

FIFTY-SECOND YEAR

MORTENSEN CASE GOES TO JUDGE.

Court Considering Motion to Discharge the Accused—Will Render Decision At 11 a. m. Tomorrow.

When Justice Nielsen at noon today overruled the motion of the defense to discharge Peter Mortensen from custody on the ground that sufficient evidence had not been produced to hold him, he practically decided that the case must go to the district court. The decision will be forthcoming at 11 o'clock tomorrow.

The motion was overruled in the presence of another large crowd of spectators. It came after a lengthy argument on the part of Attorney C. B. Stewart, who alleged that there was no evidence upon which to longer imprison the accused. To this contention the state's attorney made no reply beyond stating the prosecution believed that the testimony clearly pointed to the guilt of the defendant and that the court would act accordingly.

Mortensen was the most intense listener in the hall while his attorney was speaking. He seemed to hang on every word in the hope that something would be said to break the coils that a long train of circumstances has so tightly wound about him. He apparently expected a lengthy reply from the state's attorney. When it failed to come he showed not only surprise but disappointment. The few calm words that were spoken by counsel for the prosecution evidently made a stronger impression upon him than an hour of eloquent declamation and oratory could have done.

The prisoner came into court this morning in the custody of Sheriff Nay and Deputy Kneigh. He found his father and brother Henry already there, as well as both R. C. and Charles Watson, his brothers-in-law. Prior to the commencement of the proceedings, Mortensen had a brief conference with his attorneys.

BEARING ENDS.
Proceedings at Final Session of the Preliminary Examination.

The long and tiresome hearing of the Mortensen murder case was concluded today as the preliminary testimony of the defense was given. The decision of the court will come at 11 o'clock tomorrow morning at which time it will be decided whether or not Peter Mortensen shall be taken to a jury of his peers to be tried for the murder of James R. Hay, or be declared an innocent man. Attorney Bernard Stewart stated this morning that there would be no decision at this time and that the argument would be to show that probable cause had not been shown that the accused killed James R. Hay on the night of December 16th. The argument was made by C. B. Stewart and during the time he occupied the attention of the court he spoke in a very earnest and forceful manner, and was listened to with great attention by lawyers and spectators alike.

Attorney C. B. Stewart began his argument at 10 o'clock. He said: "The court please, on behalf of the defense we renew the motion made last night and ask the court to discharge this defendant on the ground that there has not been sufficient cause shown to believe the defendant guilty of the offense charged." Counsel then read from section 4673 of the revised statutes explaining the duty of a committing magistrate in sitting on a case of the kind at hand, providing that the defendant had been committed and if there was probable cause to believe the defendant guilty of the offense. If the court were to believe the accused guilty, then it was his duty to discharge him.

Attorney Stewart then read the complaint which was sworn to by Officer J. B. Brown and filed with Judge C. B. Dehn.

"This defendant," continued counsel, "under this complaint, is charged with the crime of murder in the first degree. The object of this hearing is to ascertain if the evidence introduced by the state shows sufficient cause to believe the defendant guilty. If a crime has been committed has this defendant committed that crime has not been shown."

County Attorney Christensen intervened to ask where in the evidence of the case could anything be found in support of such a statement. Attorney Stewart did not deign to notice the question. He continued with his argument and asked the court to take into consideration the possibility of a miscarriage of justice. He stated that the evidence of the case is such that it has been proved beyond a reasonable doubt that the defendant committed the crime.

of doubt that on the night of December 16, 1901, James R. Hay was murdered," said the lawyer.

"They have tried to connect Peter Mortensen with the commission of that crime, but have they done it?" Reference was then made to the conversation that took place between Mortensen, Hay and Mortensen on the evening of the 16th in the office of the Pacific Lumber company, and counsel said:

"From the mouths of its own witnesses the prosecution has proved that Mortensen had that money. I have challenged the prosecution to produce one bit of evidence that he did not have the money. Where is the evidence that he did not have it?" thundered the man of law.

"It is the custom of the Pacific Lumber company to mark 'Paid' on the note of the promisor when it was paid. But we are told that Mr. Hay had discretion. Mr. Romney said he knew he would not disobey his orders. Now, then, I wish to call your attention to this: The receipt said 'In full.' Why should the note be canceled? There was no need of it. The receipt was not for a certain amount and the note cancelled for the balance. The receipt covered the note and the amount due, in full."

"Mr. Romney's testimony showed he had confidence in Mortensen. He had recommended him to do work, and Mr. Hay had recommended him, and had confidence in him. Mr. Romney had permitted Mortensen to run up a large account with the company—nearly \$3,500, I believe. He had known him for five or six years and had employed him on several occasions. Then why should he condemn this man on mere suspicion?"

"On that Monday night Mortensen did not urge the payment of that money. If he had contemplated murder, why did he not urge payment of the money on that night. Instead of that he said he could get it in the morning."

The testimony of Mrs. Hay was then reviewed at some length and particular stress was laid on the time Hay went to the time he left to go to Mortensen's.

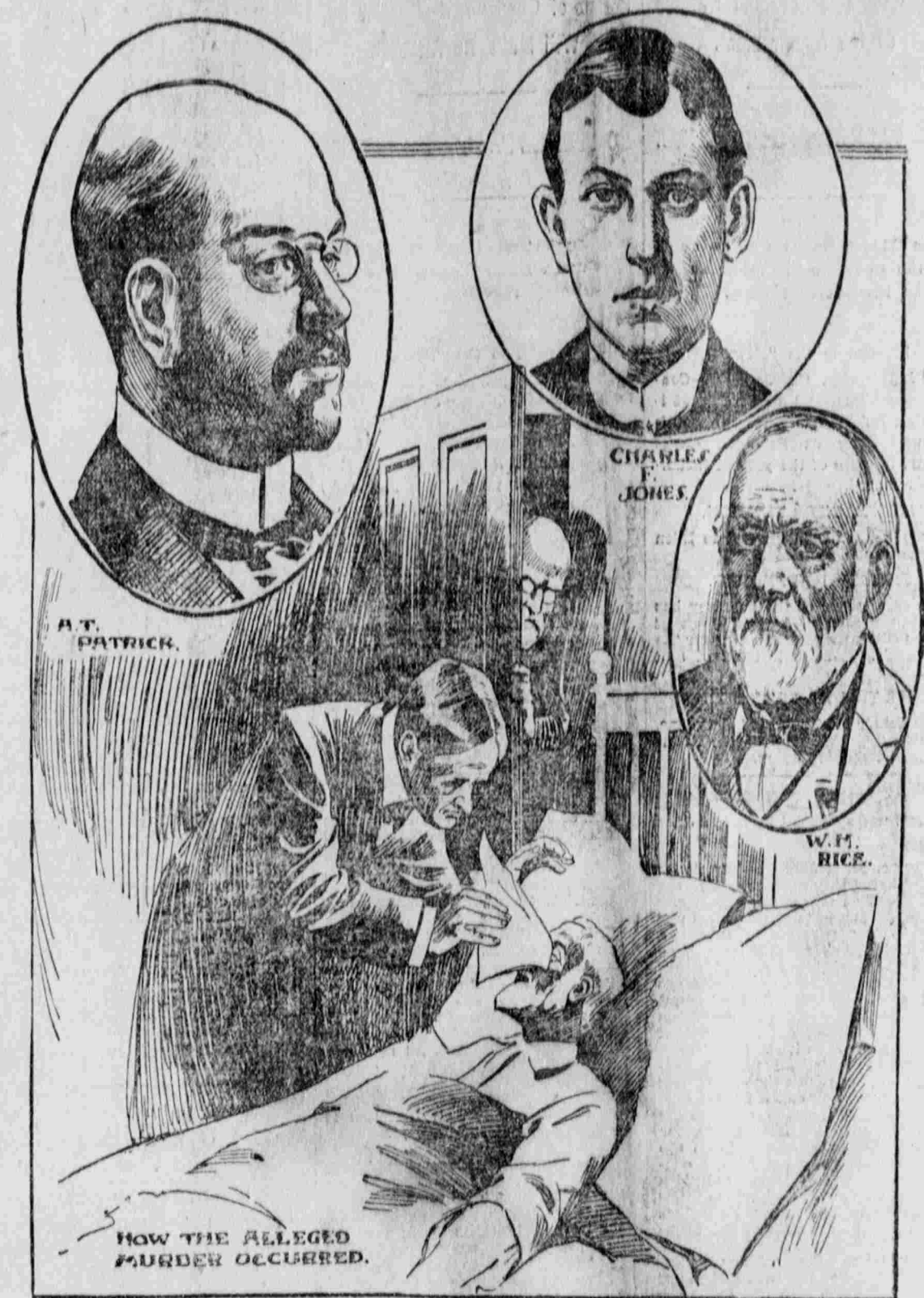
"It has been shown that Hay went to Mortensen's, but where is there any evidence to show that he did not get the money? Where is there any testimony that he did not get every dollar of that \$3,500? Another question is, 'Where is the gun that fired that fatal shot into the brain of James R. Hay?' Where is it? Echo answers 'There is no answer yet.' Where is the shovel that dug that grave?"

"No body knows. When was Peter Mortensen out of his house five minutes that night? No body knows. He told Mr. Sharp that he saw him leave the porch—saw him ten feet from the porch; and then he turned and went into the house."

The attorney then argued that one man could not have carried the body to the scene of the burial. If it was to the fence and thrown it over a fence five feet high. Coming down to the time of the finding, or the exhuming of the body, Mr. Stewart said:

"When the body was found we are told Mortensen said, 'Poor Jimmy, poor Jimmy.' Is there anything strange in that? Is that anything against him? Is it to be taken against a man because he was feeling sad? Is it to be taken against a man because he was nearly broken down with the sorrow that has come upon him and his family through the loss of a near and dear friend and son-in-law?"

"When they thought Hay had run away he was the first to say he was brought back, if he has gone, and have him punished and get the money. He was who was first to say, 'let this defendant have justice; let him have a fair trial and I will be the first to defend him against violence.' That was this man James Sharp."



TRIAL OF LAWYER PATRICK FOR THE ALLEGED MURDER OF MILLIONAIRE RICE.

Albert T. Patrick, a New York lawyer, is now on trial for the alleged murder of his client, William M. Rice, so that he might become possessed of Rice's estate, valued at \$5,000,000. It is alleged that Patrick and Jones, Rice's valet, entered into a conspiracy to murder Rice. Jones has turned state's evidence. He declares that, instigated by Patrick, he held a cone containing chloroform over the face of the aged millionaire, who was lying in bed, while Patrick, who, he says, had hypnotized him, looked in at the door and watched the old man die. It is also alleged that Patrick forged Rice's name to a will in which Patrick was left the bulk of Rice's estate.

how many people condemned the murdered man for running away with the money. Even the press accused him of that act and yet they were all mistaken. It is not possible that they may be mistaken as to the murderer? God knows that life is as sweet and dear to him as it is to you or me and I ask your honor to judge him in the light of the evidence and according to your own conscience and I will have no fear as to the outcome."

When the court asked the attorney for the defense if they intended to put to the scene of the burial, if it was in any evidence in case their motion for the discharge of the prisoner was denied, Attorney C. B. Stewart answered that they had no desire to put in evidence at present.

NO STATE ARGUMENT.

County Attorney Christensen made the closing statement for the state. He said: "We have decided not to argue the motion before the court for the reason that defendant's attorneys have introduced the evidence in the case and we rely entirely upon your honor's judgment in the matter. Respecting absolute confidence in your honor's judgment and fairness, we submit the case and ask that the defendant be held to answer to the charge preferred against him."

WHAT COURT SAID.

Judge Nielsen then said: "I have listened very patiently to all the evidence that has been introduced in this case for the last three days and I hope every one will be satisfied with the justice of my ruling. This is the most perfect case I have ever been connected with and I wish to review the testimony, so I will render my decision tomorrow morning at 11 o'clock at my private office in the Constitution block."

WORE EACH OTHER'S OVERCOATS.

There have been numerous incidents of a singular character in the now celebrated Mortensen-Hay murder case, not the least of which is the one that threw Eion James Sharp, father-in-law of the victim, and Mr. M. F. Mortensen, father of the accused murderer, together yesterday morning. It will be remembered that they met and cordially greeted each other in the court room at that time, and that they exchanged some words that were not audible to those assembled. These words related to a mistake made in the court room the evening before. When the hearing was adjourned until the following morning darkness had already partially set in, so that when Mortensen, Sr., arose to leave he did not discover the fact that he had put on the wrong overcoat, nor did Mr. Sharp who was the last to take his departure, observe that the garment was not his own and did not make the discovery until he was in the street. At that time it was too late to return and investigate so he wore the coat home.

Next morning explanations followed and Mr. Mortensen apologized to Mr. Sharp. The apology was most graciously accepted during which there was a hasty renewal of a passing acquaintance made between the two men in San Francisco a couple of years ago. This is how the two men met yesterday morning. It can be truthfully stated that each has only the kindest and warmest feelings for the other, and that no matter what the outcome of the case may be they will be friends.

MRS. RICHARDSON'S STORY GOADED FRANCE TO ACT.

She Tells of the Killing of Her Husband When He Left the House.

Blood on Her Hands—Dramatic Incident in the Trial of the State's Attorney.

Plattsburg, Mo., Jan. 21.—Interest today in the trial of Mrs. Adie B. Richardson for the murder at Savannah of her husband, Frank W. Richardson, centered in the story told on the witness stand by the defendant, Mrs. Richardson apparently produced a favorable impression and before she finished testifying the women in the courtroom were in tears.

While Mrs. Richardson was on the stand a sensational incident took place that resulted in the court fining C. F. Booher, leading attorney for the state, and father of the county prosecutor, fifty dollars and ordering the jury from the room.

Mrs. Richardson had been asked if she had told everything to this jury that she had told to the coroner's jury. "No," she replied, "not to the coroner's jury but to Mr. Booher."

"What did you tell Mr. Booher?" "Your honor," interposed Mr. Booher, "his voice trembling with emotion and tears coursing down his cheeks, 'I have stood this long enough. I object to the court allowing my name to be continually dragged into this case with imputations that the witnesses have told me more than I have made known.'"

Here the attorney's voice gave out. "Mr. Clerk," said the court, "fine Mr. Booher \$50."

"I protest, your honor, that I am not being treated fairly."

"Fine Mr. Booher \$50," said the court, "and Mr. Sheriff, take charge of Mr. Booher and remove the jury from the room."

Venezuela May Now Feel the Heavy Hand of The Dussling Republic.

Persists in Refusal to Allow Secretariat To Land—Warships may be Dispatched at Once.

Willemstad, Island of Curacao, Jan. 24.—In spite of the protests made by the French consul here, President Castro has sustained the action of the Venezuelan authorities at La Guayra who refused to permit M. Secretariat, Jr., of Bordeaux, to land, although the government had previously assured the consul that the traveler might disembark.

It is held by the authorities that while the French steamer St. Laurent, on which M. Secretariat was a passenger, was at Port de France, island of Martinique, or at the island of Trinidad, he conferred with Gen. Matos, the revolutionary leader. The consul made inquiries on the subject, which established the fact that Gen. Matos was not at Martinique or Trinidad when the St. Laurent touched at those islands, but was on the Venezuelan coast on board the revolutionist steamer La Libertador.

All the passengers of the St. Laurent, and notably the secretary of the Spanish legation at Caracas, assert that the behavior of M. Secretariat was always most correct and that he did not see M. Matos.

It is claimed that this incident makes it necessary for the French government to take steps necessary to cause French citizens to be protected and it is believed that the French cruisers Tager and Suchet, now at Port de France will receive orders to go to La Guayra.

The French cruiser D'Estes is at Capatzen, a seaport town in the state of Bermudez, Venezuela.

M. Secretariat, Jr., the son of a merchant of Bordeaux, France, arrived at La Guayra, January 11, with the intention of going to Caracas, to protest against the seizure of the estates of Gen. Matos, by the Venezuelan government, the general's property having been legally leased to M. Secretariat, Sr.

Paris, Jan. 24.—The French government this afternoon received a cable message from the French consul at Caracas, Venezuela, announcing that President Castro had absolutely refused to allow M. Secretariat, Jr., to land in spite of the consul's repeated vigorous protests.

Sanallpox Among Indians.
Reno, Nev., Jan. 24.—Smallpox is epidemic among the Indians and half-breeds in Plumas county, Nevada. Ten cases are reported in Indian Valley, three against the seizure of the estates of Gen. Matos, by the Venezuelan government, the general's property having been legally leased to M. Secretariat, Sr.

ALBERT PATRICK ON TRIAL

New York Lawyer in Court for Murder of William Marsh Rice.

Check Introduced in Evidence Which Is Said by a Witness to Have Been a Forgery.

New York, Jan. 24.—The taking of evidence was begun today in the trial of Albert T. Patrick, a lawyer, on an indictment charging him with the murder of Wm. Marsh Rice, in this city in September, 1900.

John H. Wallace, paying teller at Svenson's bank, where Rice had an account, and where one of the checks payable to Patrick's order was presented, was the first witness. He identified a check for \$25,000, payable to Albert T. Patrick as one that had been presented to him. It was the misspelling of the name Albert that caused a telephone call to Rice's apartment which resulted in the discovery that the man was dead. The witness said the check was handed him for payment by Short, who said he came from Patrick. Wallace told of the telephone communication with Rice's house and of the discovery that Mr. Rice had died the previous day. Counsel for Patrick, objected to every question on this line on the ground that the witness could not testify to hearsay evidence, but the recorder overruled the objections until Assistant District Attorney Hanson asked who answered the telephone. He sustained the objection that Wallace could not tell who it was. Wallace testified that he had never seen Patrick until the day the check was presented. So far as he knew, Rice's business was attended to by Jones, the valet-secretary.

"In your opinion is the signature on the check the signature of Wm. M. Rice?" asked the attorney for the prosecution.

Counsel for the defense objected but the witness was allowed to reply.

"In my opinion," he said, "it was not written by Mr. Rice."

THE CRIMES OF ONE DAY.

Two Men Killed and One Wounded in a Fight With New Mexico Robbers.

Another Murder in San Francisco—An Attempt to Assassinate King George—As to Cooper.

Hutchinson, Kan., Jan. 24.—According to a report received here two men have been killed and a third wounded in a fight with robbers who looted Gross & Richards' general store, at Tecumseh, N. M., securing about \$400 worth of goods. The gang was followed by a sheriff's posse. The robbers stole several horses from Mendonah's grading camp and rode south. In getting away from Tecumseh the robbers crossed the Spikes brothers ranch where they were attacked. Dick and Jim Spikes were killed and Fred Spikes was wounded. The sheriff's posse in tracking the robbers found a fortified cave filled with hides and supplies, but the robbers had left, going further south.

SAN FRANCISCO MURDER.

San Francisco, Jan. 24.—Another murder, supposedly the work of foot-pads, was committed in the Mission district early this morning, the victim being Joseph Pedra, formerly a large firm of contractors. Pedro's corpse was discovered on the sidewalk on Seventh street by two policemen about 4 o'clock with a bullet hole on the left side in the region of the kidneys. He had apparently been dead for a short time for the body was still warm. The deceased recently came here from the interior of the state where he leaves a wife and child. There is no clue to the murderer.

QUITE ANOTHER STORY.

At first Pedro's death was believed to have been due to an encounter with foot-pads but upon investigation it transpired that Pedro had been suspected of being a foot-pad by Police-man Crackton, and while running away from that officer received his death wound from a bullet fired at him by Crackton. Crackton called up on Pedro to halt about 2:30 o'clock and when his order was disobeyed threatened to shoot. Pedro thereupon took to his heels and Crackton shot at his retreating figure, which soon disappeared in the darkness.

It is believed that Pedro, after having been struck by the policeman's bullet, continued his flight for a block and a half before he collapsed from loss of blood.

ATTEMPTED ASSASSINATION.

Vienna, Jan. 24.—The New Free Press today prints an unconfirmed story of an attempt to assassinate King George of Greece. According to this report his majesty was walking in the park at Phaleron when a man, brandishing a knife, rushed upon him. A park inspector jumped between them and the would-be assassin was arrested. The would-be assassin was arrested.

COOPER MURDER.

St. Louis, Jan. 24.—Chief of Detectives Dammert started out today to personally investigate the mysterious murder of Alexander Dean Cooper, the wealthy business man who was killed at the Vista Turkish bath house night before last. After "sweeping" Scotland Yard for four hours without result, Chief Desmond decided to take him to the scene of the crime and have him re-enact his movements on the night in question. The inquest into the death of Mr. Cooper has been postponed until tomorrow when it is hoped to have more evidence to present.

Nearing Miss Stone.

Seres, Macedonia, European Turkey, Jan. 24.—The bearers of the ransom of Miss Ellen M. Stone and Mme. Tekla, having with them \$72,000, reached Demir-Hisar, (Roumelia) January 21, and proceeded to the mountains on horseback, accompanied by a strong escort.

AD WASH SPECIAL.

Paris, Jan. 24.—The remains of Miss Anna Nordberg Benjamin, an American war correspondent, who died from the effects of a tumor on Monday last, at her sister's residence, the Chateau de La Lande, Villiers-sur-Marne, were buried yesterday.

TRAINMAN KILLED IN OMAHA WRECK.

Heavy Fog Prevented Engineer From Seeing Freight Train Pulling Into the Yard.

Omaha, Neb., Jan. 24.—One trainman was killed and six other injured in a freight wreck in the Burlington yards in this city early today.

DEAD.

W. L. Stewart, yard foreman.

INJURED.

Frank Brogan, freight conductor, Lincoln, arm crushed and internal injuries, serious.

H. N. Olsen, arm and back sprained, internal injuries.

G. W. Mack, foot crushed, body badly bruised.

Three other trainmen were severely bruised. All of the injured men were taken to Lincoln.

The wreck was caused by a heavy fog which prevented the engineer of a switch crew seeing a freight which was just pulling into the yards. The caboose was smashed into splinters and caught fire and the six trainmen had narrow escapes from being burned to death. Stewart's body was found under the car. Conductor Brogan was taken out unconscious and brakemen Mack and Olsen were nearly smothered when rescued.

GOVERNOR M'BRIDE TAKES ACTION

Issues a Proclamation Against the Railroad Merger Known as The Northern Securities Company

Seattle, Wash., Jan. 24.—A special from Olympia to the Times says: Gov. McBride today issued a proclamation opposing railroad merger under name of Northern Securities company. Gov. McBride declares community of interest operation of railroads dangerous because of insecurity of individuals

making it up. Such community stifles competition, which is the only protection in this state against railroads. Governor McBride declares that the people should prepare to enforce their rights. The state should appoint a railroad commission for protection both of civic rights and railroad property.

CUBA VERSUS BEET SUGAR.

(Special to the "News.")

Washington, D. C., Jan. 24.—Bishop T. R. Cutler, of Lehi, Utah, made a vigorous talk before the ways and means committee yesterday, urging that the existing tariff be left as it is. The hearing will come to an end this evening, or tomorrow and an immediate report is looked for. Beet sugar inter-

ests felt very hopeful over the outlook. Ex-Governor Warmoth, of Louisiana, made a vigorous speech opposing concessions to Cuba. It was a proposition, he said, from the "syndicates and grandees of Cuba who had the cheek to come before an American Congress and ask that the industries of our people shall be destroyed so that they could make money out of our mischances."

SIXTY MINERS MISSING.

Terrible Mine Explosion at Lost Creek Causes Indefinite Loss of Life.

Four Bodies Already Removed and Six Men Found Fatally Injured—Caused by Dust.

ILINOIS AND MISSOURI REPORT SEISMIC DISTURBANCES EARLY THIS MORNING.

St. Louis, Mo., Jan. 24.—Two distinct shocks of earthquake were felt in St. Louis and vicinity this morning. The first shock was slight. The second was more severe. It awakened persons who had slept through the first shock and got them out of bed. The shocks were accompanied by a rumbling sound and occasioned the rattling of crockery and swinging of pictures.

FEEL SOME EARTH SHOCKS

Illinois and Missouri Report Seismic Disturbances Early This Morning.

Crockery Rattled and Pictures Swung—People Jumped From Their Beds—No Damage.

QUINCY, ILL., JAN. 24.—THERE WAS A pronounced earthquake shock here at 4:40 o'clock this morning. The seismic disturbance lasted nearly a minute and the oscillation was from east to west. The shaking of walls was perceptible in many brick residences.

Kansas City, Mo., Jan. 24.—What is believed to have been an earthquake shock was experienced in the north-east extremity of the city early this morning. The movement was slight and no damage resulted.

Farewell to Shaw. Denison, Iowa, Jan. 24.—More than a thousand people crowded the Denison opera house last night to attend a farewell reception to Governor Leslie M. Shaw, the new secretary of the treasury. People from all the surrounding counties were in attendance, and every town in Crawford county was represented. Old time farmer friends, without regard to politics, drove twenty miles to bid the governor good-bye. Governor Shaw received a tremendous ovation when he arose to speak. He announced that he had no intention of giving up his Denison home and this statement was received with great applause. Secretary Shaw left for Des Moines this morning.

Gale in Japan. Yokohama, Jan. 24.—A furious gale has swept the Japanese coasts and the fishing fleet has met with disaster. Two hundred fishermen are missing.

Tramps "Charter" a Freight.

Pueblo, Colo., Jan. 24.—Ten tramps, the majority of whom were armed with revolvers, took possession of an eastbound Denver & Rio Grande freight train this morning five miles east of Florence, drove the brakeman into the caboose and held the train by force until Pueblo workmen, three and a half miles west of this city, were reached. There Pueblo police officers, who had been notified by the railroad authorities of the practical theft of the train, captured the entire gang. A large grand larceny will be made against the prisoners.

TREATY IS SIGNED TODAY

Danish West India Possession

O: Uncle Sam.

Price Paid is Said to be in Neighborhood of \$5,000,000, in Although No Details Are Given.

Washington, Jan. 24.—The treaty of cession of the Danish West Indies from Denmark to the United States, was signed at the state department today by Secretary Hay and Constantin Brun, the Danish minister. The treaty will be submitted to the senate for ratification immediately.

Following the invariable rule in such cases, the state department officials decline to make public any of the details of the treaty, so that it is not possible to state positively the price to be paid, though it is believed to be in the neighborhood of \$5,000,000. It is known also that Denmark has abandoned the position she was inclined to occupy toward the conservation of the political rights of the inhabitants of the islands and leaves to the United States a free hand to deal with them without pledge of American citizenship or of free trade privileges. So it is assumed that the status of the Danish West Indian islands, politically and commercially, will be similar to that of Porto Rico. Having gained these points in the negotiations the senate department officials believe the treaty is certain to receive the approval of the United States Senate.