

RIGHT OF CITIZENS TO VOTE

Crux of Case Presented on Behalf of Taft Republicans.

JOHN LEE WEBSTER'S ARGUMENT

Men Chosen as Republicans and Claiming to Be Bull Moose Entitled to No Consideration from Court.

(Continued from First Page.)

shall remain faithful to that trust. In this case it means that the republican presidential electors whose names are to appear on the ballot as such should continue to be republicans and not become democrats or progressives...

Vacancy in the Electoral Ticket.

The six so-called republican presidential electors who have declined to remain true to their trust and obligation to the republican party, and who have been nominated as presidential electors by the progressive party...

Presidential electors have but one duty to perform, and that is to assemble and vote for their party nominees for president and vice president. If these men were to be elected on the republican ticket they had but one duty to do...

The mere fact that these men have accepted the nomination by the progressive party, indeed, of itself, under the circumstances, has vacated their place on the republican presidential ticket...

The supreme court of Iowa in State against Anderson, 136 N. W., 128, lately said:

It is a well settled rule of common law that if a person while occupying one office accept another incompatible with the first, he ipso facto vacates the first office and his title thereto is thereby terminated without any act or proceeding...

The consensus of all the authorities upon the general principle of law is that the said bull moose men by their own conduct have resigned from their places on the republican ticket...

Republican ticket which may be filled by the republican state central committee.

In the case in the 5th Nebraska referred to, the committee of the people's independent party assumed that there existed a vacancy and nominated a man to fill the vacancy...

Party Nominations.

When the Nebraska election laws were passed it is a matter of general knowledge that the political affairs of this country are controlled by political organizations and the laws were enacted with reference to those existing conditions...

Section 117 of chapter 28 recognizes nominations of candidates for president and vice president of the United States, and further provides: 'Every qualified elector, every political party subject to this act shall have an opportunity to vote his preferences on his party nominating ballot for his choice for one person to be the candidate of his political party for president and one person to be the candidate of his political party for vice president of the United States.'

There is a specific statutory provision that the thousands of citizens of Nebraska who want to vote for Taft for president and Sherman for vice president shall have an opportunity on the ballot to vote for republican presidential electors who will express their choice for William Howard Taft for president and James S. Sherman for vice president. There is no escaping the argument nor the conclusion that the lawmakers intended by that section to give that authority and privilege to the citizen. It does not lie within the provisions and is not within the legitimate power or authority of the secretary of state, nor of the six men who vacated their right to remain on the ballot, to interfere with the right of republicans to express their choice by an honest, straight republican ticket for Taft for president and Sherman for vice president.

So firmly is the thought of a political party imbedded in the statute laws of the state of Nebraska that it is again provided in the primary law that an elector is not entitled to vote at such primary election until he shall have first stated the judges of such primary election what political party he affiliates with. The phraseology of that section prohibits a man from voting at a primary unless he is willing to declare under oath what political party he belongs to.

Again, there is another way of determining whether a man is a republican or a democrat. Section 118-g of chapter 28, among other things, provides:

The action of the preceding national convention of such party regularly called shall determine the action of the secretary of state, or the court in its decision. The secretary of state may be compelled by peremptory orders of mandamus proceedings to perform his duty in this regard.

The national republican convention at Chicago by its platform declared what were the doctrines and principles of the republican party. It was that convention by its platform that defined republicans. Just as the democratic convention at Baltimore defined what should be the democratic party, and just as the bull moose convention called at a later date in Chicago determined what should constitute the bull moose party. By these three conventions there were recognized three independent political parties with platforms, which are each inconsistent with and antagonistic to the other. A man has no right to say 'I am a republican, and I am going to support the platform and nominees of the democratic party,' any more than another man has a right to say he is a democrat, but proclaims that he is going to support the principles and nominees of the republican party. It follows,



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Advertisement for Berg Clothing Co. featuring 'Progressives-- HERE'S a store that doesn't rest on past laurels...' and 'The Berg Clothing Co. 15th & Douglas'.

as, of course, that the men who support the platforms of the bull moose party and support its nominees for president and vice president, cannot honestly and fairly say in any sense of the word that they are members of the republican party.

Voting Machine Act.

The right to a political organization and a straight party ticket is provided for by the voting machine act. In that act among other things it is provided that the machine shall be so arranged that a straight party ticket can be voted by the operation of a single device.

That the names of the candidates for presidential electors need not appear upon the ballot labels, but in lieu thereof one ballot in each party column or row may contain only the words 'presidential electors' preceded by the party name and the names of the candidates for president and vice president, and every vote registered for such ballot shall operate as a vote for all candidates of such party for presidential electors.

Under that act it would be sufficient on the voting machine to put at the head 'Republican party, William H. Taft for president; James S. Sherman for vice president,' and that the pulling of the single lever should vote the entire republican presidential electoral ticket, which means eight electoral votes for Taft and Sherman.

The present arrangement of the ballot by the secretary of state absolutely nullifies the voting machine act. Is it possible that the secretary of state is qualified with power to wipe out by his arrangement of the ballot the voting machine act and destroy the right of the elector to vote a straight republican ticket by a single stroke of the lever?

Australian Ballot Law.

The Australian ballot act in section 140 also provides for a straight party ballot so arranged that the voter can put a cross in the circle at the top and vote a straight party ticket. Now that section provides that the ballot shall be so arranged that each party candidate shall be arranged under the party name and that a circle shall be connected with the party name; over the top circle shall appear the following printed instructions: 'To vote a straight ticket mark a cross within your party circle.'

The way the ballot is arranged by the secretary of state and by the conduct of these six bull moose electors, the Australian ballot law of this state is nullified. Our contention is that it is not within the power or authority of these six men or of the secretary of state to wipe out either the voting machine law or the Australian ballot law of this state, which by their positive and express provisions give to the republican party the right to vote a straight republican ticket.

The constitutional right of republicans to have a party ticket and to vote it: 'The constitution of the state of Nebraska among other things provides: 'All elections shall be free and there shall be no hindrance or impediment to the right of a qualified voter to exercise the elective franchise.' That constitutional provision implies within its very terms and substance that the citizen shall have a right to cast a ballot which shall express his preference for president and vice president—not that he should be required to vote for two Taft men, and at the same stroke to vote for six Roosevelt men on the electoral ticket.

The supreme court of this state has recognized this constitutional right of political party privileges.

Nebraska cases fully and clearly recognize and declare the principle that political parties are entitled to maintain their political organization, and are entitled to have their party ticket put upon the ballot, and have the constitutional right to vote a straight party ticket which shall be a vote for men who will stand by the members and platforms of the party and support its candidates for president and vice president. The rights are among the constitutional rights of the members of the republican party, and any law or act or any rule which interferes with that constitutional privilege of the members of the republican party is unconstitutional and void.

Ayers Denies Party's Right.

Deputy Attorney General Ayres denied the right of the republican party to act in the matter and was frequently asked questions by Judges Cosgrave and Cornish as to the points in his contentions. C. C. Flansburg, speaking as 'a friend of the court,' made a political speech, in which he assailed the national republican committee and the rump state convention.

Mr. Jefferis in answer to the charge of Mr. Flansburg that the bull moose electors were elected by the people, stated

ENGLISH COMPANY TO MAKE SHELLS FOR GOVERNMENT

WASHINGTON, Oct. 18.—Determined to learn whether foreign manufacturers can sell the United States navy shells of equal quality for one-third less than the lowest price Americans will offer, the Navy department today awarded a contract to the Hadfield Steel Foundry company of Sheffield, for 500 out of a total 5,000 armor-piercing projectiles contracted for. Department officials believe that if the English product measures up to the test, the avowed intention of the government to buy abroad when necessary to meet exorbitant domestic bids will result in a substantial lowering of American prices.

FIELDING INJURED WHEN TRAIN HITS HIS WAGON

TECUMSEH, Neb., Oct. 18.—(Special.)—Yesterday George B. Fielding was painfully, though not seriously injured. He, Patrick Anson and S. R. Greer were going to Anson's house, where Greer and Fielding were to do some painting, driving a team of mules. A train on the Burlington, running through the city at a high rate of speed struck the vehicle. Fielding was thrown out of the rig and when picked up was unconscious.

BROKEN BOW BOY IS KILLED IN COLORADO

BROKEN BOW, Neb., Oct. 18.—(Special.)—D. W. Lanterman has received word that his son, Stewart, was murdered Wednesday night by a stockman, Terry, about twenty miles from Deer Trail, Colo. Stewart Lanterman was well known here, having been a resident of Broken Bow most of his life, up to three years ago, when he and his brother Blaine went to Colorado to take up homesteads. From reports received here by Lanterman there had been some trouble between Terry and the homesteaders, which finally culminated in Wednesday night's tragedy. Particulars of the affair are unknown.

JOHN SCHRANK LAYS CLAIM TO ROOSEVELT BULLET

MILWAUKEE, Wis., Oct. 18.—For the first time since he was incarcerated, John Schrank today asked a deputy sheriff how Colonel Roosevelt was. When told his

CHILDREN JOIN IN SEARCH FOR JEANNETTE GORSKI

CHICAGO, Oct. 18.—Fifteen hundred school children joined the police in the search today for Jeannette Gorski, 2 years old, who disappeared yesterday under strange circumstances. The mother believes she was kidnapped. Two women seen playing with the girl shortly before she vanished are being sought by the police.

To Protect French Subjects.

TULON, France, Oct. 18.—Five French warships have been ordered to be held in readiness to proceed to the Syrian coast, should their presence be deemed necessary there for the protection of French citizens. Two French warships are already stationed off the Syrian coast.



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Advertisement for Sunshine Biscuits. Text includes: 'Crisp and Slightly Sweetened', 'Sunshine Biscuits', '10c', 'FREE TRIAL'.

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