

Harlan Must Surrender To Marshal Before Oct. 29

(Continued from First Page.)

said circuit court of appeals was issued under the seal of said court on the 27 day of August, A. D. 1909, and was filed in the said United States circuit court at Pensacola, on the 25 day of August, A. D. 1909; that immediately subsequent to said date said defendants and said bondsmen, through their counsel, on the 30 day of August, A. D. 1909, made an arrangement with Thomas F. McGourin, marshal of said circuit court, to have the defendants assemble in the city of Montgomery, state of Alabama; that on said date, to-wit, the 30 day of August, 1909, said Thomas F. McGourin agreed, without hesitation and without giving any intimation that there was the slightest objection thereto, that said defendants might be assembled in the city of Montgomery, state of Alabama, for the purpose of delivering them to the said Thomas F. McGourin for transfer to the United States penitentiary at Atlanta; that at said time it was agreed by said Thomas F. McGourin that as soon as said defendants were assembled at said place, counsel for defendants should telephone him and that he would immediately go to Montgomery for the purpose of taking said defendants into his custody, as United States marshal, to transfer them to the said United States prison; that said agreement with said marshal was made in absolute good faith on the part of said defendants and said bondsmen with no purpose or intent to hinder or delay the administration of justice, and said defendants in good faith promised said marshal to assemble in the city of Montgomery as quickly as possible, and said defendants in execution of said agreement with said marshal, assembled in the city of Montgomery, on the evening of the 7 day of September, A. D. 1909, and immediately thereafter telephoned and telegraphed the said Thomas F. McGourin, United States marshal, that said defendants each and all were there, ready, anxious and willing for him to come to Montgomery to take them into his custody for the purpose of transferring them in due course of law to the United States prison at Atlanta, yet the said Thomas F. McGourin declined so to do and gave as his sole reasons therefor; that the department had ordered him to accept the defendants only in the city of Pensacola, Florida, because, as he claimed, the appeal bond of said defendants required that they be surrendered at said place; that the city of Montgomery is in the Fifth judicial circuit of the United States and is on the usual regular and most direct route from the city of Pensacola to the United States prison at Atlanta, and that heretofore all defendants sentenced by the United States court at Pensacola to serve in the United States prison at Atlanta have been carried through said city of Montgomery to the said United States prison at Atlanta; that the refusal of said marshal to come and accept the custody of said defendants was a great surprise to said defendants and their bondsmen, being, as it was, in direct conflict with the agreement, aforesaid, of said marshal, and being, as it was, without any foundation in fact and oppressive upon and in violation of the rights of said defendants and said bondsmen; that at the time of making the agreement with said United States marshal to assemble said defendants in the said city of Montgomery, said marshal was then and there advised that that they would assemble either in the city of Montgomery or the city of Atlanta, but it was agreed to have them assembled in the city of Montgomery; that at the time of making said agreement said marshal was advised of the intention of said defendants to submit to his custody without hesitation and

upon the expressed promise that they would not cause him the slightest trouble, except as he was then and there advised that they, said defendants, expected to apply to the United States court for a writ of habeas corpus, in order that their legal rights might be further legally investigated; that notwithstanding the refusal of said marshal to go to the city of Montgomery for the purpose, aforesaid, said defendants on the 8 day of September, 1909, secured their railroad passage from the said city of Montgomery to the city of Pensacola, but before the hour for leaving said city of Montgomery, and about 9 p. m., on September 8, defendants were advised that the said United States marshal was under the orders of the department to receive them only in the said city of Pensacola, Florida, but defendants were advised, believed and therefore aver that such order was not based upon any valid reason but solely upon the desire of the department to transfer the said defendants from the said city of Pensacola to Atlanta, not by and through the city of Montgomery, the usual, regular and most direct route to Atlanta, but going east from the said city of Pensacola around by River Junction, Florida, with no other intent or purpose than to avoid the application for writ of habeas corpus which was expected to be made, and which the said marshal was advised would be made, before the honorable United States circuit court in and for the Middle district of Alabama, at Montgomery; that the said marshal claimed to be acting, formed no reasonable or legal basis for the refusal of said marshal to act as agreed, as aforesaid, that is, to go to Montgomery and accept the custody of said defendants for the purpose of transferring them over the usual and most direct route to the United States prison at Atlanta, Georgia, and his refusal so to do was in violation of his agreement so to do and oppressive upon and in violation of the rights of said defendants and said bondsmen.

TENDERED TO ALA. MARSHAL. That immediately following the notice of said defendants and said bondsmen to Thomas F. McGourin, United States marshal of the United States circuit court of the Northern district of Florida, that said defendants were assembled in said city of Montgomery, Alabama, and their request to him, said marshal, to come to said city for the purpose of taking them into his custody and transferring them to the United States prison at Atlanta, said bondsmen, at 2:30 o'clock p. m. on the 9 day of September, A. D. 1909, tendered each of said defendants personally to James H. Judkins, United States marshal, in his office in the federal building in the city of Montgomery, Alabama, and petitioned then and there the said James H. Judkins to take each of said defendants into his custody and hold them in his custody to await notification by him to and instruction from the said Thomas F. McGourin, United States marshal of the Northern district of Florida, and the said bondsmen did then and there further offer and tender to the said James H. Judkins all expenses which might incur in holding said bodies to await notification and instruction from the said United States marshal at Pensacola, and at the same time filed copy of the indictment and appeal bond upon which said defendants were tried and upon which said appeal was taken, all of which will more fully appear by reference to Exhibit "A" attached hereto, and made a part hereof (said Exhibit "A" being and containing petition of bondsmen to the Hon. James H. Judkins, United States marshal, of Montgomery, Ala., dated September 9, 1909; copy of the indictment against said defendants; copy of the indictment against Robert Gal-

agher and Walter E. Grace; and separate copies of the appeal bonds for each of the defendants, Harlan, Huggins, Hilton Gallagher and Grace); that immediately subsequent to said tender and the filing with said James H. Judkins said petition, he then and there at 3 p. m. telegraphed the said Thomas F. McGourin, the following telegram, to-wit: Montgomery, Ala., Sept. 9, 1909. Thomas F. McGourin, United States Marshal, Pensacola, Fla.: Boston, Hughes and Trammell, as bondsmen, have today brought to my office W. S. Harlan, S. E. Huggins, C. C. Hilton, Robert Gallagher and Walter E. Grace and offered to surrender them to me and tendered all expenses of transferring. All parties are now in the city of Pensacola, Fla. J. H. JUDKINS, United States Marshal, Middle District of Alabama, Montgomery, Ala. that on the 9 day of September, 1909, and at the time of filing said petition with said Judkins, said bondsmen sent the following telegram to said Thomas F. McGourin, to-wit: Montgomery, Ala., Sept. 9, 1909. Thomas F. McGourin, United States Marshal, Pensacola, Fla.: We have assembled here today, W. S. Harlan, S. E. Huggins, C. C. Hilton, Robert Gallagher and Walter E. Grace, and have surrendered them to the United States marshal in his office in the federal court house in this city who now await your instructions. The defendants also are ready and awaiting you. R. H. TRAMMELL, W. H. BRITTON, J. E. HUGHES, Bondsmen.

That immediately following the sending of said telegram and the filing of said petition with said Judkins, said bondsmen addressed communication to the said Thomas F. McGourin, United States marshal, advising him that said bondsmen had tendered said defendants to said United States marshal, at Montgomery, and said defendants promised to remain in said city of Montgomery until the following Saturday morning awaiting such notice as the said marshal might take for the purpose of transferring said defendants to the United States prison at Atlanta, and in said letter requested, also, said United States marshal at Pensacola to take prompt action to secure the custody of said defendants in the manner and for the purpose aforesaid, a copy of which letter is attached hereto, marked Exhibit A-1 and made a part hereof; that in said letter said bondsmen advised said Thomas F. McGourin that under the conditions of the appeal bond they had discharged their full obligations as stated therein and were no longer liable for the custody of said defendants, they having, as aforesaid, tendered them to the said United States marshal and requested him to hold them in his custody awaiting their transfer in due course of law to the United States prison at Atlanta; that on the 10 day of September, 1909, said James H. Judkins received from the said Thomas F. McGourin, United States marshal, the following telegram, to-wit: Pensacola, Fla., Sept. 9, 1909. To Judkins, United States Marshal, Montgomery, Ala.: Conditions of bonds makes surrender of men necessary at Pensacola. I can not receive them elsewhere. MCGOURIN, Marshal.

That subsequent to the filing of the petition and the sending of the telegram, as aforesaid, said bondsmen on the 9 day of September, 1909, mailed petition to the honorable circuit court of the United States for the Northern district of Florida, petitioning said United States circuit court to issue its order to the marshal and have it by the clerk of said court, duly authenticated and deliver to the said honorable James H. Judkins, United States marshal, at Montgomery, com-

manding and directing him to hold said defendants in his custody to await their proper transfer as said court might direct, a copy of which petition and the exhibits attached thereto, is attached hereto, marked Exhibit A-2 and made a part hereof; that at the time of forwarding said petition said bondsmen sent a copy thereof, including the exhibits attached thereto, to the Honorable Fred C. Cullerly, United States district attorney, of and for the Northern district of Florida, and at the same time mailed communication to the Honorable Judge William B. Sheppard, Judge of said United States circuit court, a copy of which communication is attached hereto, marked Exhibit A-3 and made a part hereof and mailed communication to the Honorable Fred C. Cullerly, copy of which is attached hereto, marked Exhibit A-4 and made a part hereof; that said petition and matter was received by said court and said attorney on the 10 day of September, 1909; that at the time of making said petition said bondsmen forwarded the following telegram to the Honorable William B. Sheppard, Judge William B. Sheppard, United States District and Circuit Courts, Pensacola, Fla.: We, the bondsmen, have arrested W. S. Harlan, S. E. Huggins, C. C. Hilton, Robert Gallagher and Walter E. Grace, convicted by your court of a conspiracy to commit perjury and have them here in the office of James H. Judkins, United States marshal, in his office in the federal court house at Montgomery, Ala., and respectfully request that the United States circuit court of and for the Northern district of Florida order immediately that each of the prisoners be held in the custody of said marshal and require its clerk to forthwith transmit said order duly authenticated to said United States marshal here. J. E. HUGHES, R. H. TRAMMELL, W. H. BRITTON, Bondsmen.

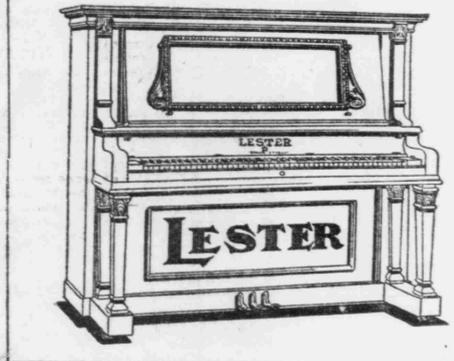
That on the 11 day of September said bondsmen petitioned the United States circuit court of the Middle district of Alabama to hold each of said defendants, who were then and there tendered in open court to said United States court, in the custody of said court and the marshal thereof, pending their transfer in due course of law to the United States prison at Atlanta, and at the same time tendered to said court all expenses which might be incurred pending notification and instruction from the United States court at Pensacola, and at the same time submitted said petition and certified copy of the indictment and the appeal bond and the mandate of the circuit court of appeals; that then and there in open court, said defendants at the same time petitioned said court to hold said defendants in the custody of its marshal pending notification and instruction from the United States court at Pensacola and pending their proper transfer to the United States prison at Atlanta; said defendants, and each of them, then and there also stated to said court and in open court that they and each of them were ready, anxious and willing to submit to the custody of said court for the purpose of being transferred to the United States prison at Atlanta, a certified copy of which petition, together with the copies of the indictment, appeal bond and mandate is attached hereto, marked Exhibit "B," and made a part hereof, and a certified copy of which petition presented by said defendants to said court, is attached hereto, marked Exhibit "C," and made a part hereof; that then and there said United States court entered its order in said cause denying said petition, certified copy of which order is attached hereto, marked Exhibit "D," and made a part hereof.

That the said defendants, W. S. Harlan, C. C. Hilton and S. E. Huggins fled before the said James H. Judkins, said United States marshal, and the said United States circuit court, at Montgomery, petitioned precisely the same verbatim, except the change of name of said defendants that the petitions so filed by said defendants and for each of said defendants are attached hereto and marked Exhibits A, B and C, and the order of the said United States circuit court of the Middle district of Alabama, thereupon entered, is attached hereto and marked exhibit "D"; that the petitions filed by said bondsmen and for each of said bondsmen are precisely the same, all of which will more fully appear by reference to Exhibits A, B, C and D, and Exhibits A1, A2, A3 and A4, attached hereto and made a part hereof.

MARKET REPORT. PENSACOLA COTTON MARKET. The following report is furnished daily for Pensacola by Marks & Gayle, F. O. B. cotton merchants, Pensacola, Fla.: Good middling 13 9-16 B. middling 13 7-16 Middling 12 7-16 Strict low middling 13 1-16 LIVERPOOL COTTON. Liverpool, Open. Close. October-November 11 69 11 69 December-January 11 52 11 52 NEW YORK COTTON. New York, Open. Close. December 11 52 11 52 January 11 58 11 58 NAVAL STORES MARKET. Savannah, Ga., Oct. 16.—The spirits of turpentine market opened and closed firm as follows: Turpentine, 57 1-4. Copra, 4 1-2. Sales, 255. Receipts, 353. Shipments, 353. Stocks, 30,713. The market on rosin closed firm as follows: W.V. 6 25 N. 6 15 M. 6 10 L. 5 70 I. 5 70 G. 4 35 F. 4 20 D. 4 10 B. 4 00 C. 4 00 Receipts, barrels, 1,876. Shipments, barrels, 1,889. Stocks, barrels, 144,095. WALL STREET REVIEW. By Associated Press. New York, Oct. 16.—The principal speculative stocks declined sharply in the opening dealings, but advances in a number of issues of secondary importance made the tone irregular. Southern Pacific declined 11-4, and Union Pacific 1, and Reading, United States Steel and Amalgamated Cop-

Oh, You Buick! As good as the Best, better than the rest Holders of all world's stock car records, for races, hill climbs, endurance runs and efficiency contests. MODEL 10, in three styles: Roadster, three passengers, \$1000; Surrey, four passengers, \$1050; Toy Tonneau, four passengers, \$1150. This machine is equipped with 24 6-10 H. P. Buick Valve in Head Motor. MODEL 19 24-30 H. P. Buick Valve in Head Motor. Five passengers, \$1400. The classiest model of season. MODEL 16 the speed king 30-48 H. P. Buick Valve in Head Motor. Surrey Roadster, four passengers, \$1750; Toy Tonneau, four passengers, \$1750. MODEL 17 Five passenger Touring Car, 114-inch wheel base, 30-48 H. P., Buick Valve in Head Motor. When better Cars are built Buick will build them. "THERE'S A REASON" Ask the man who runs one. GULF MOTOR CO. We Can Deliver the Goods Phone 251 19-21 West Romana

THE CLUTTER MUSIC HOUSE BARGAIN LIST FOR MONDAY Out of town orders please name second choice. These are rare bargains and will go fast. 1 Wurlitzer Piano new oak case. Regular price \$450, this sale \$225. Terms, \$15 cash and \$7.00 per month. 1 Marshall & Wendall Pi no, just from the factory. Regular \$375, this sale, \$227, \$15 cash and \$10 month. 1 Packard Piano, beautiful, walnut carved case. Used one year; was \$550, now \$368, \$25 cash and \$10 month. Clutter Mahogany piano nearly new. Regular price, \$250, price, \$249, \$15 cash, \$7.00 per month. 1 Ludwig sample handsome carved mahogany case. Regular price \$450, \$349, \$20 cash, \$9.00 per month. 1 Kohler & Campbell oak case. A beauty, \$277, \$15 cash, \$8.00 month. 1 New Cable Nelson's regu ar \$325. To sell quick, \$229, \$15 cash, \$8.00 month. 1 Kingsbury piano, used very little. Regular price, \$400, to sell quick, \$193, \$10 cash, \$7.00 per month. 1 Kranich & Bach, upright piano. Good order; was \$450, this sale \$195, \$8.00 per month. Large shipment Kranich and Bach and Lester Pianos just in--Easy Terms.



McMILLAN'S SPECIALS For Monday 100 dozen Granite Linen Finish Towels, 18x36, special 98c Men's Fleece Lined Underwear, per suit 69c One case of Linenette, 12 yards for \$1.00 White Table Damask, 2, 2 1-2 and 3 yard length Mill Ends, per yard 23c 100 pair Ladies' Shoes, sizes 3, 3 1-2, 4, 4 1-2, values up to \$2, special \$1.13 for Monday 50 Smith Velvet Rugs, sizes 27x54, \$3 value, for \$1.98 For Bargains See McMILLAN 115 South Palafox.