

GENERAL  
ASSEMBLYASSEMBLEE  
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16 November 1946

ORIGINAL: ENGLISH

## DELEGATION FOR INDIA

ADDENDUM TO THE MEMORANDUM ON THE POSITION OF INDIANS  
IN THE UNION OF SOUTH AFRICA

## DOCUMENTS CONSTITUTING THE FRETORIA AGREEMENT OF 1944

I. MEMORANDUM SUBMITTED BY THE NATAL INDIAN CONGRESS, AS REPRESENTING  
THE INDIAN COMMUNITY OF NATAL TO THE RIGHT HONOURABLE  
FIELD MARSHAL J.C. SMUTS, PRIME MINISTER OF THE UNION  
OF SOUTH AFRICA

Sir, We recall the Memorandum we submitted to you and the interview you graciously granted us at Cape Town on the 29th March, 1944, when we urged upon you the repeal of the Pegging Act, and made certain alternative proposals. Senator D.G. Shepstone, whom you delegated to make investigation, has, with the courageous help of Senator Clarkson, Minister of the Interior, and we understand, with the concurrence of His Honour the Administrator and the Provincial Executive, brought about an agreement that solution can be found to the one question to which all issues have been reduced, namely the control of juxtapositional residential occupation between Indians and Europeans in Durban.

2. We emphasise that the Indian Community, whilst in no way giving up its inherent right to ownership and occupation of property anywhere in Natal, recognize the threefold nature of the problem:

(a) ownership and occupation in rural areas for trade, farming, and residential purposes;

(b) ownership and acquisition of property for trade, commercial and investment purposes as distinct from;

(c) occupation of property for residential purposes in urban areas where the question arises of Indians living in close proximity to Europeans.

3. There is, we understand, complete agreement that no question has arisen or exists in regard to (a) as to (b), it being purely an economic issue, the

principles of economics forbid any restriction as have been imposed by the Pegging Act.

But in regard to (c) we agree that to meet the European attitude of mind though unreasonable - there is, arising therefrom, a situation to be faced. And for this purpose we agree to a voluntary arrangement whereby machinery can be set up to control and regulate future juxtapositional residential occupation of Europeans and Indians.

4. This machinery shall consist of a Board composed of five members, two of whom shall be Europeans and two Indians, with a European Chairman who shall be an Advocate or a Magistrate with no less than ten years' experience.

(a) The Board's jurisdiction shall be over all dwellings within the City of Durban only;

(b) The Board shall have power to exempt any dwellings either singly or collectively, situated in any streets, roads, localities or areas, from its jurisdiction, which in its discretion may deem desirable;

(c) Whenever, after the fixed date, any dwelling is occupied by a person of a particular racial group, no person of another racial group shall occupy the said premises unless a licence authorising him so to do has been issued to him by the Board.

5. In exercising its powers the Board shall take into its consideration the factors of contiguity and natural expansion, and the relative needs of all racial groups in regard to housing, amenities of life, educational and recreational facilities, and any other matters which are relative to the question of granting an occupational licence.

6. The machinery of this control shall only be extended to other local authorities (Boroughs and Townships) after the Board has investigated and determined the necessity or otherwise of the extension of the provisions of the proposed Ordinance to any particular Borough or Township. A right of appeal shall lie to the Administrator.

7. It shall be an obligation on the part of the Board to record its reasons for granting or refusing occupational licences at the time that the decision is

There shall be a right of appeal to the Administrator in Executive, on all decisions of the Board.

8. We have ascertained whether a Board, as envisaged, can be created under the War Measures Act. We consulted an eminent counsel (Advocate F.R. Shaw, M.C.) whose Opinion we attach hereto. He states that under Section 85 (xii) of the South Africa Act, the Union Government may originate in form the necessary legislation through the Provincial Council.

9. This machinery shall be of a general application, and of a temporary character. A permanent solution of this question can only be achieved by the provision of a progressive social and housing policy to meet the needs of our Community.

10. Above all, in our willingness to meet an immediate situation, we do not surrender the principle that any solution of the Indian question must rest in negotiations between the Union Government and the Indian Community. The assurance and protection given to us by the South Africa Act shall remain constant.

11. With the creation of this machinery the Government shall repeal the Pegging Act or deproclaim Durban from the operations of the Act.

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

A.I. Kajee, P.R. Pather, S.R. Naidoo, T.N. Bhoola, S.M. Paruk,  
Mohamed Ebrahim, A.B. Moosa.

Natal Indian Congress

Dated at Pretoria this 18th day of April, 1944.

Headquarters: 37, Albert Street, P.O. Box 1384, Durban, Natal.

II. COPY OF THE PRIME MINISTER'S STATEMENT ISSUED IN THE  
"CAPE ARGUS" DATED 19 APRIL 1944

"The Prime Minister and the Minister of the Interior met the Administrator of Natal (Mr. C. Heaton Nicholls), Mr. D.E. Mitchell, M.E.C., Senator D.G. Shepstone, and the following representatives of the Natal Indian Congress:

Messrs. A.I. Kajee, P.R. Pather, S.R. Naideoo, A.B. Moosa, T.W. Bhoola, Mahomed Ebrahim and S.M. Paruk, in connection with matters arising out of the application of the Pegging Act in Natal.

#### RESULT OF DISCUSSIONS

"The discussions took place as the result of representations made by the Indian Congress to find an alternative method of controlling the occupation of dwellings in towns and boroughs of Natal to that adopted under the Act mentioned.

"It was agreed that the situation would best be met by the introduction of an Ordinance into the Natal Provincial Council. This Ordinance would provide for the creation of a board consisting of two Europeans and two Indian Members, under the chairmanship of a third European who will be a man with legal training.

"The object of the legislation will be to create machinery for the board to control occupation by the licensing of dwellings in certain areas, the application of the Pegging Act in Durban to be withdrawn by a proclamation on the passing of this Ordinance."

#### III. COPY OF A TELEGRAM DATED 16 MAY 1944 FROM SENATOR CLARKSON TO SENATOR SHEPSTONE

With reference to your telephone communications and my previous telegram and with reference to A.I. Kajee's letter of 26 April, I have to advise that memorandum submitted by representatives of Congress to Prime Minister Pretoria on 18 April read with published statement issued by Prime Minister on that date constitutes Pretoria Agreement.

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