



**FULFILLING OUR PROMISES**  
TO THE MEN AND WOMEN WHO SERVED

# NONPROFIT ADVISOR

For DAV Departments and Chapters

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## CONSTITUTION, BYLAWS AND FEDERAL CHARTER

As DAV celebrates its 100<sup>th</sup> year, it is instructive to look back upon the roots of the organization and, in particular, on the history of its governing documents.

Although DAV is a federally chartered corporation, it did not begin as such. Upon the organization's founding, it was simply incorporated in Ohio. It would take a dozen years to achieve the Congressional charter. From the first Convention, the goal of federal incorporation was front and center in the delegates' minds. This near-obsession was doubtless prompted by the granting of federal status to the American Legion in 1919. The Legion reaped considerable publicity from this honor and the fledgling DAV organization wanted the same. (Interestingly, the VFW, though founded in 1899, was not chartered until 1936).

The Constitution adopted at the first National Convention was intended to – and did – become the basis for the eventual federal charter. In a real sense, then, DAV wrote its own charter (a few Congressional additions are noted later).

Among the most contentious issues at the first Convention was the constitutional bar to “honorary members,” which persists to this day in the federal charter. The delegates rightly saw that the furnishing of honorary memberships could attract celebrity support for DAV and help publicize the organization. In particular, DAV was then wooing the famous boxer John L. Sullivan to become a spokesperson. Our founder, Judge Marx, lobbied hard and successfully against permitting honorary memberships. Marx reasoned that DAV's cause was so important, and so pure, that all should

support it without any promise of recognition. Probably more because of his eloquence than the logic of his position, Marx carried the day. (Ironically, Marx went on to live a long life in Cincinnati and become a patron of the arts and his Jewish religion. There are many permanent memorials to Marx' generosity, some enshrined during his lifetime. Only the most cynical might ascribe to him a “do as I say and not as I do” theory of donor recognition.)

DAV has observed the no-honorary-members rule for 100 years, with a single exception. In 1935, it bestowed membership on Madame Ernestine Schumann-Heink (1861-1936). Schumann-Heink, barely remembered today, was widely known in the first third of the twentieth century. Born in Czechoslovakia, she became a U.S. citizen in 1908. Schumann-Heink became an internationally known operatic star and, perhaps most relevant, a tireless fundraiser for wounded veterans during and after World War I. Her efforts in that regard were so extraordinary that DAV bestowed its singular honor upon her nearly two decades later. (Despite her exalted status in the sphere of classical music, Schumann-Heink revealed herself to be a good sport by appearing, in 1915, in a silent movie with Fatty Arbuckle, the pie-throwing clown of early cinema.)

DAV adopted its first emblem pursuant to a provision in its 1920 Constitution. The emblem, which Marx designed and trademarked, uses an image of the conferring of knighthood in the middle ages (replacing the knight with a WW1 “doughboy.” The image had originated with a government certificate presented to those wounded in the war. The name “Disabled



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American Veterans of the World War” encircles the image. The original emblem, slightly modified, was trademarked again in the early 2000’s, the original filing having long since lapsed.

The federal charter was issued in 1932 and remains, for the most part, a replica of the 1920 Constitution. Significant additions have included (1) the grant of a statutory trademark on the name “Disabled American Veterans” (in 1932) and (2) a provision that upon dissolution, DAV’s assets would revert to VA for the care of wounded veterans (in 2016). The significance of the federal charter is debatable. At best, it was, and remains, a recognition of the importance of DAV in the fabric of American life. At worst, it can raise complicated legal questions such as: (1) is DAV part of the government (it is not); (2) is DAV a corporate citizen of a particular state (it is not); and (3) does DAV have to comply with state laws regarding fundraising (it does). The practice of federal chartering died out in the 1960’s, but DAV’s special status is a continuing reminder of the unique position it has occupied in the social fabric of America for 100 years.

We have neglected the bylaws. Until 1936, DAV appears to have had no widely distributed detailed bylaws such as are printed annually in the spiral booklet. Before 1936, DAV appeared able to articulate its principles of governance in an expanded version of the original Constitution. Whether the subsequent enlargement of the bylaws to its current size of sixty-nine single-spaced pages constitutes progress is a matter that each must judge for himself.

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