NOTE.—The opinions of the eminent counsel to which reference is made in the Report of the Committee which received the endorsement of the Medico-Legal Society, are appended:

RE MRS. F. E. MAYBRICK.

"Having carefully considered the facts in the elaborate case submitted to us by Messrs. Lumley & Lumley, and the law applicable to the matter, we are clearly of the opinion that there is no mode by which in this case a new trial, or a *venire de novo*, can be obtained, nor can the prisoner be brought up on a *habeas corpus* with the view of retrying the issue of her innocence or guilt.

"We say this notwithstanding the case of Regina v. Scaife (17 Q. B., 238; 5 Cox C. C., 243, and 2 Drew C. C., 281). We are of the opinion that in English criminal procedure there is no possibility of procuring a rehearing in the case of felony where a verdict has been found by a properly constituted jury upon an indictment which is correct in form. This rule is, in our opinion, absolute, unless circumstances have transpired and have been entered upon the record, which when there appearing, would invalidate the tribunal and reduce the trial to a nullity by reason of its not having been before a properly constituted tribunal. None of the matters proposed to be proved go to this length.

"We think it right to add that there are many matters stated in the case, not merely with reference to the evidence at and the incidents of the trial, but suggesting new facts which would be matters proper for the grave consideration of a Court of Criminal Appeal if such a tribunal existed in this country.

"(Signed) C. RUSSEL,
J. FLETCHER MOULTON,
HARRY BODKIN POLAND,
REGINALD J. SMITH.

"LINCOLN'S INN, 12th April, 1892."

RE MRS. F. E. MAYBRICK.

"I agree with my learned friends that the evidence at the trial of this case did not justify the verdict, and I further think that this is a case where every possible means of procuring a rehearing should be resorted to; but I am unable at the present period of English law to assent to their proposition that in a case of felony, even if it is assumed that there is an innocent woman in an English prison, the rules of criminal procedure debar the Courts from applying any remedy unless some error making the trial itself a nullity can be shown to exist on the record; and I moreover feel that such an avowal, if made, should be made in the form of a Judgment of the Court and not in the form of an opinion of Counsel.

"In reference to the question put to us by Messrs. Lumley & Lumley in this case, I am of opinion that, assuming the facts of the case and irregularities of procedure, both by Judge and jury, set forth in the instructions can be conclusively proved, the Court should be invited *ex debito justitiæ* to set aside the verdict and order a new trial, especially as there is no recorded case of a refusal by the Courts to grant a new trial in a case of felony. While, on the other hand, the case of Regina v. Scaife (17 Q. B., p. 258, and 18 Q. B., p. 773) stands unreversed, in which case the prisoners were convicted of felony at the assizes by a properly constituted jury upon an indictment which was correct in form, and where, notwithstanding this, the Court of Queen's Bench, consisting of four Judges sitting *in banco* ordered that the verdict be set aside and a new trial granted, and where the prisoners, having been again convicted at such new trial, underwent a fresh sentence of the law.

"I deem it therefore presumptuous in me, as Counsel, to advise that any Court would overrule that case, or would regard the Rules of Criminal Procedure to be so inelastic as to compel the Court, under such circumstances as those set forth in the instructions, to refuse to set aside the verdict and order a new trial, in Mrs. Maybrick's case, upon the bare ground that it is a case of felony.