

SCOOP THE CUB REPORTER

As For The Wagon-"ISH-KA-BIBBLE"

By "HOP"



Cocimiglio Guilty of Second Degree Murder

(Continued From Page One.)
tal bank car had been raised as boys in the same town in Italy.
Murdered Man Was From Sambiasa.
Felice Yamazzo, the man whom Cocimiglio stands convicted of killing in that car, also came from the same town, though some of the members of the crew claimed they did not know him there. He joined the crew when the car was some distance east of Bismarck during the summer, and had been a regular member of the crew till he was brutally assassinated, after that drunken carousal, on the night of September 10.

Must Be Full Weight of Lard

(Continued From Page 1)
Beginning with Chapter 72 S. L. 1899, North Dakota has each year enacted legislation upon the subject of pure foods and honest weights and measures. The 1907 act provides that every package, bottle or container should bear the true net weight of the product. Chapter 236 S. L. 1911 provides that every article of food or beverage as defined in the statutes of this state shall be sold by weight, measure or numerical count and labeled in accordance with the provisions of the laws of this state; that all weights shall be net, excluding the wrapper or container, and that every lot of lard, lard compound or lard substitute unless sold in bulk, shall be put up in casks or containers holding one, three or five pounds net weight or some whole multiple of these numbers and not any fraction thereof. Defendant is a corporation having packing houses in Chicago,

Omaha and other large cities, and maintaining a branch establishment in the city of Fargo, N. D., to which its goods are shipped in car load lots to be distributed therefrom. In October 1911, the State Food Commissioner went to this branch establishment in Fargo and asked to purchase three pounds of lard. He was sold a pail containing two pounds and six ounces. The sale and the resultant arrest were made to test the constitutionality of the 1911 law. The defendant claimed that the law was unconstitutional for seven reasons, the first reason being subdivided into six parts.

(1) Plaintiff's contention is that unconstitutional because it is arbitrary, unreasonable and not justified under the police powers of the state. (a) It is contended that the 1911 law was unnecessary because the 1907 law providing for the display of net weights was ample to protect the consumer against fraud. Held, that the legislature has primarily the choice of laws regulating weights and the court will not interfere with this choice. The burden is upon the person attacking the constitutionality of the law to show beyond a reasonable doubt that the constitution has been violated, that in the case at bar the defendant has failed in his proof and on the contrary, by its own evidence, has shown that the law was being artfully evaded, thus furnishing abundant reason for the 1911 enactment. (b) It is contended that the law is unreasonable because it interferes with a custom of the lard industry extending over a period of more than thirty years. Held, that this is no objection to the law. The fact that an "usage has existed for thirty years does not foreclose the state from an attempt to regulate the same. (c) It is contended that the law is unreasonable because it imposes an additional expense upon the packers. Held, upon an examination of the evi-

dence, that this contention is not well founded. The defendant is already supplying a private firm with net weight pails that would comply with the laws of North Dakota. No reason is shown why those pails could not be lithographed with the Armour brand and used in North Dakota. (d) It is further urged that the law is unnecessary and unreasonable because in any event the customers are not prejudiced. That they are paying merely the price of bulk lard plus the extra expense of the tin pails. Held, upon an examination of the evidence, that the consumer pays much more than the mere cost of the container. This cost includes expensive advertising upon the pail itself and a probable profit to the middlemen upon the cost of the pail as well as of the lard. (e) It is urged that the law is unreasonable as interfering with regular custom of all trades, it being contended that butchers and grocers include the weight of the paper bag with the choice of goods. Held, that even if true it furnishes no reason why laws should not be enacted to regulate this abuse. (f) It is contended that the enforcement of this law will drive the packers to use bulk lard only, to the detriment of the commodity. Held, that from the evidence, the packers never furnished over 40 per cent of the lard to the trade in this state and this defendant furnishes but between 5 and 10 per cent of the lard used, and even should it withdraw from the state it would not materially affect the lard industry. The authorities upon the subject of the control of weights and measures by compelling even weights in containers are collected in the opinion.

(2) The law of 1911 does not interfere with the guarantees of the constitution relative to the right of freedom of contract and the equal protection of the law. Under the police power, the state can interfere with private

rights when necessary to protect the public from fraud or the opportunity for fraud. Whatever injury one particular citizen may suffer is compensated to him by the general protection afforded him against other evils by such police power. (3) Said statute does not constitute the taking of property without due process of law. (4) The claim of appellant that the lard industry is singled out from all articles of food and subjected to regulation by the same or similar acts. The 1911 law specifically mentions lard compounds, and lard substitutes and the manner of their regulation in pails, but this is a mere incident of the law. The object of the law is to prevent the opportunity for fraud in the sale of all articles of food. (5) The law is in violation of the commerce clause of the federal constitution is not sustained. Congress has control of commerce between the several states, with foreign nations and among the Indian tribes, while the states have control over intra-state commerce. The pail of lard sold to the food commissioner was shipped into the state in a railway car and was itself contained in a crate containing 20 similar pails. The original package was either the railway car or the crate and had been broken prior to the sale. Thus the sale was a local or intra-state transaction. The cases upon this phase are collected in the opinion.

(6) It is contended by defendant that the act should be given a reasonable interpretation, thus permitting the sale of short or gross weight pails if labeled with the net weight. Held, that the import of the law is plain and that the construction required by the defendant would result in a repeal of the law by judicial construction which this court will not do. (7) It is contended that congress has assumed control of the field of pure foods and weights and therefore the laws of North Dakota upon the subject have become ineffectual. Under the fifth paragraph of this opinion it is held that the sale in question was an intra-state transaction, entirely within the control of the state and entirely outside of the control of the United States. Upon consideration of the whole act it is held that the law is reasonable and necessary and in no manner prejudiced the defendant and is not in conflict with any of the enumerated provisions of the constitution. (Syllabus by the Court.)

Currency Bill Vote on Friday

(Continued From Page 1)
aration of further amendments proposed by Hitchcock, defeating the amendment to extend the guarantee of bank deposits to cover the state banks joining the new system, as well as the national banks. The democrats gathered in a hurriedly called conference at six last night to settle all their final differences over the bill and to agree upon what amendments to support. The republican senators joined Hitchcock in a strong fight against the provision of the Owen bill limiting to 90 days, the maturity period of the commercial paper that might be rediscounted at the proposed new regional reserve banks. Crawford, South Dakota, and McCumber, North Dakota, declared it would make it impossible for the country banks of the west to meet the emergency; and that the masses of six months notes of farmers and stockholders would be valueless in time of panic because they couldn't be rediscounted.

Stutsman Outlines Rate Case

(Continued From Page One.)
because they claimed that it was confiscatory in its nature and would practically drive the express companies out of business, yet, now that it has been adopted and they have all reconciled themselves to the situation and purpose to make a fair and honest trial of the new schedule of rates, they are anxious that the same schedule of rates be adopted by the states in the interests of uniformity. The conference at Chicago lasted two days, and many interesting facts were developed in connection with the express rate situation in the various states and while it is problematical whether it will be possible to harmonize the express situation in all the states, yet it is altogether likely that the North Dakota commission will adopt practically, not only the method of the Interstate Commerce commission in ascertaining rates, but also the rates themselves. "A conference will be held by the North Dakota commission at Grand Forks the early part of January, to which are invited shippers and representatives of the commercial clubs of all the cities in the state, and also the representatives of the express companies, so that the matter can be harmoniously adjusted in this state immediately, so that whatever schedule of rates is adopted, the same can go into effect on February 1st, the date set for the commission rates. "The effect of the Interstate Commerce commission rates will be to greatly reduce the cost of transportation of small packages for short distances. For instance, all packages under fifty pounds for distance under three hundred miles will be very materially reduced. However, the charges on packages of over fifty and up to one hundred pounds, and heavier than one hundred pounds, will be somewhat increased. The question mostly interesting to the shippers of North Dakota will be whether to adopt the schedule as a whole, and thus permit the increasing of express charges on packages of greater weight than fifty pounds. An experience has taught that ninety per cent of weight, it is thought that the permitting of a greater weight may not be a hardship and might compensate the express companies for the much lower rates they will have to put up with on smaller packages."

Jury Finds Geo. McDonald Not Guilty

(Continued From Page One.)
sary to establish an offense against the laws of the state. As in a previous case in the present term of court he also contended this community could settle its troubles without going out of the city or county for employed witnesses. No witnesses were offered by the defense, and the matter as far as the defense was concerned was left for the jury to determine whether or not the state had established its case, beyond a reasonable doubt. George McDonald is one of the old timers in Bismarck, and this action was commenced in the May term of court, but was continued till the present term because of his illness at that time. When his case was called this time he failed to make an appearance, and his bond was ordered forfeited, but his attorney made a showing that he would arrive here from Plentywood, Mont., in ample time for the case to go to trial after the Cocimiglio murder case, and there was provision made whereby his bond could be reinstated should his case go to trial, provided certain costs were provided

SPENCER GETS 4 WEEKS MORE LEASE ON LIFE

Chicago, Dec. 17.—Four weeks' reprieve was granted by Governor Dunne yesterday to Henry Spencer, who was to have hanged Friday for the murder of Mrs. Mildred Allison Rexroat. The governor declared one of the principal reasons for giving a stay of execution was that he didn't care to see the holiday season marred by a hanging. The other reasons, he said, were Spencer's lack of funds to provide expert testimony during his trial and the recent intimation of insanity. Governor Dunne's action followed a hearing in the Congress hotel, in which Spencer's attorneys, Anton Zeman, Henry Standig and Oliver M. Olson, made an appeal for a stay of the death sentence, that they might have time to prepare a bill of exceptions to be filed in the supreme court. Their arguments were based on the ground of Spencer's alleged insanity.

MURDERS WOMAN WHO JILTED HIM

Chicago, Dec. 17.—Enraged because his two years' love-making had been unsuccessful, and Mrs. Frances Lohr Leland had finally ordered him to cease his visits, O. C. Huey yesterday left his little decorator's shop at 734 East Sixty-seventh street near coalless and useless to her rooms at 6411 Maryland avenue, and shot her dead. Then he ran back to his shop, put on his hat and coat and boarded a south-bound car at Cottage Grove avenue, and from that moment the police can find no trace of him. Mrs. Leland, who had been twice divorced, lived with her eighteen-year-old son, Herbert Lohr, and her aged aunt, Mrs. Barbara Dubeck, at a rooming house kept by Mrs. W. L. World. She and her aunt were at home when Huey arrived. "Frances and I were in the kitchen," Mrs. Dubeck told the police. "It was about 11 o'clock when the door was thrown open and Huey rushed in. "He may have been crazy, or he may have been drinking, but there was a terrible look on his face. Oh, it was awful! "He never said one word—just lifted up a revolver and fired, and Frances dropped on the floor, and he turned and ran. It was over in a few seconds. "He had been paying attentions to her a long time but she didn't care for him, and had told him to stay away. He was fairly crazy about her. She was forty-two and Huey about forty. "Jealousy was the cause. Huey was madly in love with Mrs. Leland, and for two years had been trying to marry her. He used to come here to see her, until I understand last Sunday night she told him he could not call any more. That made him very angry and he left in a great rage. "Mrs. Leland's son, a clerk for the Chicago Lemurage Bureau and her brother Otto Treulich, with the L. Fish Furniture company, arrived soon after the murder and are helping the police to find Huey. Huey is said to have rich relatives near South Bend and it is supposed that he is trying to reach them.

MISS MORGAN'S FRIEND APPROVES NEW DANCE

New York, Dec. 17.—One of the results of the present dancing craze is a sensible change in feminine fashions, according to Miss Anne Morgan's associate, Miss Elizabeth Marbury, who is a superintendent of the new Castle House which opens this afternoon. From opposition to the modern form of entertainment, she has been won over and gives as her reason the improved style in dress and the better health of the men and women who dance.

THE MARKETS

MINNEAPOLIS.
1 hard 88 1/4; 1 nor 85 3/4 to 87 1/2; reg Arr 85 3/4 to 86 3/4; choice arr 87 1/2; 2 nor 83 to 85 1/2; 2 hard mont arr 85 3/4 to 86 1/4; 3 wheat 81 3/4 to 83 1/2; 1 dur 82 to 83 1/2; arr 80 to 81 1/2; 2 dur 80 to 81 1/2; arr 80 to 81 1/2; 3 ye 60 3/4; arr 61 1/4; 4 corn 56 to 58 1/2; 3 winter oats 37 to 37 1/4; arr 37 to 1-3; 3 oats 33 1/2 to 36; barley, choice runt 6 to 6 66; good 51 to 63; poor 43 to 61; rye 54 to 56; arr 54 to 56; flax 142 1/2; to 145; arr 142 1/2 to 45 2; dec 84 3/8; May 87 3/4; July 89 1/4.

DULUTH.
Dec 84 1-8; May 83 1-8 to 88 1-4; July 89 3-8; 1 Hard on trk 87 1-8; 1 Nor on trk 86 1-8; 2 Nor on trk 84 1-8 to 8 5-8; arr 1 Nor 86 1-8; Mont 2 Hard on trk 85 7-8; arr 85 7-8 spot Dur No. 1 84; arr 84; spot Dur No. 2 82 to 82 1/2; arr 82 to 82 1/2; Dec 83 1-4; May 86 1-2; Oats on trk 37 1-4; arr 37 1-4; Rye on trk 58 to 55; Farley on trk, not quoted; Flax on trk 145; arr 145; Dec 142 3/4 Jan 84 1/4; May 141.48; High May 83 1-4; low 83 1-8.

ST. PAUL.
CATTLE—Receipts 2,000. Killers, 10 to 15c lower. Steers, \$5.50 to \$7.75; cows and heifers, \$4.50 to \$6.60 calves, steady, \$4.50 to \$9.50; feeders, weak, \$4.30 to \$7.00.

HOGS—Receipts, 9,400; 10c lower. Range, \$7.25 to \$7.37 1/2; bulk, \$7.30 to \$7.35. SHEEP—Receipts, 500. Steady. Lambs, \$5.50 to \$7.00; wethers, \$3.75 to \$4.50; ewes, \$2.50 to \$4.85.

CHICAGO.
HOGS—Receipts, 50,000. Slow, 6c lower. Bulk of sales, \$7.50 to \$7.70; light, \$7.25 to \$7.60; mixed, \$7.35 to \$7.75; heavy, \$7.40 to \$7.75; rough \$7.40 to \$7.50; pigs, \$6.25 to \$7.00.

CATTLE—Receipts, 9,000. Steady to 10c lower. Christmas yearlings, \$9.85 to \$10.25; heaves, \$6.60 to \$9.75; Texas steers, \$6.60 to \$7.65; western steers, \$5.80 to \$7.60; stockers and feeders, \$4.90 to \$7.50; cows and heifers, \$3.30 to \$8.40; calves \$7.00 to \$11.00. SHEEP—Receipts, 27,000. Active, generally steady. Native and western \$4.40 to \$5.75; yearlings, \$5.50 to \$6.85; lambs, native and western, \$6.40 to \$7.90.

LEGAL NOTICES

SALE OF LAND.
NOTICE IS HEREBY GIVEN, That in pursuance of an order made on the 4th day of December, A. D. 1913, by the Hon. W. P. Costello, Judge of the County Court in and for the County of Burleigh, State of North Dakota, the undersigned the guardian of the persons and estates of Henry F. Shepard, Paul E. Shepard and Franklin Shepard, minor children of Frank Shepard, deceased, late of the city of Havre in the County of Hill and State of Montana, deceased, will on Saturday, the 3rd day of January A. D. 1914, at ten o'clock in the forenoon of that day, at the front door of the Court house in the city of Bismarck, County of Burleigh, and State of North Dakota, offer for sale and sell at public auction to the highest bidder for cash, subject to confirmation by the Judge of said County Court all those certain lots, pieces or parcels of land, situated, lying and being in the city of Bismarck, in the County of Burleigh, and State of North Dakota, and described as follows, to wit: Lots thirty-three (33), and thirty-four (34), in block forty-three (43), in Flannery and Ward's Addition to the city of Bismarck, North Dakota. Dated December 10th, A. D. 1913. ANNA C. SHEPARD, Guardian.

NOTICE TO CREDITORS.
In the Matter of the Estate of Simon K. Wood, Deceased.
Notice is hereby given by the undersigned H. C. Bradley, agent of Alex. T. Gibson, Administrator of the Estate of Simon K. Wood, late of West Windfall, in the County of Herkimer, and State of New York, deceased to the creditors of and all persons having claims against said deceased, to exhibit them, with the necessary vouchers, within six months after the first publication of this notice, to said Agent of said Administrator or at his office in the First National Bank, in the city of Bismarck, in said Burleigh County, State of North Dakota. Dated December 6th, A. D. 1913. H. C. BRADLEY, Agent of Administrator.

NOTICE TO CONTRACTORS.
Sealed bids for the extension into the Missouri River of intake pipe for the City Water Works, Washburn, N. D. will be received by the City Council until eight o'clock P. M. Tuesday, December 23rd, 1913. Certified check for \$50, must accompany bid, and bond for \$500, must be furnished by successful bidder. Plans and specifications are on file with the City Auditor or may be obtained of T. R. Atkinson, Consulting Engineer, Bismarck, N. D. The City Council reserves the right to reject any or all bids. R. L. BURMAN, City Auditor.

First publication on the 11th day of December, A. D. 1913. (12-11, 18, 25; 1-1.)

HOW TO ANSWER BLIND ADS.

All ads signed with numbers, or initials, care Tribune must be answered by letter addressed to the number given in the ad. Tribune employees are not permitted to tell who any advertiser is. Mail or send your answer to Tribune No. 1, and we forward it to the advertiser.

HELP WANTED-MALE

WANTED—Ushers for the new auditorium. Inquire of E. H. L. Vesperman.

WANTED—25 men, at once, to help organize Farmer's Union in North Dakota. W. E. Evans, Bismarck, N. D.

WANTED—Men who appreciate high class, artistic hair cutting, to come where experts do the work. Dorke's Barber Shop, City National Bank Bldg.

ROOMS FOR RENT

FOR RENT—Rooms in modern house, 1100 Broadway.

FOR RENT—Comfortable room in modern house. Call 613 Third street after 6:30 p. m.

FOR RENT—Furnished room in modern house for one gentleman, 506 Third street.

FOR RENT—Furnished rooms at 415 Eighth street.

FOR RENT—Furnished room in modern house, two blocks from business, Phone 560, or call at 400 Fourth street.

FOR RENT—Room in modern house, close to business, Phone 560.

FOR RENT—Furnished modern rooms, board if desired, 46 Main street.

FOR RENT—Furnished room, suitable for two men. Reasonable. Call at Wonder Store.

FOR RENT—Large furnished front room, suitable for two, 423 Fourth street.

FOR RENT—Board and rooms at 622 Third street.

FOR RENT—Furnished room in modern house; 419 Third St. Phone 3897.

FOR RENT—Furnished room, modern house, 801 Fifth street. Phone 242-R.

HELP WANTED-FEMALE

WANTED—Girl for general housework. Good wages paid. Call 423 Third St.

SITUATIONS WANTED

WANTED—By middle-aged lady, refined, position as housekeeper on a farm, or would work in store. Address 149, care Tribune.

REAL ESTATE

F. E. YOUNG, REAL ESTATE.

FOR SALE—3-room house, hot water, heat, bath, east front, 50 foot lot, \$2400. Easy terms.

FOR RENT—5-room modern flat, close in, \$35.

FOR RENT—7-room modern house \$25.

F. E. YOUNG, REAL ESTATE.

LIVE STOCK

FOR SALE—Few mule-footed boar pigs and my herd boar and White Plymouth cockerel. Wm. G. Snyder, R. 2, Box 42, Underwood, N. D.

FOR SALE—Holstein bull calf, Black Minorca cockerels, setter and French poodle pups. E. J. Schaeffer, Ashley, N. D.

FOR SALE—Five first-class milk cows. G. H. Miller, phone 190, Sunny Crest Dairy.

FOR SALE—Fine pure bred Buff and White Orpington and Black Langshan cockerels at \$3 each. J. A. Schmitz, Merricourt, N. D.

HOUSES FOR SALE

FOR SALE OR RENT—Six-room house. Enquire Sarah A. Christ, Ninth street.

FOR SALE—By owner, a modern new house, in four blocks of the P. O. Terms to suit. Address, P. O. Box 181, Bismarck, N. D.

MISCELLANEOUS FOR SALE

FOR SALE—I offer for sale my well improved farm cheap for cash; 80 acres broke, 122 acres pasture; all fenced. Mrs. Frank Miller, Bismarck, N. D.

LOST AND FOUND

LOST—Small, brown, female dog. Finder, please return to 322 Fourth St. Mr. Kilmer, and receive reward.

LOST—K. of C. watch charm pendant on Mott line, Dec. 8. Return for reward to L. D. Hochford, Bismarck, N. D.

HOUSES FOR RENT

FOR RENT—A good seven room house, 617 Front street, enquire next door, or phone 217.

FOR RENT—Small house, located down town. Inquire G. M. Registrar.

FOR RENT—Two story cottage; No. 711 Sixth street. M. P. Skeels.

FOR RENT—Small house on Fourteenth street; \$10. W. L. Smith.

FOR SALE-FURNITURE

FOR SALE—A sanitary couch at 415 Eighth street.

BUSINESS CHANCES

FOR SALE—At a bargain, harness and shoe repairing shop, in a town of 900 population. Only shop in town, and a good community. Other interests to look after. 152, care Tribune.

FOR SALE—Five thousand dollar stock, merchandise, drygoods, shoes, groceries and meat market. Doing good business, good live North Dakota town. Investigate, no trade. Kintyre State Bank, Kintyre, N. Dak.

FOR SALE—Furniture of a 35-room hotel, electric lighted and heated. Address Box 546, Mandan, N. Dak.

MISCELLANEOUS WANTS

WANTED—Customers for milk Daily delivery. Phone 587. City Dairy.

WANTED—A good second-hand safe. Washburn Merrick Lumber company, Napoleon, N. Dak.

WANTED—Washing and house-cleaning to do. Phone 596L.

WANTED—Washing, by the piece or dozen. Phone 598R.

WANTED—Boarders, at 418 Thayer St. Phone 145.

THE COST OF "WANT" ADS

The cost of "Want" ads figured in the chart above is one cent per word for first line and nothing less than 25c for first insertion. Then each following insertion is one-half cent per word each time. Example—A ten-word ad for three days will cost you 25c first time, plus 5c for each of the following two days, or 35c total cost. This applies to paid-in-advance ads only.

WHEN WANT ADS ARE PAID FOR IN ADVANCE YOU SAVE HALF THE COST.

Tribune Want Ads bring results.