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State ex rel, Walter N. Carroll,.....Relator,

v.

Julius A. Schmahl, as Secretary of
State of the State of Minnesota,.....Respondent.

PER CURIAM

Relator again asks the court to require the Secretary of State to place his name on the primary ballot as candidate for delegate to the Republican National Convention and as a republican candidate for presidential elector.

As to his candidacy for delegate the facts are the same as on the former hearing, 155 N. W. - except that the application was made after the time for filing names of candidates for the presidency expired. Relator in his affidavit does not specify his choice of the names so filed as candidates for president. The statute requires that he should do so. On the former hearing we held this statute constitutional and valid. We adhere to that decision. It follows that the Secretary of State was right in refusing to accept relator's affidavit.

As to his candidacy for presidential elector, relator has, in the filing affidavit now presented, eliminated the feature which we held objectionable on the former hearing. The only objection raised to the present affidavit is as follows:

The statute reads that "any person ---- desirous of having his name placed upon the ballot as a candidate for presidential elector or delegate shall ---- file his affidavit ---- stating his residence, that he is a qualified voter --- the name of his party -- and --- that he affiliated with such party at the last general election and --- intends to so vote at the ensuing election and that he will to the best of his judgment and ability faithfully carry out the wishes and preferences of the voters of his political party, [as expressed by the voters at such nominating election]." The concluding words in brackets were omitted from relator's affidavit filed for elector.

In the former hearing we intimated an opinion that this language was intended to apply only to the affidavit filed by

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candidates for delegate. We hold that such was the manifest legislative intent. To construe this language as requiring that an elector to be elected in November should pledge himself to vote for the man who was State's choice at the primary held in March but who may fail of nomination at the convention and not be a candidate at all, at the November election would be a result so absurd that only the most unequivocal language could be held to require it. We hold that the affidavit of relator presenting his name as a candidate for presidential elector is sufficient.

The order to show cause so far as it relates to the candidacy for delegate is discharged.

Ordered further that respondent accept the affidavit of relator filing his name as a candidate for presidential elector and place his name on the primary ballot as such candidate.

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STATE OF MINNESOTA,
DEPT OF STATE

in the office of Secretary

February 8 1916

James A. Bethune
Secretary of State