The two foregoing decisions have for their bases the following quotation from *Cooper-Snell Co. v. State,* 230 N. Y. 249: "One of the cardinal rules to be applied in construing statutes is that they are to be read according to the natural and obvious import of their language, without restoring to a subtle or forced construction either limiting or extending their effect." This strict view is not taken in all cases, although most definitions of "weapons" do not ordinarily include air guns.

By way of an interesting side-light on the problem of whether the air gun is a firearm, we have the decision of *Cada v. The Fair,* 187 Ill. 111, where the court held a toy air gun to be a toy firearm within the meaning of an ordinance forbidding the sale to minors of "any gun, pistol, or other firearm, or any toy gun, toy pistol, or other toy firearm in which any explosive substance can be used." The court qualifies its opinion and declares this air gun to come under the statute prohibiting firearms because it is a "toy" which is "a plaything for children," and reasons, "such a toy gun" must be manifestly different from a real gun, and the fact that children are to play with it takes it out of the hard and fast definition of a firearm as used by a grown person. Furthermore, the language of the statute qualifies this and brings us to a correct interpretation because it is a "toy gun," and the statute specifically mentions "toy guns, toy pistols, etc." However, the court goes further and qualifies its decision by explaining that compressed air is the cause of the explosion which propels the projectile, and that consequently this brings it under the statute prohibiting firearms in which any explosive substance may be used. This last qualification is in conflict with previously mentioned decisions, and upon this ground, one might quarrel with the Illinois case.

There does appear to be a certain relaxation on the part of the courts in interpreting the words of the statute in regard to weapons. For example, it was held in *People v. Gogak,* 171 N. W. 428 (1919), a Michigan case, that the legislature intended, in certain acts, relating to the carrying of concealed weapons, to go further than the specific weapons mentioned in the statute, and to embrace any "other offensive and dangerous weapons or instruments concealed upon his person." Here the court declared a knife to be a dangerous weapon.

This illustrates one tendency of the courts which seems to be based on the idea that legislative acts should be interpreted according to what the court considers their true meaning. The other tendency is to a strict interpretation, as illustrated by the New York case. C. H. W., '28.

WITNESSES—COMPETENCY—CONFIDENTIAL RELATIONS AND PRIVILEGED COMMUNICATIONS.—Defendant objected to the introduction of testimony on the part of a nurse relating to information obtained while she was so employed as nurse under the attending physician on the ground that such information was privileged. *Held,* that the objection included all the testimony of the witness and was too broad. Objection should have been made to each question calling for privileged information. The court, however, intimates that communications to the nurse as an assistant of the physician and as necessary to enable the physician to prescribe would be privileged. *Meyer et al. v. Russell,* 214 N. W. 857, (N. D. 1927).

At common law there is no privilege as between physician and patient, and this rule is still law where it has not been changed by statute, *Green v. St. Louis Terminal Railroad Association,* 211 Mo. 18, 109 S. W. 715. At the present time, however, the matter is generally controlled by statutes establishing as privileged communications between physician and patient necessary for professional care,

and in a few states (New York and Arkansas) as between nurse and patient, *Homnyack v. Prudential Insurance Company of America,* 194 N. Y. 456, 87 N. E. 769. In the reported opinion, the court cites a Nebraska case, *Culver v. Union Pacific Railway Company,* 112 Nebr. 441, 199 N. W. 794, decided under a statute similar to that of North Dakota, which held that a nurse merely as such was not within the statute, but that a different rule prevails where the nurse acts as one of the agents or assistants of the physician in charge. The reason for the rule, of course, is to encourage complete understanding and confidence between physician and patient. Jurisdictions in which the common law still prevails might well express themselves in the words of Owen, J., in a dissenting opinion in the case of *Maine v. Maryland Casualty Company,* 172 Wis. 350, 178 N. W. 749. "The centuries of experience during which the common law was developed did not give rise to this rule . . . Well may this statute receive legislative reconsideration, and if it is still thought desirable to afford protection to those who have but scant claim upon the consideration of society, then let it be so framed that such protection can be extended without working hardship and injustice upon the innocent and pure."

In a concurring opinion written in the case of *Epstein v. Pennsylvania Railroad Company,* 250 Mo. I, Lamm, C. J. quotes with favor the following excerpt from *Green v. St. Louis Terminal Railroad Association, supra:* "The statute creates a privilege unknown to the common law . . . Though in derogation of the common law, courts have not applied the rule of strict construction sometimes applied to statutes of that character. To the contrary the right doctrine seems to be that the policy of the statute is an elevated one. It was intended to invite confidence between physician and patient and to prevent a breach of such confidence, and should be so construed as to further its life and purpose. It is obvious, the language of the statute is of such sort that its interpretation and application are troublesome . . . On the one hand, it might be so construed as to fritter away the provisions of the law. On the other hand, it might be so literally construed as to work great mischief in the administration of justice . . . The application of such law must be with discrimination so that it may have the legislative effect intended for it and yet the investigation of truth be not unnecessarily thwarted."

The principal case reflects a tendency in the law to extend the protection of the "privileged communication" rule, in accord with the above opinions, to include communications to a nurse under communications to a physician, where such communications are necessary in order to prescribe treatment.

E. K., '29.