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LaCosta Rickford 10/16/03
Operator's Signature Date

2003 JOINT CONSTITUTIONAL REVISION

HCR 3049

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3049

Joint Constitutional Revision Committee

❑ Conference Committee

Hearing Date February 26, 2003

Tape Number	Side A	Side B	Meter #
1		X	1063-3002
Committee Clerk Signature	Elizabeth R. Linn		

Minutes: **Chair Kretschmar** opened hearing on HCR 3049.

Rep. Warnke: Introduced HCR 3049

John Rolczynski: Supports with written testimony. In addition, feels the resolution should be amended to include the "elected and appointed officials." Currently, the ND Constitution does not require the executive branch to take an oath.

Sen. Mathern cosponsored the bill and supports Mr. Roczynski's testimony.

Glenn Baltrusch: Supports the resolution. Offered amendments to remove the overstrikes on "shall."

Chair Kretschmar: Closed hearing on HCR 3049

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3049

Senate Joint Constitutional Revision Committee

☐ Conference Committee

Hearing Date 02-27-03

Tape Number	Side A	Side B	Meter #
1		X	0 -340
Committee Clerk Signature			

Minutes:

SENATOR TOLLEFSON called the committee to order for discussion on HCR 3049.

SENATOR KREBSBACH Has the Secretary of State addressed this at all.

REPRESENTATIVE KRETSCHMAR The executive branch officials have to take an oath of office. I believe it is statutory authority.

REPRESENTATIVE WINRICH I don't have any problem including the executive branch in the constitutional rules, .I wonder if we might consult with the Attorney General about this other question whether there is some discrepancy with the federal constitution and law that should be addressed as well.

SENATOR TOLLEFSON Perhaps we should do that before we take action.

Senator Tollefson closed the discussion on HCR 3049.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 3049

Joint Constitutional Revision Committee

☐ Conference Committee

Hearing Date March 5, 2003

Tape Number	Side A	Side B	Meter #
1	X		921-1600
Committee Clerk Signature	Elizabeth R. Fiser		

Minutes: **Chair Kretschmar:** Opened discussion on HCR 3049.

Rep. Maragos moved DP on HCR 3049. 2nd by Sen. Krebsbach.

Rep. Hawken: Is there any way to do this without putting it on the ballot? Can we do this by Congressional or Executive order?

Rep. Kretschmar: We have a statutory measure and they are sworn in.

Rep. Maragos and Sen. Krebsbach withdrew the motion to add amendment.

Rep. Maragos moved to amend line 2, after "elected" add "and appointed." 2nd by Sen. Mutch

Voice Vote: Amendment adopted

Sen. Tollefson: Is this redundant with what we do?

Rep. Maragos moved DP as amended. 2nd by Sen. Krebsbach

Vote: 5 Yes 5 No 0 Absent and not voting

Sen. Tollefson moved a DNP as amended. 2nd by Rep. Hawken

Vote: 6 Yes 4 No 0 Absent and not voting Carriers: Rep. Hawken Sen. Tollefson

33002.0201
Title.0300

Adopted by the Joint Constitutional Revision Committee

March 5, 2003

House Amendments to HCR3049 - Joint Constitutional Revision Committee 03/06/2003

Page 1, line 2, after "elected" insert "and appointed"

Renumber accordingly

Date: 3/5/03
Roll Call Vote #:)

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 3049

House Joint Constitutional Revison Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP as amended

Motion Made By Maragos Seconded By Krebsbach

Representatives	Yes	No	Senators	Yes	No
Rep. Kretschmar, Chair		✓	Sen. Tollefson, Co-Chair		✓
Rep. Maragos	✓		Sen. Mutch	✓	
Rep. Hawken		✓	Sen. Krebsbach	✓	
Rep. Eckre		✓	Sen. Nichols	✓	
Rep. Winrich		✓	Sen. Seymour	✓	

Total (Yes) 5 No 5

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3/5/03
Roll Call Vote #: 2

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 3049

House Joint Constitutional Revison Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken DNP as amended

Motion Made By Tollefson Seconded By Hawken

Representatives	Yes	No	Senators	Yes	No
Rep. Kretschmar, Chair	✓		Sen. Tollefson, Co-Chair	✓	
Rep. Maragos	✓		Sen. Mutch		✓
Rep. Hawken	✓		Sen. Krebsbach		✓
Rep. Eckre	✓		Sen. Nichols		✓
Rep. Winrich	✓		Sen. Seymour		✓

Total (Yes) 6 No 4

Absent

Floor Assignment Hawken Tollefson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 6, 2003 12:44 p.m.

Module No: HR-40-4094
Carrier: Hawken
Insert LC: 33002.0201 Title: .0300

REPORT OF STANDING COMMITTEE

HCR 3049: Joint Constitutional Revision Committee (Rep. Kretschmar, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (6 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HCR 3049 was placed on the Sixth order on the calendar.

Page 1, line 2, after "elected" insert "and appointed"

Renumber accordingly

2003 TESTIMONY

HCR 3049

Edward ("Mike") Peterson, Jr.
P.O. Box 282
Detroit Lakes, MN 56502
February 21, 2003

Re: Constitutional Amendment regarding the oath of office provisions and Senate Resolution 33002.0100

Dear Members of the Committee:

Thank you for this opportunity to make a brief statement in regard to the efforts of yourselves as distinguished legislators and Mr. John Rolczynski of Grand Forks to correct a flaw in the North Dakota Constitution by an amendment to correct Article XI, Section 4. Mr. Rolczynski and others have been both persistent and serious in their efforts to make known and correct the flaw in the North Dakota Constitution, by notification to state officials and to federal officials pursuant to their duties as United States citizens found in the U.S. Code.

The courageous introduction of a draft of an amendment, the taking of testimony, and notification to federal officials is an exemplary effort in constitutional law by the 58th Legislative Assembly, by introduction and action upon Senate Resolution 33002.0100 and any related Senate or House drafts that may emanate out of this process.

As Mr. Rolczynski so eloquently and firmly points out in his extensive research and work as a writer on this important topic, it will begin a process and method, at long last, to correct a failure of the United States Congress back in 1889 to notice that the proposed constitution submitted was contrary to the terms of the Enabling Act of February 22, 1889. The taking of testimony and development of a strategy to give notice to

federal officials at this time will help to correct the question over North Dakota's eligibility for statehood back in 1889; help to correct a problem that has existed for 113 years; and your working together will result in corrective action being taken.

In the United States Supreme Court case of *Clinton v. City of New York* (U.S. Supreme Court, No. 97-1374, 1998), a case in which the Court concluded that the Line Item Veto Act's cancellation provisions violated Article I. Sec. 7, cl. 2 of the Constitution of the United States, Justice Kennedy, concurring, wrote, "Failure of political will does not justify unconstitutional remedies" and the Court's opinion itself, written by Justice Stevens, stated, "The Constitution is a compact enduring for more than our time. . .Abdication of responsibility is not part of the constitutional design."

As Mr. Rolczynski has so thoroughly researched and pointed out, a state law passed in 1890 by the First North Dakota Legislative Session, addressing an emergency by the passing of NDCC 44-01-05, was a band-aid solution and the flawed language in the North Dakota Constitution still needs to be addressed, noticed and remedied by the Legislature, the Congress, and the citizens. Thus we urge introduction and passage of the proposed amendment, but also urge that whatever further action is necessary on the federal level be initiated.

I join in my colleague's tribute to Mr. Robert Gillies, deceased, a professional businessman dedicated to this cause and to the preservation of the Constitution of the United States of America.

Mr. Roy Lindholm, an agriculturist in the Gilby area for many years, and a good friend and former client, has also been a leader in presenting this issue to many lawyers, courts, judges, and government officials on his own behalf. I trust he will will be able to present a statement personally or in writing to you detailing his tribulations and dedication to addressing the flaw in the North Dakota Constitution and the need for a remedy.

Messengers Rolczynski, Gillies, Lindholm and myself, when I was working as an attorney in North Dakota, had the maverick and exciting experience of presenting certain of the constitutional issues involved to a federal court in Duluth a few years ago; suffice it to say that issues over the Guaranty Clause of Article IV, Sec. 4 of the Constitution of the United States does "guarantee to every State in this Union a Republican form of Government" and the federal courts have applied the "political question" doctrine to defer from deciding issues that the executive and legislative bodies should remedy. However, this doctrine is not insuperable and the Supreme Court has made statements in several cases that it will not evade a clear constitutional issue by use of the doctrine.

My honorable and distinguished colleagues whom have dedicated much of their time to this matter before you still cling to the notion that the Constitution of the United States is authority in the Congress of the United States, and authority for all of us to who take an oath to uphold it. I urge you not to banish this notion as absurd; and to go forward with a remedy.

Very truly yours,

Edward "Mike" Peterson, Jr.

Edward "Mike" Peterson, Jr.

AFFIDAVIT

J. BUDD TIBERT, being duly sworn, deposes and says:

THAT he was in attendance at a North Dakota District Court session on December 12, 1996 in the Court House of Grand Forks, North Dakota at which said District Court was deliberating aspects of a property settlement related to the divorce of Roy J. Lindholm from his wife, Arlene Lindholm;

THAT during this court session this Affiant did observe that Mrs. Lindholm was represented by her attorney, Timothy W. McCann, and that Roy J. Lindholm was representing himself, *pro se*, before the presiding district court judge, the Hon. Bruce Bohlman;

THAT this Affiant was aware that Robert W. Gillies and John Rolczynski were in attendance at the court session and stood ready to testify on behalf of Roy J. Lindholm when called;

THAT this Affiant heard Mr. Lindholm initially ask the judge to refer to NDCC 27-13-04, his challenge to the authority of court officers. When Mr. Lindholm asked to call his witnesses to testify for the record on this matter, the presiding judge, Judge Bruce Bohlman, stated that he did not wish to hear the testimony of Mr. Lindholm's witnesses;

THAT this Affiant noted that Roy J. Lindholm, upon hearing the judge deny him the opportunity to call witnesses on his behalf, did state that he would not participate further in the court proceedings.

FURTHER, this Affiant sayeth not.

J. Budd Tibert, Affiant

Sworn to before me this 25 day of February, 2003

(SEAL)

Notary Public

My commission expires 10-01-04

JAMES SCHANILEC
Notary Public, STATE OF NORTH DAKOTA
My Commission Expires OCT. 1, 2004

AFFIDAVIT

ROY J. LINDHOLM, being duly sworn, deposes and says:

THAT I am a native North Dakotan who was born and raised in the Gilby, North Dakota community;

THAT I came to know of the "flaw" in the North Dakota state Constituion upon reading an article published by John Rolczynski of Grand Forks, North Dakota in September, 1995, and realized that any court decisions made under color of state law were subject to question as valid;

THAT in the process of my divorce proceedings, I personally informed several North Dakota district court judges, namely, Judge Jahnke, Judge Medd, and Judge Bohlman, of the "flaw" in the North Dakota Constitution, which court records can show that they ignored in making various court decisions under color of state law;

THAT on one occasion on Dec. 12, 1996, when representing myself, *pro se,* in a court proceeding before presiding Judge Bruce Bohlman, I challenged the authority of court officers as per NDCC 27-13-04 and requested the opportunity to call witnesses on my behalf in this matter. Judge Bohlman stated in open court that he was not interested in hearing the testimony of my witnesses, thus denying me the right to due process;

THAT on another occasion in Nov., 2001 District Court Judge Debbie Kleven removed me from the guardianship of my autistic daughter, a right which was substantiated as valid earlier by the decision of Judge Kirk Smith;

THAT this Affiant is aware that Judge Debbie Kleven was serving as a Grand Forks County judge with a "readministered" oath of office at the time that the North Dakota Supreme Court did away with county judges and promoted her to the position of a District Court judge. This Affiant has seen no evidence that Judge Debbie Kleven ever put on file a <u>subscribed</u> oath of office after said oath was administered to her by Judge Kirk Smith on Jan. 2, 1991;

THAT In a lawsuit questioning the court rulings of Judge Bruce Bohlman, Federal Judge Rodney Webb failed to specifically answer the question of the "flawed" North Dakota Constitution in his ruling;

THAT further Affiant sayeth not.

Roy J. Lindholm, Affiant

Sworn to before me this 25th day of February, 2003.

(SEAL)

BOBBI JO RAU
Notary Public
State of North Dakota
My Commission Expires Feb. 13, 2007

Notary Public

My commission expires February 13, 2007.

Ohio constitutional convention, held in 1912, approved 41 amendments for submission to the voters of the state. Eight of these proposals, including those sanctioning woman suffrage and the abolition of capital punishment, were rejected. The voters did approve initiative and referendum, the direct primary, and the merit principle in the state civil service. Specific sanction was also given to much social and economic legislation, including compulsory workmen's compensation and the regulation of hours, working conditions, and wages of labor.

In World War I, Ohio was the scene of much military and industrial activity. More than 250,000 Ohioans served in the armed forces. In 1920 the major party presidential candidates, Warren G. Harding and James M. Cox, were both Ohioans. The postwar reaction against Wilsonian policies contributed to a Republican landslide in the state that had twice given its votes to Wilson. But Harding's administration was marred by the activities of some personal friends and political associates who came to be known to the nation as the Ohio Gang.

The state shared in the buoyant prosperity of the 1920's, and was severely jolted by the stock market crash of 1929 and the Depression that followed. The problem of relief was a serious one, and eventually federal funds were used for recovery. The state benefited from many federally financed construction projects.

Ohio became an important arsenal in the mobilization of the United States for World War II—nearly 840,000 of its citizens participated as members of the armed forces. The state emerged from the conflict as one of the nation's leading industrial states.

In 1953, Congress passed a formal resolution admitting Ohio to the Union as of 1803, thus correcting an old lack of formal recognition. A notable development in the decade was the completion of the 241-mile (388-km) Ohio Turnpike across northern Ohio, linking the Pennsylvania and Indiana turnpikes. The opening of the St. Lawrence Seaway in 1959 gave Ohio's Lake Erie ports direct access to the sea.

In 1970 the fatal shooting by National Guardsmen of four students at Kent State University accentuated campus tensions around the nation. Court action regarding responsibility for the shootings, as well as claims for damages, carried into the middle of the decade.

As in many other states of the Union, increased urbanization and industrialization brought Ohio its share of social and environmental problems. However, as Ohio entered the 1980's, its citizens endorsed programs aimed not only at undoing pollution and environmental degradation but also at reversing the deterioration of the inner cities and relieving the plight of both the rural and urban poor.

EUGENE H. ROSEBOOM*
FRANCIS P. WEISENBURGER*
Ohio State University

Bibliography

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Dwight, Margaret Van Horn, *A Journey to Ohio in 1810* (Univ. of Neb. Press 1991).
Havighurst, Walter, *Ohio: A Bicentennial History* (Norton 1976).
Kunstmann, John, *The Encyclopedia of Ohio* (Somerset Pub. 1993).
Lafferty, Michael B., ed., *Ohio's Natural Heritage* (Ohio Academy of Science 1979).
Roseboom, Eugene H., and Francis P. Weisenburger, *A History of Ohio*, rev. ed. (Ohio State Univ. Press 1967).

OHIO COMPANY, The, ō-hī'ō (also called The Ohio Company of Virginia), in American colonial history, an association of wealthy citizens of Virginia, Maryland, and the British Isles, formed in 1747 on the initiative of the Virginian Thomas Lee, for the purpose of settling the Ohio Valley. The land in question was claimed at that time by the colony of Virginia as part of its Northwest Territory.

In 1749, by order of George II, the colonial governor granted to the Ohio Company a 200,000-acre (80,000-ha) tract near the Forks of the Ohio (now Pittsburgh, Pa.), with the tentative promise of an additional 300,000 acres (120,000 ha) of land in that region. The conditions of the grant were that a substantial number of families should be established there within seven years and that a garrison should be maintained.

The company sent frontiersman Christopher Gist on the first of several exploring expeditions in 1750. In the next four years, it set up trading posts as far west as McKees Rocks on the Ohio, built storehouses along the southeastern approach to the Forks, settled a few colonies in what is now Fayette County, Pa., and, with the help of the Virginia government, began construction of Fort Prince George at the present site of Pittsburgh's Golden Triangle. In 1754, the year which marked the beginning of the French and Indian War, the unfinished fort was captured by the French (who completed it and renamed it Fort Duquesne). The initial successes of the French and their Native American allies in the war forced the withdrawal of the Virginian pioneers, and the plans of the Ohio Company were abandoned after 1763, when grants of land lying west of the Appalachians were temporarily prohibited by the Crown. The Ohio Company is important in that, by posing a serious threat to the French, it had helped to precipitate the war that extinguished French power in the territories east of the Mississippi River.

OHIO COMPANY OF ASSOCIATES, The, ō-hī'ō, in United States history, a company formed in 1786 for the purpose of settling the largely uninhabited territory north of the Ohio River (see NORTHWEST TERRITORY). Meeting to establish the corporation in Boston on March 1 were 11 New Englanders, the most active of whom were generals Rufus Putnam, Samuel H. Parsons, and Benjamin Tupper, all veterans of the Revolutionary War. They planned to raise subscriptions for 1,000 shares, at $1,000 in Continental currency and $10 in specie per share, for purchase of the land from the United States government, the individual states having by this time ceded most of their claims in the territory. In one year, only about a quarter of the shares had been sold, but through the efforts as agent of the Rev. Manasseh Cutler, Congress was induced to vote the sale of 1,500,000 acres of land to the company and to grant more than 250,000 additional acres free of charge for religious, educational, and other purposes. It also accepted the promise of payment in depreciated government securities. Full payment was never made, but title to more than half of the land was eventually granted by Congress. The town of Marietta, in what was later Ohio, was settled in April, 1788, and colonization proceeded rapidly.

The company was influential in shaping the much-admired Ordinance of 1787. See ORDINANCES OF 1784, 1785, AND 1787.

Encyclopedia Americana 2002
read to committee

The ND Supreme Court stated:

"It is well established that unconstitutional legislation is void and is to be treated as if it never were enacted." State v. Plekkola, 90 S.D. 335, 241 N.W. 2d 583 (1976); State v. Bardsley, 177 N.W. 2d 599 (Neb. 1970).

See also First Bank of Buffalo v. Conrad, 350 N.W. 2d 580 (N.D. 1984) State v. Clark, 367 N.W. 2d 168 (N.D. 1985).

HCR 3049

IMPORTANT NOTICE
TO ALL FEDERAL AND STATE OFFICIALS

Written and Published by John Rolczynski, 23 N. 3rd St., Grand Forks, ND 58203-3758 Phone: 701-795-4808

September 3, 1997

North Dakota Never Has Qualified For Statehood!

The State's Constitution Has Been Flawed Since 1889

The United States Congress saw fit to pass the Enabling Act of Feb. 22, 1889, so that four new states could join the Union and assume equal status with other states of the United States.

The new states to be established by this special Act of Congress were North Dakota, South Dakota, Montana and Washington. The Enabling Act spelled out very strict terms that had to be met; and, after in-depth research, this writer finds that North Dakota never has qualified for statehood, despite the fact that its status as a state has been recognized for some 107 years. Here, then, is a thorough review of the circumstances creating this odd situation.

Section 4 of the Enabling Act of Feb. 22, 1889 specified that the delegates of each constitutional convention for the four new, proposed states were to draft a state constitution that was not repugnant to the Constitution of the United States, the supreme law of the land. Section 7 of this Enabling Act demanded that the voters of each of the new states had to approve their own state constitution before that state could be considered by the U. S. Congress as qualifying for statehood. Further, Section 7 stated that if it came to pass that the voters of one of the two parts of the earlier, existing Dakota Territory rejected their proposed state constitution, then that part would remain Dakota Territory until such time as a proposed state constitution could gain the voters' approval.

By pure oversight, it appears that the delegates of the North Dakota Constitutional Convention drafted a flawed state constitution; said voter-approved state constitution was submitted to the U. S. Congress for its review and its consent to assume statehood on an equal status with other states of the United States; and President Benjamin Harrison did sign the proclamation on Nov. 2, 1889, making North Dakota a state of the United States.

It is contended by this writer that North Dakota never qualified for statehood and that corrective action must be taken, first and foremost, by the President of the United States; the United States Congress; and, lastly, the state legislature of North Dakota, which must correct the existing language of Article XI, Section 4 of the North Dakota Constitution. Since the specifications for statehood were set down by the U. S. Congress, it must be the U. S. Congress which recognizes its own past oversight and takes some course of action to "legitimize" all past actions by so-called North Dakota officials since 1889; for, indeed, it is a well-established

principle in law that "there can be no *de facto* officer unless there is a *de jure* office." Merchants National Bank v. IcKinney, 2 S. D. 106, 48 N. W. 841.

In the well-known case of *State ex rel. Johnson v. Cahill* (1923), decided by the North Dakota Supreme Court, the following was indicated in Section 9300: "Every person who executes any of the functions of a public office without having taken and duly filed the required oath of office, or without having executed and duly filed the required security, is guilty of a misdemeanor; and in addition to the punishment prescribed therefore, he forfeits his rights to the office." It appears that such a person is classed as an impostor. The same decision, under its Section 9301 hastens to state: "The last section shall not be construed to affect the validity of acts done by a person exercising the functions of a public office in fact, when other persons than himself are interested in maintaining the validity of such acts." But, as pointed out above, North Dakota actually has never had *de facto* officers acting since 1889; that is, for some 107 years!

The initial, instructional language of Article XI, Section 4 of the North Dakota Constitution reads as follows:

> Members of the legislative assembly and judicial department...

It is contended that this portion of Article XI, Section 4 contains the flaw; for it should have contained one more important <u>word</u>, as underlined below, to provide for officers of all three branches of ate government:

> Members of the legislative assembly and the <u>executive</u> and judicial departments...

As the North Dakota Constitution has stood in its language since 1889, <u>there is no provision in the North Dakota Constitution itself</u> that members of the executive department take the oath provided in this section.

Surely the Governor, Lt. Governor, Attorney General, Secretary of State, State Auditor, State Treasurer, Supt. of Public Instruction, and various state Commissioners of state departments must also take the oath listed. They, too, must meet the requirement of oath-taking, as spelled out in Article VI, Clause 3 of the United States Constitution. They are all also bound by the language of Title 4, Section 101 of the U. S. Code, which reads:

> Every member of a State Legislature, and every executive and judicial officer of a State, shall, before he proceeds to execute the duties of his office, take an oath in the following form, to wit: 'I, A B, do solemnly swear that I will support the Constitution of the United States.'

The North Dakota Constitution, in its present form, is definitely repugnant to the Constitution of the United States.

Further, the language of the prescribed oath shown in Article XI, Section 4 of the North Dakota Constitution is actually contradictory in fact! That is to say, North Dakota officials cannot solemnly swear to God or affirm that they will support the Constitution of the United States and (in the same breath) the Constitution of the State of North Dakota; for if the North Dakota Constitution is flawed, then ALL PUBLIC OFFICIALS of North Dakota who are directed by law to take the said oath are taking an oath to

support a flawed North Dakota Constitution. This includes but is not limited to the justices of the North Dakota Supreme Court, the judges of the state court system, all attorneys at law admitted to the North Dakota bar, and the officials of all subdivisions of state government. They are all acting without proper authority.

It is to be remembered that every citizen of the area, designated as either the State of North Dakota or a remnant of Dakota Territory, is also a citizen of the United States of America; and a citizen's rights, as a United States citizen, cannot be denied by any legitimate "state" official acting under color of state law. A United States citizen could be far more adversely affected if his rights have been denied by officials who cannot legitimately be considered officials of any particular state! Vindication and justice for past wrongs under color of state law may be hard to secure under these peculiar circumstances.

This flaw in the North Dakota Constitution was reported by this writer, in the presence of a witness, to the U. S. Attorney, the Hon. John Schneider, in Fargo, North Dakota on Feb. 1, 1995, and this Federal official appears to have not reported this matter, as a violation of Federal law, to higher authorities in Washington, DC. The matter has been duly reported and certainly needs correction, if this writer's contentions are valid.

It appears that the oversight was noted but not corrected by the first North Dakota Legislature of 1890, the legislature that passed Chapter 105 (H.B. 234) as a state statute. Section 4 of said Chapter 105, approved on Mar. 18, 1890, reads as follows: "EMERGENCY. An emergency exists in this, that there is no law prescribing the form of oath to be taken by civil officers as contemplated by the Constitution of the State; therefore this act shall take effect and be in force from and after its passage and approval."

This state law, spelling out the oath for civil officers, is today found in NDCC 44-01-05; however, its earlier version in Chapter 105 (H.B. 234) was never submitted to the voters of North Dakota in 1890 to make it a part of the North Dakota Constitution. It is not enough that this change on oath-taking by the 1890 Legislature stand, as it has for some 107 years, as simply a state law; the language of the North Dakota Constitution must reflect the requirements spelled out in the Constitution of the United States as well as in current Federal law.

A state law can be amended–and even repealed–by any North Dakota Legislative Assembly. This measure properly should have been put before the voters of North Dakota in 1890 as an important amendment to the North Dakota Constitution, so that its language would not be repugnant to the language of the Constitution of the United States, the supreme law of the land. This oversight deserves to be corrected for the well-being of the entire nation! This is the first time in our nation's history that a state has failed to qualify for statehood on such grounds.

Those serving as North Dakota officials at this time when the state constitution is still flawed should heed the U. S. Supreme Court decision rendered in October, 1991, in the case of *Hafer v. Melo* (502 U. S. 21). The Supreme Court ruled that if a state official denied the civil rights of a United States citizen, then that state official could be held personally liable for such damage to that United States citizen!

Related to the Attempt of Citizens to Inform Public Officials of the Flaw in the North Dakota state Constitution:

Title 18, §2381, Note 16 of U.S. Code:

Preventing execution of laws: "Conspiracy to altogether prevent enforcement of statute of United States is conspiracy to commit treason by levying war against United States." Bryant v. U.S.(1919,CA5 Tex) 257 F.378.

.....

Title 18, §2382 of U.S. Code:

Misprision of treason

Whoever, owing allegiance to the United States and having knowledge of the commission of any treason against them, conceals and does not, as soon as may be, disclose and make known the same to the President or to some judge of the United States, or to the governor or to some judge or justice of a particular State, is guilty of misprision of treason and shall be fined under this title or imprisoned not more than seven years, or both. Certain individuals in high office should pay special attention to the aggravating factors.