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 Rev. H. Stubenvoll of Allison, Ia., in praising Dr. King's New Life Pills for constipation, writes: "Dr. King's New Life Pills are such perfect pills no home should be without them." No better regulator for the

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### POPULAR TALKS ON LAW

By Walter K. Towers, A. B., J. D., of the Michigan Bar

#### FULLFILLING THE CONTRACT

Not infrequently, in his anxiety to close a bargain, one will agree to furnish an article or perform services to the satisfaction of the other party. Your watch is out of order; you take it to a watchmaker, yet hesitate about leaving it for him to repair. He agrees to fix it to your satisfaction. You wish to purchase a silver dish of a jeweler, but you desire a monogram placed upon it, and you doubt that he possesses the artistic ability and good taste to do the work so that it will please you. He assures you that he can and will please you and that if he does not perform the task to your satisfaction you need not take the dish. You give him an order under these conditions.

You wish to have your roof fixed, and, driving a close bargain, insist that the carpenter agree that he will perform the task to your satisfaction, else he need not be paid. You go to your tailor to place an order for a suit. In his anxiety to secure the order, which you seem somewhat loathe to give, he assures you that he will make you a suit that will satisfy you and that if he does not, you need not take it.

In each of these cases you have entered into a contract with the tradesman or workman, calling for the performance of certain labor and the furnishing of materials or the sale of an article. Now, suppose that in each of these cases the work specified is performed in a fair and workmanlike manner, with reasonable skill. Yet, suppose you have changed your mind in every case and no longer desire the article or work that was done, or you feel that the work does not quite please you. Therefore, you insist that they do it and if they do not you may refuse to accept the work which they have performed for you. They insist that the work is well done and that you ought to be satisfied. Your contention is that no one but yourself can say whether you are satisfied or not and that if you say you are not that settles it.

Suppose that the watchmaker, the jeweler, the carpenter and the tailor all sue you, insisting that they have performed their portion of the contract and that you must make the payment agreed. Are you entitled to insist upon the letter of the contract and enforce your own work as to whether you are satisfied or not, regardless of whether a reasonable man would say that you ought to be satisfied? The answer is that in some cases you can and in some cases you cannot.

The watchmaker and the carpenter could force you to accept their work and make the agreed payment; the jeweler and the tailor would probably be forced to accept your decision that you were not satisfied, and make such other disposition as they could of the dish engraved with your monogram and the suit cut to your measure, without receiving any pay whatever from you. The distinction which the law draws between these cases is the distinction between work requiring a mechanical execution and a mechanical excellence and work designed to fit an artistic personal taste, as work of an artistic nature. If a brick foundation is to be built for your new shed, and is to be completed to your satisfaction, and it is completed in a substantial and workmanlike manner, and a jury of ordinary men decide that a reasonable man would be satisfied, then the law will insist that you ought to be satisfied whether you say that you are or not. So it is, also, with the repairing of the watch and the repairing of the roof. These are mechanical acts, and if the jury finds the work well and properly done, and believes in view of all the circumstances that a reasonable person would be satisfied, you will be compelled to accept the work, despite the fact that the agreement required that it should be done to your personal satisfaction. But a suit of clothes and a monogram upon a silver dish are matters involving personal taste rather than mechanical excellence. If these articles do not conform to your personal tastes you do not want them, and no one can decide that you ought to want them, for it is proverbial that there is no accounting for tastes.

It is a general rule that a contract must be performed literally. Neither party can claim to have performed the contract until he has done just exactly what the contract requires in all of its terms. The work or material to be furnished, or the money to be paid, must be supplied in the exact quantity and quality specified at the place and time specified.

Yet this rule, like all others, has exceptions, one of which we have noticed above. In certain classes of cases the law is inclined to allow substantial compliance with the terms of a contract as amounting to performance. When a matter involving many details is generally completed as specified, yet falls in details of minor importance, the law regards this as substantial performance, and requires that the other party fulfill his part, though an allowance is made him to cover the items in which the work was not as specified. Thus, if a house is being built for you under contract, the contract in all the large details is completed in accordance with the contract, but varies in a few lesser places, you cannot refuse altogether to accept the house, in case he sues you on the contract, but an allowance will be made amply sufficient to cover the cost of making the defective parts conform to the specifications.

What is known as impossibility of performance is stated as one of the legal excuses for failure to perform a contract. This is very likely to confuse the average person, as most of the things which we would view

as "impossibilities" are not such "impossibilities" as will, in law, excuse the failure to fulfill a contract. The impossibility which will put an end to a contract must be of a sort that the parties can be deemed to have contemplated as an adequate excuse, should it chance to occur. Hardship or unforeseen difficulty, no matter how severe, will not excuse failure to perform according to the terms of the agreement. If a man agrees to paint your house in two days, it is no excuse that he finds it impossible to finish the house in two days, no matter how hard he works. Neither is it an excuse that his materials are stolen or destroyed and so he cannot proceed. Nor is it an excuse that his workmen strike, unless that is provided against in the contract. But if the house should be burned, that would amount to a destruction of the subject matter of the contract, which is such an impossibility as will furnish legal excuse for failure to perform.

If one contracts to furnish his own personal services (not to do something that anyone may do) and dies, or is seriously injured or falls ill, no damages for failure to perform his contract may be recovered against his estate, or against him, since this is such an impossibility as furnishes legal excuse. When one has completed his side of the contract, and not until then, may he bring legal action to force the other party to do his part. An exception to this is where the other party has definitely broken the contract in advance by word or action, as by a definite statement that he did not intend to fulfill the contract. A person who has contracted to deliver goods must have the goods specified at the time and place required. Then if the other party refuses to accept them a breach has occurred which gives to him a legal right of action. If the agreement is to sell for cash he need only tender delivery, and if the other party has not the cash to fulfill his part of the agreement there has been a breach of the contract.

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**The Best Pain Killer**  
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**PLANT DISEASES**  
 Dr. E. Mead Wilcox, collaborator in charge of Nebraska plant disease survey, is making an effort to secure specimens of plants in this state affected by diseases of any kind. Blanks to fill giving information and franked tags to be used in sending specimens of plants by mail, so that no postage on them will be needed, will be sent by him to anyone in Nebraska applying for the same, addressing him at Lincoln. This is a matter in which every one should be interested. Specimens of field and forage crops, vegetables and fruits affected with plant disease are desired.

**Suffered Eczema Fifty Years—Now Well**  
 Seems a long time to endure the awful burning, itching, smarting skin disease known as "Itch"—another name for Eczema. Seems good to realize, also, that DR. HOBSON'S ECZEMA OINTMENT has proven a Mrs. D. L. Kenney writes:—"I cannot sufficiently express my thanks to you for your Dr. Hobson's Eczema Ointment. It has cured my letter, which has troubled me for over fifty years." All druggists, or by mail, 50c.  
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**CIVIL SERVICE EXAMINATIONS**  
 Civil Service Examinations on the following subjects, on the dates given, will be held at Alliance. Full information can be secured from J. S. Johnston, local secretary, Alliance postoffice.  
 August 18, 1913  
 Chief, office of information (male), Department of Agriculture, salary \$2500 per year.  
 August 20, 1913  
 Radio Subinspector (male), \$6 per day, in the Navy Yard, New York City. Assistant in crop acclimatization (male), salary \$840 to \$1200 per year. Radio electrician (male), salary \$4.48 per day, in the Navy Yard, New York City. Laboratory aid in Horticulture (male), salary \$720. Laboratory aid in physics (male), salary \$600 to \$720. Assistant preparator in paleontology (male), salary \$60 per month.  
 August 20-21, 1913  
 The United States Civil Service Commission announces an examination to be held on August 20-21, 1913, in Alliance, including other cities, for TEACHER, INDUSTRIAL, TRAINER and ASSISTANT in the Philippine service. From the eligible list thus secured appointments

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will be made during the coming spring for service in the Philippine Islands beginning with the opening of schools next school year. The service requires women for Home Economics, Men for Agriculture, Manual Training, High School Science, Mathematics, English, History and Supervisors of School Districts.  
 The Hastings Business College, Hastings, Nebraska, has extended its courses of study and now offers civil service training, higher ac-

counting and a course qualifying young people for commercial teachers in high schools and colleges. The new proprietors are progressive and very able men who have worked in high grade positions themselves and know how to prepare young people for successful careers. Sooner or later all business colleges will be compelled to give practical courses which really fit young people for high grade work. Interested young people should write them for their literature.—Adv-35-11-2413

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