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To buy, sell, hire or rent anything, advertise in The Journal. The weather—Occasional snow to night or Wednesday; colder tonight.

Oregon Daily Journal

JOURNAL CIRCULATION YESTERDAY WAS 31,198

VOL. VII. NO. 263.

PORTLAND, OREGON, TUESDAY EVENING, JANUARY 5, 1909.—SIXTEEN PAGES.

PRICE TWO CENTS. ON TRAINS AND NEWS STANDS, FIVE CENTS.

CITY COUNCIL MUST PROVE PLANT NUISANCE

STORM KING MAKES PACIFIC NORTHWEST LOOK LIKE EAST



Storm Scene at Fourth and Yamhill.

Snow Laden Wind Sweeps Over State in Form of Greatest Storm of Season—Very Little Damage Results Despite "Blizzard"

Local Forecaster F. Montgomery, in charge of the weather bureau during District Forecaster E. A. Beal's tour of inspection in eastern Oregon, attributes the blizzard to extremely cold weather in Montana and comparatively mild weather in southern Oregon.

The storm was not felt at the mouth of the Columbia this morning, North Head reporting only 12 miles of wind with cloudy weather. But storm warnings were ordered displayed this morning, so the coast is expected to get its share this evening.

Old King Boreas last night packed a fine collection of blizzards, icicles and zero marks in his grip, boarded his special train and started south for Montana, the Dakotas, Minnesota, or some other state where they like this sort of thing and have to have it about the house all winter to make them happy.

But some time during the night, while the old gentleman was peacefully dreaming of what he soon would do to ears, noses and other features that people were careless enough to leave lying around, some one switched his train to another track and when his majesty woke up, he found himself in Oregon. It put him into a terrible rage and he turned loose with a fine flow of language, windup by taking his fiercest snow storm out of the grip and turning it loose on an unsuspecting community.

City Gets a Surprise. So when Portland crawled out of her bed in the dim, unromantic light of early morning to go to work, she awoke as her bare toes touched the icy floor and she hurried into her clothing in record time. She knew without looking out of the window that it was the worst of the season. The wind howling outside at the rate of 30 miles an hour told her that.

But it wasn't until the city had swallowed a heavy breakfast and stepped outside of the door that the first white flakes began to float down on the wings of the joy winds. "Looks as if it might snow today," nine people out of ten said as they

VANDERBILT AND WIFE ESTRANGED

Opera Singer Said to Have Taken William K. Away From Virginia Fair.

(United Press Leased Wire.) San Francisco, Jan. 5.—That Mrs. William K. Vanderbilt Jr., formerly Virginia Fair, may permanently leave her millionaire husband because of his alleged infatuation for Madame Cavallieri, an opera singer, is the substance of a story appearing in the San Francisco Call this morning.

Vanderbilt is now enjoying a cruise on his private yacht, and his wife is in New York. Gossiping friends, who made the alleged fact known that the opera singer was receiving the attentions of Vanderbilt, declare the couple will never be reunited.

New York, Jan. 5.—Mrs. Vanderbilt today refused to be interviewed. She will leave for Paris tomorrow.

RODGERS SAYS GO FORWARD

Salem Should Look to Water System and Other Such Improvements.

(Special Dispatch to The Journal.) Salem, Jan. 5.—Mayor Rodgers of Salem has submitted to the council his annual message. In it he recounts progress made during the past year in building up the city and what may be expected during the present year. He urges the city to build a boulevard to the state fair grounds, to install a gravity water system and a sewer system, and to continue street improvement.

BODY HAS WORD TO SAY TO MIND

Thus Cautions Dr. Williamson, While Admitting Power of Mind.

(United Press Leased Wire.) Seattle, Jan. 5.—Dr. W. T. Williamson of Portland in a paper before the King County Medical society last night endorsed the idea of the Emmanuel movement, but predicted it would fall of its own weight. His paper was misunderstood by several prominent Seattle physicians as condemning the Emmanuel movement, and in a discussion which followed several took up the gauntlet and defended the thought and creed of the movement.

BRADY ADVOCATES DIRECT PRIMARY

Local Option: Election of Heyburn; Public Utilities Commission.

(United Press Leased Wire.) Boise, Idaho, Jan. 5.—The first message of Governor James H. Brady to the state legislature was delivered today. It urges the Republicans to fulfill all party pledges including the enactment of a direct primary law and county local option laws. Judge made at the state Republican convention, that W. B. Heyburn be reelected United States senator, be kept.

JACK LONDON IS VERY SICK MAN

Gives Up His World Tour. Following a Serious Operation.

(United Press Leased Wire.) San Francisco, Jan. 5.—Jack London, the novelist, will abandon his round the world trip in his boat Shark, according to a letter written by Mrs. London to a friend in Berkeley, Cal. London is reported to be a very sick man. He recently underwent a serious operation at Sydney, Australia, and not long ago completely collapsed. He will return to California.

PACKING FIRM DECLARED NUISANCE

Zimmerman's Establishment Can Stay in South Portland Provided City Cannot Establish in Court Claim That It Is a Nuisance.

(Special Dispatch to The Journal.) Salem, Or., Jan. 5.—That the city council must prove the Zimmerman plant a nuisance before it can prohibit its operation is the decision announced by Chief Justice Bean of the Oregon supreme court today. The decision states that the council cannot declare the packing plant a nuisance by a mere resolution, and on that ground prohibit it, but must establish it as such in court. The question is one of fact.

The case is that of the habeas corpus proceeding brought against Carl Gritzmacher, chief of police of Portland, to discharge the petitioner from arrest under a warrant issued by the municipal court of Portland, charging him with operating and maintaining a slaughter house and packing plant in violation of the city ordinance. The case was appealed from the decision of Judge J. B. Cleland of the Multnomah county circuit court.

Justice Bean holds that as there was no claim that the plant was a nuisance but on the contrary much evidence was produced to show the location of the plant was in a sparsely settled district, the case of the city will not stand. It must be shown that the plant, either from its location or manner of being conducted, is a nuisance beyond doubt, and a resolution to that effect by the council is insufficient in a court of law. Zimmerman was allowed to operate the plant under a previous city ordinance and the city is estopped from pleading that the ordinance was void. It could only be pleaded by the parties whose immediate interests it affected.

Attorney John Hall, who represented the Zimmerman company in its suit to enjoin the chief of police from removing the plant, said this afternoon that the only recourse now left to the city on its present grounds is to appeal to the United States supreme court. Justice Bean's decision that an arbitrary dictum of the council that the plant is a nuisance is not sufficient in law to act as an ouster, would seem to make the city's contention untenable in a further pursuit of the case.

If the plant is proved a nuisance the city ordinance ordering its removal may then go into effect but not before. In order to prove this it is necessary for property owners directly affected by the alleged nuisance, according to Judge Bean, to institute legal proceedings. Attorney Bull says that property owners living in the vicinity of the plant will not do this. The city, he says, invited the packing company to locate its plant where it is and after \$75,000 had been expended in the installation of machinery the company to leave.

Schwarzchild and Sulzberger leased the plant from the Zimmerman company and are now operating under the ordinance authorizing the establishment of a packing house within the city limits.

Calhoun Trial Postponed. (United Press Leased Wire.) San Francisco, Jan. 5.—The trial of Patrick Calhoun, the indicted president of the United Railroad, was yesterday continued to January 12, despite the objections of the defense.

In the Want Ad Section of Today's Journal. 46 Advertise for help. 17 Advertise for situations. 51 Advertise furnished rooms for rent. 80 Advertise real estate for sale. 45 Advertise business chances. 39 Advertise houses for rent. 13 Advertise flats for rent. 33 Advertise housekeeping rooms for rent. Hundreds of new ads in the classified section of this paper every day. If you do not find what you want today. Read the Classified Section of Tomorrow's JOURNAL!

LITTLE GIRL RECEIVES EARLY MORNING CALL FROM BURGLAR



FRANCES B. HENNEY.

The Little Girl Who Talked With a Burglar.

COOLNESS IS TESTED BY ORDEAL

Miss Frances B. Henney, 13 Years Old, Talks With Early Morning Intruder Nearly Half an Hour Before Calling for Help.

"If you scream, I'll kill you!" This was the startling warning given Miss Frances B. Henney, 13 year old daughter of David C. Henney, supervising engineer of the United States reclamation service, when she was awakened suddenly early last Saturday morning by a bright light flashed close to her eyes. The burglar was talkative. He was even more than that—he was inquisitive. "If you remain quiet and do not yell, everything will be all right," the man admonished the little girl further. And then he added as an afterthought: "I'll not harm you if you do not scream."

GOV. COSGROVE WILL RETURN

Governor-Elect of Washington, Charters Special Train and Will Be in Olympia in Time for Inauguration on January 14.

(Special Dispatch to The Journal.) Pasco, Wash., Jan. 5.—Governor-elect Cosgrove of Washington has determined to be at hand on the day set apart for his inauguration at Olympia. The governor and his family and physician will leave here in a private car on the evening of the 10th and will proceed direct to Olympia where he will arrive in time to take the oath of office on the 14th.

B. S. JOSSELYN FULTON ONCE IS UNDER ARREST

Senator C. W. Fulton in North American Review, May 3, 1907. "Of course the people know that the legislature cannot constitute itself a court and it is quite apparent that a candidate who declares in favor of whom they elect, but they also know that few members will care to jeopardize their political future by declining to do so."

Senator C. W. Fulton in North American Review, May 3, 1907. "Of course the people know that the legislature cannot constitute itself a court and it is quite apparent that a candidate who declares in favor of whom they elect, but they also know that few members will care to jeopardize their political future by declining to do so." Further, if a candidate for the legislature signs Statement No. 1, he is, in case of election, bound by an obligation as solemn as his oath of office to conform to it, and it is quite apparent that a candidate who signs that statement will always occupy a much stronger position before the voters than one who declines to sign it. Consequently we may reasonably expect that every legislature will be composed of members of whom a majority were elected on that pledge. Hence it may be said with perfect accuracy that in Oregon, United States senators are elected directly by the people. It is the only state in which that is done."

Arnold, the little girl, was in an adjoining bed, sound asleep. "How old are you?" came from the voice in the dark. He approached the bed and flashed the dark lantern in the little girl's face again. "I'm 13 years old," said the girl as loudly as she dared. She hoped that by leading him to believe that she was a young woman instead of a girl, the burglar would be frightened away. But the burglar was not taken back in the least. In fact he came down on the edge of the bed and continued the conversation.

He wanted to know if there was any jewelry upstairs. "Frances told him that she had a little gold chain and locket about her neck. "I'll take it," he said. So when he attempted to put his arms about the child's neck. It was the first he had touched her—the first that she had fully realized that she was

LUMBERMEN TO VISIT PINCHOT

Coast Interests Will Also Go Before Ways and Means Committee.

(United Press Leased Wire.) Seattle, Wash., Jan. 5.—A delegation representing the lumber industry of the entire Pacific coast, made up of loggers and lumber and shingle manufacturers, will leave for Washington, D. C., this week in time to reach the national capital by January 12. On that date they hope to meet Gifford Pinchot, chief forester of the United States forest service, who has expressed a desire to meet the representatives of the nation's lumber interests and discuss the conservation problem that just now is playing upon a prominent part in the speaking up of the new tariff schedules. In addition to meeting Pinchot, the delegates expect to try to furnish the ways and means committee with a national data concerning the lumber and shingle industry. The purpose of the delegation will represent the Pacific coast at the coming conference is not yet complete. An effort is being made to induce the most prominent and influential men in the industry to be invited to attend the conference on the duty on lumber and shingles. The duties on lumber and shingles will be fixed by the people of Oregon. Two