

powers within their areas, the latter subject to review by the Chief Magistrate to avoid abuse. There should be also a change of attitude in dealing with African adults as at present shown in public offices bullying them and calling them boys in the presence of their children.

Prohibition of anything that human beings want or need leads to illegal methods and devices of acquiring the article or product. Illicit business develops with suppliers, smugglers, runners, liasons and receivers. All are criminals under the law. That is why the words of John X. Merriman are so fitting in our discussion, that "every new law creates ten crimes."

The Liquor Act is one of the *best* illustrations of our point. Before the passing of the (Roos Act) Liquor Act No 30 of 1928 Africans in Provinces like the Cape could get the liquor more or less freely. They could therefore drink at leisure and could get genuine "stuff." There was no demand for special concoctions and there was no business in them. Those who were bent on profit from clandestine liquor sale and manufacture of concoctions had to come to the Transvaal where there were restrictions that created a demand. Prohibition denies some Africans something they want. It gives suppliers an opportunity to sell liquors at huge profits because many Africans want it as they see Europeans drink it all around them. It encourages enterprising people to manufacture something that will be ready for use between police raids. Police have shot people dead from these raids. Police have received bribes in lieu of prosecution.

Those who visit the so-called shebeens must consume large quantities all at once to give room to other customers before the police arrive. Many Africans thus become dead drunk. Observers merely say Native drunkenness is increasing *while* European drunkenness is decreasing. The important factors we have mentioned here are never taken into account.

The conditions under which Africans get liquors under present restrictions creates drunkards. This prohibition has made the African a criminal in taking his drink while the European can have all the liquor *he* wants. It has brought the African into contact with the European underworld. It has brought about manufacturers of concoctions and has made a drunkard of the African by trying to force him to be 'dry' contrary to his nature and his taste.

It was from the conditions created specially for Africans that in 1939 convictions under the liquor Act were

Illegal Possession of Native Liquor	77,609
Drunkenness	39,473
Convictions	<u>117,082</u>

In one year 117,082 persons convicted under circumstances in which the rest of the population of South Africa is not subject. In other words, this section of the population is penalised, discriminated against by an Act of Parliament, doomed to pay heavy fines or suffer long terms of imprisonment, because of their race and colour.

Perhaps this is another indirect way of taxing the Native and for revenue the liquor Act seems to bring in the funds.

Nothing is more depressing and arouses a spirit of revolt to any one who has a sense of Justice and fair-play than to see half a dozen tall, strong European police who might have started their day with a tot of brandy or whisky surrounding a group of African mothers carrying babies and meek, harmless African men, not drunk, with pint tins cups containing samples of liquors which is alleged to have been found in their possession. These Africans, it must be noted, had not disturbed public peace in any way.

It seems that the police force could be used to better purpose tracing real crime. Searching for beer tins may be profitable but society would be protected against criminals if less time was wasted on liquor, passes, masters and servants Act, Location Regulations, etc.

We most respectfully urge that ~~this~~ Committee recommend that Liquor raids be abolished and the Liquor Act be amended along the lines we suggested before the Beer Commission. The discrimination under the Liquor Act with its Beer Hall monopolies has become exploitation of the African.

### Yeast.

Restrictions on the sale of yeast have produced good and produce good and profitable business on illicit yeast traffic. There is abundant evidence to show that more yeast is sold for purposes other than legitimate. Africans may not buy yeast. None are excepted. This discrimination is a hardship.

If home brew and licensed canteens and other recommendations in our pamphlet 'Kaffir Beer' are accepted, the bottom would fall out of the yeast traffic.

Take, for instance, even an essential commodity like petrol, I once heard a man in a small town say you cannot go without petrol if you have money. The prohibition has created a demand and a necessity and I suppose 'Necessity is the mother of invention'.

### Pass Laws and the Civic Guards.

We have no intention to drag in the Pass Laws into this discussion because our Chairman had informed us that they do not fall within the terms of reference. However, they are among the efficient factories of crime with total conviction in 1939 of 101,309. Besides, the statement of Mr. T. Harper M.C. Inspector of the Greenside sub-district of the Civic Guard compel us to make observations on the statement and the attitude and treatment of Africans by some of the Civic Guards. "Mr. Harper handed in a letter from one of his sergeants which he said illustrated the impossible position now arising as a result of the amendment of the pass law regulations."..... "because it was apparent that before any action could be taken, a criminal must be caught during or immediately after the commission of a crime." It would seem to us that the last view is the correct view. No man is a criminal until he is in the course of committing a crime or has committed a crime.

We are surprised to find that in spite of the considered and experienced opinion of the Minister of Native Affairs that the pass laws do not affect crime, some of the Civic Guards still believe they assist against crime. If they do we just wonder why South Africa has not used them for all races and why they are not universal, because the whole world has it crime and criminals without Africans from South Africa.

However, what we wish to emphasize is that some of the Civic Guards have been a thorn on the African's side and have been a persecution in certain areas. Some definitely abused their authority in dealing with Africans. All and sundry were stopped at early hours in certain areas; searched on the street. People were assaulted for no good reasons. Some of us reported these incidents and joined two deputations to the Civic Guard Headquarters; but one always found that everything was explained away. One could not keep feeling that even the Civic Guard Headquarters did not seem to take their public responsibility seriously where Africans were concerned.

It was not until the present witness went to see Col. Horak, Deputy Commissioner of Police that some reasonable suggestion about the Civic Guards were forthcoming. However, at this time five Africans had already been shot by the Civic Guards and one was fatally wounded from the area of which we had given reports.

Civic Guards as well as the police must be trained about their duties to the public and should be warned about the careless and too frequent use of fire-arms.

The Pass Laws except as an instrument of exploitation, forcing the African to wages at the employer's conditions, do not prevent crime even though arrest under them may initiate a criminal career.

It must have become clear during our analysis that our crime problem arises from factors and causes fortunately most of which are within human control and remediable. We have found landlessness of the African in rural areas with overcrowding in the so-called Native Reserves and the Native Trust farms as well as the unsatisfactory labour conditions on the farms are driving Africans into Urban areas. In urban areas an African has no land to occupy, he gets permanent accommodation after he gets suitable employment otherwise he becomes not an unemployed but a 'vagrant'.

These factors coupled with low wages which is the root cause of most of the African's ills lead to poverty with its train of symptoms bad housing, overcrowding, lack of educational facilities, lack of social welfare service for young and old, juvenile delinquency and crimes associated with poverty such as theft, robbery and housebreaking.

We then saw the problems in relation to the dispensing of Justice, and its influence on convictions especially as it affects the the Africans.

Finally, we are deeply concerned with what we choose to call the factories of crimes - statutory offences that are crimes for Africans only. No democratic or christian government should discriminate against some of its fellow-country men. Because as C.D.H. Cole says "The essence of the State is to include all sorts of people without reference to the sort of people they are, the sort of beliefs they hold, or the sort of work they do."

"The State ignores the differences between men because it is concerned not with their differences, but with their identity, and its function and interest are concerned with men's identity and not with their differences."

Some of the recommendations, because of their urgency and lack of real difficulties in effecting the changes will be classified as short term. Others that require certain long planning and negotiation to put them into operation will be referred to as long term policy.

#### Short term Policy.

Raising of Wages of Africans to a Living Wage, immediately.

##### A. Wage Determination

- (1) Railways and other Government departments and works including Provincial Councils.
- (2) Applying acceptable Wage Board Determinations to Municipalities affecting Distributive Trades, unskilled workers and all other workers.
- (3) Wage Board Determinations for smaller towns at once.

B. Releasing Adequate Land for Purchase, Lease or Rent by Africans and Improvement of Farm Labour Conditions with Adequate Wages in cash to prevent Africans trying to leave the country side for urban areas.

C. Recognition and Registration of African Trade Unions under the Industrial Conciliation Act.

D. Abolition of Pass Laws to protect all African workers under Industrial legislation.

E. Intensive training of Africans to do skilled work for war supplies. This would be economic use of African man power and would give the African his chance towards total war effort.

F. Delinquency and Vagrancy.

##### Education.

The education of the African should be financed from the general revenue like the education of Europeans and other Non-Europeans on the basis of per child per year of school-  
17. going/....

*Incomplete*

going age to begin with. It should be run by the Education departments of the various provinces.

The African teachers should be Civil servants under the Education department with pension rights and immunities. Their salary scales should be the same as that of other Non-European with same qualifications.

Play-grounds and Social Centres.

There should be play grounds for children and clubs which are properly supervised by trained social workers. In every area there should be one or more such workers. For adults there should be sports grounds that are open to the general public along the line of the Bantu Sports Club, Johannesburg.

As Johannesburg covers such a large area there must have to be small clubs where servants may go to meet their friends.

G. Transport.

Facilities should be provided for African workers to board European public vehicles which to go areas where the person works. It is a serious disadvantage for these people to have to hire taxis where trams and buses could take them cheaply.

H. DISCRIMINATING AND RESTRICTIVE LAWS.

We have been told that we cannot hope to see any change in the Native Policy for the next 25 or 50 years. We, however, feel that the policy of gaols instead of schools, of gaol wardens and police instead of social workers and teachers, has had its day. We do not believe in the immutability of the South African Native Policy and its laws as if they were laws of God and Nature. On the contrary, we believe that the South African Native Policy is against the laws of God and Nature and we therefore request the Committee to urge their abolition - the abolition of Pass Laws, Location Regulations, Masters and Servants Acts, Native Labour Regulations, Natives (Urban Areas) Act, Trespass Regulations and Native Taxation.

No doubt many people will deem recommendations for the abolition for the abolition of Native Taxation as ill-advised. They will argue that Native Taxation provides funds for Native Education and welfare. To this we agree. But we would like to point out that for the African Taxation under the Natives Taxation and Development Act No. 41 of 1925 has been an evil blessing contrary to the principles of taxation, it is not a contribution paid to carry on services by those who can. It is a penalty which was imposed indiscriminately to youth 18-21 years and old men over 60 years with or without income. Tens of thousands each year were convicted under this Act. Some had their stock sold to recover the tax.

Of those it has educated, one wonders how many it has demoralised.

South Africa has poor whites, poor coloureds, poor Indians. She is providing fine schools for these with fine buildings, free books, milk and so on. We congratulate South Africa for this. We only wish she will soon realise that she has long neglected her duty with the poor African - the poorest of the poor.

The needs of African children will determine how much need be spent.

(J) Liquor Acts.

We recommend the amendment of the Liquor Act so that were possession of Native Liquor will be no crime. Home brew will be permitted in certain areas; but selling without a licence will be severely punished.

Police raids should be abolished and there should be no alcoholic content limit. Licences should be given to people who desire to get other liquors for personal use.

Licensed canteen taverns run by Africans should be permitted instead of beer halls.

**Collection Number: AD843**

**XUMA, A.B., Papers**

***PUBLISHER:***

*Publisher:-* **Historical Papers Research Archive**

*Location:-* **Johannesburg**

**©2013**

***LEGAL NOTICES:***

**Copyright Notice:** All materials on the Historical Papers website are protected by South African copyright law and may not be reproduced, distributed, transmitted, displayed, or otherwise published in any format, without the prior written permission of the copyright owner.

**Disclaimer and Terms of Use:** Provided that you maintain all copyright and other notices contained therein, you may download material (one machine readable copy and one print copy per page) for your personal and/or educational non-commercial use only.

People using these records relating to the archives of Historical Papers, The Library, University of the Witwatersrand, Johannesburg, are reminded that such records sometimes contain material which is uncorroborated, inaccurate, distorted or untrue. While these digital records are true facsimiles of paper documents and the information contained herein is obtained from sources believed to be accurate and reliable, Historical Papers, University of the Witwatersrand has not independently verified their content. Consequently, the University is not responsible for any errors or omissions and excludes any and all liability for any errors in or omissions from the information on the website or any related information on third party websites accessible from this website.

This document is part of the archive of the South African Institute of Race Relations, held at the Historical Papers Research Archive at the University of the Witwatersrand, Johannesburg, South Africa.