

## Why Suffer?

Why not take the famous remedy Beecham's Pills—famous the world over for its power to relieve the headaches, backaches, lassitude, extreme nervousness and depression of spirits so many women suffer from, at times.

Fortunately thousands have learned that they can absolutely trust Beecham's Pills. Will you also learn to

# TAKE BEECHAM'S PILLS

They will spare you hours and hours of suffering. After a few doses your digestion will be better, your liver more active, your bowels regular, your system cleared of the poison that does so much harm.

Your nerves will be toned up; your general health vastly improved; your blood made richer and purer. In spirits, in bodily feelings, and in appearance you will be all the better after you take Beecham's Pills. They give the natural assistance you are sure to need at times to avoid harmful complications

And Be A

## Healthy, Happy Woman

At all druggists, in boxes, 10c. and 25c.

For women Beecham's Pills are the best and most reliable medicine. Every woman who values her health and strength should read the special directions with every box.



Forty-two Australian Boys.

## AUSTRALIAN BOYS COMING FOR A VISIT

FORTY-TWO OF THEM, DESCENDANTS OF THE PIONEERS WHO SETTLED AUSTRALIA, AND SO WITH THE SONS OF OREGON PIONEERS A.K. "BROTHERS ALL."

Chairman H. E. Eakin, of the committee in charge of the reception to be given the Australian boys, who will be here tomorrow under the auspices of the Salem high school, reports that everything is in readiness for their entertainment. The party that will visit Salem is composed of 42 boys, who were chosen by their respective states to make an educational trip through the United States. The boys landed in San Francisco about two months ago, and, after spending a couple of weeks entertaining that city, went over to Stanford, where they taught the men how to play Australian football, and the women the game of croquet. Since leaving Stanford they have been visiting many of the cities of the coast, to the enjoyment of all who come in contact with them. They are not a troupe of professional players, but a body of amateur entertainers, whose object is to make a close study of the conditions and the people of the United States.

Reports from other cities state that the boys are accomplished in many ways. They have an excellent band of 40 pieces, and among their number are some of Australia's best young singers. They are also adept at reading, and tell many interesting stories of their own country. While in Salem the boys will be the individual guests of members of the high school who will thus have a chance of a close acquaintanceship with the coming statesmen of Australia. Each will endeavor to learn of the other country, with a mutual benefit from the conversation. The boys will arrive in the city tomorrow afternoon and will give an exhibition of the Australian form of football between the halves of the Salem vs. Albany football game.

## OREGON SUPREME COURT DECISIONS

(Continued from Page 3.)

the counsel for defendants, not desiring to plead further, entered a judgment in favor of plaintiff. The only question for the determination of this court, is in regard to the sufficiency of the amended answer.

The plaintiff in an additional abstract sets out the original answer in the case, and contends that on account of matters set forth therein the ruling of the trial court upon the demurrer was correct. The defendants move the court to strike out the additional abstract as not a proper part of the record. It is also contended on the part of plaintiff that the agreement set forth in the amended answer was made contemporaneously with the mortgage, and counsel assert that "the principal and ultimate question in the case is whether the defendant can prove such contemporaneous agreement to vary or contradict the terms of the mortgage."

In our opinion on this question of variance is not before the court, and can arise only after issues are joined, in the submission of proof.

It was held in Wells v. Applegate, 12 Or. 208, that "by filling the new answer the former answer was in effect withdrawn, and all motions and demurrers relating to it accompanied it."

In *Stemmens v. Thompson*, 25 Or. 215, Mr. Chief Justice Lord, in a concise discussion of this question, at page 219, used the following language: "Ordinarily, when a pleading is amended, the original pleading ceases to be a part of the record, because the party pleading, having the power, has elected to make the change," and after mentioning that if the facts set up as a defense in the return to the first alternative writ were considered the result would be different, said, "we must look, therefore, to the facts alleged in the amended writ, which by the demurrer stand admitted, to determine whether the plaintiff shows himself entitled to relief by mandamus." And in *Hume v. Woodruff*, 26 Or. 373, this court held that if the plaintiff is allowed to amend and does so, the demurrer thereto ceases to be a part of the record for the purposes of the trial and the cause stands for hearing or

trial on the amended complaint, the same as if no other had been filed. Also in *Ferguson v. Ingie*, 38 Or. 43, it was considered that by filing an amended pleading by leave of court, the plaintiffs eliminated from the record the original complaint.

It is therefore clear that in the consideration of the demurrer of plaintiff to the new matter in the amended answer in this case we can look only to the facts alleged in such amended answer. Many authorities are cited and many questions discussed by the learned counsel in their briefs, which might possibly arise upon the trial, if issues were joined by a reply to the amended answer, but until such issues arise it is unnecessary for the court to consider matters relating to the proof of the facts alleged in the answer which upon the demurrer must be deemed true. As to all such questions, to apply an old saying, it is better to cross the stream when it is reached.

The plaintiff cites the cases of *Edgar v. Golden*, 35 Or. 448, and *Ruckman v. Imbler Lumber Co.*, 12 Or. 231, 238. Both of these cases relate to matters of proof upon a trial on the merits, and do not apply to the case at hand.

Counsel for plaintiff urge that it was necessary for the defendant to expressly show by the answer that the extension of time for payment of the note was not oral, and that the agreement to extend was not contemporaneous with the making of the mortgage; they cite *Sutherland v. Bloomer*, 59 Or. 408, in which case a written agreement which was contained in the record was construed by the court, while in the case at bar, the mortgage in question is not before us, and we cannot consider the same.

In the case of *Kane v. Cortez*, 100 N. E. 132, a chattel mortgage was given as security in addition to a real estate mortgage in consideration of an extension of time for payment. In the opinion we find this language: "The parol evidence as to the agreement for the extension of time does not come under the ban of the rule which prohibits parol evidence to explain, vary or contradict written instruments. It does not contradict or vary the real estate mortgage. That was past due, and the time or its payment could be extended by any valid agreement. It does not contradict the chattel mortgage. That is complete in itself and was not intended to embody the agreement. Its sole purpose was to give the additional security. This was an independent agreement existing outside of the two mortgages. It was the occasion or condition inducing the giving of the chattel mortgage, and no rule of evidence was violated in allowing it to be proved by parol." This indicates that the agreement for the extension of time may be made verbally, independent of the mortgage and not contained therein. After a bill or note has been executed and delivered, it is a subject of contract like any other property or chose in action, and the time for payment may, by an oral agreement, for a valuable consideration be extended to a definite date: 1 *Daniel Neg. Inst.* (4 ed.) sec. 137; 1 *Greenleaf Et. sec.* 204; 4 *Am. & Eng. Enc. Law*, (2 ed.) 154; *Lavelle v. Miller*, 49 Or. 549; *Reynolds v. Barnard*, 36 Ill. App. 218; *Grace v. Lynch*, 80 W. Va. 66; *Myers v. Bank of Fairbury*, 78 Ill. 257.

But strictness is applied in construing a plea in abatement. An answer which alleges the making of a subsequent agreement based upon a time for payment of a note, and also that such extended time for payment has not yet expired, is sufficient and not demurrable, unless it appears from the answer that a default has been made subsequent to the making of the agreement: 1 *Enc. of Pleading and Practice*, 23, note 2, citing *Eby v. Ryan*, 22 Neb. 470; see also *Commercial Bank of Tacoma v. Hart*, 10 Wash. 303 (38 Pac. 1116); *Jones on Mfg.* (4 ed.) sec. 1190, 1191.

In the case at bar the answer alleges that after the execution of the note sued on a contract was made by the parties based upon an independent consideration extending the time for payment of the note until October 19, 1911, which if true would constitute a defense to plaintiff's complaint until that time: *Fisher v. Stevens*, 143 Mo. 181. It follows that the matter of diminution of the record is immaterial.

The judgment of the lower court is therefore reversed and the cause will be remanded with instructions to overrule the demurrer to the amended answer, and for such further proceedings as may be proper, not inconsistent herewith.

Is your husband cross? An irritable fault finding disposition is often due to a disordered stomach. A man with good digestion is nearly always good natured. A great many have been permanently cured of stomach trouble by taking Chamberlain's Tablets. For sale by all dealers.

A Burglar's Awful Deed may not paralyze a home so completely as a mother's long illness. But Dr. King's New Life Pills are a splendid remedy for women. "They gave me wonderful benefit in constipation and female trouble," wrote Mrs. M. C. Dunlap of Leadhill, Tenn. If alling, try them. 25c at J. C. Perry's.

Journal Want Ads Bring Results

Children Cry FOR FLETCHER'S CASTORIA

# Cottolene

The way to healthful cooking is to start right—with Cottolene.

Cottolene-cooked food agrees with one because Cottolene contains not an ounce of hog fat—it is a vegetable instead of an animal product. Its wholesomeness and purity are vouched for by Nature. Cottolene is "the fat from the flower."

All the country's best cooks—Mrs. Mary J. Lincoln, Mrs. Sarah Tyson Rorer, Mrs. Helen Armstrong, Marion Harland, Lida Ames Willis, and a dozen others of national reputation—recommended Cottolene in preference to lard or any other medium for frying and shortening.

Isn't the testimony of such experts worth something to you?

You can afford to pay a few cents more per pail for Cottolene, because it goes one-third farther than butter or lard.

Made only by THE N. K. FAIRBANK COMPANY

Listen to the "Man who Knows"



### STRAIN TOO GREAT.

Hundreds of Salem Readers Find Daily Toll a Burden.

The hustle and worry of business men. The hard work and stooping of workmen. The woman's household cares. Are too great a strain on the kidneys. Backache, headache, dizziness, kidney troubles, urinary troubles follow.

A Salem citizen tells you what to do. Mrs. W. H. Wood, 733 N. Front street, Salem, Oregon, says: "Although I have never had occasion to use Doan's Kidney Pills myself, I know that this remedy is an excellent one for kidney and bladder trouble. It has been used in my family with the most satisfactory results."

For sale by all dealers. Price 50 cents. Foster-Milburn Co., Buffalo, New York, sole agents for the United States. Remember the name—Doan's—and take no other.

All the good qualities of Ely's Cream Balm, solid, are found in Liquid Cream Balm, which is intended for use in atomizers. That it is a wonderful remedy for Nasal Catarrh is proved by an ever-increasing mass of testimony. It does not dry out nor rasp the tender air-passages. It allays the inflammation and goes straight to the root of the disease. Obstinate old cases have yielded in a few weeks. All druggists, 75c, including spraying tube, or mailed by Ely Bros., 56 Warren street, New York.

A Mail Carrier's Load. Seems heavier when he has a weak back and kidney trouble. Fred Duerr, mail carrier at Atchison, Kas., says: "I have been bothered with kidney and bladder trouble and had a severe pain across my back. Whenever I carried a heavy load of mail, my kidney trouble increased. Some time ago, I started taking Foley Kidney Pills and since taking them I have gotten entirely rid of all my kidney trouble and am as sound now as ever." Foley Kidney Pills are tonic in action, and quick in results. Try them. Red Cross Pharmacy (H. Jerman).

Klamath county had this year the largest crop of grain in its history, but it is only a microbe of future crops.

### HOW'S THIS?

We offer One Hundred Dollars Reward for any case of Catarrh that cannot be cured by Hall's Catarrh Cure.

F. J. CHENEY & CO., Toledo, O. We, the undersigned, have known F. J. Cheney for the last 15 years, and believe him perfectly honorable in all business transactions, and financially able to carry out any obligations made by him.

Walding, Kinnan & Marvin, Wholesale Druggists, Toledo, O. Hall's Catarrh Cure is taken internally, acting directly upon the blood and mucous surfaces of the system. Testimonials sent free. Price, 75c per bottle. Sold by all druggists.

Take Hall's Family Pills for constipation.

Beginning Sunday, the Portland street railway will run a car on each of its lines from the terminals to the end of the lines at 1:30 every morning, except Mondays.

### Coughing at Night.

Means loss of sleep which is bad for the children and hard on grown persons. Foley's Honey and Tar Compound stops the cough at once, relieves the tickling and dryness in the throat and heals the inflamed membranes. Contains no opiates and is best for children and delicate persons. Refuse substitutes—Red Cross Pharmacy (H. Jerman).

# FOLEY KIDNEY PILLS

for backache, rheumatism, kidney or bladder trouble, and urinary irregularities. Foley Kidney Pills are tonic in action, quick in results. Refuse substitutes.

RED CROSS PHARMACY.

## SALEM TO PLAY ALBANY TOMORROW

Everything is ready for the big high school football game, which will be played tomorrow afternoon between Salem and Albany. Both teams have behind them the experience of the entire season and will be able to put up the game of the year. The Salem boys have been playing good ball this year and if they can get away from the streak of hard luck that has been following them, will be able to play the Albany boys clear off their feet.

Hard work has been the order of the past week and the boys are beginning to really show the effects of the good coaching they have been receiving. The line, which has been strong all year, has become a veritable stone wall and Albany will need a battering ram to make yardage through it. The backfield is strong and fast.

Albany has a heavy fast team and if comparative scores be taken into account, she has a better one than Salem's. But those who bet on Jefferson high of Portland, and stood on the tips of their toes all during the game, only winning in the last minute of play, and then only by an accident, will perhaps take into consideration the fact that Salem is a hard nut to crack. Between the halves of

the game the Australian boys will give an exhibition of their form of football.

### FOR BALDNESS

This Treatment Costs Nothing if It Fails.

We want you to try three large bottles of Rexall "93" Hair Tonic on our personal guarantee that we will refund your money for the mere asking if it does not give you absolute satisfaction. That's proof of our faith in this remedy, and it should indisputably demonstrate that we know what we are talking about when we say that Rexall "93" Hair Tonic will grow hair except where baldness has been of such long duration that the roots of the hair are entirely dead.

We are basing our statements upon what has already been accomplished by the use of Rexall "93" Hair Tonic. We believe that what it has done for thousands of others, it will do for you. In any event you cannot lose anything by giving it a trial on our liberal guarantee. Two sizes, 50c and \$1.00. Remember, you can obtain Rexall Remedies in this community only at our store—the Rexall Store, J. C. Perry, Druggist.

Mrs. Louisa Fisk, a pioneer of Philomath, died at her home there Tuesday morning.

Pendleton wants moving picture shows closed on Sundays.

Portland Hunt club's annual horse show will be held Friday and Saturday.

# TRY Swisso Hair Remedy

Grows Hair, Restores Gray or Faded Hair to Its Original Color and Stops Dandruff and Scalp Diseases. 25c Bottle Free to Prove It.



The free 25c bottle of "Swisso" Hair and Scalp Remedy, if used as directed, will astonish you. It is a NEW REMEDY, the latest and best preparation known. It is the result of years of investigation and research into the reason why so many of the hair preparations have failed in the past to do the work demanded of them. It is marvelous in its action and thousands have received permanent cures just from the free bottle we gave them for the asking. Because you may not have received any relief from something you have tried don't be foolish enough to condemn every thing else. You will be greatly benefited by the free bottle we give you. "Swisso"—25 cents and \$1.00 a bottle—is for sale and recommended by all drug and department stores. All who wish that have not tried Swisso can have a free 25c bottle prepared on receipt of 10 cents in stamps or silver, to help cover expense of packing, etc., by addressing direct to the Swisso Hair Remedy Co., 4358 P. O. Square, Cincinnati, Ohio. J. C. Perry, 115 South Commercial street.