materials from medicinal plants as can be properly worked into the schedule. A medicinal plant garden is a valuable asset in this connection.

If we are to provide students with the armament essential to properly cope with the botanical phases of Pharmacognosy and Materia Medica, if we are to prepare them to interpret with intelligence the botanical monographs constantly appearing in pharmaceutical literature, then the emphasis in our botanical teaching should be placed on those aspects of the subject which are in most direct and fundamental relation to the principal objectives to be attained, namely, Plant Morphology and Plant Taxonomy.

THE PHARMACIST AND THE LAW

BY HOWARD KIRK,* EDITOR OF THIS DEPARTMENT.

A friend writes: "If you were to mix axlegrease and talcum powder and put it in a can and label it 'Kirko,' and then advertise the compound as a cure for chilblains, is there any thing in the law to stop you?"

Nothing, we reply, except certain State laws and the Federal postal laws and the Pure Food and Drug Law and possibly some others. All because we have used the word "cure." But suppose we don't say on the label that the stuff will "cure" anything. We say it is "good for" chilblains—or better still, "used for" those articles. What law are we violating? "Recommended for" will also get by. We had better be a little cautious with "Physicians recommend," for the Government might round up some physicians who wouldn't. But if we stick to "used for" we can sell 'em anything, so long as it isn't positively harmful.

Do we hear you say that axlegrease and talcum powder won't cure anything? What difference does that make? *"De minimis non curat lex."*

There are plenty of Kirkos on the market, with just about the therapeutic value of talcum powder and axlegrease. Their presence on the shelves of our drug stores constitutes the meanest kind of a fraud—a fraud on the sick.

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Lawyers have a saying that "If you want to find the law, look in the dissenting opinion." They figure that if a judge cares enough about a case to write a dissenting opinion, he is likely to fortify it with some real law.

Take, for instance, the dissenting opinion of Justice Oliver Wendell Holmes, of the Supreme Court of the United States, in the case which gave rise to all our discussion about resale price maintenance. This was the case of Dr. Miles Medical Company *v.* John D. Park & Sons Co., reported in 220 U. S. 373 (1911). Dr. Miles desired to maintain a resale price for his products, and entered into a series of contracts with certain drug concerns, by which they agreed to sell the Miles products to the public for the prices named. Park & Sons secured a quantity of these products from a number of the customers of Miles, and then proceeded to sell the same to the general public at cut-rate prices. Dr. Miles sought to have Park & Sons restrained by injunction from cutting his prices.

The United States Supreme Court refused to grant the injunction, holding

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* Member of Philadelphia Bar, and Lecturer on Pharmaceutical Law at Philadelphia College of Pharmacy and Science. Address: Bailey Bldg., 1218 Chestnut St., Philadelphia, Pa.

that the agreements between Miles and his customers to maintian a resale price were in unlawful restraint of trade. The Court, speaking by Mr. Justice Hughes, said:

> The bill asserts the importance of a standard retail price and alleges generally that confusion and damage have resulted from sales at less than the prices fixed. But the advantage of established retail prices primarily concerns the dealers. The enlarged profits which would result from adherence to the established rates would go to them and not to the complainant. It is through the inability of the favored dealers to realize these profits, on account of the described competition, that the complainant works out its alleged injury.

This is the gist of the opinion—that dealers, the business men, have no right to their enlarged profits. (It must be remembered that this was 1911, when a great wave of sympathy for the "common people" was sweeping over the land.) Now let us listen to what Justice Holmes has to say by way of dissent:

> This is a bill to restrain the defendant from inducing, by corruption and fraud, agents of the plaintiff and purchasers from it to break their contracts not to sell its goods below a certain price.* * * *
>
> I think that, at least, it is safe to say that the most enlightened judicial policy is to let people manage their own business in their own way, unless the ground for interference is very clear. What, then, is the ground upon which we interfere in the present case? Of course, it is not the interest of the producer. No one, I judge, cares for that. It can hardly be the interest of subordinate vendors, as there seems to be no particular reason for preferring them to the originator and first vendor of the product.

Then, the Justice says, the solicitude of the law must be for the general public. The populace must be protected against high prices:

> On that point I confess I am in a minority as to larger issues than are concerned here. I think that we greatly exaggerate the value and importance to the public of competition in the production or distribution of an article (here it is only distribution) as fixing a fair price.

The Justice takes a "flyer" into the realm of psychology:

> What really fixes that is the competition of conflicting desires. We, none of us, can have as much as we want of all the things that we want. Therefore, we have to choose. As soon as the price of something that we want goes above the point at which we are willing to give up other things to have that, we cease to buy it and buy something else.
>
> Of course, I am speaking of things that we can get along without. There may be necessaries that sooner or later must be dealt with like short rations in a shipwreck.* * * *
>
> A manufacturing company knows better than we do what will enable it to do the best business.

Then follows this stern condemnation:

> I cannot believe that in the long run the public will profit by this court *permitting knaves to cut reasonable prices for some ulterior purpose of their own* and thus to impair, if not to destroy, the production and sale of articles which it is assumed to be desirable that the public should be able to get.* * * *
>
> I think also that the importance of the question and the popularity of what I deem mistaken notions make it my duty to express my view in this dissent.

Some folks think it is *lesé majesté* to criticise our Supreme Court. Very well, then, we won't do it. We'll let Justice Holmes do it.

But wasn't it Abraham Lincoln who dared criticise the Dred Scott decision? It seems to us that he said something about the Supreme Court being wrong in

that case, and about his intention to try to make them change that decision. So we have a fairly strong precedent if we try a little criticism ourselves.

* * * * *

Judge Oliver B. Dickinson, of the United States District Court for the Eastern District of Pennsylvania, has filed a most interesting opinion in the Drug Store Ownership case recently instituted by the Louis K. Liggett Company against the Attorney General of Pennsylvania. The Pennsylvania Act of 1927 forbids the ownership of drug stores in that State by any person who is not a pharmacist. The prohibition applies to individuals, partners, stockholders and members of corporations. It is a drastic statute, and its progress through the courts is being watched with interest by lawyers throughout the country.

There was no question about the right of a State Legislature to prohibit the *management* of a drug store by anyone other than a pharmacist. The State's authority comes within the ordinary police power, for the protection of the public in the dispensing of medicines and drugs. But the question of *ownership* presented a different problem. Was the State interested, and had the State a right to be interested, in the man or group of men who claimed such ownership?

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The Liggett Company sought to prevent the enforcement of the provisions of the Act. It charged that the Act was an unreasonable and arbitrary interference with its business, its freedom of contract, and was likewise an "impairment of existing contracts" which it had made. In effect, the Liggett Company claimed that the Act amounted to a denial of the right of property without due process of law.

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Judge Dickinson, after deciding that the Court had jurisdiction, says:

> This takes us back to the question of whether we are prepared to find that the public has no concern in the business of a drug store or the calling of a pharmacist. If we do so find, we do it with the knowledge open to all and common to very many, that at one time in all parts of the country, and still in what are called the rural districts, the local pharmacist or druggist serves many of his customers and patrons as their physician. Confidence in his judgment and skill had much to do with this practice; economy had perhaps more. So general was it that the physician of the neighborhood was likewise the druggist.

The Judge, thereupon, dwells on the personal relation existing between the old-time physician-druggist and his customers. He considers the question whether that relation should still exist, in this day of cut-rate stores and proprietary medicines.

> We, of course, recognize the force of the argument addressed to us based upon the distinction between a law which forbade anyone other than a skilled pharmacist to compound medicines, and another law which forbade anyone other than pharmacists to have a share in the ownership in the business of a drug store. Even here, however, we are unable to say that there is not a substantial relation of ownership to the public interests.
>
> The medicines must be in the store before they can be dispensed to those who come to the store for the help which medicines can afford them.
>
> What is there is dictated, *not* by the judgment of the pharmacist who hands it out to customers, but by those who have *financial control* of the business.

It may be the legislature thought that a corporate owner, in purchasing drugs, might give a greater regard to the price than to the quality; and if such was the thought of the legislature, can this Court say it was without a valid connection with the public interests, and so unreasonable as to be unlawful?

A most interesting parallel is then drawn:

A number of years ago the business of selling liquor was wholly in the hands of those who sold it. Inn-keepers and tavern-keepers stood high in the respect of their neighbors. The practice grew up of brewers and distillers taking over the ownership of places where intoxicating liquors were sold. The saloon, when ownership and management became separated, soon became a nuisance and a menace, so that its abolishment was demanded and no one at any time would wish to witness its return.* * * *

That financial ownership interest and managerial sense of responsibility each have a relation to a wise public policy, and hence to the public interest, is evidenced by the experience of the Courts in Pennsylvania upon which was thrust the responsibility of granting liquor licenses.

Every judge who had to do with this duty was soon brought to realize the element of danger to the public conduct of taverns and saloons, the moment the profits from the sales of liquor went to owners who were removed from and had no sense of the responsibility of management.

Judge Dickinson then likewise wanders into the psychological area:

There enters into every business the two motives, of a wish for profit and a sense of duty obligation towards those with whom the management deals. When these are joined the latter operates to some extent; the moment they are separated the former is in sole control. This thought deals with the relation between things which should be joined and the public policy of not permitting them to be separated.

He then decides—

Because of our inability to make the finding that the (1927) Act of Assembly has no substantial relation to the public interest, we cannot hold it to be unconstitutional.

* * * * *

Argument on the appeal of this case will be heard by the Supreme Court of the United States in the month of October of this year.

REMOVING SILVER NITRATE STAINS.

The Hospital Corps Quarterly (supplement to *U. S. Naval Medical Bulletin*, of January) states that stains of silver nitrate may readily be removed by applying a solution of 5 Gm. of mercuric chloride and the same weight of ammonium chloride in 40 cc. of distilled water.

SODIUM SULPHIDE IN PYORRHŒA.

S. C. Miller and S. Sorrin (*Dental Cosmos*, November 1927, through *Chemist and Druggist*) suggest the use of sodium sulphide as an adjunct to the usual treatment of pyorrhœa. The formula for the solution is: Sodium sulphide, 70 Gm.; sodium carbonate, 20 Gm.; water, 1 ounce.

Following scaling, curetting, etc., the above solution is used. Because this agent acts slowly, a carrier of absorbent cotton or absorbent points is employed to introduce and maintain it in position. These are immersed in the solution and carried down to the bottom of the pocket in line with the long axis of the tooth, with a pointed instrument, aided by a foil carrier and curettes. The points remain in position for about two minutes, and after that time they are removed. The pocket is again gently curetted, endeavoring to remove all detached epithelium which has been loosened by the sodium sulphide. Bleeding should always be induced at this point. The gingival tissue is now pressed firmly, but not too vigorously, against the tooth, and held in apposition with it for two minutes. The pocket is then left undisturbed for a week or more.