

## MORTENSEN ASKS FOR A NEW TRIAL

Petition for Rehearing Filed in  
The Supreme Court This  
Afternoon.

CERTAIN ERRORS ARE ALLEGED

Particular Stress Laid Upon Actions of  
Certain Jurors in Making Meas-  
urements

DISPUTE AS TO ORAL TESTIMONY

Attorneys for Defendant Contend that Error Was Committed in Ruling it Out.

Stewart & Stewart, attorneys for Peter Mortensen, this afternoon filed in the supreme court a petition for a rehearing, alleging certain errors on the

produce certain testimony alleged to be prejudicial to the interests of the defendant, and in ruling out certain oral testimony of great importance to the defense.

court erred in its opinion in holding that the jury while viewing the premises of the defendant and the surrounding territory, during the trial of th

fendant, by which a fair and due consideration of the case was presented and further, that the court erred in holding that the lower court did not

support of the motion for a new trial. It appearing from the records that there was misconduct and that on account of the prejudicial and strong

the misconduct, had refused to make voluntary affidavit, but were in court on the day of the hearing ready to testify if the court so ordered.

art and Henry Mortensen with regard to certain measurements made by certain of the jurors while viewing the premises of Peter Mortensen; also with regard to certain alterations and improvements made by said Henry Mortensen.

to custody on the charge against him, which affidavits were practically ignored by the court, in that the request to put certain officers on the stand for the purpose of testifying as to their

court, that the defendant and the bar of the state are entitled to know under what circumstances, if any, oral evidence may be introduced in support of a motion for a new trial on the ground

The petition further recites: "Article 1, section 12 of the Constitution of the State of Michigan follows: 'In order

son and by counsel, to demand the nature and cause of the accusation against him, to have a copy thereof, to testify in his own behalf, to be confronted by the witnesses against him

behalf, to have a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed, and the right to appeal in all cases. -In no instance

money or fees to secure the right herein guaranteed. The accused shall not be compelled to testify against his husband, nor a husband against his wife, nor shall any person be twice pu

'The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.'

are mandatory unless by express words they are declared to be otherwise. There were no express words in section 12 which indicated or suggested that the right of the defendant to be con-

can be waived, but on the contrary it appears that such right is mandatory and cannot be waived. We respectfully submit that under these two provisions of the Constitution the testimony

jury in arriving at a verdict against the defendant was unconstitutional and the right to be confronted by the witness was a constitutional right, mandatory and which could not be waived by the defendant or his counsel. *State v. Gault*

the decisions of other states which have not this provision in the Constitution cannot apply with force to the existing law in this state. We respectfully invite the court's attention to this provision in considering the motion for

submit that a re-hearing should be granted in this case on all points, that a new trial should be granted, or if the court denies a new trial at this particular time we submit that the de-

tion for a new trial, and that at said hearing defendant be permitted to introduce oral evidence on the misconduct on the part of the jury in support of his motion."

**Chances Are "Nick" Haworth Will Soon Pay Penalty for His Crime.**

The supreme court today denied the petition of "Nick" Haworth for a re-

worth's attorneys, excepting an application for a pardon. It is believed that the condemned man will soon have to pay the death penalty for his crime. This is practically the end of the hard-