CHARGES GOVERNOR WITH PREJUDICE

Petition Says He Was Not Mentally in Position to Weigh Allen Appeals Impartially—"Invested Money in Death of Prisoners."

Folowing is the text of one of the petitions presented to Governor Mann yesterday, criticising his decision and his attitude, and asking for the appointment of a commission to consider the cases of Floyd and Claude Allen:

"An Open Letter."

"To His Excellency, William Hodges Mann, Governor of Virginia:

"'The angel of the world wrestled with Jacob, and he sair, The day cometh; let me go. And Jacob said, I will not let thee go except thou bless me. And he touched Jacob in the thigh so that he went halt all the rest of his days, and yet Jacob contended with him. And the angel said, The day breaketh, let me go. And Jacob said, I will not let thee go until thou bless me. And he blessed him.'

"We ask you, for the sake of the name you expect your administration to bear in history, for the sake of the outraged public sense of justice and for the sake of the overwhelming majority of our people who believe that you are arbitrarily using the authority vested in you as Governor to override their wishes and their rights, to give careful consideration to this petition and this, our last request.

Assign Reasons.

"As a preliminary to this request we wish to assign our reasons therefor. To begin with, when the Hillsville tragedy was first published to the world, you, in common with ourselves and most of the best people of the Commonwealth, fiercely denounced the Allens, who were then supposed to be responsible for it. You properly proceeded to use such drastic measures as appeared to you proper to apprehend and to bring to trial these people who were charged with this offense; but you did not stop there. You offered, through the Baldwin Detective Agency, rewards not only for the capture, but for the conviction of these men. The county was filled with armed men seeking this reward, who held the people of Carroll County in abject terror; the highest public excitement prevailed, and during this time the trial of Floyd Allen was ordered.

Terrified by Proclamation.

"Counsel for the defense used their utmost endeavors to secure the evidence to give the defendants that fair and impartial trial guaranteed him by the Bill of Rights, but which guarantee, without the evidence, amounts to no more than a well-sounding form of words. In the midst of this endeavor you spread broadcast over Carroll County a proclamation to the effect that any persons assisting the Allens would be dealt with as criminals. However innocent may have been your intention in so doing, the dreadful fact was that the ignorant mountaineers, already terrified by the county being overrun with armed men, construed this to mean that information should not be given to attorneys representing the defendants, with the result that attorneys went to trial in Floyd Allen's case and had heaped up mountain high against them evidence of a most damaging character, which was as untrue as it was injurious to the case of the defense, and they had no way to meet it.

Sensational Press.

"But during the course of this trial, notwithstanding the sensational press accounts, the people of Wythe County, who had heard and seen the witnesses testify, began to catch glimmerings of what had actually occurred in that courtroom on the 14th day of March, and a jury was obtained to try Claude Allen that was really in a position to render a true verdict between the Commonwealth and the defendant. This jury found Claude Allen guilty, under the instructions of the court, of having shot under the impulse of the moment to defend his father, and sentenced him to fifteen years in the penitentiary.

"After this the newspapers throughout the State quoted you as having publicly criticized this verdict of the jury rendered in a court of justice, where the interests of the Commonwealth had been safeguarded to a point where, as a matter of fact, it devolved upon the defendant to prove his own innocence. You were reported to have criticized the verdict of a jury rendered upon evidence that you had not heard and under circumstances that you had no reason to say were not proper, and thereafter every juryman who went in the box went in with the knowledge that, regardless of what the evidence might be, a verdict of anything short of murder in the first degree would incur the bitter displeasure of the chief executive of his State.

State Bent on Conviction.

"The trial of Claude Allen progressed, in pursuance of the avowed and expressed determination of the Commonwealth, to prosecute this boy for the same transaction until he had been convicted of murder in the first degree. * * * Before the conclusion of the argument counsel for the defense were able to get testimony, to show that those statements were a cruel and deliberate falsehood, a statement of facts by men who were not in the county at the time. But the trial court refused to permit this evidence to be put on the stand, and counsel for defense were required to sit by and hear counsel for Commonwealth argue at great length that the defense had been manufacturing testimony, when they knew that sitting there in the courtroom at the time were witnesses who could show that Goad had been doing exactly what the defense was charged with.

Bound by Precedent.

"These facts were presented to the trial court and he held himself to be bound by precedent and unable to give a new trial. These facts were presented to the Supreme Court of the State, and they waived the defense aside without even granting a writ of error, and held themselves to be shackled by precedent.

"To this was added the fact that in later trials all of the evidence of conspiracy introduced by the Commonwealth was utterly broken down and shown to be evidence derived apparently from the same source, as the above-mentioned evidence furnished by Mr. Goad.

"We further respectfully submit that we are reliably informed and the record shows that the Supreme Court of the United States refused a writ of error on technical grounds. We submit that the life of a citizen of the State should not be forfeited simply because technically in a court of law there is no relief, and that it was to meet just such cases as this that the sovereign people of Virginia gave to the Governor of the State the power of pardon and commutation.

Ideal Case For Clemency.

"A no more ideal case for executive interference could be imagined, and no case could come more squarely within the contemplation of our law in giving this right to the Governor, than one where a defendant is convicted and about to be executed on evidence discovered to have been false since the trial and too late to give him a new trial, which, the jury that convicted him now say in a petition to you caused them to convict.

"This we present to you, and it will not do to waive aside the absolutely unanswerable reasons for the exercise of executive clemency with a statement that Mr. Wysor, in opening the case of the Commonwealth vs. Sidna Allen, strenuously insisted that there had been a conspiracy, but did not think it necessary to introduce evidence thereof on the trial. As though it were possible to conceive that men making the desperate attempt to secure convictions of murder in the first degree that counsel for the prosecution were in these cases, would have omitted that evidence of premeditation and deliberation that of itself made the crimes murder in the first degree, if they had not known by experience in the Victor Allen case that the defense could utterly break it down. The results of the trial show that to secure convictions of murder in the first degree it was necessary to introduce this testimony.

Goad's Alleged Perjury.

"And this is not all, for the most tention of Your Excellency to the fact the alleged perjury of Goad, G. A. MacAlexander, S. C. M. Faddis and H. C. Weaver, which brought about Claude Allen's conviction on his third trial.

"Again, the two verdicts in the Sidna Allen case rendered after time had cooled the public prejudice, after all of the evidence bearing on the case was more accessible to both sides and rendered under circumstances vastly more favorable to a fair and impartial trial than the verdicts theretofore rendered, and rendered by juries specially selected on a request to the judge of their respective counties to furnish the names of the best men in his county. These verdicts will have to be characterized by you as plain and inexplicable miscarriages of justice, regardless of what the testimony was, if you adhere to the opinion first formed.

$30,000 to Capture.

"To this we would add but one further statement. We would call the attention of your excellency to the fact that you have spent in this matter perhaps some $30,000 or $40,000 of the money in the death of these men, and invested a vast sum of the people's money i nthe death o fthese men, and consciously or unconsciously, we fear that this fact weighs with you and perhaps influences you in the conclusion that you have reached.

"And so we say, with all due respect to you as a man and as the Governor of the State, that we believe and think that if you will face the facts fairly that you will find that had you been judge of a court in which these cases came up for trial, you would have been obliged, in fairness to yourself and to the defendants, to certify that you were incapacitated from trying the cases on account of preconceived feeling. If, then, you would not have been competent to administer the hard and fast and cold rules of law in the trial of one of these defendants, then for a much stronger reason we believe that you will see that you were not in a position to weigh impartially the considerations for and against the exercise of the broader function of executive clemency which appeals more directly to equity and conscience than with the mere conduct of a trial.

Ask For Commission.

"For these reasons we say that the feelings of the people of Virginia are outraged, that their sense of justice has been wronged, that no merely passing whim dictates this appeal which has come to you almost as the voice of one man, and we, believing that a great wrong will be done, not only to the defendants themselves, but to the people of this State by the execution of thees men, make this final request that Your Excellency will appoint a commission. We would suggest that it be composed of Professor Martin Burks, of the Washington and Lee University, whom you have quoted, and the seven foremen of the seven juries who presided in these cases, or any other impartial body of men who you name, and let this commission investigate the facts and recommend to Your Excellency a course of procedure in the matter.

"In the event that there is no fund available to defray the expenses of this we will defray the same ourselves. 'Perhaps I am wrong and am broad enough to acknowledge it,' will occupy a higher place in the esteem of the good people of our Commonwealth than otherwise would be possible.

"Respectfully submitted."

Among the names of those signed to the petition are the following: George W. Brown, Jacob Umlauf, Dr. W. T. Oppenhimer, J. D. Carneal, Samuel Cohen, the Rev. J. J. Scherer, M. J. Fulton, D. C. O'Flaherty, Judge N. H. Hairston.

The statement was accompanied by the following letter from Lawyer Willis to the Governor:

"Richmond, Va., March 27, 1913.

"Hon. William Hodges Mann, Governor of Virginia:

"Dear Sir,—I am enclosing you herewith a petition signed by several prominent gentlemen of this city. I have not in anywise attempted to make this a general petition, but merely to obtain enough signatures to entitle the matter to receive your consideration.

"While it is a burden on your time, I must earnestly urge you to read this and consider it.

"Yours very respectfully,

(Signed) "R. H. WILLIS."

PAY DEATH PENALTY TO-DAY

Claude Swanson Allen. Floyd Allen.

CANNOT ESTIMATE LOSS TO ITS ROAD

President Willard Talks of Enormous Damage to Baltimore and Ohio.

Baltimore, March 27.—That the financial loss to the Baltimore and Ohio Railroad by the floods will run into the millions was indicated by President Willard, of that company, to-day. When asked how much the damage would amount to, Mr. Willard said:

"I cannot tell. I haven't an idea. I wish I could say that it would be $2,000,000, but I cannot. I know that half a dozen bridges on the Cincinnati, Hamilton and Dayton have been destroyed and bridges on the Baltimore and Ohio have been washed away. We have lost one of our largest bridges on the main road to Chicago, at Zanesville, O., and it will probably be six months before we will have another completed bridge there, although we will have some bridge there soon. We hope to have our main line to Chicago open in twenty-four hours, and our main line to Cincinnati open in the same time. We cannot tell when we will have our line to St. Louis open."

Awaiting The Joyful Sound

The Wonderful Music that Bursts Forth When the Stork Arrives.

That funny, little, brassy cry that echoes the arrival of the new baby is perhaps the most cherished remembrance of our lives. And thousands of happy mothers owe their preservation to health and strength to Mother's Friend. This is an external remedy that is applied to the abdominal muscles. It relieves all the tension, prevents tenderness and pain, enables the muscles to expand gently, and, when baby comes, the muscles relax naturally, the form is preserved without laceration or other accident.

You will find Mother's Friend on sale at almost any drug store, as it is one of the standard, reliable remedies that grandmothers everywhere have relied upon.

With its daily use during the period of expectation, there is no weakness, no nausea, no morning sickness, no pain, distress or strain of any kind. Its influence is truly remarkable, as it penetrates the tissues and renders them pliant and easily governed by the demands of nature. You will be surprised at its wonderful effect and what a grateful relief it affords.

Especially to young women Mother's Friend is one of the greatest of all helpful influences.

You will find this wonderful remedy on sale at the store where you trade, or they will get it for you. It is prepared by Bradfield Regulator Co., 136 Lamar Building, Atlanta, Ga. Write them for a very valuable book to expectant mothers.

ELLYSON ASKED TO COMMUTE SENTENCE IN MANN'S ABSENCE

(Continued from First Page.)

he were assured that the Attorney-General believed him eligible to exercise the duties of the office of Governor. He replied that he would be glad to have the opinion of the Attorney-General, adding that he had compared the Constitution of Virginia with that of other States, notably Louisiana, where the law explicitly gives certain powers to the Lieutenant-Governor, whereas the section of the organic law in this State is not specific.

The Virginia Constitution says on this point: "In case of the removal of the Governor from office, or of his death, failure to qualify, resignation, removal from the State, or inability to discharge the powers and duties of the office, the said office, with its compensation, shall devolve upon the Lieutenant-Governor."

Decide to Get Attorney-General's Opinion.

Judge Williams was communicated with, and expressed a willingness to give his services. He had no copy of the Constitution in his home, and Mr. Branch's automobile was called to take him to his office. There he worked until 12:30 o'clock this morning.

Reaching the Branch residence, where most of the interested people were still in waiting, Judge Williams stated emphatically that the Lieutenant-Governor has none of the powers of the Governor. He said the Constitution provides for his succession, but not for the transfer of power. Such power, once given to the Lieutenant-Governor, could not again be assumed by the Governor.

Even supposing, thinks Judge Williams, that the powers could be so transferred, the case cannot arise at this time, since there has been no official notice to Lieutenant-Governor Ellyson, or anybody else, that the Governor is not in Virginia, and might at the moment he was talking have been asleep in the Executive Mansion. Still further, the point was not a practical one, since, if there is any new evidence in the Allen case, a restraining order delaying the execution could be secured from the courts.

Lawyers on the other side took issue with Judge Williams, and much discussion ensued. At last it was suggested that the execution be delayed, and this was done.

Two Earlier Efforts to Save Him Fail.

During the day two separate petitions were presented to the Governor, asking him to appoint a commission as a sort of advisory pardoning board to examine into the merits of the appeals for clemency and act in conjunction with him. One of these severely criticized the executive, its entire argument being directed to the proposition that he was so prejudiced in the Allen case as to be unable to render a fair and just decision.

Its very tenor led to the belief among the advisers of the Governor that it could not have been hoped to gain anythnig by it, since it could only further incense him, and that it must have been done to hold him up to public scorn. The other petition was signed by those who had refused to concur in the unmeasured strictures on the Governor, and, while making the same request as to a commission, it complimented the Governor on his desire to do justice. This latter petition was signed by John P. Branch and Judge J. Richard Wingfield, the latter a member of the State Corporation Commission.

Besides, individual letters were sent to the Governor, urging him to reconsider his decision at the last moment.

All of these attempts were of no avail. The Governor did not refuse to appoint the commission asked for. He simply did not consider the proposition, feeling that he had no warrant in law for such action, and that the request was not made in good faith. He left the city at 3:50 o'clock yesterday afternoon for Trenton, N. J., where he is to deliver an address before the Board of Trade to-night.

Floyd Allen and Claude Swanson Allen bade farewell yesterday to their relatives and friends. In all cases the scenes were most affecting. The callers were, generally speaking, affected to a much greater degree than were the prisoners, who made every effort to bear themselves bravely. Both men were quite composed, considering the circumstances. Up to the last, Claude bore a more resigned and composed demeanor than did his father.

Victor Allen, the remaining son of Floyd, spent most of the day in the death chamber. Late in the afternoon he bade his father and brother farewell until eternity. Some last requests were made of him concerning matters at home, and messages were sent to Mrs. Floyd Allen, the bereaved wife and mother, who is seriously ill at her home on the southern slope of the Blue Ridge, in Carroll County—that home built by the industry of Floyd Allen and destroyed in a moment by his own hand, backed by his ungovernable temper.

Sidna Allen, a younger brother of Floyd, and the man accused by Judge Thornton L. Massie in his dying moments of firing the shot that killed that jurist, visited the death chamber and told his brother and nephew good-by. R. H. Willis, who was the attorney for the condemned men from the beginning until their conviction, went to see them. He has been devoted to their cause, and broke down completely when the final moment of parting came. Overcome by emotion, Mr. Willis left at 9 o'clock last night for his home in Roanoke.

A gold medal which Allen sympathizers intended to present to Claude was never delivered to him. The sum of $22 was raised by popular subscription to pay for a tcken from those who commended the boy's act in shooting to save his father, as they believed it. The board of directors of the penitentiary considered this presentation at last Saturday's meeting. It was decided it would be best not to permit a demonstration, but that it might be allowed if one of the ministers and two members of the family were present.

Richard Evelyn Byrd, who acted as one of the attorneys in one of the proceedings before the Supreme Court of Appeals, visited the doomed Allens yesterday. The other callers were their spiritual advisers, Rev. George W. McDaniel, D. D., and Rev. J. J. Scherer, Jr.

Hearing of this intention, Governor Mann yesterday morning called Major J. D. Patton, chairman of the board, and said he thought no such presentation should be permitted. Major Patton consulted with other members of the board, and it was agred that, under the circumstances, it would be best not to allow anything of the sort. The medal was taken to the prison late in the afternoon and locked up in the desk of Major James B. Wood, the superintendent. It was not, and will not, be given to Claude Allen. The Governor felt that a present to a prisoner for an act for which the courts had condemned him to a felon's deat hwould be improper.

Floyd Allen to Die First.

The juries for electrocutions are always summoned for 7 o'clock in the morning, and the two juries of twelve each who were seen yesterday by representatives of Superintendent Wood were to be on hand at that hour this morning.

It is to be supposed that Floyd Allen will go to his death first. It is unfortunately true that the officers visit the death cells for the first prisoner, and the second must wait there in agony while the first is being done to death. Inasmuch as Claude Allen is the much more composed of the two, it would be natural to conclude that his father will be first called upon, as the less likely to break down.

Some fifteen minutes must elapse between the first and second electrocutions. The body must be removed from the chair, and the jury must be conducted upstairs to the office and the other jury must be taken to its place.

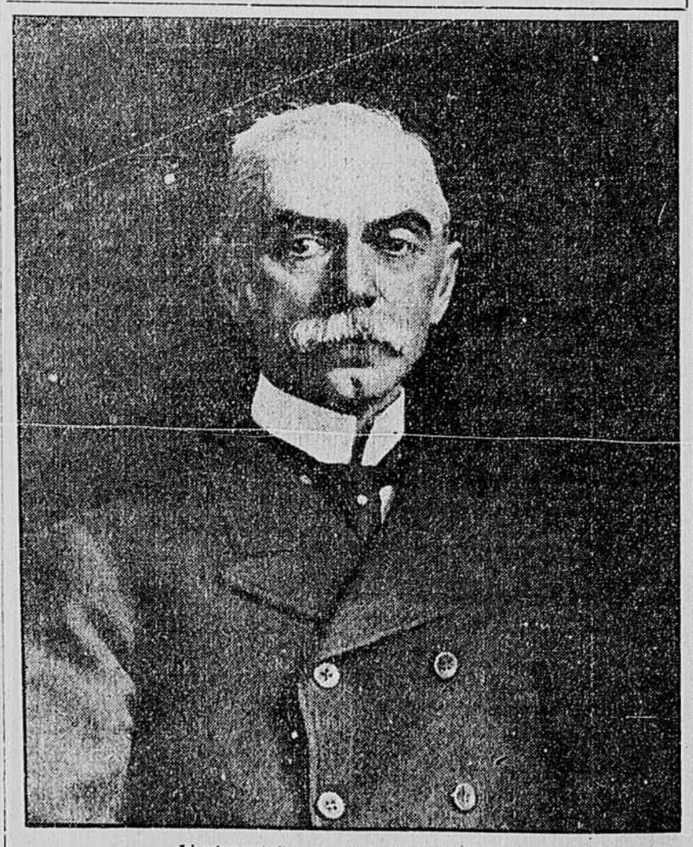
Burial in Carroll County.

After the execution, the bodies will be turned over to Victor Allen, to be taken to Carroll County for burial.

Claude Allen, it is understood, has left an ante-mortem statement to be given out after his death. It is presumed he gives a circumstantial account of the killing and reiterates the assertion he has made so often on the witness stand and since—that he knew of no plan in advance to shoot up the court, and that he did not fire the first shot in the courtroom.

His sweetheart, Miss Nellie Wissler, did not come to Richmond at the last. She has at no time been expected, as the final good-bys were said three weeks ago.

LAST JUDGE IN ALLEN CASE



Lieutenant-Governor J. Taylor Ellyson.

FLOODS HAVE LAID WIRES PROSTRATE

New York, March 27.—Never before has there been such a widespread prostration of telegraph and telephone wires as exists to-night. There have been many instances of the isolation of localities for a considerable period, but to-night the telegraph and telephone companies are confronted with a prostration of facilities embracing the vast stretch of country from the Atlantic Coast to Utah, and as far South as Tennessee and Georgia, as a result of the succession of storms embracing every element known in weather, during the past seven days. Canada, too, is cut off by blizzards and floods that have done much damage in upper New York and in lower Canada.

Out of New York City to-night, telegraph facilities, which under ordinary circumstances are ample to reach every section of the United States, are confined on the West to Cleveland, O., while southward, although the wires are working to Jacksonville, a tornado, which made itself felt in Virginia this afternoon, is sweeping up the Atlantic Coast with much prospect of flattening before morning, the few remaining wires between those points and New York.

In the Central South the situation is decidedly uncertain. The wires there, crippled by last week's storms, have not yet been repaired, and the inclement weather is playing havoc with the remaining facilities.

Owing to the seriousness of the situation in Ohio and particularly at Dayton, the telegraph and telephone companies are putting forth their greatest efforts in that locality. The Western Union last night managed to get a gang of linemen and repairmen northward from Cincinnati as far as Arcanum, Ohio, a few miles south of Dayton, and although it is believed that this body of workers have by this time gotten to the outskirts of Dayton, no word has been received from them.

The work of restoring communication will be not only difficult, but an almost unending task. The miles of poles that were washed away must first be replaced before the wires can be strung. After this will come the task of practically establishing a new office, so it will be perhaps two days, with all conditions favorable, before the outside world will be fully acquainted with the extent of the disaster and the thousands of anxious persons waiting for some words from relatives will learn the fate of loved ones.

In Dayton the Western Union has six operators. Two of these are now in the office of the National Cash Register Company, three miles from the centre of the city and the others are at Wolf Creek, ready for work when the wires are restored.

Telephone communication is possible with Dayton, but that is all. The latest and most reliable information out of the stricken city is coming from Phoneton, five miles from Dayton, where the American Telegraph and Telephone Company has a large station.

Great District Cut Off.

Both the Western Union and Postal Companies in New York announced to-night that they did not have a wire working in the thousand square miles roughly marked by Pittsburgh on the East, Cleveland at the North, and the Ohio River on the South.

Indianapolis has been cut off for two days; communication with Columbus was lost about noon, and Cincinnati and Louisville are reached only by one wire each and these are being used for important messages concerning the flood situation and instructions for relief.

An army of 10,000 men is ready to restore the wires whenever the flooded conditions will permit of work, and this it is strongly hoped from reports received to-night, will be to-morrow morning.

Novel Suggestions in Table Treats

We are constantly arranging special store displays of timely dishes which save you an immense amount of worry. Visit our store. Watch our windows.

Delicious Melba Peaches and Pears; also Marrons.

Fresh fruits in glass. Many varieties at 50c the glass.

Choice canned fruits, all varieties. Special values at 30c can.

Shop by Mail.
Your mail orders will be promptly filled and delivered, freight paid, to your station. Satisfaction or money refunded.

Imported Vegetables—Haricut Verts, Macedoine, Mushrooms, Artichokes, Brussel's sprouts. Extra quality.

Curtice Bros. Soups. The finest to be had, all varieties. Put up in convenient size cans ready for use.

Telephone 101 to 106 **Hermann Schmidt** 504 E. Broad, Richmond