trial on the amended complaint, the

same as if no other had been filed. Also in Ferguson v. Ingle, 38 Or. 43, it was considered that by filing an

amended pleading by leave of court,

It is therefore clear that in the con-sideration of the demurrer of plaintiff

o the new matter in the amended answer in this case we can look only to the facts alleged in such amended

inswer. Many authorities are cited

and many questions discussed by the learned counsel in their briefs, which

night possibly arise upon the trial, if issues were folned by a reply to the

imended answer, but until such is-

the proof of the facts alleged in the

answer which upon the demurrer must be deemed true. As to all such

uestions, to apply an old saying, it

a better to cross the stream when it

The plaintif/ cites the cases of

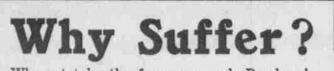
expressly show by the answer that

reached.

t hand.

the plaintiffs eliminated from the rec-

ord the original complaint.



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

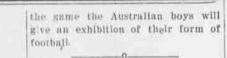
TAKE BEECHAM'S

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 At all druggists, in boxes, 10c. and 25c. For women Beecham's Pills are the best and most reliable medicine. Every

values her health and strength should read the special directions with every box.



FOR BALDNESS This Treatment Costs Nothing if It Falls.

this community only at our store-

Everything is ready for the big bottles of Rexall "93" Hair Tonic on high school football game, which our personal guarantee that we will will be played tomorrow afternoon refund your money for the mere asking if it does not give you absolute between Salem and Albany. Both satisfaction. That's proof of our teams have behind them the experi- faith in this remedy, and it should ence of the entire season and will indisputably demonstrate that we

PLAY ALBANY

TOMORROW

SALEM TO



AUSTRALIAN BOYS COMING

ORTY-TWO OF THEM, DESCEND-ENTS OF THE PIONEERS WHO SETTLED AUSTRALIA, AND SO sues arise it is unnecessary for the WITH THE SONS OF OREGON court to consider matters relating to PIONEERS A.E "BROTHERS ALL."

Chairman H. E. Eakin, of the committee in charge of the reception to he given the Australian boys, who Edgar v. Golden, 36 Or. 448, and Ruckwill be here tomorrow under the auspices of the Salem high school. reports that everything is in readiness for their entertainment. The narty 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 igreement to extend was not contemporaneous with the making of the neys Francisco about two months ago, mortgage; they cite Sutherlin v. Bloomer, 50 Or 468 in which case a and, after spending a couple of weeks entertaining that city, went over to written agreement which was con-tained in the record was construed by Stanford, where they taught the men how to play Australian football, the court, while in the case at bar, do. he mortgage in question is not beand the women the game of cricket. ore us, and we cannot consider the street, Since leaving Stanford they have ame

the coast, to the enjoyment of all who V. Y. 132, a chattel ome in contact with them. They are not a troupe of professional players, but a body of amateur enterthe op'nion we find this language: suits.

close study of the conditions and the people of the United States.

many ways. They have an excellent vary the real estate mortgage. That hend of 40 pieces and among their was past due, and the time or its All the good qualities of Ely's number are some of Australia's best

We want you to try three large at reading, and tell many interesting complete in itself and was not instories of their own country. While in Salem the boys will be

"The parol evidence as to the agreewhich prohibits parol evidence to ex- States, Reports from other cit'es state plain, vary or contradict written in-that the boys are accomplished in struments. It does not contradict or take no other.

78 111, 257.

the answer that a default

In the case at bar the answer al-

ges that after the execution of the

by the parties based upon an indepen-dent consideration extending the time

or payment of the note until October

19, 1911, which if true would consti-tute a defense to plaintiff's complaint

until that time: Fisher v. Stevens, 143 Mo. 181. It follows that the mat-ter of diminution of the record is

The judgment of the lower court is

1s your husband cross? An irritable,

A great many have been

"They gave me

fault finding disposition is often due

female trouble," wrote Mrs. M. C. Dunlap of Leadill, Tenn. If alling,

Children Cry

FOR FLETCHER'S

CASTORIA

immaterial.

sued on, a contract was made

ttolene The way to healthful cooking is to start rightwith 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 onethird farther than butter or lard.

Made only by THE N. K. FAIRBANK COMPANY Listen to the M

STRAIN TOO GREAT.

nan v. Imbler Lumber Co., 42 Or. 231, 338. Both of these gases relate to natters of proof upon a trial on the Hundreds of Salem Readers Find nerits, and do not apply to the case Dally Toll a Burden.

Counsel for plaintiff urge that it who was necessary for the defendant to men. The hustle and worry of business The hard work and stooping of he extension of time for payment of workmen,

the note was not oral, and that the The woman's household cares, Are too great a strain on the kid-

> Backache, headache, dizziness, Kidney troubles, urinary troubles

A Salem citizen tells you what to

Mrs. W. H. Wood, 733 N. Front street, Salem, Oregon, says; "Al-though I have never had occasion to In the case of Kane v. Cortesy, 100 use Doan's Kidney Pills myself, I mortgage was know that this remedy is an excelgiven as security in addition to a real lent one for kidney and bladder estate mortgage in consideration of trouble. It has been used in my faman extension of time for payment. In ily with the most satisfactory re-

For sale by all dealers. Price 50 nent for the extension of time does not come under the ban of the rule New York, sole agents for the United

Remember the name-Doan's-and

payment could be extended by any Cream Balm, solid, are found in Linumber are some of Australia's best valid agreement. It does not contra-young singers. They are also adapt dict the chattel mortgage. That is quid Cream Balm, which is intended for use in atomizers. That it is a tended to embody the agreement. Its wonderful remedy for Nasal Catarrh sole purpose was to give the addi-is proved by an ever-increasing mass the individual guests of members of dent agraement existing outside of the of testimony. It does not dry out the high school who will thus have a two mortgages. It was the occasion nor rasp the tender air-passages. It chance of a close acquaintanceship or condition inducing the giving of allays the inflammation and goes with the coming statesment of Aus- the chattel mortgage, and no rule of straight to the root of the disease. be able to put up the game of the know what we are talking about year. The Salem boys have been when we say that Rexall "93" Hair of the other country, with a mutual of the other country, with a mutual cates that the agreement for the ex-

an who <u>k</u> Morris'	******	Cash	Feed
and	Grocer	y Stoi	re
Corner Morr	is Avenue and	Fair Grou	nd Road
14 lbs, beat C 5 lbs, best Wl Nice Sugar C Nice Sugar (Two 1-lb, ps 2 lbs, best Ti 5 lbs, Albers 10 lb, sack Cc 11 bars Crys 11 bars Sunn 11 bars A, B. I have the Perfection Fli Highland Ble Yakima Best I will pay yo	Cured Hams, lb ane Sugar bite Beans Cured Bacon, lb Cured P. N. Hams., apers A. & H. Soda. Illamook Cheese orn Meal Cream Rolled Oats orn Meal Monday Soap Naptha Soap best 25c Coffee in Sour, sack our, sack cur, sack sour, sack cur, sac	Salem.	\$1.00 25c 17c 12c 15c 25c 25c 50c 50c 50c 50c 50c 50c 50c 50c 50c
FRE	E DEL	IVER	Υ.
******	•••••	• • • • • • • • • • • • •	******
E. HO	FER	& S(ONS

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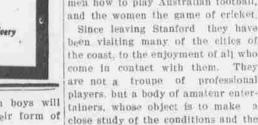
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playing good ball this year and if Tonic will grow balr except where they can get away from the streak baldness has been of such long durof hard luck that has been following ation that the roots of the hair are them, will be able to play the Alr entirely dead. bany boys clear off their feet. We are basing our statements

Hard work has been the order of upon what has already been accomthe past week and the boys are be- plished by the use of Rexall "93" ginning to really show the effects of Hair Tonle. We believe that what it the good coaching they have been has done for thousands of others, it receiving. The line, witch has been will do for you. In any event you OREGON SUPREME strong all year, has become a veri- cannot lose anything by giving it a table stone wall and Albany will trial on our liberal guarantee. Two need a battering ram to make yard-1 sizes, 50c and \$1.00. Remember age through it. The backfield is you can obtain Rexall Remedies in strong and fast.

Albany has a heavy fast team and The Rexall Store J. C. Perry, Drug-If comparative scores be taken into gist. account, she has a better one than Salem's. But those who bet on Jefferson high of Portland, and stood Philomath, died at her home there on the tips of their toes all during the Tuesday morning. game, only winning in the fast mili-[Pendleton wants moving picture

ute of play, and then only by an ac-ishows closed on S-indays. cident, will perhaps take into consid- Portland Hunt club's annual horse eration the fact that Salem is a hard show will be held Friday and Satur-

nut to crack. Between the halves of day,



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 "Swissed" Hair and Scalp Remedy, if used as directed, will astandsh you. It is a NEW REMEDY, the there result of years of investigation and the hair preparations have failed in the mask to do the work demanded of them rules have received permanent cures just the asking. Because yon may not have received any the bare received permanent cures just the asking.

ause you may not have received any from something you have tried

benefit from the conversation. The boys will arrive in the city to-

morrow afternoon and will give an or note has been executed and deliv exhibition of the Australian form of ered, it is a subject of contract like not between the halves of the any other property or chose in action, Salem vs. Albany football game.

COURT DICISIONS

(Continued from Page 3.)

the counsel for defendants, not desiring to plead further, entered a judg-ment in favor of plaintiff. The only Mrs. Louisa Fisk, a pioneer of 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 he 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 tortgage, and counsel assert that "the principal and ultimate question in the ase is whether the defendant can such contemporaneous agree-

ent to vary or contradict the terms f the mortgage. In our opinion this question of varance is not before this court and can arise only after issues are joined, in the submission of proof.

therefore reversed and the cause will be remanded with instructions to over rule the demurrer to the amended It was held in Wells v. Applegate, 12 Or. 208, that "by filing the new answer the former answer was in efanswer, and for such further proceedings as may be proper, not inconsisfect withdrawn, and all motions and tent herewith. demurrers relating to it accompanied

In Slemmons v. Thompson, 25 Or. 215, Mr. Chief Justice Lord, in a con-, to a disordered stomach. A man with else discussion of this question, at good digestion is nearly always good page 219, used thes following lan- natured. A great many have been suge: "Ordinarily, when a pleading permanently cured of stomach trouble is amended, the original pleading by taking Chamberlain's Tablets. For ceases to be a part of the record, be-sale by all dealers. ause the party pleading, having the cause the party pleating, and is the power, has elected to make the change," and after mentioning that if the facts set up as a defense in the ly as a mother's long liness. But Dr. return to the first alternative writ King's New Life Pills are a splendid ere considered the result would be remedy for women. different said, "we must look, there-

try them. 25c at J. C. Perry's. Journal Want Ads Bring Results nari, Ohia J. C. Perry, 115 South Commercial street, and the cause stands for hearing of

tension of time may be made verb- cluding spraying tube, or mailed by ally, independent of the mortgage and Ely Bros., 56 Warren street, New not contained therein. After a bill Yerk

A Mail Carrier's Load.

and the time for payment may, by an oral agreement, for a valuable consid-Seems heavier when he has a weak eration be extended to a definite date: 1 Daniel Neg. Inst. (4 ed.) sec. 157; 1 Greenleaf EV., sec. 204; 4 Am. & Eng. Enc. Law, (2 ed.) 154; Lazelle v. Miller 49 Or. 549; Reynolds v. Bark end. 56 UL App. 218; Grace v. Lynch, and 56 UL App. 218; Grace v. Lynch, end. 56 UL App. 56 UL back and kidney trouble.

at strictness is applied in conhave gotten entirely rid of all my voing a plea in abatement. An ankidney trouble and am as sound now us ever." Folcy Kidney Pills are ubsequent agreement based upon a tonic in action, and quick in results, sufficient consideration, extending the Try then time for payment of a note, and also Jerman), Try them. Red Cross Pha-macy (H.

that such extended time for payment has not yet expired, is sufficient and not demucrable, unless it appear from Klamath county had this year the largest crop of grain in its history, but it is only a microbe of future 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. 476; see also Commer-HOW'S THIS!

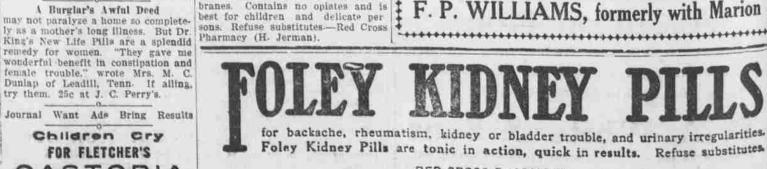
by his firm.

pation.

ing, except Mondays.

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