

## SMITH WILL NOT BE HUNG

### His Sentence Commuted Late Last Night.

## A MENTAL IMBECILE

### The Principal Reason for Governor Geer Saving the Murderer's Life.—History of the Crime.

(From Daily, May 26th.)

At 9:15 o'clock last evening, Governor T. T. Geer commuted to life imprisonment the death sentence pronounced on April 1st, upon Frank Lawrence Smith, convicted of the murder of Peter Nelson, and to have been executed at Jacksonville, Jackson county, at 10 o'clock this morning.

The following telegram was last night sent by the governor to Sheriff Alexander Orme, at Jacksonville: "You are hereby notified that I have this day commuted the sentence of death standing against Frank Lawrence Smith, in Jackson county, and who is now in your charge, to be hanged on the 26th of this month, to a life sentence in state's prison and you are hereby directed to withhold the execution of said death sentence. You will please acknowledge the receipt of this message at once by wire."

Governor Geer was influenced, in ordering the commutation of Smith's sentence, by the receipt of numerous letters and petitions from Jackson county residents, representing that the accused is a mental imbecile and recommending that the death sentence be commuted. Governor Geer received letters from C. B. Watson, district attorney for Jackson county; Hon. E. V. Carter, Wm. Colvig, A. E. Reames, Charles Nickel, and many others in behalf of the young man. Numerous petitions from prominent business men of Jacksonville and leading physicians were also received telling of Smith's mental condition. Communications were also received at the executive office, from authorities in New Jersey, stating that Smith was considered a weak-minded boy before leaving that state.

The following letter written by Rev. Tellow, director of the St. Francis Industrial school, at Addington, Pennsylvania, and addressed to Rev. L. P. Desmaris, of Jacksonville, Oregon, is a fair sample of the numerous letters received by Governor Geer, in Smith's behalf. "This is to certify that Frank Lawrence Smith, now a prisoner in the county jail of Jacksonville, Oregon, and under sentence of death for the murder of one Peter Nelson, was an inmate of St. Francis Industrial School, at Addington, Pennsylvania, from July 17, 1888, to July 3, 1892. The aforesaid Frank Lawrence Smith whilst in the institution proved to be a very weak-minded boy, in fact one bordering on craziness, and was dismissed on the 2d of July, and handed over to his mother, as not being a proper and safe subject for the institution. I suppose this same idiosyncrasy has brought him where he stands today."

After considering these many letters and petitions, representing Smith's pitiable condition mentally, Governor Geer decided to save the man's life, holding that his execution in his present condition would be an exhibition of brutality.

A review of the history of the crime and the trial and sentence of Smith is as follows:

On Sunday morning, February 13, 1898, there arrived in Ashland, Or., on the north bound freight train of the Southern Pacific Company, one Peter Nelson, a Swede, aged 37 years, both for Portland, having traveled and beaten his way on the railroad from the Sacramento valley, where he had been working as a farm hand. He had in his possession a small, new trunk containing clothes and underwear, a pair of blankets and about \$110 in money on his person. He remained in Ashland until the following night, making a few acquaintances in the vicinity of the depot, to whom he conveyed the information that he was going to Portland to seek work and would hunt up a countryman of his there, named Erickson, whom he thought would assist him in obtaining employment in the city.

He had evidently been traveling in company with other tramps, before reaching Ashland, for while here he was accosted by an Italian who had been bound north and whom he had seen before, but desired to have nothing to do with. Nelson left town on Monday night's freight train. Somewhere between Medford and Central Point he fell off the moving train and was badly stunned, but was able to walk to a nearby residence, where he appeared about 2 o'clock Tuesday morning, February 15th, and awoke the family, who found Nelson with his skull fearfully fractured and the scalp torn and bleeding. The man talked rather incoherently, and after being taken to Medford for medical treatment, died soon afterward.

There was every evidence that the Swede had been assaulted and robbed by his companions and then thrown off the moving train, for dead. His valises and personal effects were cut open and the contents scattered along the rail-

road track and quantities of blood were found on some of the clothing which had been rolled up and placed in a sack. His pocket book had been cut open and was found empty. The car in which the assault, robbery and murder took place gave evidence of a bloody struggle.

The Italian, Joe Lussile, alias "Blackey," was suspected and there was evidence that several had been implicated in the affair. The efforts of the officers to discover the criminals was rewarded soon by the arrest at Roseburg of Frank Lawrence Smith and another man, who was afterwards discharged. "Blackey," however, who had always been suspected as the instigator of the crime, and is thus charged by Smith, was never apprehended. There has been a suspicion that after Nelson had been beaten to death with the iron coupling-pin, which was used as a weapon, that Smith made away with "Blackey," but this theory is not generally credited.

Smith, who was 20 years of age on the 21st of this month, and who is a native of Pennsylvania, though his relatives now reside at Trenton, N. J., and according to his own statements, are not in good repute, themselves, was tried in the circuit court of Jackson county at the April, (1898) term, and was convicted of murder in the first degree. Smith was sentenced by Judge Hanna to be hung, the date being fixed for June 10th. A stay of execution was secured and the case was taken to the supreme court, where the lower court's rulings were affirmed. On the first day of the April, (1899), term of court Smith was again brought before Judge Hanna who again passed sentence upon him, fixing the date for his execution for May 26th.

No one has presumed in any way to censure Governor Geer for commuting to life imprisonment, the death sentence of Frank Lawrence Smith, the convicted murderer of Peter Nelson. It is generally considered a justifiable act. The people of Jackson county were practically a unit in requesting a commutation of the death sentence.

Among the numerous communications received at the executive office and which, probably, influenced Governor Geer, in ordering the commutation of Smith's sentence, were letters of three prominent physicians residing in Jacksonville. The letters were all addressed to Governor Geer.

Dr. George De Bar wrote as follows: "Frank Lawrence Smith, now in the Jackson county jail, is sentenced to be hanged on the 26th inst. As a loyal citizen of old Jackson county, I ask you to commute the sentence of Smith, in this case, to that of life imprisonment. Frank Lawrence Smith is a moral, and nearly, an intellectual imbecile. He is a degenerate destitute of gratitude, and incapable of remorse—a beggar for notoriety even of his own and of his family's shape. Please spare us the humiliation of hanging such a pitiful specimen of humanity." The letter written by Charles Hines, M. D., was as follows: "I have been recently asked to sign a petition requesting commutation of the sentence of Frank Lawrence Smith to life imprisonment. I believe there is no doubt of his guilt and if I thought he was other than an irresponsible, weak-minded freak, would oppose any attempt to set aside the sentence imposed. I attended him professionally at the jail and had an opportunity to judge of his moral and mental qualities and I truly believe it would not be serving the ends of justice to inflict the death penalty upon such a being."

Dr. J. W. Robinson sent the following communication: "I write you a few lines in behalf of Frank Lawrence Smith, who was convicted of murder and sentenced to be hanged May 25, 1899, at this place. I have seen Smith, and know he is a weak-minded boy, not responsible to any great degree for any acts he may do. I understand his defense in court was not what it would have been had he had any friends or money to help him. He had no friends, no money, and very little intelligence of his own. I honestly believe it would be right and just to have his sentence commuted to imprisonment for life. Trusting you will give his case the attention needed, I am, etc." The news that his sentence had been commuted, was conveyed to Smith at the Jackson county jail, about 2 o'clock yesterday morning by Sheriff Alexander Orme. The prisoner was elated and danced about his cell with delight, although he declared that he had confidently expected a commutation of his sentence. Smith will probably be brought to the state penitentiary this morning, or possibly not until Sunday morning.

## A CURIOUS WORD SURVIVAL.

An instance of the survival of old words in country districts came under the notice at Beaconsfield this week. In a tender to the urban council for public lighting the contractor quoted terms for "lightning and douting" the lamps. The word "d-out" is regarded by etymologists as obsolete, although it was in olden times used in the sense of "do out," in the same way that "do off" and "do on" are contractions of "do off" and "do on." The word is used in Shakespeare (Hamlet, Act I, Scene iv.):

One dram of base Doth all the noble substance do out. The word is still in common use in the villages of Buckinghamshire among the laboring classes, but it is rather unusual to find it used in connection with a business transaction of a public body.—London News.

There are more persons over 60 years of age in France than in any other country in Europe. Ireland comes next.

## GOVERNMENT OF ISLANDS

### President McKinley Issued a Special Order.

## OFFICES ARE CREATED

### A Military Governor Will Have Full Control Until Congress Provides Other Means.

WASHINGTON, May 26.—President McKinley has issued an executive order, not heretofore published, for the government of the islands which came under the control of the United States government as a result of the war with Spain. The order directs that during the maintenance of the military government by the United States on the island of Cuba and all islands in the West Indies, out of the seventy-fourth degree west longitude, evacuated by Spain, there shall be created and maintained offices of the auditor of islands.

## "GRANDPA" E. T. ALBERT IS DEAD.



(From Daily, May 27th.)

Eben Taylor Albert, Sr., known by all as "Grandpa" Albert, died at his home in this city, corner of Winter and Hill streets, at 1:30 o'clock this (Saturday) morning, aged 82 years, 8 months and 12 days. General paralysis was the cause of his death.

"Grandpa" Albert was in general good health until Mrs. Albert was taken sick about a year ago, and the care and worry, incident thereto, was more than he could stand and in December, when Mrs. Albert had recovered from her protracted sickness, he collapsed physically. On December 9th, last, he suffered a stroke of paralysis and since then his health and strength gradually failed him. Mrs. Albert is considerably improved in health and is continually growing stronger.

The deceased was born at Winchester, Virginia, September 15, 1816 and when a young man he went west, residing for a brief time in Kentucky, but subsequently settled at Wheeling, Virginia, where, on November 28, 1837, he married Jane G. Glichrist, the daughter of an old Virginia pioneer, who, with eight of the ten children that blessed their union, survive him. The children, all but two of whom reside in Salem, and were present at the death

of one assistant auditor for auditing the accounts of the department of customs and one assistant auditor for auditing the accounts of the department of post offices who shall be appointed by the secretary of war. There is also created the office of treasury of the island which shall be filled by the appointment of an officer of the regular army of the United States. The treasurer of the islands shall receive and keep all moneys arriving from the revenue of the islands. Similar orders were issued as to Porto Rico and the Philippines, so that all the groups are to be identical as to government.

Assistant Secretary Meiklejohn who has charge of the insular matters in the war department decided that the islands shall be kept autonomous and that all affairs shall be under the direction and control of the governor-general. The government of the islands, their finances, and officers, will be wholly under the control of the military governor until congress shall otherwise provide.

## LOEWIS' REPORT.

The New York Price-Current, of the 26th inst., says:

	Bales
Receipts for week.....	789
Receipts from Sept. 1.....	143,690
Exports to Europe for week....	2,024
Exports from Sept. 1.....	103,370
Imports for week.....	30
Imports from Sept. 1.....	2,783

While the movement is still on a very limited scale there has seemed to be a little more brewers' trade this week, and dealers have been picking up some lots that appeared to have good value. Enough of this sort of business has been going on to keep the tone fairly steady, especially on the best grade of hops. Present stocks of choice Pacifics are so light that holders believe that they are worth all that is asked for them, say 16@17c; bids of 15c have been refused for certain growths, and an occasional sale is reported at 16@17c. We see nothing in the ordering of states good enough to exceed 15c, and but few of that grade; 11@13c is the apparent value of most of the holdings with some poor lots to be had for less. Of 1887 hops, either state or Pacific coast, there are but few left, but considerable lots of the older growths—'92s and '94s—are here and in the interior. A summary of the reports from the hop growing sections of this country would seem to indicate an unchanged condition of the crop. Yards that wintered well are coming along finely, but in certain localities many weak yards are reported. The remain-

## A GENUINE SENSATION

### Magers' Remark to a Portland Detective

## CAUSED A SURPRISE

### The Statement Went to the Jury Unquestioned—Progress of the Trial.

DALLAS, Or., May 26.—The hearing of the Magers' murder trial, resumed at the opening of court at 9 a. m. today, created unusual interest, by reason of the important testimony introduced by the state. Among the witnesses appearing on the stand were Detectives Ford, Cordano and Berry, and Chief of Police McLouchlin, of Portland, and their testimony was of the gravest character.

Detective Ford, formerly sheriff of Washington county, told the story of the arrest of Magers at the Depot hotel in Portland; the presence of the two girls, who have figured in the case extensively.

Detective Berry sprung a genuine sensation when he told his conversation with the prisoner while on the way from the hotel (the place where the arrest was made) to the police station. The witness testified to having made the following statement to the defendant: "When you killed that man near Salem, and tied his hands and weighted him down, before throwing him into the river, you did not do a good job." To this the defendant replied: "Why, has the body come up? Did it raise?" The detective told his story in a straightforward manner, and while most of the witnesses had been subjected to a critical cross-examination by the defense, Detective Berry was not asked a question after the direct examination was concluded and his testimony went to the jury unquestioned.

A warm fight was precipitated by counsel for the defense when Chief of Police McLouchlin, of Portland, began giving his testimony regarding the interview he had in his office, after Magers had been arrested and brought in Mr. Holmes, for defendant, objected to the testimony on the ground that witness had refreshed his memory from stenographic notes. The testimony was admitted, however, and the defense took an exception.

Among the other witnesses was Wm. Sparr, the woodchucker, who testified to seeing Magers and Sink in Polk county near the bridge on the fateful evening. The defense cross-examined the witness closely, but the repeated assaults of counsel did not shake the testimony a particle.

Walter Williams, of Dallas, a former deputy sheriff, stated that Magers had said, immediately after the preliminary hearing, while walking from the court room in Independence to the hotel: "They hold me, but won't try to catch the other fellow."

The state here closed its testimony, and the defense called John Scott, of Salem, who testified to meeting the defendant, and conversing with him on the evening when the homicide is said to have occurred, at a time when Magers was alleged to have been seen somewhere near the bridge.

Frank Magers, a bartender, was the next witness; he had met the defendant about the time the homicide was committed, but could not give the day and date.

Expert testimony, on the question of ascertaining the identity of human blood, was given by J. B. T. Tutthill, of the Salem Gas Company. His testimony was clear and to the point, but benefited the defense. Dr. W. H. Byrd, of Salem, was the next witness, being called to give expert testimony on the question of the identification of evidences of human blood. His statements corroborated those of the medical experts in the main.

Gay M. Powers, of Salem, was examined as to the currents of the river and the passage of steamboats. A map, prepared by E. B. Herrick, the Marion county surveyor, showing the currents of the river and the location of the gravel bar, was introduced in evidence, and the witness adjudged it to be about correct. Upon cross-examination, after a close inspection, he did not consider the map as showing the location of the bar quite correct, the witness stating that he believed the north end of the bar to be nearer the Polk county shore, than shown in the drawing.

B. H. Herrick was called and testified to the correctness of the map as having been made from measurements taken above the bridge, but he was not certain of the current below that point. This map was apparently intended to convey the idea that the body had been thrown into the river from the Marion county shore and had drifted to the point where found.

The remainder of the testimony for the defense was considered weak. One young man swore to having seen Magers at Manning's hop yard, near Clerval, at midnight on the night of September 13, 1898, and other witnesses attempted to prove an earlier return of the defendant, to his relatives' home, than was consistent with the state's case. One witness also took the stand to show the whereabouts of Magers on the night of September 20, 1898, the day

Ray Sink's body was found. Testimony was also introduced to show that Magers had a considerable amount of money before Sink disappeared; this was done to account for his possession of money after the homicide.

The final witness for the defense was the mother of the defendant. She told the story of the arrival of Ray Sink at the Manning home, his departure with her son, for Salem, on the fateful September 13th, and the early return of her son on that evening. This witness was not subjected to a cross-examination by the state's attorneys, Judge Burnett then instructed the jury as to the time the sun set on September 13th, it being 23 minutes and 15 1/3 seconds after 6 o'clock, standard time.

A recess was taken at 5:30 o'clock to 7 p. m., when the special counsel, John H. Hall, began the argument to the jury, which will be continued in the morning. As the attorneys had no time limit placed on their efforts at this stage of the trial, it is expected that the case will not go to the jury before tomorrow afternoon.

Spectators generally, who followed the progress of both trials of the case, made the assertion, this evening, that the state presented a much stronger case at this time than was done in December last, and that the defense was much weaker than at the former hearing, and an early verdict, affirming the decision of the former jury, is confidently expected by all except the defendant's immediate friends.

## AT WARDNER.

### OVER THREE HUNDRED OF THE RIOTERS IN PRISON.

### Some Startling Matters Discovered Relative to the Union's Black Lists—Mines Start.

WARDNER, May 25.—There are now 225 prisoners in the new prison. The military regulations are good and new bath tubs are now being put in. The inquest will last about a week longer; 300 witnesses have been examined and some very damaging evidence, it is said, has been secured against the rioters. An examination of the records of the unions, which were seized by the military authorities, it is said, show the criminal methods of the unions. Black lists of men to be run out of the country were freely circulated. Only a brief examination of the records has so far been made.

General Merriam left today for Denver, leaving Major Smith in command. Four hundred and seventy permits for employment have been issued in Wardner. The Last Chance started up with a small force this morning. None of the mines above Wallace have started, but many men are coming in and they will soon start. All saloons in Mullan, Gem, and Burks, were closed today.

The publication of the Mullan Mirror has been stopped and its editor arrested.

## FROM QUEEN VIC.

Washington, May 25.—President McKinley, this evening, received the following cablegram from Queen Victoria, in response to his message of congratulation: "I am deeply touched by the words of your telegram of congratulation. From my heart I thank you and the American people for the sentiments of affection and good will therein expressed. (Signed) V. R. L."

## GAVE UP AN ISLAND.

Madrid, May 26.—The minister of war, General Polavieja, has received a dispatch announcing the evacuation of Zamboanga, on the island of Mindanao, by the Spanish garrison. The dispatch further says that as the Spaniards had declined to assent to the Filipinos demands, that the arms and munitions of war should be surrendered with the city, fighting ensued, the Spaniards suffering some loss.

## RECRUITS TO MANILA.

Washington, May 26.—The secretary of war has ordered 2,000 recruits now at San Francisco for the regular regiments in the Philippines to sail on the transport Sheridan, on June 7th for Manila. This ship will be utilized to bring home the volunteers now in the Philippines.

## EGGS ARE CASH.

Eggs are always cash. The farmer does not have to wait for his money from sales of eggs. They are in demand at all times, and when one customer has not the cash the next is ready to secure them. Perhaps nothing raised on the farm is so free from the credit system as eggs, and the egg basket has helped all classes, from the corner of a large farm to the widow with a small patch to tide over the long period when waiting for the next crop. When the wheat seed is planted the returns do not come in until the next harvest, nearly a year intervening, but the hens take that which the farmers do not sell at all and daily supplying him with a product that has a ready cash value. Many luxuries on the table are procured from these cash sales, and make the hens indispensable on the farm. They only demand a fair proportion of the farmer's time and are capable of assisting themselves more than any other stock.

## OYSTERS ARE NERVOUS.

Oysters are such nervous creatures that a sudden shock, such as a loud thunder-clap, will kill a whole boat-load.