

ABX. 411119

labour matters - trades unions

19th November, 1941.

Mr. D. Koza,  
Secretary,  
African General Workers' Union,  
8, Kerk Street,  
JOHANNESBURG.

~~Dyane~~ Mr. M. Koza,

I have been trying to get in touch with you, by phone, for sometime; but, unfortunately, always found you out.

I would like to know if it is possible for me to meet your Executive one evening, either Monday or Tuesday evening - the 24th and 25th respectively, would be preferably. I would, however, accommodate myself to any date, before or after, convenient to you.

Yours faithfully,

ABX/pd.

21/11/41

## FOREWORD

This pamphlet is built on the evidence submitted by Dr. Xuma in the name of the African National Congress of which he is president, to the Committee appointed to enquire into the working of the provisions of the Urban Areas Act in respect of the manufacture and sale of Kaffir beer. When this evidence was presented it was at once endorsed and accepted as their own by a number of other African organisations many of whom withdrew their own already prepared memoranda in its favour. Since its presentation, there has been widespread demand for copies of it from both Europeans and Africans anxious to study leading African opinion on a matter of primary African interest and concern. It is in response to that demand that this publication has been undertaken.

Publication has a wider intention, however, than simply to make available the interesting and constructive evidence prepared by Dr. Xuma on this occasion. It is intended to initiate a series of pamphlets which will present to South Africa as a whole the African point of view on the so-called "Native Problem", and the African "solution" thereto. These pamphlets will be published under the auspices of the African National Congress, ~~and will give the Congress' point of view.~~

The specific purpose of the Series will be first of all to educate and direct African opinion and to render it articulate in the vexed issues of the future of Africans in this country, and secondly to enlighten European opinion as to the thoughts, aspirations and fears of Africans in respect of what lies before them in the land of their birth, the only land which they can ever call "home".

These pamphlets, if they maintain the standard and follow the precedent set by the present one will I believe, reveal

two important facts. The first of these is that under the educative influences, direct and indirect, of his contacts with European society, and under the pressure of a segregation policy which, <sup>is founded</sup> ~~founded as it is~~ on a territorial basis so narrow as to render complete separation impossible and ~~so that~~ <sup>what</sup> it becomes simply the thinly disguised instrument for economic exploitation, the African is passing from mere consciousness of the obstacles which obstruct his line of advance to constructive criticism of the system under which he is forced to live. This change is rapidly making African opinion a positive factor in our political situation which successive governments will be unable to ignore or neglect without serious repercussions. The African begins to know not only what he does not want, but how what he has might be changed into what he does want, a change indicative of increasing capacity for organisation and co-operative action.

This brings me to the second fact of interest revealed by the plan of this series of pamphlets as I understand it. It is that African opinion, like such European opinion as is committed to the peaceful advance of the African people in this country, is more and more abandoning the doctrinaire liberalism inherited from the nineteenth century which saw in legal equality the panacea for all social ills. The history even of western societies in the last fifty years has finally destroyed the happy illusion that to fight for the vote and the <sup>abolition</sup> ~~absence~~ of legislative discrimination is the first and sole task of the seeker after social justice. So long as economic power continues to centralise in a few hands as it has tended more and more to do in this last generation, so long will mere political enfranchisement and legal equality <sup>only</sup> ~~simply~~ give the man at the bottom of the economic pyramid the right to endorse his own economic enslavement.

This does not mean that enfranchisement and legal equality have ceased to be the goal of liberalism. That they must always  
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be. But ~~it~~<sup>it</sup> does mean that protagonists of liberalism today must apply their minds to the assimilation of their own experience which, if it teaches them anything, must teach them that the essence of a truly democratic society is not that everybody at any given moment shall have equal legal rights, but that everybody at all times shall be protected against the exploitation of his weakness by the strong and encouraged, if necessary by control, to develop that strength which will enable him to direct and control his own life in a society of free people. It means, in brief, that differentiation is not in itself foreign to the spirit of democracy; it is only where differentiation becomes discrimination against one section of the community in the interest of another that the democratic spirit should and must repudiate it.

The implication of all this is that what enlightened African and European opinion is progressively demanding is not that a revolutionary change in the organisation and character of our national life shall immediately take place, but that there shall be a progressive adaptation of our life to the principle of African emancipation and development. To be real, this adaptation will, of course, involve certain changes of a revolutionary character in our policy, for example in the matter of access to land both in country and in town and the disappearance of the legislative colour bar; but mainly it will mean the gradual substitution of a new content and direction <sup>in our</sup> ~~to a~~ present organisation which will substitute for the implied goal of white superiority the balanced, free and happy progress of all sections of the community alike. This is the evolutionary method of achieving democracy in South Africa to which these pamphlets will show educated African opinion as committed. I hope we need never consider the alternative.

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So far I have said little or nothing about the author of this pamphlet, except of course by implication. If this is an oversight, it is an oversight due to the established position which Dr. Xuma has made for himself among those who work for the cause of African progress. His right to speak with authority and to be listened to on the subject of African needs and aspiration has come to be taken for granted among us.

At the same time, it is hoped that this and succeeding pamphlets in this series will reach far beyond the ranks of the converted, and for this wide-field of prospective readers, a few words as to the qualifications on which the accepted position of the author is based may not be out of place.

The first qualification is Dr. Xuma's long training as a student, in South Africa, England <sup>and</sup> America. From this wide training, he has derived a capacity not so common in students in this generation as it might be, that <sup>of</sup> viewing facts objectively and thinking out their implication dispassionately which is the first pre-requisite of practical planning. And since his studies and experience have been in what should be the most widely humanitarian field, that of medicine, he has kept that touch with the people for whom he must help to plan which the student reformer so often loses, to his own loss, and that of the cause he claims to serve. Finally, on these foundations, he has built up a practice of sincere and uncompromisingly honest thought and intention which will make him a progressively significant as well as a progressively forceful leader of his people. For all those reasons, whatever he has to say deserves the earnest consideration of all who are interested in and hopeful for the peaceful progress of South Africa towards true and happy democracy.

I feel I must not conclude this foreword without commenting on the appropriateness of the circumstance that the new propagandist effort which this and the pamphlets to follow  
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Margaret Ballinger.

Rivonia

November, 21st 1941.

MB/RJ.

# **KAFFIR BEER**

*by*

**Dr. A. B. XUMA**

*President-General African National Congress*



## FOREWORD

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This does not mean that enfranchisement and legal equality have ceased to be the goal of liberalism. That they must always be. But it does mean that protagonists of liberalism today must apply their minds to the assimilation of their own experience which, if it teaches them anything, must teach them that the essence of a truly democratic society is not that everybody at any given moment shall have equal legal rights but that everybody at all times shall be protected against the exploitation of his weakness by the strong, and encouraged, if necessary by tutelary control, to develop that strength which will enable him to direct and manage his own life in a society of free people. It means, in brief, that differentiation is not in itself foreign to the spirit of democracy; it is only where differentiation becomes discrimination against one section of the community in the interest of another that the democratic spirit should and must repudiate it.

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I feel I must not conclude this foreword without commenting on the appropriateness of the circumstance that the new propagandist effort which this and the pamphlets to follow represent should be sponsored by what is, I believe, the oldest surviving African political organisation. The African National Congress came into existence in 1912 to provide a channel for the expression of the growing sense of grievance created by our political and economic barriers that blocked the advance of the African as rapid post war industrialisation of the country broke down what remained of the old tribal organisation, changed the rural character of his life and drew him inexorably into the vortex of European industrial organisation. It played a great part in publicising this sense of grievance and in setting in motion the slow process of awakening of the public conscience in this matter. Now that there are signs, as there are, that the awakening is well under way, there has been a growing demand for leadership in the next phase, the elaboration of a positive programme of amelioration and change. It is fitting and encouraging that the Congress, under leadership belonging to this generation, should find the energy and the initiative to answer this new call. The good wishes of all the friends of the African cause will go with it in its efforts to help to guide South Africa towards a peaceful and intelligent solution of its "Native Problem."

MARGARET BALLINGER.

Rivonia, November 21st, 1941.

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## EVIDENCE GIVEN BEFORE THE KAFFIR BEER COMMISSION, SEPTEMBER, 1941.

By Dr. A. B. XUMA, President-General, African National Congress.

It is a thousand pities that decisions on Native Affairs and Native Legislation in "democratic" and "christian" South Africa must depend solely and exclusively on official opinion and on European public opinion only, even in matters that concern the African intimately and specially. The African's views seem to count for nought. He is not considered part of public opinion. His part is to obey and not question the laws. He may not influence legislation or policy. He is no authority even about himself and his people, hence, is excluded from Committees and Commissions that determine his fate and future. Native experts and others alone may represent him and express views for him on such Boards and Committees. That is why Union Native Legislation has always worked against the interests of the African and is gradually breeding in him a feeling of suspicion, dissatisfaction and distrust in the ultimate aims of the Union Native policy for himself and his people.

Social Legislation, it seems to us, should aim at the improvement of all the people and their lot to bring about satisfaction, happiness, and contentment of the community as a whole. Judged by this criterion it would appear the "Native Legislation" so-called is anything but social legislation; firstly because of its differential and discriminating character and secondly, because its aim always seems to be first and foremost the control of the whole life of the African in the interests of the dominant race. The consideration of the African himself is merely a side issue; a second thought. The African is only a means to an end and not an end in himself.

The liquor legislation in South Africa is a cardinal example of the dangers of how governments, with absolute power and control over the life of other citizens, can legislatively create more crime and criminals among the weaker section.

The problems and effects of Liquor Regulations among the Africans in South Africa indicate the evil effects of legislation based on might being right to the exclusion of the wants, wishes, and ideas of the members of the weaker race for whom the legislation is made. It seems to be an attempt at re-creation or remaking of the Africans in South Africa after the pattern conceived or desired for them by their absolute ruler. The result of the failure and shortsightedness of this policy has been the creation of more serious problems and greater tendencies to crime than, it seems, would have been the case had such legislation and regulations never been passed. Liquor restrictions against Africans demoralised more people, both white and black, than it has saved. It has created more "apparent" criminals among the Africans. It has swelled the crime statistics. It has tended to demoralise some of the police in the administration of the law. The profit element arising

from restrictions or prohibition has tempted many of those who are free to get other liquors to supply such liquors to the Africans at high prices at the risk of prosecution of both the supplier and the receiver. Both are thus rendered criminals in the eyes of the law.

Common experience shows that prohibition or restriction on things which certain people crave, tend to suggest and encourage in the mind of enterprising people illicit traffic of the prohibited commodity at huge profits. This has been true of both liquor and yeast in South Africa. Man-made laws against human nature will be met with inventive genius from those who are restricted. More thought and energy is often given by them to ways and means of circumventing the law and/or nullifying its prohibitions.

It is well for us to preface what we are going to say here on the Commission's Terms of Reference by quoting what I said as an individual before the Native Economic Commission on the 22nd May, 1931. I spoke as follows:

"Under the discussion on wages I pointed out that because of low wages paid the native workers, the wife was sometimes driven to resort to illegitimate means of supplementing wages — such as illicit liquor traffic."

**"What are the causes of Illicit Liquor Traffic?"** I asked.

"A. The chief and most important cause is the low wages paid the male native workers.

- (a) Husband's wages alone cannot support the family.
- (b) Mother, as should be, must remain home and look after the children and the home.
- (c) Children too small.

**Result:** Only course open to her to make ends meet is to sell liquor."

"B. Double stream legislation of Prohibition for the Bantu and licence for the European.

- (a) Some black people want liquor. The law says they can't have it. White people can have all the liquor they want and they know that the black man wants it and will pay any price; consequently, some sell it to him. The black man is arrested for possessing liquor which he wants and for which he has paid dearly and has not stolen. Only because a law is framed for him to prohibit him from drinking what the people who legislate for him drink all around him every day, hence he is made a criminal for its possession.
- (b) On the other hand, the white man who either pities the poor black man or wishes to make a little profit by reselling his supplies to the black man is arrested and charged for supplying. He also is made a criminal by a law that serves no good purpose for any section of the community.

(c) Some people enter illicit liquor traffic solely because it is lucrative business under present restrictions."

"I have been told that there are European males and females who make good incomes by having native sellers on a profit-sharing basis. Both make more profit on the basis of current wages. I cannot blame either of them because the particular law offers them this opportunity. They are not inherently of criminal tendencies but our social legislation and double stream policy makes them criminals."

**"What is the way out?"**

"(A) **Prohibition** for all is the first suggestion. It is not because I believe that you can make a people a community of teetotalers. No, I don't believe that you can make people more moral by legislation; but this arrangement will only provide a single machinery that will be necessary to cope with all the problems arising from prohibition irrespective of race or colour."

"(B) **Licence** for all who desire to have the alcoholic beverage or other liquors. The quantities may be controlled through the bottle stores and the issue of licences."

"(C) **Home-Brewed Kaffir-Beer for the Bantu.** Under this system every housewife would have a right to make and keep some kaffir beer for husband and grown up sons. It may thus be possible as of old, to keep young native boys from taking drink habit too early in life."

"Under the system of home-brewing, there should be a tendency to less drunkenness and faction fights because most men will have a supply at home which they may take ad lib. In this way they may take just enough quantities to quench the thirst and satisfy the desire. Under the present restriction and prohibition most men can get their kaffir beer only on Saturday afternoons and Sunday and odd times. It is sold in measures or "scales" as they are called. This is a quantity which may be too much for one to drink all at once. He may not take it home as he may be arrested for possession. He must drink it all and at once in order to give the chance for others to get their 'Measures' and have room to drink. If drinking and mere possession of alcoholic beverage and, not necessarily drunkenness, were not made a criminal offence one could take his 'measure' with him or could order it to be sent home as from a bottle store and drink it at home and at leisure. As things are, the man must drink the whole 'measure' hurriedly and at once. The result is that he becomes drunk and often noisy."

"There should be licence for those people who want to commercialise kaffir beer. There should be no arrest for mere possession but only for drunkenness and disturbance of public peace. This would save a good deal more of police-power and free many constables to be on the trail of real crime instead of wasting so much time on these technical offences."

"This would relieve congestion of the courts on Mondays by women arrested merely for possession of kaffir beer or liquor. What is the difference between a black person selling kaffir beer

to his or her customer and a barman or bottle store keeper to his customer."

"No number of police will alter these conditions of liquor traffic until the causes have been removed — namely,

- (a) low economic status of the native workers;
- (b) double stream liquor legislation — prohibition for one section and licence for the other."

"Increase of the police force to enforce this unreasonable law would only increase our output in the manufacture of criminals through this faulty and discriminating legislation."

**"Why do Natives drink these concoctions?"** Is it because they want a kick in the drink? No. It is wrong for people to say that natives drink them simply because they want something with more kick in it. The fact is that the women who sell liquor cannot risk preparing their beer on Wednesday so that it will be ready for consumption on Saturday or Sunday, because the police are likely to come and raid and destroy the liquor earlier and arrest the possessor, who must either have to pay a fine or serve a term of imprisonment. Now, in order to get the kaffir beer ready for use Saturday afternoon something like 'Methylated spirits' must be put in to give it a kick in a few hours before the men come from work on Saturday and Sunday. The usual process of making kaffir beer requires three or four days which is too long and risky under the circumstances. The concoctions are added to make a 'get-ready-quick' sort of drink in the intervals between police raids. Let us all work for more rational legislation. Let us be honest and face facts.'

"When I see hundreds of black women going to jail every Monday, I do not think of them as criminals, I blame the system under which they live. It must be changed."

We have quoted this evidence extensively because even after ten years it still holds its force on the problem, as recent legislation has merely side-tracked the issue.

Taking the Terms of Reference we shall consider the following points:

- (1) The success or otherwise of municipal monopoly of manufacture, sales, and supplying of kaffir beer to Africans.

My Congress has no doubt that the municipal monopoly of kaffir beer selling has failed to achieve any of the objects it aimed to solve. It has been only a huge financial success; but, it has neither saved souls nor reformed human nature in the black man as the following facts will show. The introduction of municipal beer halls has not reduced the convictions for drunkenness, illegal possession of native beers or other liquor. Illicit liquor traffic does not seem to be on a decline as the following figures indicate:

Convictions for the Union "for contravention of the Liquor Laws (1935-1939)":

Year	Illegal Possession of Native Liquor	Illegal Possession of Other Liquor	Drunkenness
1935	65,404	5,113	—
1936	70,976	3,991	—
1937	66,274	3,364	—
1938	65,727	3,949	34,652
1939	77,609	4,696	39,473

The following figures show convictions for contravention of the Liquor Laws in the Witwatersrand Magisterial District for the years 1936 to 1939.

Year	Illegal Possession of Native Liquor	Drunkenness
1936	41,451	11,039
1937	33,471	10,808
1938	36,186	12,628
1939	46,144	15,259

Notwithstanding the existence of municipal beer halls there is evidence to show that there are other sources of supply which must meet a great public demand for beer besides that supplied by municipal beer halls. This is from illicit liquor dealers who seem to be holding their own even against police vigilance and activity as well as beer halls. For instance it has been shown that in Johannesburg the following gallons of Native Liquor have been destroyed:

Year	Number of Gallons
1939	528,000*
1938	608,000
1939	655,000
1940	849,000
1941 up to July	640,000*

These figures may indicate increasing activity of the police who may be destroying more liquor than before, thereby causing loss of greater quantities to the illicit dealers. This may not necessarily mean proportionately greater financial loss to the business, as traffic may be larger. It does mean that business must be reasonably good or quantities destroyed would soon decline indicating decreasing illicit brewing.

The above mentioned evidence must convince anyone that the municipal beer halls have failed to drive illicit liquor traffic out of business. They have neither reduced crime nor improved the general well-being of the people. Since these were the claims advanced for their introduction, they should be the only ones to justify their continuance.

Congress feels that municipal beer hall monopoly is a policy of robbing Peter to pay Paul. It is undermining custom by encouraging drunkenness among African Youth and exposing young

\* Figures given by the Deputy Commissioner of Police—Colonel Horak. "Rand Daily Mail," 22/7/41.



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