

THE SMITH COURT-MARTIAL.

The findings in the court-martial proceedings of Gen. Jacob H. Smith were made public July 16. General Smith was convicted because of his famous kill and burn order and was sentenced to be admonished by the reviewing authority. Secretary Root's letter transmitting the court proceedings, is as follows:

"I transmit herewith the record and proceedings upon the trial of Brigadier General Jacob H. Smith by court-martial, convened under your order dated April 21, 1902, and now brought before you as reviewing authority.

"General Smith was found guilty of conduct to the prejudice of good order and military discipline, in that he gave in the fall of 1901 to Major L. W. Waller of the marine corps, then serving with a battalion of marines under his orders, as commander of the Sixth separate brigade in Samar, the following oral instructions:

"I want no prisoners. I wish you to kill and burn; the more you kill and burn, the better you will please me; and further that he wanted all persons killed who were capable of bearing arms and in actual hostilities against the United States; and did, in reply for an age limit, designate the age limit as 10 years of age. The court sentenced him to be admonished by the reviewing authority, and the court appended to the sentence the following explanation:

"The court is thus lenient, in view of the undisputed evidence that the accused did not mean everything that his unexplained language implied; that his subordinates did not gather such a meaning, and that the orders were never executed in such sense, notwithstanding that a desperate struggle was being conducted with a cruel and savage foe."

"An examination of the evidence has satisfied me that the conviction was just and that the reasons stated for the light sentence imposed are sustained by the facts. General Smith, in his conversation with Major Waller, was guilty of intemperate, inconsiderate and violent expressions, which, if accepted literally, would grossly violate the humane American armies in the field, and if followed would have brought everlasting disgrace on the military service of the United States. Fortunately they were not taken literally nor followed. No women or children nor non-combatants were put to death, in pursuance of them.

"An examination of the record and proceedings upon the trial of Major Waller, which immediately preceded that of General Smith, shows that the instructions in question bore no relation to the acts for which Major Waller was tried, and were not alleged by him as justification for those acts. Major Waller was tried for causing certain natives who had acted as bearers or guides of one of the expeditions to be put to death for treachery without proper trial, and he defended his action, not upon the ground of any

orders received from General Smith, but upon the ground that as commanding officer he was justified by the laws of war.

"General Smith's written and printed orders and the actual conduct of military operations in Samar were justified by the history and conditions of the warfare with the cruel and treacherous savages who inhabited the island, and their entire disregard of the laws of war were wholly within the limitations of General Order No. 100 of 1863; and were sustained by precedents of the highest authority. Thus, in 1779, Washington ordered General Sullivan in the campaign against the Six Nations to seek and look to the destruction and devastation of their settlements. He wrote: 'But you will not by any means listen to overtures of peace before the total ruin of their settlement is effected. . . . Our future security will be in their inability to injure us, the distance to which they are driven, and in the terror with which the severity of the chastisement they receive will inspire them.'

"The Fort Phil Kearney massacre in 1866, for base treachery, revolting cruelty and the conditions of serious danger which followed it, did not approach the massacre of Balangiga, in Samar, in September, 1901. There the natives had been treated with kindness and confidence, liberty and self-government had been given to them. Captain Connel, the American commander, was of the same faith and had been worshipping in the same church with them. With all the assurance of friendship our men were seated at their meal unarmed among an apparent peaceful and friendly community, when they were set upon from behind and butchered and their bodies when found by their comrades the next day had been mutilated and treated with indescribable indignities. Yet there was no such severity by American soldiers in Samar as General Sherman proposed toward the Sioux after Fort Phil Kearney.

"It is due, however, to the good sense and self-restraint of General Smith's subordinates and their regard for the laws of war, rather than to his own self-control and judgment, that his intemperate and unjustifiable verbal instructions were not followed and that he is relieved from the indelible stain which would have resulted from a liberal compliance with them.

"It is the duty of a general officer, whose age and experience have brought him to high command not to incite his subordinates to acts of lawless violence, but to so explain to them that the application of the laws of war and the limitations upon their conduct as to prevent transgressions upon their part and supplement their comparative inexperience by his wise

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control. In this General Smith has signally failed, and for this he has been justly convicted. Although the sentence imposed is exceedingly light, it carries with it a condemnation which, for an officer of his rank and age, is really a severe punishment. For this reason and for the further reason that General Smith has served his country long and faithfully, has exhibited high courage and good conduct in many battles, has been seriously wounded in the civil war and in the war with Spain and is about concluding a long and honorable career as a faithful and loyal servant of his country, I recommend that the mild sentence imposed be confirmed.

"Should you approve the findings and sentence of the court in addition to this recommendation I feel to say further that in view of the findings and sentence and of the evident infirmities which have made it possible that the facts found should exist, it is no longer for the good of the service that he should continue in his rank. His usefulness as an example, guide and controlling interest for the junior officers of the army is at an end. And as he is already upward of 62 years of age, I recommend that you exercise the discretion vested in you by law and now retire him from active service.

ELIHU ROOT,

"Secretary of War."

Following is the text of the president's review of the case:

White House, Washington, July 14, 1902.—By the President: "The findings and sentence of the court are approved. I am well aware of the danger and great difficulty of the task our army has had in the Philippine islands and of the well-nigh intolerable provocations it has received from the cruelty, treachery and total disregard of the rules and customs of civilized warfare on the part of its foes.

"I also heartily approve the employment of the sternest measures necessary to put a stop to such atrocities and to bring this war to a close. It would be culpable to show weakness in dealing with such foes or fail to use all legitimate and honorable methods to overcome them.

"But the very fact that warfare is of such character as to afford infinite provocation for the commission of acts of cruelty by junior officers and the enlisted men, must make the officers in high and responsible positions peculiarly careful in their bearing and conduct so to keep a moral check over any acts of an improper character by their subordinates.

"Almost universally the higher officers have so borne themselves as to supply this necessary check; and with but few exceptions the officers and soldiers of the army have shown wonderful kindness and forbearance in dealing with their foes. But there have been exceptions; there have been instances of the use of torture and of improper heartlessness in warfare on the part of the individuals or small detachments.

"In the recent campaign ordered by General Smith the shooting of the native bearers by the orders of Major Waller was an act which sullied the

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American name and can be but partly excused by Major Waller's mental condition at the time; this mental condition being due to the fearful hardships and suffering which he had undergone in his campaign. It is impossible to tell exactly how much influence language like that used by General Smith may have had in preparing the mind of those under him for the committal of the deeds which we regret. Loose and violent talk by an officer of high rank is always likely to excite to wrong doing those among his subordinates whose wills are weak or whose passions are strong.

"General Smith has behind him a long career distinguished for gallantry and on the whole for good conduct. Taken in the full, his work has been such as to reflect credit upon the American army and therefore upon the nation; and it is deeply to be regretted that he should have so acted in this instance as to interfere with his further usefulness in the army. I hereby direct that he be relieved from the active list.

"THEODORE ROOSEVELT."

"If we are to have colonies, we must have a big navy to protect them," declared President Roosevelt as he signed the naval appropriation bill passed by congress. The president's utterance is true—if we are to have colonies we must have a big navy to protect them, but how long since the republicans have been admitting the colonial idea. Was not the impetuous president a trifle too rank that time? —Rock Island (Ill.) Argus.

