incurred by him without his own default in the actual discharge of that duty. Lastly follow a variety of strictly legal and judicial provisions. Section 322 of the Act of 1890, dealing with offences against patients, is to include "striking," and to extend to workhouses, impliedly excluded hitherto by the definition of "institution for lunatics" in Section 341. The Master in Lunacy, subject to the rules, and to the annulment or variation of his orders on appeal, is to have the jurisdiction of the Judge in Lunacy—a provision which practically will make the Lords Justices appellate judges only.

"Arrest of mental development" is added to the grounds of jurisdiction under Section 116. It was doubtful whether this common condition came within the words "infirmity of mind arising from disease" in that section. By Section 116 patients are brought within the range of duty of the Chancery Visitors. And the effect of inquisitions upon reception orders is at last defined. Briefly the result is this. If the alleged lunatic is found sane the reception order determines forthwith. There is room here for greater precision, and for directions as to notice to the person having the lawful control of the lunatic. If the finding is one of incapacity to manage himself and his affairs, the reception order continues in force till a committee of the lunatic person has been appointed. If the finding is incapacity to manage affairs only, the order determines, but the judge may give directions as to residence, care, treatment, &c., so long as a reception order stands, but no longer. The duty of the Commissioners in Lunacy to visit the patient subsists. What the effect of proceedings under Section 116 on reception orders is to be is a point that might with advantage be cleared up.

Criminal Evidence Act.

The Criminal Evidence Act, 1898, has now come fairly into operation, and it is already possible to forecast its working in certain directions. In the first place the Act will certainly facilitate the proceedings of our police courts by enabling the magistrates to dispose of cases in which, but for the evidence of the prisoner, they would have had to order a remand for inquiries. Again—and this is rather a serious matter—it looks as

if the fear that silence would be interpreted prejudicially to them by the jury will exercise a practical compulsion on prisoners to give evidence in a vast majority of cases. This consideration makes it all the more important that no undue advantage should be taken of prisoners in cross-examination, or in the summing up of prosecuting counsel. So far there has been nothing to complain of in either respect. Lastly, there can be no question that the Act will secure the conviction of many prisoners when they might not have been found guilty but for their own evidence. The recent case of Dr. Whitmarsh is an illustration of this fact; the case against him, though strong, rested largely in itself on evidence which was circumstantial and not direct, and had matters been left there the second jury which tried him might have disagreed as the first did. But the prisoner clinched the case for the prosecution by denying incidental statements of fact of which there was abundant proof, and above all by fixing the date when Alice Bayley last called upon him. Whether this quality in the new Act with which we are dealing is a merit or a defect is a point on which opinions may differ; but it shows the need for a very cautious administration of the measure if the conviction of the innocent is to be avoided.

Various other issues have been raised under the new Act. We may pass by the question, no longer of any practical interest, as to the date when it came into operation. But the Court for Crown Cases Reserved has already decided (*Queen* v. *Rhodes*) with unimpeachable propriety that a prisoner has no right to be called before the grand jury, and that the statute does not interfere with a summing up by prosecuting counsel under Denman's Act. In the same case it was held that the fact that a prisoner declines to give evidence may, at his discretion, be made the subject of comment by the presiding judge. It is difficult to say that this ruling is not legally sound. But it practically will make prisoners compellable as well as competent witnesses. A serious division of opinion has been produced by the question whether a prisoner can be prosecuted for perjury in evidence which he gives in his own behalf. Mr. Justice Wills, on circuit, took the negative view. Mr. Justice Ridley has adopted the affirmative, and has actually ordered a prosecution, besides commenting on the evidence of prisoners in terms which have been severely criticised by the legal pro-

fession. The solution of this difficulty will be awaited with great interest.

The Case of Dr. J. A. Campbell.

Our action might be misjudged if we were to leave unnoticed the trial (reported in our medico-legal column) of Dr. J. A. Campbell, of the Garlands Asylum, Carlisle, for an offence under Section 324 of the Lunacy Act, 1890–91. We need not say that we refer to the event with the deepest pain.

The law has rightly provided special penalties for such an offence, an offence against the most helpless of creatures—a human being deprived of the great human attribute of reason, and left defenceless to the power of others or to the promptings of brute passion; an offence, too, against all principles of fiduciary honour; an offence, in fine, so revolting that it almost falls under the category of unnatural crime. The common sense of mankind calls loudly for the exemplary punishment of such offences; and our specialty, which has always been the great protector of the insane, strongly upholds enactments framed by the law in accordance with the spirit of natural justice.

The case before us has other points of interest for us besides the directly humanitarian. It interests us further, inasmuch as insanity was pled in exculpation of the prisoner. This plea did not surprise anyone who had either known Dr. Campbell recently, or had heard in detail the circumstances of the act charged against him.

The trial proceeded on the familiar lines. The prosecution adopted the view that mere alcoholic intoxication at the moment when the crime was committed accounted for the prisoner's conduct. The judge, having pointed out that mere drunkenness at the moment was no defence, proceeded to lay down in a quite unmodified way the law as pronounced in the McNaghten case. It was put to the jury: was the accused through insanity incapable of knowing what he was doing? or if he did know what he was doing, was he incapable through insanity of knowing the nature and quality of the act? It is doubtful what effect this had upon the jury. It must have been perfectly evident, even without entering upon Sir James Stephen's subtleties, which Mr. Justice Phillimore very cavalierly swept