



Written by [Michael Tennant](#) on July 15, 2011

Will North Dakota Finally Become a State in 2012?

According to 82-year-old Grand Forks, North Dakota, resident John Rolczynski, however, his home state may not legally be a part of the Union at all. Rolczynski, described by [Valley News Live](#) as a “stickler for details,” discovered in 1995 that the state constitution does not require the Governor and other executive branch officials to take an oath of office to defend the U.S. Constitution. Article VI of the U.S. Constitution specifically requires “all executive ... officers, both of the United States and of the several states, [to] be bound by oath or affirmation, to support this Constitution.” The discrepancy between the two constitutions, Rolczynski says, calls North Dakota’s statehood into question.



“That flaw,” writes the *Grand Forks Herald*, “also could be at odds with Section 4 of the Enabling Act of Feb. 22, 1889, which said North Dakota and the three other territories then under consideration for statehood could not draft a state constitution that went against the national document.”

Upon finding the discrepancy, Rolczynski “soon set out to notify judges, lawmakers and federal authorities, even sending a letter to President Bill Clinton, and said his concerns were largely ignored,” according to the *Herald*.

Finally, in 2003, state Sen. Tim Mathern took up Rolczynski’s cause, introducing a bill to put on the ballot a constitutional amendment to rectify the matter. That bill was defeated in the legislature, but the Fargo Democrat persisted, and the [amendment](#), which would require executive branch officials to swear fealty to both the state and federal constitutions (legislative and judicial branch officials are already required to do so), will go before voters in November 2012.

North Dakota’s state motto is “Liberty and union, now and forever, one and inseparable.” But with the federal government teetering on the brink of bankruptcy and the U.S. Constitution all but extinct in practice, one might wonder if North Dakotans wouldn’t be wise to reject the amendment and hope to have their statehood revoked, relieving them of the burden of Washington, D.C.

Unfortunately, were North Dakota to lose its statehood, it would merely revert to being a U.S. territory, which would put it under the direct control of the federal government — an even worse situation than currently exists. At least Bismarck has the wherewithal, if not always the gumption, to stand up to Washington on behalf of its citizens; and those same citizens get to elect their own U.S. Representatives and Senators.

Is the passage of the amendment really critical to the state’s remaining in the Union? It has, after all, been an unquestioned part of the United States for 122 years.

Rob Port of the [Say Anything](#) blog thinks not. The Minot, North Dakota, resident argues:



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North Dakota drafted a state constitution, organizing a state government, and Congress found it acceptable and ratified North Dakota's admission into the union under Article IV, Section 3.

In other words, North Dakota is a state because Congress said North Dakota is a state.

What's more, even if it could be argued that North Dakota's state constitution didn't meet some requirement in the Enabling Act, the Act itself is an instrument of Congress. Once Congress agreed to admit North Dakota the point is moot. Once Congress decided that North Dakota's state constitution was good enough, then it was good enough.

Furthermore, he points out, the U.S. Constitution merely requires that state government officials of all branches take an oath to uphold the Constitution; it doesn't specify that state constitutions must require such an oath. Indeed, as the [Bismarck Tribune](#) notes, "North Dakota's governor and other executive branch officials already take an oath of office" that binds them "to uphold the federal and state constitutions" despite the lack of a constitutional mandate to do so. The current Governor, Jack Dalrymple, [took the oath of office](#); and [previous Governors](#) have [taken it](#) as well.

Even Mathern admitted that he doesn't really believe North Dakota's statehood is in jeopardy. "But," he told the *Herald*, "John [Rolczynski] is passionate, John is convinced that this is a fatal flaw and I think sometimes as legislators it behooves us to give people a vehicle to express their citizenship."

He may live to regret handing Rolczynski the keys to the citizenship car. "Mathern said Rolczynski has discussed a 'host' of constitutional issues that he'd like lawmakers to address, including the question of the state's eastern boundary," the *Herald* reports. According to Valley News Live, Rolczynski "says the constitution states the Red River forms the entire eastern border of the State. However, Rolczynski points out it's actually the Bois De Sioux River that forms the eastern boundary for 41 miles, from Wahpeton to the South Dakota line."

Even if Rolczynski turns out to be wrong about North Dakota's statehood, conservative analysts say it's nice to see someone who takes constitutions seriously. If more Americans did so — and, like Rolczynski, pestered their elected officials to follow their lead — the United States and many state governments would not be the bloated, debt-ridden, micromanaging behemoths that they are today.



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