

We have always wondered why it has never occurred to some ingenious barrister, in defending a prisoner, to contend and tell the jury that the rules have no legal validity, and to challenge the judge to direct them in accordance with the charge in Hadfield's case. It would be difficult for any judge to refuse to reserve a point of law of such vital importance.

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*Inebriates Bill.*

We cordially hope that the report that the forthcoming Government Bill to amend the Inebriates Acts will deal only with police court cases, may prove to be inaccurate. Such a Bill would be scarcely worth accepting, even as an instalment; for having once touched the question again, in however perfunctory or unsatisfactory a manner, the legislature would certainly leave it alone for another decade. The minimum that can be regarded as acceptable is the enactment of a measure (1) providing for compulsory sequestering, (2) raising the maximum period of compulsory detention from one to two years, and (3) simplifying the procedure relative to admission and recapture. We trust that magisterial bodies throughout the country will follow the excellent example of the Manchester Justices in pressing the Home Office for a really serious measure of reform. The evidence furnished by the recent report of the Lunacy Commissioners that the insane population of the country is increasing, constitutes a good reason for the exhibition of some insistence in the matter; and much as a readjustment of the powers of the Lunacy Commissioners and the various local authorities in regard to pauper lunatics is needed, we shall be quite content to wait another session for it, if only an adequate Inebriates Bill is passed.

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*Medical Confidentiality.*

The public discussion of the legal aspects of the question of medical confidentiality, to which a recent *cause célèbre* has again given considerable prominence, has, in our judgment, proceeded too largely on the assumption that the sole point at issue is whether confidence is a necessary implication in the contract between doctor and patient. The basis of the doctrine of confidence must, in truth, be sought far less in any contractual relationship than in the policy of the law. The law recognises that there are certain relations in which it is of high social importance that the utmost mutual confi-

dence should prevail; and in order to secure the existence and preservation of such confidence, attaches a privilege from disclosure to communications made in the course of them. A typical instance is the relation of legal adviser and client. A lawyer retained to defend a person accused of crime, for example, is privileged absolutely, if the client so desires, from giving any evidence as to statements or admissions made to him by his client, nor can he get rid of the privilege by discharging himself from the retainer (*Reg. v. Cox*, 1885, 14 Q. B. D., 153). Medical confidence comes well within the *raison d'être* of this class of cases, and although the courts have not in England accorded it a privileged position (see *Duchess of Kingston's case*), there can be little doubt that if the medical profession would steadily put their case on the ground of public policy instead of on any contractual obligation they would make good their claim. They do not stand in a much worse position at present than Roman Catholic or Anglican priests. Although Lord Chief Justice Kenyon, Chief Justice Best, and Baron Alderson, in well-known *dicta* favored the privilege of penitential confessions, the only *ruling* on the subject (that of Justice Buller in *R. v. Sparkes*) was on the other side. And yet who can doubt how the controversy would issue if it were raised again and fought out to the end. The exercise of the privilege would of course have to be tempered with discretion, and by a sense of honour. But the medical man is not less competent to exhibit these qualities than the lawyer or the priest.

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*Premature Discharge and the Increase of Lunacy in the Metropolis.*

The report of the Asylums Committee of the London County Council states that there are no less than 19,954 imbeciles and lunatics under their charge. The existing asylums are already insufficient for this number, and as the yearly increase is about 700, two new asylums (at Norton Manor and Bexley) are already projected.

Dr. Claye Shaw in his annual report frankly suggests that by the too early discharge of patients the propagation of insanity by heredity is favoured; and Dr. Robert Jones reports that heredity is found in only 26 per cent. of his cases, but that 70 per cent. did not reply to this question, and that probably many do not own to it where it exists. The prejudice against admitting the existence of heredity is no new