

**Lunacy administration in Cape Colony / by T. Duncan Greenlees.**

**Contributors**

Greenlees, T. Duncan.

**Publication/Creation**

London : Adlard, 1910.

**Persistent URL**

<https://wellcomecollection.org/works/bv759ckc>

**wellcome  
collection**

Wellcome Collection  
183 Euston Road  
London NW1 2BE UK  
T +44 (0)20 7611 8722  
E [library@wellcomecollection.org](mailto:library@wellcomecollection.org)  
<https://wellcomecollection.org>

LUNACY ADMINISTRATION  
IN CAPE COLONY.

BY

T. DUNCAN GREENLEES, M.D. EDIN.

---

*Reprinted from the 'Journal of Mental Science,' April, 1910.*

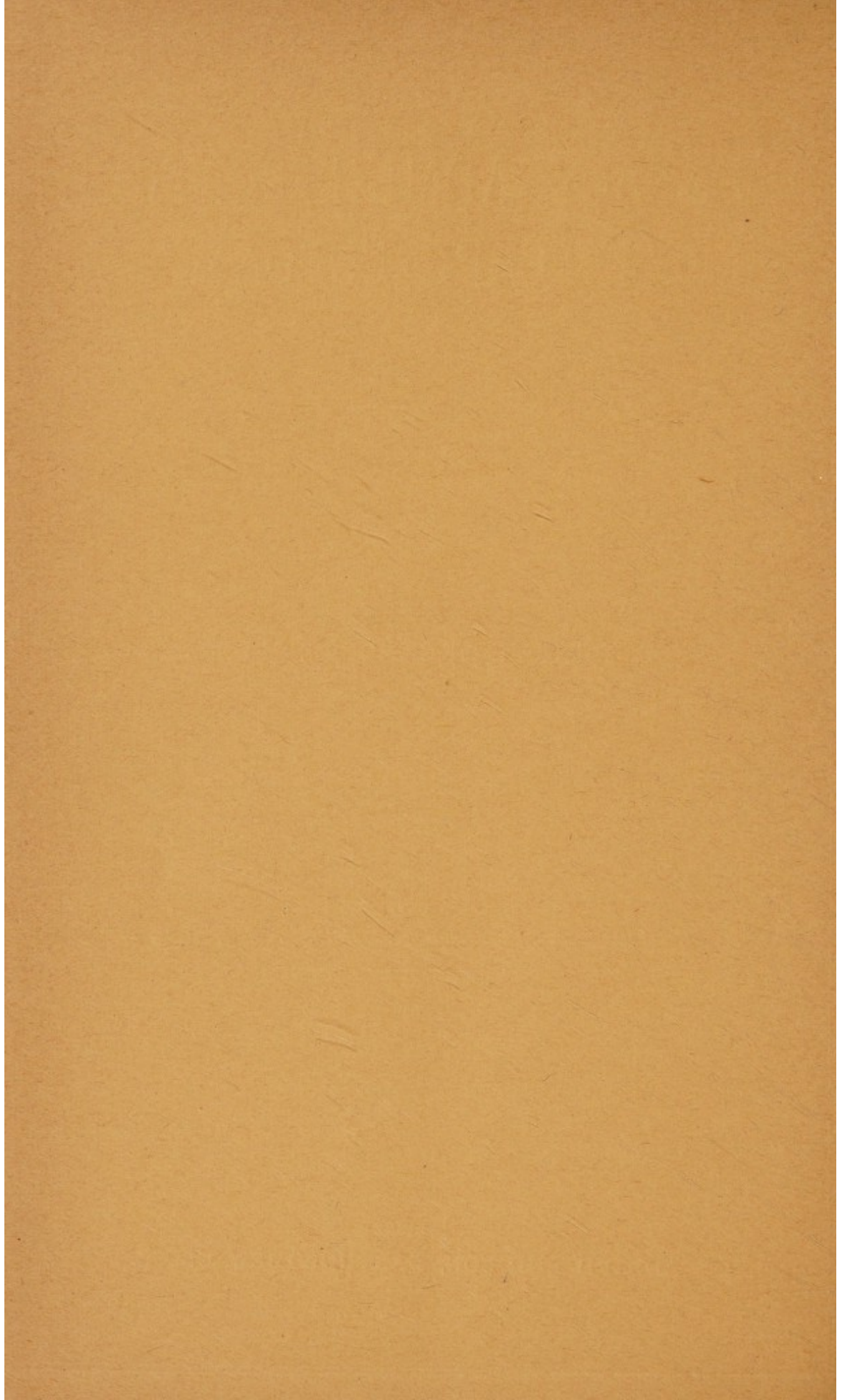
---

London :

ADLARD AND SON, BARTHOLOMEW CLOSE.

---

1910.





# LUNACY ADMINISTRATION IN CAPE COLONY.

BY

T. DUNCAN GREENLEES, M.D. EDIN.

---

*Reprinted from the 'Journal of Mental Science,' April, 1910.*


---

London :

ADLARD AND SON, BARTHOLOMEW CLOSE.

---

1910.



Digitized by the Internet Archive  
in 2019 with funding from  
Wellcome Library

<https://archive.org/details/b30614934>



## LUNACY ADMINISTRATION IN CAPE COLONY. (1)

By T. DUNCAN GREENLEES, M.D. EDIN.

THE subject of lunacy administration in our Colonies, and in other countries, is one not so well known as it should be to those of us who are specially interested in these matters in this country, and I was pleased to see recently articles in our Journal by Drs. Eric Sinclair and Beattie Smith treating of this subject as found in Australia. If our Editors published a series of articles referring to lunacy administration, as met with in our Colonies and foreign countries, these might prove useful when our own Lunacy Act undergoes amendment.

Having spent seventeen years as medical officer to a Colonial asylum, I have thought myself competent to submit the following brief *resumé* of what has been done in Cape Colony to improve the condition of the insane, and the administration of the asylums, during the last twenty years.

*General historical facts.*—Most of you are aware that in 1872 the Colony, which previously had been directly governed by the Crown, was given responsible government. The granting of responsible government has enabled its legislators to enact laws which, while suited to local requirements, are in many respects well abreast of the times. Many of the Acts, for example, which form the Statute Book of Cape Colony, are founded upon the legislation which other countries and colonies have proved useful in their experience, and thus our younger Colonies are beginning, as it were, where older countries with their conservative habits leave off.

In 1872 the only asylum for the insane in Cape Colony was on Robben Island—a desert isle eight miles from the mainland—



and which also provided accommodation for lepers, paupers, and criminals. There was no Act dealing specially with the insane, and the ultimate detention of any case depended upon the decision of a medical board which occasionally met in Cape Town.

In 1875 an Act was passed, but under its provisions it was necessary that the person of unsound mind should first be indicted as a criminal before he could be treated as a lunatic! Of course the law was made very elastic, and there was seldom found difficulty in finding some act of the lunatic which could be interpreted as "criminal," and thereby justify the detention of the person.

But even in these early days it was recognised that in some cases it was not deemed prudent that patients should be first criminals before they became legally lunatics, and the Government, with no legal powers whatever, enacted that in certain cases the Colonial Secretary might issue authority for detention in an asylum for treatment. Fortunately for the cause of lunacy in the Colony, this ruling was questioned; a lady, detained in one of the asylums by order of the Colonial Secretary, prosecuted the Government for illegal detention, and the judge, in ordering her immediate discharge, made some very severe remarks about any department of the Government taking upon itself such powers as were not conferred upon them by Act of Parliament.

This was in 1890, and the Government, threatened with innumerable law suits for illegal detention, was forced to introduce a Lunacy Bill, which was passed and became law in 1891.

Shortly prior to this, *viz.*, in 1889, an agitation was made to house the better class of the insane on Robben Island on the mainland, and monetary provision was made by Parliament for the erection of a new asylum in the immediate vicinity of Cape Town, on property already belonging to the Government. At the same time the necessity for technical advice in lunacy matters made itself keenly felt by a country awakening to the sense of its State responsibility in the care of the insane, and Dr. W. J. Dodds, of Montrose Asylum, was appointed the Government adviser and inspector of their asylums.

Dr. Dodds, on his arrival in July, 1889, immediately set about effecting improvements, both structural and adminis-



trative, in the asylums under his care ; new rules and regulations were drafted and adopted, and soon he saw a modern asylum erected in the neighbourhood of Cape Town, designed by a distinguished architect from his own ideas, and thence a number of the quieter cases from Robben Island were transferred and cared for in accordance with modern methods.

The Lunacy Act of 1891 was an immense advance on what had previously existed, but experience in its working proved it had many defects, especially in a country where the distances are so great that it sometimes happened certificates, signed at a patient's house, became invalid before the patient could reach the asylum.

Accordingly, in 1897 an amendment to this Act was passed by Parliament, in which many of the defects of the previous enactment were removed, with the result that for its simplicity and ease of working—for I presume the doctors had had more to do with its drafting than lawyers—I have little hesitation in saying it will compare favourably with any Lunacy Act in existence. So near perfection is it that, at a meeting of medical superintendents of Colonial asylums, held in Grahamstown several years ago, with a Government instruction to “consider lunacy legislation with the view to further amendments of the Act,” they expressed themselves as unable to offer any such criticism as would justify their advising the Government to amend it.

Briefly, it may be stated that lunatics in Cape Colony before 1891 were simply legally “criminal or dangerous persons” ; after the passing of the Act of 1891 they were classified into “criminal, dangerous, and other cases”—the “other cases” being those who could not be dealt with under the criminal law, but for whom treatment in an asylum was deemed advisable ; and finally, under the Act of 1897 the insane were simply divided into “criminal and others.”

The Act of 1897, which was promulgated on May 25th, 1897, is divided into five parts, comprising seventy-eight sections, and it may be of interest to refer briefly to its various provisions.

#### PART I.

Part I of the Act deals with lunatics who are not criminal, and is that portion most used in dealing with the insane in



the Colonial asylums. Under its provisions a magistrate—and a Colonial magistrate is a paid Government official—after satisfying himself as to the insanity of a person from evidence on oath, and two medical certificates, may order the detention of an alleged lunatic for a period not exceeding one month. Thereafter the further detention can only be granted, after submission of all documents and a medical certificate by the medical man in charge of the patient, on the order of a judge.

A judge has great discretionary powers, for, under Section 15, he may either—

(1) Make a further order for the detention of the alleged lunatic *sine die*, or for such period as he deems necessary.

(2) Order a summons to be issued on the alleged lunatic to appear before him.

(3) Appoint a *curator bonis* for the care of the lunatic's property, authorising him to disburse necessary monies out of the lunatic's estate, and to submit a financial statement to the Court from time to time.

(4) Direct that the alleged lunatic be discharged forthwith.

(5) In cases where the lunatic is a poor man the judge may order that the legal expenses be free of cost to the lunatic's estate.

(6) Generally give such directions as may appear to him necessary and proper.

Under Section 13 the Crown solicitor, whether he is the Attorney-General, with jurisdiction over the Western Province, the Solicitor-General, over the Eastern Province, or the Crown Prosecutor, over West Griqualand, acts *ex officio* as the *curator ad litem* of all lunatics within their respective districts, and exercises a general judicial supervision over the interests of their clients.

It will thus be seen that, under Part I of this Act, the authority of the magistrate for the detention of a lunatic lasts only for one month, while the final disposal of the patient and his estate rests entirely with the judge, who has practically unlimited powers to "do anything he may consider necessary and proper" in the interests of the patient, ordering him to an asylum from "single care" or *vice-versâ*; ordering periodical reports as to his mental or physical condition; making permanent or temporary orders for his detention; ordering the



disposal of his property ; or he may declare null and void the existing certificates, and order the lunatic to be re-certified.

Further, under Section 17, any person detained under the provisions of this Act may apply to the Court for an inquiry into the cause and grounds of his detention, and the official curator *ad litem* is compelled to undertake the duty of submitting such application to the Court, gratuitously in the case of paupers.

Section 18 provides for the issue of a warrant of transfer by the Colonial Secretary of any lunatic committed by a summary reception order of a magistrate or by an order of a judge from an asylum, hospital, or gaol to another "safe place of confinement."

## PART II.

Part II of the Act provides for the disposal of Governor's pleasure and criminal lunatics. Governor's pleasure cases are those criminals found insane prior to arraignment, and these cases may be detained in custody during the pleasure of the Governor of the Colony. At the trial, in certain cases, the magistrate or judge, as the case may be, may abandon the criminal charge, and then the lunatic may be dealt with under Part I of the Act as "an ordinary case" ; and when the charge is a trivial one this procedure is usually carried out.

When a prisoner becomes insane he has to be "certified" by two medical men, and thereafter he is dealt with as a criminal lunatic, and detained either in the only criminal asylum in the Colony, Robben Island, or failing room there, in the prison. Should such a person recover his reason, formerly he was sent back to the prison to complete his sentence, but now the time of his detention counts in the period of his punishment ; should he not be fit for discharge at the termination of his sentence he may be discharged *pro forma* as a criminal, and thereafter be considered an ordinary lunatic as if admitted under Part I of the Act.

The Governor of the Colony reserves to himself the right to discharge, conditionally or unconditionally, any Governor's pleasure or criminal lunatic ; such power, it need hardly be said, is never used unless on the advice of his Ministers.



## PART III.

This part of the Act provides for the care and administration of the lunatic's property ; under it the Court may appoint a curator of the estate ; it may also appoint a curator of the person of the lunatic. Both posts may be given to one person, but this is rare ; as a rule the medical attendant is appointed curator of the person, and an attorney, or other business man, curator of the estate. In certain cases it is advisable to make only one appointment, and then it is generally the estate that is supervised, the lunatic being at liberty.

Further, the Court may dissolve a partnership, one member of which is declared of unsound mind.

The appointment of a curator to a lunatic's property is most carefully safeguarded in the interests of the lunatic ; the curator is subject to the master of the Supreme Court, to whom he files an inventory of the estate, reports details of his disbursements from time to time, and submits to his decision as regards his own remuneration for his services, such being usually 5 *per cent.* of all monies expended out of the estate. His powers of expenditure are limited and confined to the instructions of the Court.

It will thus be seen that the financial interests of any person declared of unsound mind are most carefully supervised, and I have personal knowledge of the great care that is exercised in the administration of the estates of patients under my care in Grahamstown Asylum.

## PART IV.

Part IV deals with offences and penalties under the Act, and I may here say the provisions are as stringent as they are under the English Lunacy Act.

For the illegal detention of an alleged lunatic the penalty must not exceed £50, and for wilfully making any mis-statement the limit is £100. The same penalty is meted out for obstructing anyone, under Government authority, in the exercise of such powers as are given them under this Act.

Contravening the provisions of the Act or any of its regulations involves a fine not exceeding £20 ; the same fine may be inflicted—or, failing a fine, imprisonment not exceeding three



months—for ill-treating a lunatic, or conniving at his escape, by an asylum official.

Carnal knowledge of a female lunatic by any person in charge entails, upon conviction, imprisonment, with or without hard labour, for a period not exceeding five years.

#### PART V.

This part of the Act deals more especially with matters arising out of the other sections. In it provision is made for dealing with lunatics from other States or from across the seas, to prevent dumping; and Sections 52, 53 and 54 refer to the regulations of licenced houses and "single care" cases. There is only one licenced house in Cape Colony at the present time.

Section 58 treats of voluntary boarders, who can be admitted to an asylum voluntarily on application to the medical superintendent, such admission being duly reported to the Colonial Secretary. There is no need there, as exists here, for official consent to be previously granted before a person can voluntarily place himself under treatment. Otherwise the regulations, pertaining to voluntary boarders in the Colony, are similar to those met with under the English Lunacy Act.

Section 75 provides for the Governor reserving to himself the right to issue rules and regulations for the better working of the Act; such rules deal with the procedure in the admission, discharge, or transfer of lunatics, the guidance of asylum visitors, the necessary books to be kept, financial and other reports, paying patients, etc.

Perhaps the most interesting portion of this part of the Act is Sections 76 and 77, which refer, all too briefly, to the legal custody of imbecile and idiot children, for whom, on my representation, separate accommodation was provided in connection with Grahamstown Asylum, and the Institute for Imbecile Children is the only institution specially devoted to the care and education of such cases in Africa at the present time. I understand, however, that Natal is urging the provision of similar accommodation in connection with one of its hospitals.

Such, then, is the Act under which the insane of Cape



Colony are cared for, and their estates supervised ; its analysis shows it to be better in many respects than our own Lunacy Act, the final disposal of a person, whereby he is deprived of his personal liberty, being an extremely important point.

It would seem to me that if any person requires to be deprived of his liberty, whether on account of some crime he has committed, or on account of mental disease, the proper tribunal before which he should appear, whether in person or by representative, is a court of justice, and the proper person to deprive him of his liberty is a judge. The exception is made of the lunatic who is unfortunately situated, for his sentence is pronounced by admittedly incompetent authorities, for so the " great unpaid " justices of this country are said to be.

Then, again, how is it that restraint and seclusion can be carried out to an unlimited extent in a general hospital on a " borderland case," without the legal formalities necessary when the case is a certified one ? Does " certification " imply insanity, and is the strict line of separation between " borderland " and " insanity " bridged over by the mere act of filling up certain legal documents ?

Surely if insanity is a disease, and if it is considered that an Act of Parliament is required for its treatment, then the Act should be made as simple as possible, its sole object being the early treatment of the insane, and if detention is necessary, the same justice as is meted out to the ordinary criminal should be given the lunatic, and a judge, and a judge alone, should have the power to deprive even an insane man of his liberty.

But I digress ; I merely submit these thoughts for your consideration.

*The Asylum Service of Cape Colony.*—The public asylums in Cape Colony, like similar institutions in all the British Colonies, and some foreign countries, are State institutions, supported out of public funds, and the officials are civil servants, subjected to all the rules and regulations that govern public servants.

A civil servant so soon as he joins the service is compelled to contribute to two pension funds, a general fund for his own pension, and a widows' fund ; and he may retire at sixty years of age, drawing, as a retiring allowance, one-sixtieth of his annual salary and allowances for each year of service, the



amount being calculated on the average emoluments of the last three years of his service.

This scale is, upon the whole, a liberal one for the ordinary civil servant, who joins when he is seventeen years of age, and whose office hours are from nine until four ; but it is different with asylum officials, such as medical officers, who are appointed only after having had their training. These men are rarely appointed before the age of thirty, and accordingly have already lost thirteen years' service for pension purposes.

In view of this anomaly, and to bring the question of pensions, as they affect asylum employees, directly under the notice of the Government, a meeting of asylum medical officers was held, and a scheme drafted enabling asylum officials to retire at fifty, after fifteen years' service, and at fifty-five for certain others of the staff, with ten years added to their service.

Fortunately, just at that time a Commission was sitting to consider generally the Civil Service, for there were many injustices requiring amendment, and Dr. Dodds and I were enabled to lay before them the claims of asylum officers for more liberal terms as regards pensions, etc., than were already provided for by the Civil Service Act.

As a result the Commission recommended that officials in the asylum service should be allowed to retire on pension after fifteen years' service, being fifty years of age, such pension not to exceed one-half of the salary, if the usual calculation on the Civil Service scale did not amount to this ; otherwise the pension would be in accordance with the ordinary scale of the service. These terms were on a more liberal scale than those submitted by us.

A Bill was drafted to give effect to the Commissioners' recommendations, but it never got so far as Parliament, owing to a political crisis occurring at the psychological moment ! There is no doubt, however, that the next amendment of the Civil Service Act will embody most, if not all, of the recommendations of the Commissioners, and, in the meantime, an assurance was given us that their recommendations would have effect in any case submitted.

*Mental Nursing in Cape Colony.*—Previous to 1890 nothing in the way of training was even thought of in the asylums of Cape Colony, although before this date the hospital nurse was



thoroughly trained, and a register was kept of all hospital-trained nurses. But with respect to the asylums, nurses and attendants were simply pitchforked into their respective wards without any previous knowledge of their duties. And even in England the training of asylum nurses was only taken up seriously three years before this, although in many individual cases training was, for long before this time, carried out. So recently as in 1887 I heard a distinguished asylum superintendent deprecate educating asylum nurses lest they should get to know too much, and thus undertake duties that rightly belonged to the medical officer! I am glad to say this gentleman has long since seen the error of his ways, and has become a powerful advocate in promoting this good work.

All praise to our Association for inaugurating the systematic training of mental nurses, and for putting it on a firm basis.

There was much pioneer work to be done in this direction when I first went out to the Colony in 1890. That year I established a course of training, and became associated with the Medico-Psychological Association in its training and examinations, and, in time, a number of my nursing staff were awarded the coveted honour of the medal and certificate of the Association.

The other Colonial asylums took up this work with enthusiasm, and ever since candidates are regularly presented for this examination.

The Government, recognising the importance of improving the education, and hence the nursing, of its asylum employees, was pleased to grant increased emoluments to those who had been successful in these examinations, and thus an increased incentive was given to us all, and the general tone and *esprit de corps* were materially improved thereby.

Not satisfied with this, and noting the agitation in England for the registration of nurses, and especially the registration of mental nurses as carried on by this Association for many years now, Dr. Dodds and I consulted together, and submitted a memorandum to the Colonial Medical Council, who control the register for hospital nurses. On our recommendation the Council established a register for mental nurses; candidates for inclusion in this register have to pass either the Medico-Psychological examination in mental nursing, or an examination, held by the Council itself, on similar lines. Thus the



Colonial mental nurse is now on the same legal level as her sister in the general hospitals of the Colony, a state of affairs not yet attained to in this country.

Before this system of self-help was inaugurated great difficulty was experienced in getting vacancies filled up, and we were glad enough to import our nurses from time to time. Now all this is changed, and the colony, in this respect, is practically self-supporting.

All the credit of these improvements, and I could mention many more did time permit, carried out within the past twenty years, is due chiefly to Dr. Dodds, the Inspector of Asylums, who, by his indefatigable energy, enthusiasm in his work, and powerful influence has advanced everything that pertains to the increased comfort and happiness of the insane and those having charge of them. Indeed, under him the Colony has done more in this short space of time for the insane than England in the last generation. England, with her conservative habits, no doubt "hastens slowly"—which, by the way, is our Colonial motto; but she should take care lest, in the race of civilisation, she is left behind by her own children—her colonies. Already in asylum administration and lunacy legislation she would do well to take a lesson.

*The future of lunacy in South Africa.*—What the history of lunacy administration will be under the new Union of the States of South Africa it is difficult to say, but I would prophesy, if she is left alone to work out her own salvation, progress in every direction on the lines carried out in recent years in Cape Colony.

The central asylum administration will have under its control eight asylums and two hospitals where lunatics are received, and from 3,000 to 4,000 certified patients, together with a staff of about 400 individuals, an annual expenditure for maintenance of £200,000, and possibly £100,000 for additions and repairs. This is a heavy burden for a country to support whose population is well under 1,000,000 white persons—the coloured people rarely count for taxation purposes.

The retention of an asylum inspector, untrammelled by other duties, is absolutely necessary. Such an officer should have the ear of his political chief, and be the adviser of the Union Government in all matters pertaining to the asylums under his jurisdiction.



He should be empowered to authorise the expenditure of any monies required to carry out his recommendations, otherwise he is the mere shuttle-cock between the Government and the various asylums.

If the two white races unite on these lines there is a bright future for lunacy in South Africa. It will be watched by those of us interested in the care of the insane throughout the world, and the time may come when this country, at present tied down by its conservative habits and laws, will not be ashamed to imitate, in this direction, this, its youngest of her dominions beyond the seas.

(<sup>1</sup>) A paper read at the Autumn Meeting of the South-Eastern Division, held at Brooke House, October, 1909.



