

STORY OF THE MOST NOTED MURDER CASE IN UTAH'S HISTORY.

On the evening of Dec. 17, 1901, the community was startled and shocked by the announcement of the mysterious disappearance of a young man named James R. Hay, and with him a sum of money amounting to \$3,500. Mr. Hay was secretary of the Pacific Lumber company and was well known in business and social circles. In spite of the fact that he was highly respected and loved by a wide circle of acquaintances, his good name for a few hours was under unjust suspicion. The police authorities intimated that he had been camped with the money, which belonged to the company, and telegrams were sent broadcast over the country in the hope of obtaining some trace of the missing man. But nothing was heard of him until the following morning, when word was received at the police department that he had been the victim of one of the foulest murders ever committed; that his body, stiff and lifeless, was then lying in a rude grave in a field near the Rio Grande Western railroad tracks in Forest Dale.

In order to give an accurate account of the details that led up to the discovery of probably the darkest crime in the history of the state, it will be necessary to go back to the 16th day of December, 1901.

THE FATAL DEBT.

On the afternoon of that day, Peter Mortensen, a contractor, living at 2,210 Walnut avenue, in Forest Dale, called at the office of the Pacific Lumber company and informed Manager George E. Romney that he, Mortensen, was then ready to liquidate a debt he owed the company. The amount was \$3,800 and Mortensen stated that he had the money in gold at his home and if Mr. Hay would call for it and bring with him the mortgage and note held by the company, the obligation would be wiped out. Mr. Romney was astonished to hear that Mortensen had so large an amount at his home and chided him for what he termed carelessness. Mr. Romney said the company could get the money the next day, and he took particular pains to instruct Mr. Hay, the secretary, that, under no circumstances, was he to get the money that night. After going over the account, the three, Hay, Romney and Mortensen, left the office to go to their respective places of abode.

HAY'S LAST FAREWELL.

About 8 o'clock that evening, Mr. Hay left his home, saying to his wife that he would be back soon, that he was going over to Peter's, referring to Mortensen's residence, which was diagonally across the street from Hay's home. What happened when the young man reached the home of Mortensen is known only to the latter. It is a fact that he entered the house, and that he went there to get the money that Mortensen owed the lumber company. According to the latter's statements to Thomas H. Hilton, then chief of police, Hay did not remain long in the house. Mortensen declared that he had the money secreted in his cellar and that he brought it forth, sat down with Hay, counted out the \$3,800, took the note and receipt from Hay, and that Mr. Hay then departed. Mortensen declared that when young Hay walked down off the porch, that was the last he saw of him alive.

YOUNG WIFE ALARMED.

Minutes ran into hours and many of them passed but the young man did not return to his wife and children. Some time after midnight Mrs. Hay became alarmed over the absence of her husband and went over to Mortensen's to inquire if Peter knew anything as to Hay's whereabouts. Mortensen said he supposed that Hay had gone to the home of Mr. Romney to take the money there. A strange fear gnawed at the heart of Mrs. Hay. She could not rest. She searched for her missing husband but could get no trace of him and at the earliest moment communicated with her father, Hon. James Sharp. The police were informed of the affair and through them the disappearance of the young man became known. This paper was the first to learn that the young man was missing.

SHARP'S DIRE PREDICTION.

On the afternoon of the 17th, Mr. Sharp went to the home of Peter Mortensen and talked with him concerning the alleged payment of the money. As Mr. Sharp was leaving Mortensen's

place, he practically charged Mortensen with murdering young Hay. Mortensen asked Mr. Sharp how he knew that Hay was murdered. Mr. Sharp replied that he knew his son was murdered and that the proof of it would be that within 24 hours Hay's dead body would be found in a field not a mile from the spot where they were then standing. The police continued their search throughout that day and on the morning following were prepared to renew their search for some clue when the news of the finding of the body was received at the station.

MORTENSEN ARRESTED.

Detectives George A. Sheets, Ed Janney, Officer J. D. Brown, Patrol Driver Armstrong and a "News" reporter proceeded to the scene with all the speed that the patrol horses were capable of. The body of the murdered man was carefully placed in the patrol wagon and brought to the city. Mortensen was placed under arrest on the charge of murder. Officer Brown made the arrest, acting under instructions from Detective Sheets. Mortensen rode to the city in the wagon with the body of the murdered man. He was held at the police station for five or six days during which time the officers plied him with questions concerning his part in the



(MORTENSEN'S RESIDENCE.)



(HAY'S RESIDENCE.)

SCENES AND INCIDENTS IN THE MORTENSEN-HAY MURDER.

The heavy black cross in the upper picture indicates where Hay was murdered on the railroad track by being shot in the back of the head, presumably as suggested by the small illustration in the left-hand top corner. The white trail from the railroad track to the center of the picture is the course over which the body was dragged for burial. The broken ground shows where the grave was dug and where the body was found. The cross discloses where the head lay and the star tells the location of the feet. The illustration in the lower left hand corner shows where Mortensen John Allen saw Mortensen walking along the railroad track carrying the shovel with which Hay's grave had been dug. The neat little brick cottage on the right is the Hay home, vacated by the family soon after the murder. The home of Peter Mortensen is on the left. The upper cross indicates the door out of which Hay walked unsuspectingly to his death after his interview with Mortensen, and the lower cross is on the window that leads into the cellar close to where

Mortensen declares he had \$3,800 in gold stored away in fruit jars.

It was directly in front of the house, probably 10 or 12 feet from the porch, where James Sharp made the disquieting demand upon Mortensen, "Show me the exact spot where you last saw my son alive." Mortensen, who was standing at the side of Detective Sheets, pointed to where he himself stood, and said as his arm and index finger stretched toward the ground, "Right here." With a glance that seemed to pierce the very soul of Mortensen, Mr. Sharp said in deliberate and stentorian tones: "THEN HERE IS WHERE YOU KILLED MY SON!" For a moment Mortensen was silent under the terrible accusation that came like a flash from the unclouded skies, after which he asked, "HOW DO YOU KNOW YOUR SON IS DEAD?" Mr. Sharp's reply has become historic. It was, "THE PROOF WILL BE THAT WITHIN TWENTY-FOUR HOURS MY SON'S DEAD BODY WILL BE FOUND IN A FIELD NOT A MILE FROM THIS SPOT," a declaration that was literally fulfilled.

CHRONOLOGICAL RECORD OF THE MORTENSEN CASE.

Date of murder	Dec. 16, 1901
Hay's body found	Dec. 18, 1901
Arrest of Mortensen	Dec. 18, 1901
Complaint filed, charging murder in the first degree	Dec. 18, 1901
Arraignment of Mortensen	Dec. 20, 1901
Preliminary hearing commenced	Jan. 21, 1902
Hearing ended	Jan. 24, 1902
Bound over to the district court	Jan. 25, 1902
Information filed in district court	Feb. 6, 1902
Arraignment in district court	Feb. 8, 1902
Entered plea of not guilty	Feb. 12, 1902
Trial of case commenced	May 28, 1902
Jury secured	May 28, 1902
Evidence commenced	May 29, 1902
Evidence concluded	June 10, 1902
Case submitted to jury	June 14, 1902
Verdict of jury rendered	June 14, 1902
Motion for new trial failed	June 19, 1902
Hearing on motion continued	Aug. 25, 1902
Motion overruled	Aug. 27, 1902
Date of passing sentence set for	Sept. 2, 1902
Sentenced, Sept. 2, to be executed on	Oct. 17, 1902
Certificate of probable cause of appeal issued	Sept. 2, 1902
Appeal filed in supreme court	Feb. 27, 1903
Argument in supreme court	May 20, 1903
Opinion affirming judgment of lower court	Aug. 12, 1903
Petition for rehearing denied	Sept. 17, 1903
Date of resentence, set for	Sept. 24, 1903
Second motion for new trial	Sept. 25, 1903
Passing of sentence continued to	Oct. 3, 1903
Argument on second motion for new trial	Oct. 3, 1903
Motion overruled	Oct. 3, 1903
Resentenced on Oct. 3 to be executed on	Nov. 20, 1903
Certificate of probable cause denied	Oct. 17, 1903
Notice of second appeal	Oct. 17, 1903
Second appeal filed in supreme court	Oct. 19, 1903
Case argued	Oct. 29, 1903
Appeal dismissed	Oct. 30, 1903
Application to board of pardons, for commutation	Nov. 14, 1903
Commutation of sentence denied	Nov. 14, 1903
Second petition for rehearing denied by the supreme court	Nov. 19, 1903
Executed	Nov. 20, 1903

Ritter. Mortensen was held on the charge of murder in the first degree and was remanded to the county jail, where he was held until his famous trial began. It was held before Judge C. W. Morse, District Attorney Dennis C. Elchorn prosecuted, and Attorneys Stewart & Stewart defended. It was one of the most determined and bitter legal fights ever waged in the state. Nearly four weeks were consumed in securing a jury. There were 1,055 jurors summoned on the case before "twelve good men and true" were decided upon to try the prisoner. There were 905 jurors summoned on the regular panel, 150 on open venire and 899 were in the jury box.

HISTORY OF THE TRIAL.

Judge Bartch's Official Review of The Facts in the Famous Case.

Although Mortensen's attorneys made a gallant fight for him, Dist. Atty. Elchorn weaved such a chain of circumstantial evidence around the accused that on the second ballot the jury

pronounced Mortensen guilty. A full and complete statement of the facts in the case is that given by Chief Justice Bartch when the supreme court handed down the decision on Mortensen's appeal for a new trial, sustaining the judgment of the district court and denying the motion of the defendant. This statement of facts, which follows, embraces everything brought out during the long weary trial:

The information in this case charges the defendant with the unlawful, deliberate and malicious murder, on the 16th day of December, 1901, of James R. Hay. Among other things, it appears from the evidence, that the accused and the deceased were both residents of Forest Dale, Salt Lake county, Utah. The deceased was the secretary and treasurer of the Pacific Lumber company, a concern dealing in lumber. The defendant was a contractor and builder, and before and at the time the crime charged was committed, was indebted to the lumber company for lumber and building materials. Having been frequently asked by an agent of the lum-

ber company for money in liquidation of the indebtedness, the defendant, on the 14th of December, 1901, appeared at the office of the company in Salt Lake City, and stated to its manager, Mr. Romney, that he thought he would be able to pay the account on the 16th of December, 1901. On the afternoon of the 16th, at about 6 o'clock, he again appeared at the same office and stated, in the presence of the manager and the secretary, that he was ready to pay the indebtedness. They then checked over his account and found that he owed the company \$3,907. For \$107 of this he had given the company an order on another person, and the balance, or \$3,800, he said he had accumulated and was keeping at his house in Forest Dale and told Mr. Hay to make out a receipt and "fetch it along" with him. Mr. Hay made out a receipt as requested, and then pinned it and a note, which the defendant had given the company as evidence of part of the indebtedness, together and put them in his inside coat pocket on left side for delivery by him to the defendant upon receiving payment of \$3,800. The manager, being alarmed because of the defendant keeping so much money at his house, commanded him under no circumstances to pay over the money that night, not until the next morning, and instructed Mr. Hay not to call for or receive the same until in the morning. The defendant said he wanted to surprise them, and that was his reason for accumulating the money instead of paying the indebtedness in partial payments. The three then, it being nearly 8 o'clock, left the office and went together up South Temple to West Temple street. Thence the manager continued on home and Mr. Hay and the accused took the Calder's Park car for their homes at Forest Dale.

"I AM GOING OVER TO PETER'S."

It appears from the testimony of the witness Morton, that after Mr. Romney, the manager, left them, the defendant arranged for Mr. Hay to come to his house and get the money that night. The deceased arrived at his home about 8:25 p. m., took supper and then left his house at 9:45, saying to his wife, "I am going over to Peter's (defendant) to collect some money. I will be back soon." At about 10:20 the wife and children retired. At 1 o'clock she awoke, and finding her husband had not returned, became alarmed, and, about 3 o'clock, went to the house of the accused, aroused him and inquired for her husband. She says he appeared very nervous and said her husband had "gone up to Ernest's" (meaning Mr. Romney) and told her that he supposed he missed the last car home and "stopped over with Ernest." The next morning, the 17th, about 10 o'clock, the defendant called up Mr. Romney by telephone, at the office of the lumber company, and wanted to know if he had seen Mr. Hay, and upon receiving a reply in

the negative, told him that Mr. Hay left his "place last night and had not been seen since." Upon being invited, the defendant then went to the company's office and told the witness Romney, that Mr. Hay came to the defendant's house the night before for the money; that after trying to persuade him not to take it at night, without avail, he paid the money over to "Mr. Hay in \$20 gold pieces;" that, after Mr. Hay had checked the amount and distributed it in his different pockets, he accompanied him to the door, opened it, and upon Mr. Hay passing out, shut it; and that that was the last he had seen or heard of him.

On further inquiry the accused stated to the witness, Romney, that "he had been accumulating the money for some time; that he had been getting all his checks cashed into \$20 gold pieces; and that he had kept it loose in the cellar on a beam or cross wall."

HAY'S DISAPPEARANCE.

Mr. Romney and the accused then informed Mr. James Sharp, the father-in-law of the deceased, about the latter's disappearance, and related to Mr. Sharp the defendant's story, and then informed the police department and repeated the same conversation, respecting Mr. Hay's getting the money and

MEN WHO FOUND MORTENSEN GUILTY.

The names of the 12 men who for weeks listened patiently to the testimony for and against Peter Mortensen, and who finally pronounced him guilty, are as follows: Joseph Smith, Samuel Bringham, James M. Barlow, Henry Tribe, Stirling R. Le Roy, Michael Kopp, H. T. Shurtliff, W. A. Bills, John T. Alexander, Charles H. Ingham, Jr., Alma H. Rock and Major John B. Dalley. Four weeks were consumed in selecting this jury, each man going through a long, weary, searching examination at the hands of counsel for the defense. Although these gentlemen were cooped up like prisoners for weeks, and passed through an ordeal that would try the patience of any man, they were a pleasant, good natured lot, and occasionally had fun at each other's expense. Those who attended the noted trial will doubtless remember the answer given by Henry Tribe to one of Mortensen's attorneys who asked him what church he belonged to. "What church?" replied Tribe. "Why I belong to the 'Blue Church'." Michael Kopp, now deceased, was one of the wisest of the jury, and created a great deal of mirth by his affectionate attention to Juror Bills, when he took a great delight in calling "my friend, the bishop."

know where the accused had last seen Mr. Hay, the defendant went to a spot, in the walk leading from the house, about 10 feet from the steps, and told there as near as he could remember, was the last place he saw Mr. Hay. Mr. Sharp thereupon said to him, "If that is the last place you saw my living son, that is the place where he was killed." Thereupon an occurrence took place between James Sharp and the defendant, as shown by the testimony of the former as follows: "I asked him to come again and show me where my son stood in the path, and he came with me and showed me again, and when he put his foot there, I said there is where you killed James R. Hay; and he says how do you know he is dead; and I said the proof to you will be that within 24 hours of the time we are speaking, and within a mile of the place where you put your foot, his dead body will be dug up in one of these fields." To this accusation the defendant made no denial. In the afternoon of the same day suspicion began to point to him that he had killed Mr. Hay to obtain possession of the receipt and note.

THE BODY FOUND.

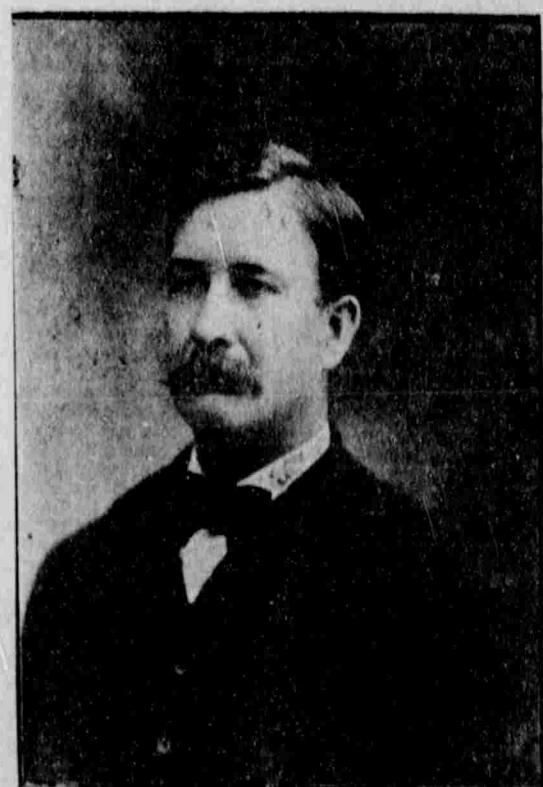
The next morning, Dec. 18, 1901, while one Frank Torgersen was out looking for horses, he noticed in a field, west of defendant's house, and a short distance north of the railroad track, the Park City line, which, at that place, extends east and west, a little mound and several spots of blood between it and the fence along the railway. Seeing this, Torgersen went to the defendant's house and asked for a shovel. The defendant gave him a short handled, round pointed one, and told him that was the only shovel he had, although later a long handled, square pointed shovel, which had the appearance of having been cleaned, was found in his barn, and the imprints about the mound had the appearance of having been made with a square pointed shovel. Torgersen, upon returning to the mound with the shovel, discovered that a body had been buried there, and upon making known his discovery a number of persons, among them the accused, went to the mound and exhumed the body of Mr. Hay. As the body was being taken out of the grave, a detective, standing by the side of the defendant, remarked that robbery was not the motive, as the gold watch was there, but received no reply from the accused.

MORTENSEN ACCUSED.

It was also noticed that the coat pocket on the left hand side, into which Mr. Hay had put the receipt and note, on the evening of the 16th, at the lumber company's office, was pulled inside out. The body was then placed on a patrol wagon and taken in front of Hendry's store, where the wagon was stopped, and Mr. James Sharp and others appeared. While there, Mr. Sharp, who had on the day previous accused the prisoner of killing his son, in the presence of a number of people,

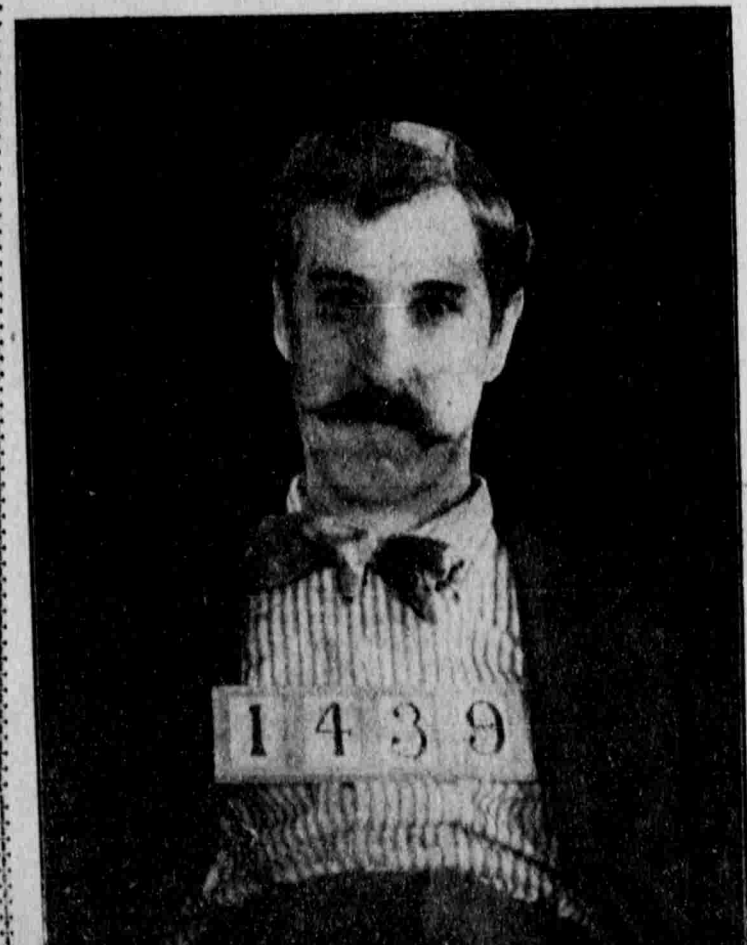
STARTLING DECLARATION.

After having stated the details of the transaction, and after some persuasion by Mr. Sharp, who desired to



SHERIFF EMERY.

On Whom the Legal Obligation of the Execution Rested.



PETER MORTENSEN, And His Prison Number.