

# PRESIDENT RETIRES

## GEN. JACOB H. SMITH

### Philippine Officer Reprimanded for "Kill and Burn" Order.

### Secretary Root, in a Lengthy Review, Urged Action in the Interest of the Service.

*Special to The New York Times.*

WASHINGTON, July 16.—A sensation was created in army circles to-day by the publication of President Roosevelt's decision in the case of Gen. Jacob H. Smith, serving in the Philippines, retiring that officer from the army. This was done although the court-martial which found him guilty merely sentenced him to be "admonished by the reviewing authority." The President, however, retired as well as reprimanded him.

This action was taken under the law which provides that officers having reached the age of sixty-two years may be retired at will by the President. The reprimand of President Roosevelt is supplemented by Secretary Root in a long circular, in which he explains the conditions which resulted in the court-martial of Gen. Smith, and shows that, although the latter issued the "kill and burn" order, as a matter of fact very few persons were so killed.

The belief is general among army officers here that if the court which tried Gen. Smith had had any idea that the President would exceed the sentence imposed it would not have convicted the General at all. Gen. Smith has spent his life in the service of his country, and his record is excellent. He is near to the retiring age. To retire voluntarily with the stain of a reprimand is a severe punishment, according to army ideas. But that this punishment would be turned into a compulsory retirement from service, instead of allowing him to wait for the regular retirement for age, was, in the opinion of army officers, beyond what the court-martial expected.

Gen. Smith, it will be remembered, was sent to punish the massacre of Balangiga. That massacre was so flagrant that the soldiers in the Philippines felt that the offenders must be made an example of. Gen. Smith was convicted of having used language in an oral interview with one of his subordinates which exceeded the spirit of his own written orders. Gen. Smith's friends in the army say that his habit of language is well known.

He acquired the sobriquet of "Hell-Roaring Jake," not because of violence which he showed in war, but because of the extravagance of his language, which is habitual with him. In his written orders Gen. Smith has always been careful to observe the proprieties, but he is an eccentric man, who in conversation delights in blood-curdling epigrams and fantastic oaths. His friends in the army laugh at these and never take them in any other way than as a joke, and that this habit of language should have led the old soldier to a disgraceful ending of his career is a matter of sincere sorrow to them.

It is pointed out by officers friendly to Gen. Smith that Secretary Root in his letter to the President, expressly points out that nobody obeyed the General's orders. It is argued that Major Waller knew as well as any officer that Gen. Smith's eccentric violence of language was not intended to be taken seriously. The belief is growing among army officers that most of the Administration's recent acts toward the army are dictated by political ends, and the effect upon the discipline and morale of the army is said to be anything but wholesome.

#### PRESIDENT ROOSEVELT'S REVIEW.

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 to 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 as 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 individuals or small detachments.

"In the recent campaign ordered by Gen. Smith, the shooting of the native bearers by the orders of Major Waller was an act which sullied the American name and can be but partly excused because of Major Waller's mental condition at the time; this mental condition being due to the fearful hardship and suffering which he had undergone in his campaign. It is impossible to tell exactly how much influence language like that used by Gen. Smith may have had in preparing the minds of those under him for the commission 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.

"Gen. 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 retired from the active list.

"THEODORE ROOSEVELT."

The following is the review of Secretary Root:

"War Department,  
"Washington, July 12, 1902.

"To the President:

"I transmit herewith the record and proceedings upon the trial of Brig. Gen. Jacob H. Smith by court-martial convened under your order dated April 21, 1902, and now brought before you as reviewing authority. Gen. 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. T. 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 to a question by Major Waller asking for an age limit designate the age

limit as ten 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 very light sentence imposed are sustained by the facts. Gen. Smith, in his conversation with Major Waller, was guilty of intemperate, inconsiderate, and violent expressions, which, if accepted literally, would grossly violate the humane rules governing American armies in the field, and if followed would have brought lasting disgrace upon the military service of the United States. Fortunately they were not taken literally and were not followed. No women or children or helpless persons or non-combatants or prisoners 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 Gen. 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 his 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 Gen. Smith, but upon the ground that as commanding officer he was justified by the laws of war."

"Gen. 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 Gen. Sullivan, in the campaign against the Six Nations, to seek the total 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 settlements 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 Kearny 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; Capt. 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 apparently 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 Gen. Sherman proposed toward the Sioux after Fort Phil Kearny."

"It is due, however, to the good sense and self-restraint of Gen. 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 literal 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 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 control. In this Gen. 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 Gen. 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 accordance with this recommendation, I feel bound 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 not longer for the interest of the service that Gen. Smith should continue to exercise the command of his rank. His usefulness as an example, guide, and controlling influence for the junior officers of the army is at an end, and as he is already upward of sixty-two 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."