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ours.

RIGHT OF CITIZENS TO VOTE republican ticket which may be filled by the republican state central committee. Crux of Case Presented on Behalf of

Taft Republicans.

JOHN LEE WEBSTER'S ARGUMENT

Men Chosen as Republicans and Claiming to Be Bull Moosers 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, and that they shall vote for William Howard Taft for president and James S. Sherman for vice president, not that they should vote for Wilson for president or for Roosevelt for president.

Vacancy in the Electoral Ticket. "The six so-called republican presidential electors who have declined to reby the progressive party, and whose names are to appear upon the ballot as president of the United States. electors for the progressive party, have vacated their place on the republican that the thousands of citizens of Neticket as fully and effectually as if they had voluntarily resigned. It is a principle of law elementary that has been dent shall have an opportunity on the recognized from the days of Lord Bacon ballot to vote for republican presidential down to this that no man nor set of men electors who will express their choice for can accept two positions or two offices William Howard Taft for president and that are inconsistent with each other, or James S. Sherman for vice president. the duties of which are incompatible There is no escaping the argument nor each with the other.

They cannot vote for Tatt for president and at the same time vote for Roosevelt Sherman for vice president. for president any more than they could

rote for Wilson for vice president. It is party imbedded in the statute laws of the too plain for discussion and it passes our state of Nebraska that it is again pro comprehension that anybody should suggest that these men could be true to their trust by deserting the republican party and supporting the progressive party. "The mere fact that these men have

accepted the nomination by the progresphraseology of that section prohibits a sive party, indeed, of itself, under the man from voting at a primary who does circumstances, has vacated their place not belong to a political party. It proon the republican presidential ticket, and hibits him from voting at a primary unthat six vacancies exist which may be less he is willing to declare under oath filled by the republican state central what political party he belongs to. committee is clear within the adjudicated "Again, there is another way of decases. ermining whether a man is a republican

"The supreme court of Iowa in State or a democrat. Section 115-q of chapter that the machine shall be so arranged party. against Anderson, 136 N. W., 128, lately 26, among other things, provides: said:

The action of the preceding national convention of such party regularly called It is a well settled rule of common law that if a person while occupying one shall determine the action of the secretary of state, or the court in its decision. The secretary of state may be compelled office accept another incompatible with the first, he ipso facto vacates the first office and his title thereto is thereby by peremptory orders of mandamus pro-ceedings to perform his duty in this re-gard. terminated without any act or proceed-ing. * * * * The test of incompatibil-

ity is whether there is any inconsistency in the functions of the two. * * * or where the duties of the two offices are "The national republican convention at Chicago by its platform declared what inherently inconsistent and repugnant, * * it is held that incompatibility in office exists where the nature and duties were the doctrines and principles of the republican party. It was that convention by its platform that defined repubof the two offices are such as to render it improper from considerations of public licans. Just as the democratic conven-

"In the case in the 57th Nebrasha referred to, the committee of the people's independent party assumed that there exlsted a vacancy and nominated a man to fill the vacancy, and the court recognized its power and authority to do so.

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 organization and the laws were enacted with reference to those existing condi-The statute laws of Nebraska in tions. specific terms in many sections recognize the right to make party nominations. Indeed the statute laws of Nebraska recognize party nominations, party affiliations and the right to vote a straight party ticket as one of the fundamental

principles of our government. "Section 117 of chapter 26 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 nominamain true to their trust and obligation ting ballot for his choice for one person to the republican party, and who have to be the candidate of his political party been nominated as presidential electors for president and one person to be the candidate of his political party for vice

"There is a specific statutory provision braska who want to vote for Taft for president and Sherman for vice presithe conclusion that the lawmakers in-

"Presidential electors have but one tended by that section to give that auduty to perform, and that is to assemble thority and privilege to the citizen. It and vote for their party nominees for does not lie within the provisions and is president and vice president. If these not within the legitimate power or aumen were to be elected on the republican thority of the secretary of state, nor of ticket they had but one duty to do, which the six men who vacated their right to would be to assemble and vote for Wil- remain on the ballot, to interfere with liam Howard Taft for president and the right of republicans to express their James S. Sherman for vice president. choice by an honest, straight republican ticket for Taft for president and

> "So firmly is the thought of a political vided in the primary law that an elector is not 'entitled to vote at such primary election until he shall have first stated to the judges of such primary election what political party he affiliates with.' The

that 'a straight party ticket can be voted

upon the ballot labels, but in lieu thereof FIELDING INJURED WHEN one ballot in each party column or row may contain only the words "presidential

registered for such ballot shall operate fully, though not seriously injured. He, as a vote for all candidates of such party Patrick Anson and S. R. Greer were pany went 1,500 twelve-inch at \$279.40 each "Under that act it would be sufficient

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diak

Progressives--

LIERE'S a store that doesn't rest on past laurels; an alert store; bright, sunny and cheerful; a good place to buy because always ready with all the good styles and fabrics; nothing old, sedate or conservative about our clothes or welcome. The facts are emphasized by our representation of Schloss Bros., Kuppenheimer, Stein-Bloch and Society Brand clothes-the progressive makers whose leadership is shown by the unquestioned superiority of their clothes. The man who wears these suits or overcoats once will wear them always—and we show all of them. New models, new fabrics, unquestioned values-\$10 to \$40, with many excellent selections for Saturday's selling

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Berg Clothing Co Velour and Rough Hats, all colors and

as, of course, that the men who support that they were not elected by all the the platforms of the buil moose party peopl, but by a part of th people who and support its nominees for president called themselves republicans, and that and vice president, cannot honestly and they were elected as republicans to carry fairly say in any sense of the word that out the will of the republican party and

Voting Machine Act. "The right to a political organization and a straight party ticket is provided act among other things it is provided

* That the names of the candidates day morning. for presidential electors need not appear

electors" preceded by the party name, and the names of the candidates for president and vice president, and every vote Yesterday George B. Fleiding was painfor presidential elecors." policy for an incumbent to retain both. tion at Baltimore defined what should



WASHINGTON, Oct. 18.-Determined to they are members of the republican party, no other party, and that they had ac- learn whether foreign manufacturers can cepted a nomination directly antigonistiq sell the United States navy shells of

equal quality for one-third less than cial.)-D. W. Lanterman has received to the republican party, and under the law as quoted by Mr. Webster, their own the lowest price Americans will offer. word that his son, Stewart, was murdered willed to my mother in Germany." for by the voting machine act. In that act had vacated the offices they were the Navy department today awarded a Wednesday night by a stockman, Terry, holding as nominees of the republican contract to the Hadfield Steel Foundry about twenty miles from Deer Trail, company of Sheffield, for 500 out of a Colo.

The court announced that a decision total 5,500 armor-piercing projectiles conty the operation of a single device . . would be rendered at 9:30 o'clock Satur- tracted for. Department officials believe here, having been a resident of Broken that if the English product measures up Bow most of his life, up to three years

TRAIN HITS HIS WAGON

TECUMSEH, Neb., Oct. 18 .-- (Special.)contract for 300 twelve-inch projectiles at \$18 7each. To the Bethlehem Steel com-

going to Anson's house, where Greer and and 500 fourteen-inch at \$500 each; to the JOHN SCHRANK LAYS CLAIM Fielding were to do some painting, driv-Washington Steel and Ardney

ENGLISH COMPANY TO MAKE

share amounts to \$95,500 out of a total condition was favorable, Schrank asked where the colonel had been shot and if the bullet had been located. "The bullet belongs to me," said the

styles, at-

\$2.00 to \$7.50

prisoner. "I have made my will and bequeathed the bullet to the New York Historical society, with a request that it

BROKEN BOW, Neb., Oct. 18 -- (Spebe placed on exhibition in the state capital. My property in New York, I have

CHILDREN JOIN IN SEARCH FOR JEANNETTE GORSKI

to the test, the avowed intention of the ago, when he and his brother Blaine CHICAGO, Oct. 18 .- Fifteen hundred went to Colorado to take up homesteads, school children joined the police in the From reports received here by Lantersearch today for Jeannette Gorski, 2 years man there had been some trouble beold, who disappeared yesterday under tween Terry and the homesteaders, strange circumstances. The mother bewhich finally culminated in Wednesday lieves she was kidnaped. Two women night's tragedy. Particulars of the afseen playing with the girl shortly before she vanished are being sought by the

o Protect French



Stewart Lanterman was well known

fair are unknown

For a presidential elector to say he is a candidate on the republican ticket the bull moose convention called at a and on the buil moose ticket, is to put later date in Chicago determined what him in position of holding two offices of should constitute the boll moose party. trust as inconsistent and incompatible By these three conventions there were with each other as if he were likewise recognized three independent political to be a candidate on the democratic parties with platforms, which are each inticket and to have pledged his word of consistent with and antagonistic to the honor that he would vote for Wilson for other. A man has no right to say 'I president. am a republican, and I am going to

"The consensus of all the authorities support the platform and nominees of upon the general principle of law is that the democratic party,' any more than the said ball moose men by their own another man has a right to say he is conduct have resigned from their places a democrat, but proclaims that he is on the republican ticket and that six going to support the principles and nomiracancies have been cerated on the nees of the republican party. It follows,

Crisp and Slightly

Sweetened

Sunshine Jatines Biscuit

Matimee Biscuit

lO¢

Biscuits

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 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 so be 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 he republican party the right to vote a traight republican ticket. 'The constitutional right of republicans

o 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 ai 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 con

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

ing a team of mules. A train on the Bur- 500 twelve-inch at \$277 each, and 1,000 head 'Republican party, William H. Taft lington, running through the city at a for president; James S. Sherman for high rate of speed struck the vehicle. Crucible Steel company of America, 1,000 first time since he was incarcerated. John should their presence be dee fourteen-inch at \$490 each, and to the

American prices.

government to buy abroad when neces-

sary to meet exorbitant domestic bids

will result in a substantial lowering of

The Hadfield company was given the

IO ROOSEVELT BULLE

TULON, France, Oct. 18 .- Five Frenc varships have been ordered to be held in readiness to proceed to the Syrian coast

vice president,' and that the pulling of Fielding was thrown out of the rig and twelve-inch at 0274.75 each, and 500 four- Schrank today asked a deputy sheriff how sary there for the protection translated a deputy sheriff how citizens. Two French warshi teen-inch at \$500 each. The Hadfield Colonel Roosevelt was. When told his ready stationed off the Syrian coast warships are al



YOUR VOTE FOR PRESIDENT NOV. 5TH-May and ought to be a serious matter to you - but no matter whether your man wins or loses you'll soon be reconciled to the result and continue to be a patriotic citizen.

BUT IT'S DIFFERENT WITH CLOTHES-You are personally concerned in the result there. If you vote right you win personal comfort and self-satisfaction that means much to you and if you vote wrong you lose, not only personal comfort, but your temper too a great many times before the garments are half worn out.

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Are deservedly far ahead of all other candidates and we want to see you vote for them. This is the polling place and thousands of young men and old men are voting here every week for the Best clothes style and quality produced at the prices. Suits or overcoats, \$18 up.

Young men especially should see the splendid new "Varsity" models.

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Blue serge suits that will make you wonder how they

could be produced at the price; all the new weaves in

Scotch worsted and Velours.

In overcoats include the new English Guard - the Shawl Collar - the Converto - the Chesterfield and the Raglan styles. Plain and silk lined.

Comparison of qualities and styles at any price is all that is necessary to make you vote always for Hayden's clothes. Just try it.

New arrivals in boys' reefers and overcoats, underpriced at from \$3.00 to\$10 Hayden Bros.

See the boys' "Zero" Suits -Sizes 6 to 17 years; they're dandies at from \$1.95 to .. \$8.50

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