

U. S. ATTITUDE IN CARIBBEAN

SURPRISE AT OUTBREAK AGAINST CASTRO'S RULE

Will Not Interfere in Venezuela Unless Monroe Doctrine is Violated.

A rumor is current on the New York Stock exchange to-day that Venezuela has declared war against Holland. Stocks are bearing up well, says the information, no confirmation of which can be obtained from Associated Press sources.

Washington, D. C., Dec. 17.—The striking events in Caracas are somewhat of a surprise to officials in Washington where it had been generally expected that any manifestations of hostile acts by a foreign power against Venezuela would have the result of solidifying all elements of the people and make them rally vigorously to President Castro and his government. That they have not done so, but on the contrary have engaged in a riotous demonstration against his interests and those of his friends, is quite inexplicable to the authorities here.

It has been the common belief in Washington that had the United States taken any forcible steps against Venezuela in the efforts to have its claims against that country arbitrated, Castro would have become a veritable hero of the people there. It is possible even that anticipating such an attitude, the administration has been indifferent to pushing a demand for settlement. Now that Castro has left the country the strong influence he exerted over his people, in the minds of the officials, appears to be wanting.

Some interest is manifested at the state department in the unofficial reports that Castro might seek an alliance with Germany. The report lacks any substantial confirmation, so far as the state department advisors are concerned. The department has felt that the situation in Venezuela would gradually work itself out. For this reason there has been a present determination to ignore President Castro, and look with equanimity on the doings of foreign governments, in their efforts to get satisfaction from him. It is, however, so long as there is no interference with American interests and no violation of the Monroe doctrine.

Castro Still Ignorant.

Berlin, Dec. 17.—The members of the entourage of President Castro of Venezuela, who has been in Berlin for several days past, still maintain an attitude of skepticism regarding the outbreak at Caracas against the president in the course of which an infuriated mob made a bonfire of the Plaza Bolivar of a collection of Castro's belongings and those of his closest friends.

In spite of the well known fact that there is no telephonic communication between Caracas and the outer world, all cablegrams having to be sent by steamer from the capitol to Wilhelmstadt, Curacao or Port of Spain, Trinidad, and there placed on the alleged cable, declare that Castro is in receipt daily of communication from the government but that no reports have come in corresponding to the events described by the press dispatches.

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DEFALCATIONS LEAD BANK TO ASSIGN

Cashier Admits Systematic Robberies—Liabilities of Nearly a Million.

Somerworth, N. H., Dec. 17.—The doors of the First National Bank of this city were closed yesterday, following the discovery of a shortage placed at \$85,000, and Fred M. Varney, the cashier, was arrested on the charge of being a defaulter. The trouble was discovered by National Bank Examiner N. S. Bean, of Manchester. According to W. W. Tebbett, president of the bank, Varney has now admitted that he took large sums from the bank which had been accumulating for the last several years. Varney was given a hearing late yesterday afternoon. He pleaded not guilty and furnished bail of \$10,000 for his appearance before the United States circuit court at Portsmouth in March. Examiner Bean regards the bank as solvent, but says the directors declare their inability to make up the shortage, and have requested liquidation. Late yesterday Mr. Bean was appointed temporary receiver by the controller of the Currency.

Women Depositors Faint. Napoleon, Ohio, Dec. 17.—Men cried and women fainted in the street when they found a notice of assignment posted on the doors of the Citizens' state bank yesterday. D. D. Donovan was named as assignee, President Heller of the bank is in a hospital in Minnesota. The failure is said to be due to loans to Judge Michael Donnelly, who is president of the Ohio German Fire Insurance Company, which recently failed. The bank is capitalized at \$71,000, and has an undivided surplus of \$21,000. The deposits amount to \$285,000.

CANADA TO ANNEX WEST INDIES!

London, Dec. 17.—Harry Symonds, K. C., of Toronto, writes to the press suggesting that the Barbadoes, and possibly the whole of the West Indies, should unite with Canada. The suggestion is viewed with considerable interest here.

T. J. HAINS' PART IN ANNIS MURDER

MODEL OF HAPPENING TO BE SHOWN IN COURT

Widow Tells on Witness Stand She Saw Her Husband Die.

Flushing, N. Y., Dec. 17.—Counsel for Thornton J. Hains declared to-day that the state's witnesses called to prove the charge that Hains was a principal with his brother, Captain Peter C. Hains, Jr., in the killing of William E. Annis, will be subjected to severe cross-examination. Hains' lawyers assert that the prosecution's witnesses were all close friends of Annis, and that there is little doubt they have rehearsed the tragedy with the design of presenting an unvarying story.

A new light on the case was shed this morning when Hains' counsel admitted that Thornton J. Hains had had some trouble with Wm. Annis over the publication of a magazine article last June. Thornton J. Hains submitted a manuscript to Mr. Ripley, the owner of the magazine on which Annis was employed, in May, and that Annis induced Ripley to return it. Counsel for Hains, states that the defendant then wrote a letter to Ripley, saying he knew why the manuscript was rejected, and concluded with the words: "I will get even with him yet."

"What was the threatening letter?" asked the state's prosecutor. "I don't know," Hains replied. "I was in his opening address, according to counsel for Hains, who further stated that they will show that there was no threat in the defendant's communications, and that the episode simply indicated Annis' feeling towards T. J. Hains. The lawyers state that they will prove that Hains some time previous to this affair, had Annis' daughter from a position with a publishing company. It will be asserted when the defence presents its case, that Thornton and his brother went to Cayuga to locate a home, where T. J. Hains' young daughter, Molly, is suffering from a throat affection, might have the benefit of country air. The taking of evidence for the state was resumed with the opening of court.

When court opened Justice Crane said: "I have been thinking over night and I am not going to let you use this model. It is clear that this model is a fair representation of the facts, and I would suggest that you obtain photographs to show its correctness and then it may be used." Counsel for the defense noted an exception.

The state then called Dr. Johnson MacLeod, of Fishburg, to the stand. Dr. MacLeod testified to having had Annis moved from the club boat, where the shooting occurred, to the Flushing hospital. On cross-examination Dr. MacLeod said he thought Dr. Jones, the house physician at the Flushing hospital, was now in Syracuse.

Dr. Leo Schmock, a physician at the Flushing hospital, testified as to the treatment given Annis. "What did Annis die of?" asked the prosecuting attorney. "From shock and hemorrhage brought on by some of the wounds I have described," said the witness. "The doctor said he made no autopsy of the body."

Dr. Joseph Bloodgood, of Flushing, who also attended Annis at the hospital, took the stand. He related the treatment given to the wounded man and of the examination he had made. Mrs. Wm. E. Annis was then called to the stand. She was dressed in a heavy veil and wore a seal overcoat, a heavy veil was flung back over a large glaring black hat. She spoke in a quiet tone.

She said, "I am the wife of Wm. E. Annis, his name is Ellen Annis. I was present at his death. Dr. Schmock was there."

"Did you see your husband die?" "Yes," she said.

"What is all," said the district attorney. Mr. McIntyre said that the district attorney should exhaust the witness upon all her knowledge of the case. Justice Crane said it was not necessary at this time. "Then I have no question," said Mr. McIntyre.

Justice Crane drew from Mrs. Annis that her husband died about 7 o'clock on August 15th. Mrs. Annis then withdrew from the stand. A. (Concluded on page 4)

2,000 MINERS ON STRIKE.

Charleston, W. Va., Dec. 17.—Nearly two thousand miners in the fourteen active mines in the Paint Creek territory went on strike yesterday following a notice that their wages would be reduced. The national executive board of the United Mine Workers has endorsed the strike.

ANXIOUS TO KEEP MR. TEMPLEMAN

OTHERWISE B. C. MAY LOSE CABINET REPRESENTATION

Montreal Herald Discusses Sir Wilfrid's Attitude in Ministerial Question.

(Special to the Times.) Montreal, Que., Dec. 17.—The Herald has the following to-day from its Ottawa correspondent:

Ralph Smith, member for Nanaimo, left for the Pacific coast last night without the question of ministerial representation for British Columbia having been finally settled. William Sloan, M. P., is still here. It is well understood that Sir Wilfrid desires to retain the services of the Hon. Mr. Templeman, who was defeated in the general election by a few votes. There has arisen the difficulty of providing Mr. Templeman with a seat until he is able to follow up his protest and unseat the Conservative representative of Victoria. It is understood that Mr. Smith and Mr. Sloan are both pressing the claims of their constituencies to the portfolio, which is being held by British Columbia at the present time. However, there is a likelihood that if Mr. Templeman does not retain the portfolio it will go to another western province.

SHRUBB ACCEPTS LONGBOAT'S CHALLENGE

Famous English Runner to Meet Indian Over Madison Square Course.

Boston, Mass., Dec. 17.—Alfred Shrubb, the long-distance English professional champion runner, has accepted the challenge to meet Tom Longboat, the Canadian Indian, the conqueror of Dorando Pietri, in Madison Square, New York.

The race will be run on January 13th at Madison Square Garden, New York. Whatever be the result of the Shrubb-Longboat contest it is said that the four-cornered long distance fight between Dorando, Shrubb, Longboat and Hayes will be held soon after.

Shrubb's records are as follows: Two miles, 9:09 3/5; three miles, 14:17 3/4; four miles, 19:23 3/5; five miles, 24:38 3/5; ten miles, 50:49 3/5; His best distance in one hour is 11 miles, 1:17 yards.

Longboat's record are: Five miles, 36:05; ten miles, 56:54; fifteen miles, 1:25:42 2/5; 20 miles, 2:24:50. At Belleville, on the indoor track, Longboat is said to have done five miles in 25:20; but the track was not authoritatively measured.

RECORDS DESTROYED BY FIRE

Washington, D. C., Dec. 17.—Government records, charts, maps and photographs valued at more than \$20,000 were destroyed last night in a fire which broke out in the United States Geological Survey building in this city. The damage to the building itself was slight.

31 YEARS A MISSIONARY.

New York, Dec. 17.—News of the death at Yellandu, India, of Rev. Chas. E. Ward, for thirty-one years missionary of the Methodist Episcopal church in India, was received here yesterday. Mr. Ward leaves a widow in India and two sons, who are students at Syracuse university.

COLONIAL PEERS.

London, Dec. 17.—All the papers of South Africa give sympathetic approval to Lord Robb's committee proposal that the regular number of colonial peers should be admitted to the House of Lords.

ELIGIBLE FOR PRIVY COUNCIL.

London, Dec. 17.—In the Commons, the Privy Council Amendment Act of 1885, was last night amended to include any person being or having been a justice of the Supreme Court of Newfoundland.

SWISS COMMERCE MINISTER.

Berne, Switzerland, Dec. 17.—A. Deucher, minister of commerce, was elected president of the Swiss Republic for 1909 by the federal assembly to-day. He will succeed Dr. F. Brenner, whose term of office expired on January 1st.

BANKRUPT ACTRESS.

New York, Dec. 17.—Alice Neilson, an actress long prominent on the comic opera stage, filed a voluntary petition in bankruptcy yesterday. She gave her liabilities as \$7,200, and her assets at \$78.

PAPER MILL GUTTED.

Dansville, N. Y., Dec. 17.—Fire destroyed the building, machinery and part of the material of the Dansville paper mill yesterday afternoon, also causing a total loss estimated at more than \$100,000. It is not known what insurance was carried. The plant was owned by J. H. McNairy, of Toronto, Ont., who conducts a large wax plant in the Canadian city.

FINANCIERS AND GEORGIAN BAY CANAL

London, Dec. 17.—It was understood that syndicates of London and Canadian financiers have the Georgian Bay scheme well in hand, and work will be started shortly.

TWO RANCHERS DROWN IN LAKE CHRISTINA

Set Out From Cascade During Fog—Empty Boat is Found.

(Special to the Times.) Grand Forks, Dec. 17.—Ernest Downs and Archibald Wilkinson were drowned in Christina lake, 11 miles east of this city, some time between Monday night and yesterday.

The men were ranchers on the lake shore and started in their boat from Cascade for home in a fog, and it is supposed they were bearing. They were missed on Tuesday morning, but owing to the fog still being on the lake it was impossible to locate them or their boat. Their boat was found yesterday. Provincial Constable MacNeil leaves this afternoon to drag the lake for the bodies.

BRITISH TORPEDO BOAT IS COMPLETE WRECK

Cowes, Isle of Wight, Dec. 17.—Torpedo boat 859 ran ashore on the rocks while manoeuvring off Bembridge ledge, Isle of Wight, last night. The crew of fourteen had a narrow escape. Two feet of water was in the hold when the Bembridge lifeboat arrived in response to signals. The vessel is a complete wreck.

INCENSED, PRESIDENT OF DOUMA RESIGNS

Rightists Refuse to Accept His Ruling—Scene in Russian Chambers.

St. Petersburg, Dec. 17.—During the course of an exciting session of the Douma yesterday afternoon, Nikolai Khomyakoff, the president of the Douma, quitted the chambers and wrote his resignation.

Late last night there was still much uncertainty as to Mr. Khomyakoff's position, as he did not present his resignation to the chancellor of the Douma, where it was declared that the incident might be regarded as closed. Possibly, therefore, Mr. Khomyakoff reconsidered his decision to resign.

Scenes of excitement arose over the discussion in the house of a government bill to grant a credit of \$600,000 for the benefit of the employees of the prisons' administration who were victims of outrages while on duty, or of their families if the employees were killed.

The Socialists and Laborites hotly denounced the administration and the industrial torturing methods of political prisoners. Deputy Rosenoff, in a specially vituperative speech, declared that as a result of the rigorous rule sixty per cent. of these prisoners developed consumption. The Rightists angrily protested against this, whereupon Mr. Rosenoff declared that the Rightists possessed less honor than Russian convicts on the eve of execution.

President Khomyakoff, in response to a stampede on the part of the offended deputies, called upon a number of the off to withdraw his expression. Mr. Rosenoff did so to the satisfaction of the president of the Douma, but the Rightists quitted the house in a body and went to the president's room, where they insisted that Mr. Rosenoff must apologize.

Thereupon M. Khomyakoff wrote his resignation and left a chairman, Prince Volonsky, in charge of the Douma.

The credit was finally adopted. At the evening session the matter of an interpellation of the prohibition by the police of a lecture by one of the deputies on Bosnia and Herzegovina was under discussion.

Count Bobrinsky, president of the constitutional Conservative party, explained that the Douma did not wish to confuse the question of police prohibition of meetings with that relating to the annexation of Bosnia and Herzegovina, and the interpellation was postponed.

The Douma adopted an interpellation to the effect that the government is violating the rights of the people, and that the government is violating the bonds of private railways without the sanction of the Douma.

The interpellation of M. Furshekevich relating to the persecution of Russian colonists in the Caucasus by native Armenians and Georgians was also submitted. This interpellation recounted a great number of alleged murders, attempts and other forms of terrorism aimed at making the existence of Russian Caucasian colonies an impossibility.

INDIAN UNREST IS DISAPPEARING

PROMPT MEASURES ARE SUPPRESSING SEDITION

Prominent Natives Assure British Commissioner of Their Allegiance.

Calcutta, Dec. 17.—The course adopted recently by the Indian authorities to cause the arrest swiftly and mysteriously of all native suspects of revolutionary activities, is having a good effect on the rest of the population. Instead of being deported the leaders taken into custody are being distributed to the various jails in India.

It is reported that powerful native secret societies are dissolving as a result of the energy displayed by the government. A delegation of prominent natives, supposed to be implicated in the revolutionary movement, called on the local commissioner to-day and assured him of their support.

Another result of the campaign is that the native newspapers are becoming extremely cautious in their comments.

WEALTHY ITALIAN SUFFERS ON ACCOUNT OF CATTLE EMBARGO ON BORDER.

Niagara Falls, N. Y., Dec. 17.—Domestic officials boarded the private car of Senor De Aquero, a wealthy Italian of New York, yesterday and confiscated and burned the choicest of his viands, including dressed turkeys, chickens, ducks and a whole side of beef in the chief's quarters, because of the cattle and dressed beef embargo.

Senor De Aquero vehemently protested that he and his party who were on their way to Cobalt had not yet dined, and would have no time to procure other establishments until they reached Toronto, but the officials insisted and the viands were burned in the Grand Trunk engine, and the vessels containing them left behind to be disinfected.

SITUATION IN HAYTI.

St. S. Tacoma Arrives at Port au Prince—Simon to be Elected President.

Cape Haytien, Dec. 17.—The American cruiser Tacoma arrived here yesterday from Port au Prince and will remain until the election of General Simon as president is completed. No serious disorders are anticipated, but to be on the safe side a number of the followers of General Firmin have been placed under arrest and a military organization has been temporarily deprived of its arms.

AUTO'S FATAL DASH.

Falls Through Open Bridge Carrying Two Men to Death.

Milwaukee, Wis., Dec. 17.—An auto containing three men dashed into the draw of the Melita street bridge early to-day and went to the bottom of the river, carrying two of the occupants to death. A third was rescued with difficulty.

ARGENTINE DREADNOUGHTS.

Government Authorized to Spend \$70,000,000 on Armament.

Buenos Ayres, Argentina, Dec. 17.

The chamber of deputies has sanctioned a bill authorizing the government to spend, not exceeding \$70,000,000, for armament. The bill provides for the construction of two large battleships, and authorizes a third if necessary.

DISASTROUS TUNNEL SMASH.

Passenger and Freight Trains in Collision in Algeria—Several Persons Killed.

Constantine, Algeria, Dec. 17.—In a rear-end collision between a passenger and a freight train in the El Achir tunnel to-day several persons were killed and injured. Details are lacking.

DEADLY QUARREL.

Mattawan, W. Va., Dec. 17.—H. O. Smith, general superintendent of the Freeburn Coal & Coke Company, was shot and killed yesterday during a quarrel with H. A. Conners, station agent for the Norfolk and Western railroad at Dolormo.

LUNATIC KILLS AGED MAN.

Montreal, Dec. 17.—William Boulton, manager of the Mimico asylum farm, died at his home in Mimico last night as the result of injuries inflicted by a patient, who attacked him on Monday with a spade. He was 80 years old, and had been connected with the asylum for 24 years.

PREMIER WARD ON PENNY CABLEGRAMS

London, Dec. 17.—A Wellington, New Zealand, dispatch says Premier Ward states that he feels confident that the sections of a cable between Great Britain and Canada and Australia could be made profitable under Henrick Heaton's penny a word proposal.

SULTAN OPENS HIS PARLIAMENT

POPULAR ENTHUSIASM IN THE CONSTITUTION

Public Holiday in Constantinople—Death Blow to Despotic Rule.

Constantinople, Dec. 17.—With the meeting of the first Ottoman parliament to-day, Turkey formally breaks from despotic rule. Sultan Abdul Hamid, who granted the constitution last July, providing for the assembly, paraded through the city to-day at the head of an elaborate cortege to open the first session of the body. Everywhere he was greeted with cheering. There was no disorder.

The line of march of the Imperial party, a distance of five miles, had been swept and spread with fresh earth and for the passage of His Majesty. Every regiment in Constantinople was out. Arches spanned the streets, and the occasion had been made a public holiday, the city was crowded with people.

All the ministers of state, the senators and the deputies of the new legislative body assembled at the ministry of justice preparatory to marching to the hall of parliament. The foreign diplomats in Constantinople assembled at the British embassy and proceeded to the hall in a body. They all were dressed in their full official uniforms. The people's reception to the Sultan and their cheers for the new assembly are evidence of the deep interest taken by Turkey in this first step towards constitutional life.

The first Turkish parliament was assembled over 30 years ago, but its existence was brief and it was dissolved before any definite results were accomplished. The new parliament consists of a senate and a chamber of deputies. The senators and their president are nominated and appointed by the sultan. The deputies are elected by the people.

NEWFOUNDLAND BLIZZARD.

Traffic Tied up on Land and Several Schooners Believed to Have Suffered.

St. John's, Nfld., Dec. 17.—The worst blizzard experienced in Newfoundland for many years has been raging 48 hours, and heavy damage has been done to fishing vessels, a number of which have been blown ashore at various points. No loss of life has yet been reported, but it is feared that several schooners have been blown to sea or sunk. Traffic on land is at a standstill.

KENTUCKY PATRICIDE.

Trial in Hargis' Peud Murder Opens To-Day.

Irvine, Ky., Dec. 17.—The trial of Beach Hargis, who is charged with the murder of his father, at Jackson, Ky., of his father, Judge James Hargis, was called yesterday. Members of the Hargis family, which is one of the notable families in the Kentucky mountains, are on both sides of the case. The widow of Judge Hargis is using the money her husband left her with which to defend the patricide.

RECRIMINATIONS AFTER DEFEAT

Captain of Chicago-Cubs Accused of New York Giants of Disgraceful Treatment.

Los Angeles, Cal., Dec. 17.—According to an interview with Frank Chance, captain of the Chicago National League team last season, published here to-day, alleged disgraceful treatment was accorded the Chicago team by some New York fans and players prior to the deciding game with the Giants on October 3th.

AUTHOR'S REMAINS INTERRED.

New Haven, Conn., Dec. 17.—Funeral services for Donald G. Mitchell, "Il Marvel," the author, whose death occurred Tuesday evening last, were held at the Mitchell home this afternoon. Rev. Readford Weston, rector of St. James' Episcopal church, of Westville, officiating. The interment was in the family plot at Woodbridge cemetery. In accordance with Mr. Mitchell's desire the services were simple and strictly private. Members of the family acted as pallbearers.

OVER EIGHT MILES OF BOULEVARDS

VICTORIA ADDING TO ITS NATURAL BEAUTY

Parks Board to Consider Scheme for Small Parks.

There are eight and a half miles of boulevarded streets in Victoria to-day. Even the members of the council who are on the parks board were astonished to learn from Supt. England's report yesterday afternoon that there is such an extent of thoroughfares improved in this way.

The superintendent's report was a short one, as he is preparing a detailed report on the work of the year for submission to the board at its next meeting. Considerable work has been done in the last couple of months in Beacon Hill park, in the way of clearing brush, seeding land, improving the animal pens and so on. The park is now practically new from fire. The dog nuisance is almost abated, although considerable loss was caused early in the year. The slope along James Bay and Easton Square are now maintained by the parks board.

Of boulevards eight and one-half miles had been laid, on the following streets: Elliot street, part of Superior street, Michigan street, the whole of Median street, Clarence street, South Turner street, Belleville street, Humboldt street, Rupert street, Heywood avenue, the Park front, Mears street, Linden avenue, Ormond street, Lillard street, Richmond street, Rockland avenue, Third street, Hillside avenue, Garbally road, Dunedin street, Vancouver street.

The final charge has been much below the estimate. The cost of maintenance would also come well within the estimate. The Quads street cemetery had been laid out as a park and was a credit. Its transformation was a boon to the surrounding property and to the city at large.

The report was received, the Mayor remarking that it was very gratifying and satisfactory.

On the suggestion of the Mayor, Supt. England was instructed to draw up a scheme of making small parks out of vacant commons in the middle or such streets as Pandora and Blanchard, and the board will recommend to the new council that a fixed policy be adopted in this regard.

Supt. England mentioned the need of a railing along the top of the slope on Belleville street to prevent children rolling down.

The matter of a shelter at the Beacon Hill terminus was referred to the superintendent for report and he was asked to consult Mr. Flinkey as to having it in connection with the tea room nearby.

A request from John H. Mason for leave to build a boat house on the beach, was referred to the same official. In other cases leave has been granted on payment of a small rental. The members of the board present were Ald. Henderson (in the chair), Mayor Hall, Ald. Cameron and P. B. Pemberton.

D. D. MANN DENIES RUMOR.

Toronto, Dec. 17.—D. D. Mann, of the Canadian Northern railway, denied yesterday the story that his road had taken over the Wisconsin Central to get into Chicago.

WILL MAKE TEST OF AERIAL WARFARE

Knabenshue to Illustrate Ease With Which Explosives Can Be Dropped on City.

Los Angeles, Cal., Dec. 17.—Latest of all the daring aeronautic feats to which Los Angeles has been treated during the present season, will be the midnight flight to-night of Roy Knabenshue in his dirigible balloon in which he will attempt to demonstrate the ease with which a large city like Los Angeles can be destroyed by explosives dropped from the airship of an enemy. At intervals Knabenshue will drop illuminated missiles of a harmless nature.

DINGMAN'S DAY.

Britons and Boers Join in Observing Public Holiday.

London, Dec. 17.—A Pretoria dispatch says that for the first time in history Dingman's Day was recognized as a public holiday in the other South African states, both white peoples joining in the celebration. It is rapidly becoming a day of thanksgiving for the progress of white civilization on the sub-continent.

TRAGEDY OF A REHEARSAL

Schoolboy Kills Companion in Mock Shooting Incident.

Dauphin, Man., Dec. 17.—During the preparation of a dialogue for a Christmas programme in the local school Gordon Galbraith, aged fifteen, was mortally wounded by a companion, Alfred Gray. In the dialogue there is a mock shooting incident. Gray picked up a rifle and aimed at Galbraith, not knowing the gun was loaded. The discharge entered the latter's stomach.