Blackwell** : He makes the *ex parte* statement that that was also broken and he quotes a statement of mine to that effect in 1919. That statement of mine was made before the Act was passed and in spite of it Parliament proceeded to enshrine this agreement in the Act of 1919. In other words the arguments I then advanced were not received and not accepted. Parliament proceeded in the Act to enshrine that Smuts-Gandhi agreement in an Act of this Parliament. Section 1 actually gave legal sanctification to that agreement. These are facts that do not admit of denial, and it is not suggested that since then the agreement has either been broken or abrogated. If that is so I am not going to let the conscience of this House vote on my amendment in ignorance. At least they will know what they are doing ; at least the Minister of the Interior will know that in rejecting my amendment he is deliberately tearing up a solemn agreement made by his predecessor, no less a person than Gen. Smuts. And the member for Pretoria (Central) stands up here and says in effect : I know all that ; every word you state is true, but as we are going to do injustice to the general body of Indians why should these people escape the general amount of injustice we propose doing to the whole Indian community ? That is a shameful argument, if I may say so, for my hon. friend to use. But let me leave that on one side. At least this body for whom I now appeal can claim that first of all by contract and second by statute, they were promised protection in perpetuity for themselves and their descendants.

**Mr. Rooth** : This House can alter that.

†**Mr. Blackwell** : This House cannot do that without the consent of the other party. In a loose and vague

manner that can carry conviction to nobody ; my hon. friend has said the agreement was broken. The only evidence in support of that was a statement made by me before the Act was passed, and that was rejected by the House because it sanctified the contract which is on our Statute Book to-day. Since then there has been no enquiry into this matter until the Lange Commission in 1921, and that, so far from saying the agreement had been broken, specifically stated that it had not been broken. I make this challenge to the Minister. Let him refer this matter, this issue between him and me, either to a select committee, a bench of judges or any other form of tribunal, and he will find that this agreement has not been broken, and that it is binding on the conscience of this House and on him. If he votes against my amendment he will deliberately be voting for a breach of faith and a breach of a solemn agreement we have made, and after that how can any one of us stand up and blame other countries for breaches of agreement ? When my hon. friend comes to read up this matter and study it a little more he will be sorry for the speech he made to-night.

†**Mr. Nicholls** : Whilst I have a great deal of sympathy with the amendment of the member for Johannesburg (North) (Mr. Hofmeyr), I cannot altogether follow the arguments of my hon. friend the member for Kensington (Mr. Blackwell). He seems to have placed an extraordinary degree of stress upon the Smuts-Gandhi agreement, as though it had some international sanctity, as though that agreement, having once been entered into, must remain binding for all time, without any consideration of the present circumstances, without any regard whatever to the conditions under which it

was entered into, and without any consideration at all for the welfare and wellbeing of South African citizens. It was not an agreement between governments. What was Mr. Gandhi, now Mahatma Gandhi, when that agreement was entered into? He was a South African lawyer practising in Natal. He led his people in Natal in their passive resistance movement. That movement had nothing to do, in the first instance, with these trading licences in the Transvaal; it had to do with the payment by Natal Indians of a registration tax which had been imposed upon them when they came to South Africa. It was as a result of that passive resistance that that tax was subsequently abrogated, and it was only when the clearing up began to take place in the negotiations that these Indian trading licences came into the picture at all. It was then that Mr. Gandhi was asked what he thought were vested interests, and he explained in a letter to Gen. Smuts what he considered vested interests were, and that explanation was accepted. That was twenty years ago. And then the hon. member says that because that definition of vested interests was written into a statute of 1919, therefore, it is for ever binding upon this Parliament. You may say on that argument that any agreement entered into by any Minister in regard to any section of the population, if subsequently put into an Act, should be for ever binding upon the country. That, sir, I cannot accept. Circumstances must necessarily change, and then it became necessary to alter an Act. May I refer to an instance in which the hon. member was very insistent in the reduction of vested rights under the Liquor Act? How strongly the hon. member argued for the destruction of those vested liquor licences, without any compensation whatsoever, when

that matter was before the House. I cannot see that the two cases are very different in essential justice. Sir, there is one point on which I cannot agree with the hon. member for Johannesburg (North). He asked the Minister to give consideration to the future trading rights of any increased Indian population in the Transvaal, because the Indian community were essentially a trading community, and, therefore, provision must be made in future for their increase to enter into trade. Are we to assume that all the Indians in the Transvaal, no matter how they increase, must be found occupation as traders? Is that to be their sole vocation? Surely that is not a proposition which we can accept. Therefore, whilst I am not going to vote against this amendment which may better peg the existing position, I shall not vote at all on this matter. I don't agree at all with the hon. member for Johannesburg (North), or with the hon. member for Kensington in trying to give the sanctity they ask for to the Smuts-Gandhi agreement, or to accord the immutability they wish to this law which is upon the Statute Book.

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†Mr. Hofmeyr: On clause 2 I asked the Minister to give me an assurance that he would administer his powers of exemption in such a way as to take account of the Round-Table Agreement, and to bear reasonable regard for the natural increase in the Asiatic population. The Minister was either unable or unwilling to give me that assurance, and on account of that I had no option but to vote against clause 2. On clause 3 we are dealing with the restriction of occupation by Asiatics, and there again one has to take account of the way in which clause 4 is to be administered. Clause

3 has the effect, as it stands that there may be absolutely no increase in Asiatic occupations, except possibly at the expense of coloureds. That is the only increase. Now, sir, I made it clear at an earlier stage that there is no substantial penetration taking place to-day, but that there is a natural increase in the Asiatic population. I can only read this clause as it stands as implying that no account whatever is to be taken of that natural increase of the Asiatic population. We are told that no person shall, except on the authority of a permit issued under section 4, let to, or permit to be occupied by any Asiatic, and no Asiatic shall, except on the authority of such a permit, hire or occupy any land or premises situated in the Province of the Transvaal, if that land was not, or those premises were not, occupied only by Asiatics or coloured persons on the 30th day of April, 1939. In other words, sir, the Asiatic population, though increasing naturally, is expected to be crowded into the same accommodation as is available for it today. That surely is tremendously crude legislation, and I hope, sir, the House is not going to have on its conscience the passing of a clause in this form. If the hon. the Minister had been prepared to give me the assurance that I asked for, it might have altered my view of this clause, but the hon. the Minister is not prepared to take account of the natural increase in the Asiatic population. In this clause he says that the occupation must be limited to what it is to-day. The coloured people are also subject to restrictions, and there is not much likelihood of the Asiatics taking over properties occupied by coloureds. I don't know if the Minister wants the Asiatics to occupy premises at present occupied by natives, but I hope not. The clause as it stands, sir, conveys

the crude provision that these unfortunate people must be crowded into the same accommodation in which they are living to-day. I take it that the Minister is acquainted with the accommodation in some of the Asiatic bazaars to-day, and I hope he is not satisfied with that accommodation. I hope he desires to see that accommodation improved, but this clause shows no evidence of such a desire. In order to test the attitude of the Minister, I move the amendment standing in my name—

In line 59, to omit "not" in both places where it occurs; and in line 60, to omit "only by Asiatics or coloured persons" and to substitute "by Europeans".

The amendment says that premises vacant on the day in question, and land not built upon, may be available for Asiatics. Under the clause as it stands, if the municipality has a housing scheme for Asiatics, then the Asiatics will not be allowed to live in these houses. That is what this clause means. Surely this is far too crude for us to allow it to appear on our statute book, and, therefore, I want to move the amendment of which I have given notice in order to effect some improvement in the clause.

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Mr. Kentridge: During the debate on the second reading I gave reasons and submitted facts showing why these clauses other than clause 1 should not have been included in this Bill. I don't propose to cover the same ground again in speaking on this amendment, but I would say that the very reasons which have been adduced by the hon. member for Zoutpansberg (Mr. Rooth) are in themselves the strongest possible reasons why the

Minister should accept the amendment of the hon. member for Johannesburg (North) (Mr. Hofmeyr). I hope the Minister will not wait for two years to deal with the matter. He is in a strong position, and I hope that he will invite the Indian community and the Indian Government to consult with him upon the matter. If only as a gesture to show that he does not want to be repressive, and that he does not want to alter the situation, I think he should accept the amendment of the hon. member for Johannesburg (North), which cannot in any way make the position worse, as far as those are concerned who want to see the position pegged, while it may facilitate a settlement in the future.

†The Minister of the Interior: I don't think that the majority in this House understand the true inwardness of this suggested amendment. I take it that the hon. member for Troyeville (Mr. Kentridge) does. The intention of this Bill is to stabilise things as they are to-day. Hon. members who have spoken insist on saying there is no penetration. This amendment is to make penetration very, very easy. That is the intention of it. Without my leave under clause 4, an Asiatic was not to occupy a dwelling which was not on the 30th April, 1939, in the occupation of Asiatics or coloured people. Now, the hon. member for Johannesburg (North) (Mr. Hofmeyr) wants me to allow Asiatics to buy sites.

Mr. Hofmeyr: Not buy.

†The Minister of the Interior: The hon. member has only to read the Murray Commission's report, and he will see how they buy sites. They have only got to acquire sites anywhere they like in the town and build, and they can then be allowed to occupy. This suggested amendment

absolutely nullifies the whole idea of this clause. The hon. member comes here and asks me to accept that. The hon. member for Troyeville (Mr. Kentridge) asked me to show a little bit of decency. Does the hon. member know what he is talking about? I shall not be bluffed into anything like this. That is perfectly straight, and the hon. member for Troyeville will understand that that is my opinion. I am not going to accept this amendment. The Asiatics are not going to penetrate. They threatened me and sent me a wire, which was very kind of them, saying that they were going to try and queer this Bill if they can. The amendment of the hon. member for Johannesburg (North) (Mr. Hofmeyr) is one of the things, not that he intends, and I do not suggest it is his intention, but it is one of the things if they can get that amendment in, that they will queer this clause. They will not succeed in a subterfuge like that.

†Mrs. Ballinger: I wish, sir, that we could get some of the facts that we have asked for on several occasions in the course of this debate. We have had a repetition in this House of this statement about penetration, yet we can get no facts about it whatsoever. The Minister stated yesterday in his reply to the second reading debate, that he had not got the facts.

†The Minister of the Interior: Because the Indians asked me not to set them.

†Mrs. Ballinger: That is not an answer. He should have known when that request was put to him that he intended to legislate on this matter; and if he had been taking his own position seriously and had intended to legislate, it did not matter what anybody asked him. The reasonable thing to do was to find out the facts upon which he was going to legislate.

I cannot see how the Minister can shelve his responsibility in this matter, by simply stating that the Indians asked him not to investigate. We are dealing with a Bill to prevent the continuance of Indian penetration into European areas but the facts have not been made clear. We are constantly met with the statement that the Indians have penetrated. The only facts that have been adduced show that that is an extravagant statement. So here is one fact which is lamentably lacking in the whole of this discussion. If we had an answer to that I think we could deal with the whole matter on a more reasonable basis; this is impossible without it. The second question to which no satisfactory answer has yet been given is that of the hon. member for Cape Western (Mr. Molteno), namely for what time is this legislation intended? We have had no statement as to when the whole situation is going to be considered, and what the whole situation that is to be considered is and there are particularly pertinent questions in regard to this particular clause. We were told on Clause 2 that not only were we not going to allow the Indians to acquire more trading licences, but we intended to take such control over the existing trading licences that they can in the course of the next year or two be reduced. Thus we are told that the operation of the Bill is for two years only. The emphasis is laid on its temporary character, but the assumption is that in the course of two years you do not need to make provision for the people you are legislating for. Nobody will contend that the Indian population of this country are effectively housed at the present time. Every municipality is, or ought to be, under the obligation of housing its coloured and Asiatic population on a more effective basis than at present

obtains. Yet under this clause, as it stands, the Minister is actually tying the people down to the present conditions of their existence.

**The Minister of the Interior:**  
That is the intention of the Bill.

†**Mrs. Ballinger:** I understand it is the intention of the Bill, for the Minister keeps on saying it, but we have no evidence in the discussion of this clause as to the directions in which the intention is to operate. The Minister was not prepared to accept an amendment to clause 2 which would have "pegged" trading licences, but he apparently does intend that there shall be no more land to meet residential needs. I do not think that the Minister has answered the challenge to this question. He says that so far as Asiatics in the Transvaal are concerned, they are definitely going to be pegged to the houses at present available to them, and they will not go beyond the limit of that except with the special permission of the Minister. If the Minister is not prepared to accept the amendment of the hon. member for Johannesburg (North) which in my eyes is a pasella, I think the whole clause is likely to create a serious situation. I ask if the Minister will tell us what sort of provision he will make in the course of the next two years for the rehousing of that part of the Asiatic population who need rehousing under decent sanitary conditions, and what provision he intends to make for the ordinary expansion of the population. These are facts that we have a right to know at the present time. We have a right to know what plans he has for housing schemes, and for meeting the immediate needs of the population, which is now by this clause thrown back entirely upon him. I think we are

entitled to know what we are committing ourselves to under this clause.

†Minister of the Interior: I am asked what provision I am going to make. I have powers under clause 4 of allowing any occupation which is not against the spirit of this law. But I am not going to allow any member here to move an amendment which will permit Indians to penetrate into European areas, which I have definitely stated in this Bill I am going to prevent and hold up for two years.

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†Mr. Hofmeyr: I do not think the Minister has strengthened his position in regard to this clause by the attitude he has taken up. The Minister has not only been unprepared to accept my amendment, but he is not prepared to give any clear indication as to the line he is going to follow in applying section 4 to this particular clause. On the contrary, he has given definitely the impression that he will do as little as possible to make any allowance whatever for an increase of the Asiatic population. My hon. friend here says, "Quite right". Does my hon. friend really mean either that there can be expected no natural increase of the Asiatic population, or that the steadily increasing population must be crowded into the already unsatisfactory accommodation which exists to-day. My hon. friend seems to forget the fact that these people are for the most part born in South Africa, and they are limited by our laws to the province of the Transvaal, and this law limits them in the Transvaal. They are thus beset both behind and before. They cannot leave the Transvaal. In the Transvaal no provision apparently is to be made for their natural increase.

Surely that is an unreasonable position, and unworthy of the House if this particular clause is passed in the way it stands. I personally have never said that there is no penetration at all. I have made my position quite clear. I have said either that there is no substantial penetration, or that there has not been such penetration as to justify legislative interference. I have made it clear that a natural increase is taking place which you cannot check, and it is reasonable to make some allowance for that increase.

†Mr. Molteno: The hon. member for Johannesburg (North) (Mr. Hofmeyr) has moved an amendment. It is an amendment which he has supported by clear and reasoned arguments. I agree with him that the Minister has not strengthened his position by his attitude, and instead of meeting the arguments raised he has accused him and the hon. member for Troyeville (Mr. Kentridge) of bluffing. I do not think that is very creditable on his part to make such a reference to an ex-Minister of the Crown and a member of long experience in this House. The hon. member for Johannesburg (North) has moved an amendment to ease the position, and the Minister turns round and accuses him of bluffing. That is not an argument which will impress any fairminded member of this House. Those of us who are opposed to the principle of residential segregation are opposed to it on the ground, not that we are anti any section of the community, but that we believe it restricts the economic development of the whole of the community. If you do penalise one section by legislative enactment the effect will be to impoverish that section and they will drag down the rest. That would be the effect of the clause we have protested against.

We protested against this principle in the case of the native people and we protest against it when it is applied to the Asiatic people. It is said that this is interim legislation but I repeat what I have said before and what the member for Cape Eastern (Mrs. Ballinger) has said, that we have not been told what it is interim to. The Asiatic people under this clause will be in a worse position than the native people when the 1913 Land Act was passed. At least in the case of the natives land was promised to be added, although we know that it took twenty years to get it, but in this case of the Asiatics there has been no promise of any kind that they will be able to have any further expansion. Once the principle has been accepted that these people are to be confined to their existing pre-

mises, and having regard to the strong feeling we are told that there is in the Transvaal against penetration, it is difficult to conceive that once a measure of this kind is on the Statute Book the principle will ever be gone back upon and rights restored which have been lost. If you want to treat these people as pariahs for goodness sake let them go somewhere else as they would be permitted to do by the amendment of the hon. member for Johannesburg (North) (Mr. Hofmeyr), but they are not even permitted to do that, they are to be kept confined in their existing areas and their existing premises, without any promise whatever that they will be able to expand in any manner.

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