

# GENEROUS RAIN SOAKS THE STATE

### From One-Half to an Inch Over All Points West of Fremont and Ashland Thursday Night.

### GREAT HELP TO THE CROPS

Practically all of Nebraska, according to morning reports to the Union Pacific, the Burlington and Northwestern, was given a thorough wetting Thursday and while no locality was suffering on account of moisture, it is contended that the rain will be of great benefit to the winter wheat and the pastures.

Along the Union Pacific, from Fremont as far west as Cheyenne, Wyo., there was a general rain, beginning in the evening and continuing until well into the morning. The precipitation ranged from one-fourth to one and one-fourth inches, the heaviest

rainfall being between Grand Island and North Platte.

Along the Burlington, on the Burlington system there was the light rain east of Ashland, but west of there it was heavy. At and around Madrid there was fully an inch, it following a two-inch rain Thursday. Up and down the valley of the Republican there was generally around three-fourths to an inch, with one and one-half inches at Red Cloud. Through the southern tier of counties in the state the rainfall aggregated an inch or more, with about the same precipitation up through the sand hill country and all the way through to the Wyoming state line.

On the Northwestern the rain was general all the way from Fremont up the Elkhorn and Niobrara valleys and into the Black Hills. North and west of Norfolk it rained all last night and in most localities was still raining this morning. The precipitation is estimated to have been an inch or more.

### FIRST CHERRIES OF THE SEASON ON THE MARKET

California cherries at \$1 a pound are now on the Omaha market. The price is accounted for by the fact that they are the first of the season, and extra choice at that. The first ten-pound box was sold by the Young-Burke Commission company to Courtney & Co. It came from Zacaoville, Cal.

## Text of Dissent by Justices Holmes and Hughes in the Leo Frank Case

The text of the dissenting opinion in the Frank case, delivered by Justice Holmes, follows:

"Mr. Justice Hughes and I are of the opinion that the judgment should be reversed. The only question before us is whether the petition shows on its face that the writ of habeas corpus should be denied or whether the district court should have proceeded to try the facts. The allegations that appear to be material are these:

"The trial began on July 28, 1913, at Atlanta, and was carried on in a court packed with spectators and surrounded by a crowd outside, all strongly hostile to the petitioner. On Saturday, August 23, this hostility was sufficient to lead the judge to confer in the presence of the jury with the chief of police of Atlanta and the colonel of the Fifth Georgia regiment stationed in that city, both of whom were known to the jury. On the same day, the evidence seemingly having been closed, the public press, apprehending danger, united in a request to the court that the proceedings should not continue on that evening. Thereupon the court adjourned until Monday morning.

"On that morning, when the solicitor general entered the court, he was greeted with applause, stamping of feet and clapping of hands, and the judge, before beginning his charge, had a private conversation with the petitioner's counsel, in which he expressed the opinion that there would be probable danger of violence if there should be an acquittal or a disagreement, and that it would be safer for not only the petitioner, but his counsel, to be absent from court when the verdict was brought in. At the judge's request they agreed that the petitioner and they should be absent, and they kept their word. When the verdict was rendered, and before more than one of the jurors had been polled, there was such a roar of applause that the polling could not go on until order was restored. The noise outside was such that it was difficult for the judge to hear the answers of the jurors, although he was only ten feet from them.

"With these specifications of fact, the petitioner alleges that the trial was dominated by a hostile mob and was nothing but an empty form.

"Can't Legalize Mob Law. "We lay on one side the question whether the petitioner could or did waive his right to be present at the polling of the jury. That question was apparent in the form of the trial and was raised by the application for a writ of error; and although, after the application to the full court was granted, we never have been impressed by the argument that the presence of the prisoner was required by the Constitution of the United States. But habeas corpus cuts through all forms and goes to the very tissue of the structure. It comes in from the outside, not in subordination to the proceedings, and, although every form may have been preserved, opens the inquiry whether they have been more than empty shell.

"The argument for the appellee, in substance, is that the trial was in a court of competent jurisdiction, that it retains jurisdiction, although, in fact, it may be dominated by a mob, and that the rulings of the state court as to the fact of such domination cannot be reviewed. But the argument seems to us inconclusive. Whatever disagreement there may be as to the scope of the phrase, 'due process of law,' there can be no doubt that it embraces the fundamental conception of a fair trial, with opportunity to be heard. Mob law does not become due process of law by securing the assent of a terrorized jury. We are not speaking of mere disorder or mere irregularities in procedure, but of a case where the processes of justice are actually subverted. In such a case the federal court has jurisdiction to issue the writ. The fact that the state court still has its general jurisdiction and is otherwise a competent court does not make it impos-

sible to find that a jury has been subjected to intimidation in a particular case. The loss of jurisdiction is not general, but particular, and proceeds from the control of a hostile influence.

"When such a case is presented it cannot be said, in our view, that the state court decision makes the matter res judicata. The state acts when by its agency it finds the prisoner guilty and condemns him. We have held in a civil case that it is no defense to the assertion of the federal right in the federal court that the state has corrective procedure of its own—that still less does such procedure draw to itself the final determination of the federal question: Simon against Southern Railway Company, 236 U. S. 115, 122, 123.

### Duty Imposed on Court.

"We see no reason for a less liberal rule in a matter of life and death. When the decision of the question of fact is so interwoven with the decision of the question of constitutional right that the one necessarily involves the other, the federal court must examine the facts: Kansas City Southern Railway Company against C. H. Albers Commission Company, 225, U. S. 573, 591; Norfolk & Western Railway Company against Conley, March 8, 1915. Otherwise, the right will be a barren one.

"It is significant that the argument for the state does not go so far as to say that in no case would it be permissible on application for habeas corpus to override the findings of fact by the state courts. It would, indeed, be a most serious thing if this court were to so hold, for we could not but regard it as a removal of what is perhaps the most important guaranty of the federal constitution. If, however, the argument stops short of this, the whole structure built upon the state procedure and decisions falls to the ground.

"To put an extreme case and show what we mean, if the trial and the later hearing before the supreme court had taken place in the presence of an armed force known to be ready to shoot if the result was not the one desired, we do not suppose that this court would allow itself to be silenced by the suggestion that the record showed no flaw. To go one step further, suppose that the trial had taken place under such intimidation and that the supreme court of the state on writ of error had discovered no error in the record, we still imagine that this court would find a sufficient one outside of the record, and that it would not be disturbed in its conclusion by anything that the supreme court of the state might have said.

### PIMPLY? WELL, DON'T BE!

People Notice It. Drive Them Off With Dr. Edwards' Olive Tablets.

A pimply face will not embarrass you much longer if you get a package of Dr. Edwards' Olive Tablets. The skin should begin to clear after you have taken the tablets a few nights. Cleanse the blood, the bowels and the liver with Olive Tablets. Dr. Edwards' Olive Tablets are the successful substitute for calomel—there is never any sickness or pain after taking them. Dr. Edwards' Olive Tablets are that which calomel does, and just as effectively, but their action is gentle and safe instead of severe and irritating. No one who takes Olive Tablets is ever cursed with "a dark brown taste," a bad breath, a dull, listless, "no good" feeling, constipation, torpid liver, bad disposition or pimply face. Dr. Edwards' Olive Tablets are a purely vegetable compound mixed with olive oil, you will know them by their olive color. Dr. Edwards spent years among patients afflicted with liver and bowel complaints and Olive Tablets are the immensely effective result. Take one or two nightly for a week. See how much better you feel and look. 10c and 25c per box. All druggists. The Olive Tablet Company, Columbus, O.

nothing more—United States against Sing Tuck 194, U. S. 161, 168) that calls for a resort to the local appellate tribunal before coming to the courts of the United States for a writ of habeas corpus, when, as here, that resort has been had in vain, the power to secure fundamental rights that had existed at every stage becomes a duty and must be put forth.

### Jury Affected by Mob Spirit.

"The single question in our minds is whether a petition alleging that the trial took place in the midst of a mob savagely and manifestly intent on a single result is shown on its face unwarranted by the specifications, which may be presumed to set forth the strongest indications of the fact at the petitioner's command. This is not a matter for polite presumptions; we must look facts in the face. Any judge who has sat with juries knows that in spite of forms they are extremely likely to be impregnated by the prevailing atmosphere. And when we find the judgment of the expert on the spot, of the judge whose business it was to preserve not only form, but substance, to have been that if one juror yielded to the reasonable doubt that he himself later expressed in court as the result of most anxious deliberation, neither prisoner nor counsel would be safe from the rage of the crowd, we think the presumption overwhelming that the jury responded to the passions of the mob.

"Of course, we are speaking only of the case made by the petition and whether it ought to be heard. Upon allegations of this gravity in our opinion it ought to be heard, whatever the decision of the state court may have been, and it did not need to set forth contradictory evidence, or matter of rebuttal, or to explain why the motions for a new trial and to set aside the verdict were overruled by the state court.

"There is no reason to fear an impairment of the authority of the state to punish the guilty. We do not think it impracticable in any part of this court to have trials free from outside control. But, to maintain this immunity, it may be necessary that the supremacy of the law and of the federal constitution should be vindicated in a case like this. It may be that on a hearing a different complexion would be given to the judge's alleged request and expression of fear.

"But, supposing the alleged facts to be true, we are of opinion that, if they were before the supreme court, it sanctioned a situation upon which the courts of the United States should act; and if for any reason they were not before the supreme court, it is our duty to act upon them now and to declare Lynch law as little valid when practiced by a regularly drawn jury as when administered by one elected by a mob intent on death."

## Petitions for Clemency for Leo M. Frank are in Circulation and Many Volunteers are Asking for Them.

A good start has been made with the circulation of petitions prepared by The Bee asking the governor of Georgia to save Leo M. Frank from the death penalty, and a number of volunteers have already applied for blanks. The first request of this kind came from Arthur F. Geyer, 2320 Dewey avenue, shortly after the paper containing the plan was off the press.

As a graduate of Cornell, where Frank was also graduated, James Richardson, former member of the School board, has written to fifty-two Cornell alumni in this locality to enlist their interest in the movement. "Understanding the situation which exists at Atlanta," said Mr. Richardson, "it is easy to comprehend why this effort should be made for Frank, regardless of the fact that we happen to be members of the same alumni association. I have talked to several Cornell men here and they are ready and willing to assist in asking for clemency for Frank."

A sample of many letters that are coming to The Bee is the following: COUNCIL BLUFFS, Ia., April 22.—To the Editor of The Bee: You are to be commended on your appeal in behalf of Leo M. Frank. It is inconceivable that the people of the country will allow this thing to take place, and if the powerful

highest court in the land, the United States supreme court, a form of recall that is diametrically contrary to the principles which The Bee and its distinguished editor have so strenuously stood out against. The action by the federal supreme court in this case was no mere perfunctory or technical one, but entered into the merits of the case, and found that no legal rights of the defendant had been denied him. The Bee and some other papers are considering in this case the newspaper forum, one which may wholly ignore and hence cast disrespect upon all the courts. J. F. HANSON.

### CLERK LEAVES WITH MONEY OF THE SALVATION ARMY

Frank Brown, who has been night clerk at the Salvation Army Industrial Home since the last winter, disappeared from that institution Thursday night, as did also \$30 belonging to the Army.



### Spring Money Saving Shoe Sale

All the new spring styles for women in pumps, oxfords, high shoes, including the new colored tops, in gun metal, patent and dull kid, all go at ..... \$2.45

**Men! Supreme Values for You**  
Brand new styles in high shoes and oxfords, every pair worth from \$3 to \$6 per pair, during this sale \$2.45, \$2.95 your choice at .....  
All Men's Elk Outing Shoes \$1.95 at .....

Mail Orders Filled Same Day As Received, and We Pay Parcel Post.

### Loyal Shoe Store

Loyal Hotel Building  
16th and Capitol Ave., Omaha



## \$3 and \$5 Hat Sale Saturday

Why is it that some women are so much more youthful looking with a hat on than without?

That's the Milliner's Secret. Let Our Artists Put You in That Class

# 147 HATS to SELL at EACH \$5 \$3

Most of these are a very special purchase just in. Similar in style and character to those admired so much and sold so freely at Easter time. White Milans, Hems, Leghorns, Sand Shades and Blacks. Trimmed with flowers, wings and ribbons.

Pretty trimmed hats in blacks and colors—a most unusual offering so early in the season—but there is a special reason and an important object to be gained. Too long a story for now—of more interest to you will be the price. **ON SATURDAY—**

Now the first lot contains hats worth \$10, \$15 and even more dollars than that. The \$3.00 lot embraces hats also worth 2, 3 and some would say 4 times that price. Come early; the sale starts at 8:30. Here is one place where the race is to the swift.

Do you remember Dickens' story of Sarah Gamp's false hair. "It was wrong to call it false," he said, "for in truth it deceived nobody."

The fairy stories which you read nowadays deceive very few. No deceptions ever practiced in this store of yours.

*Thomas Kilpatrick Co*

## Saturday will be another great day at Kilpatrick's

**ON SATURDAY WILL END THE SKIRT MAKING FOR \$1.00.** Hundreds upon hundreds of delighted customers testify to the satisfactory cut, work, style and finish of our

**MADE TO ORDER SKIRTS**  
Not every woman likes to be dressed like some other woman, and so such opportunities as are offered in this made to measure movement is welcomed by particular dressers. You have our large and well selected stock of Dress Goods to choose from. Prices low as usual. You pay only for the exact length required. First to order, first to get. Cannot promise deliveries now before May 15th. This is the last chance to get under the wire at

**THE ONE DOLLAR PRICE**

**ONE WEEK more of SUIT and COAT making.**  
Coats made for \$6.50. Suits made for \$18.00.

At Glove Section we have opened up 40 Dozen Pairs of Choice Kid Gloves of all colors. Saturday 98c. Unmatchable, we believe, below \$1.25 PER PAIR.  
Elbow length Silk Gloves, imported, 79c and 98c.

**MRS. JONES** is back from NEW YORK CITY! There is much significance in this announcement. Her long general experience East and West makes her counsel of great value. Good judgment and good taste are hers also. Many of her purchases are in. Oh, My! is a frequent exclamation from those who have seen the Beautiful New Blouses, New Suits, New Dresses. Reminders of Fifth Avenue, good dressers say.

Many of the Garments enumerated below are shown for the very first time in ANY RETAIL STORE.

**CREPE DE CHINE BLOUSES**  
All the most popular colors and shadings—Maize, Flesh, Cream. All the appearance and chicness of a \$6 garment. Saturday, \$3.75.

**THE BEAUTIFUL NEW SUITS**  
Look carefully through the new suits. Many in material, make, etc., fitted to go into the \$40.00 class. Saturday, \$25.00.

**THE SEPARATE SKIRTS**  
Skirts of the faultless fabric, Ramper Chuddah, with the flare Tunic. Saturday, \$5.00.

**CHILDREN'S AND JUNIOR SECTIONS!**  
Children's Cotton Dresses. The very thing for school wear, and so comfortable, clean and useful for the hotter days.  
Ginghams, Percales, Etc., usually \$1.50 to \$2.00, Saturday \$1.29.  
A Junior Suit made from New Stylish Practical Tweeds. This same cloth we have sold in suits at \$25.00; Saturday, only \$10.00.

**AND HERE'S A BARGAIN IN DRESSES—**Some are Silk. Some are Linen. Some classed as Lingerie. Whatever the material, they will sell Saturday at \$2.98 EACH. Many were \$10.00.

**CHILDREN'S HOSIERY.** For a long time we have sold Pony Stockings for Children, made by the Wayne Knitting Co. of Fort Wayne, Indiana. If your children have worn

this brand no argument is necessary. We have demonstrated their value and wearability. The makers have sent us a lot of Kaleidoscopes to give to the children. Very interesting to look through these and witness the various geometric figures and changing colors. One given freely with every purchase of Pony Stockings Saturday.

**WOMEN'S HOSE**  
The Wayne people guarantee 4 pairs of Stockings for 4 months and the price is \$1.00. Their guarantee is backed by us and is absolutely good to you. Another Wayne number is No. 789, Pure Silk, 75c pair—**WAYNE WEARABILITY** and they are beautiful also.

**MEN'S UNDERWEAR—**Complete assortments of spring weights, now shown. Various shapes Union Suits, knee and ankle length, long and short sleeves, \$1, \$1.50 and \$2.  
All the livelong day we'll have a **Tie Sale.** Ties with flowing ends—of superior silk—the designs very good. A regular 50-cent tie; your choice on Saturday at 25 cents each.

Lively doings in the Basement Salesroom—Gathered together in one big showing you will find Printed Plisse, Sheeron Mulls, Lace Cloth, 32-inch Scotch Gingham, Japanese Crepe and a new cloth.  
Many of these sold as high as 25 cents a yard. Full length perfect goods. On Saturday 12½¢ a yard.

You won't care much whether the maid breaks the Cups and Saucers or not. Read what comes next: Two tables covered with Plates, Cups

and Saucers, Dishes, Jardineres, etc. Saturday in the Basement—your pick at 10¢ each.

**SECOND FLOOR UNDERWEAR SECTION**  
Sale of New Gingham and Seersucker Petticoats. Right dainty and sensible for use under the summer dress. Priced from \$1.00 up.  
Low Necked Summery Night Gowns—Made from soft, light weight fabrics, trimmed in the prettiest style—made to retail at \$2.00. Yours on Saturday \$1.39 each.

Special Handkerchief Sale for Men. Pure linen. Not more than 12 to a customer, 7½ cents each. Linens of all kinds are higher and still climbing.  
125 dozen All Linen Handkerchiefs for women—initial and plain hemstitched—3½¢ each, or 40c for a dozen.

At Toilet Section—A 50-cent jar of Palm Olive Cream and 3 cakes of the celebrated Palm Olive Soap, all for 39¢—value, 75c.  
Madame Isabelle's Face Powder at 29c a box. The regular price is 50c a box.

We commend Mr. Gillespie's letter on 6 o'clock Saturday closing to the Retailers' Association. Surely now Omaha has gotten out of her swaddling clothes. Are we still a village? Perhaps it's love of the Dollar. Wonder if it's consideration for the working man. Dear reader, you and the rest of the dear public can give this boon to those who work in stores if you will. Do you care?

*Thomas Kilpatrick Co*