

National Counselor & National Legal Staff to the 118th National Encampment

A number of items have crossed the desk of the National Counselor. Requests for advice on a number of issues are conveyed by telephone and email on an almost daily basis. A review of my records reveals that I was not called upon to render any formal opinions. As to other items of activity:

GETTYSBURG: Upon direction of the 117th National Encampment, the Order has retained the services of attorney Thomas J. Williams of the Carlisle, Pennsylvania law firm of Martson, Deardorff, Williams and Otto. He is preparing to file legal action to enforce the rights of the Order as to the GAR hall located in Gettysburg, PA. All efforts to negotiate a settlement appear to have failed and the Order is moving forward.

CALIFORNIA: Upon direction of the 117th National Encampment, letters were written to the Attorney General of the State of California, urging the State to enforce the California Military and Veterans Code as that code requires care of the graves of veterans. The Attorney General declined to act upon this request. The Department of California and Pacific requested no further action be taken by the National Counselor, as they had avenues they wished to explore. I am pleased to report the Department is making good progress and I sincerely hope they will submit an article with a successful conclusion to the BANNER in the near future.

MODEL LETTERS: Upon direction of the 117th National Encampment, the National Legal Staff received directive to draft a series of model letters to be used in contacting the owners of property upon which Civil War monuments are located. These letters are to express our interesting in preserving and protecting such monuments. I have asked Judge Henry Shaw of Ohio to head up this project. He is working with the Civil War Monuments Committee towards this goal.

STATE STATUTES: Upon direction of the 117th National Encampment, the National Legal Staff was asked to research the laws in their respective states and locate all statutes that concern the preservation, maintenance and care of civil war monuments in their state. I have made this request of all of the members of the National Legal Staff and received several responses. As the applicable statutes are located for the states where Departments exist, I have requested the Department Commander to have those statutes posted to the Department's web page. This will make those statutes available to the general membership.

ELIGIBILITY TO MEMBERSHIP: A brother of the Order previously resigned his membership in the Order after being charged with several felony counts of embezzlement. Through the plea bargain process, the former brother plead guilty to one count of misdemeanor embezzlement. He has submitted an application to his former Camp and asked to be allowed to re-join the Order. Article III of our Constitution does not allow membership in the Order for anyone convicted of any infamous or heinous crime. The Camp rejected the application of the former brother, ruling that misdemeanor embezzlement is an infamous or heinous crime. This ruling was made after receiving the advice of then Commander-in-Chief

Orr, who agreed that misdemeanor embezzlement is indeed an infamous or heinous crime. I reported in my report to the 117th National Encampment that this was also my opinion. The former brother has requested this Encampment review this decision. I therefore recommend this Encampment rule that misdemeanor embezzlement is an infamous or heinous crime as that phrase is contained in our Constitution, and that therefore, anyone so convicted is not eligible for membership in this Order.

TAX STATUS: Upon direction of the 117th National Encampment, application was made to the Internal Revenue Service to have the tax status of the Order changed from 501(c)(4) to 501(c)(1), as a congressionally chartered corporation. As the Order is not an instrumentally of the United States Government, but a private non-profit corporation, the IRS investigator indicated this request would not be granted. The investigator also indicated that the 501(c)(4) status of the Order was also going to be reviewed. Upon this information, the request to change status from 501(c)(4) to 501(c)(1) was withdrawn. Upon receipt of this withdrawal, the IRS investigator informed me he was going to close the file without further review into our 501(c)(4) status. I also note the IRS investigator did state this Order would not be eligible for 501(c)(3) status. I am pleased to report the Department of Pennsylvania has put forward a proposal and progress is being made in a rapid fashion for a subordinate 501(c)(3) corporation about to be formed.

SUBSIDIARY CORPORATIONS: Due to potential Internal Revenue Service complications, each and every subordinate body within the SUVCW needs to be approved on the National level. This is done with the Commander-in-Chief signing the Charters of both the Departments and the Camps of this Order. However, it appears at this point that Departments or Camps can form subsidiary corporations and register them with the IRS using the SUVCW GEN number, without any approval from the National Organization. Therefore, I recommend the National Regulations be amended to state that Departments and Camps of the Order may not form subsidiary corporations without the express written consent of the Council of Administration of the Order. Upon such authorization, such corporations may apply for EIN numbers, using the SUVCW GEN number.

Respectfully submitted:

James B. Pahl
National Counselor
Chair, National Legal Staff