

The NSP has a federal charter, granted by Congress. 15 U.S.C. § 152701-12. Thus, Defendant may also argue that since § 152704 provides that “the rights and privileges of members are as provided in the bylaws,” and since the NSP Bylaws do not specifically provide for member votes on the Articles, the members are barred from seeking a vote. That argument misses the extremely limited function and purpose of a “federal charter” under Title 36 of the United States Code – “Patriotic and National Observances, Ceremonies and Organizations” – which is to recognize and honor Patriotic and National Organizations. No reported case has ever been brought under the federal charter statutes challenging a chartered corporation’s procedures. Nor has any reported case been brought for allegedly violating such a charter.

Indeed, federal charters are recognized to be meaningless from a legal standpoint. The subcommittee of the House of Representatives Judiciary Committee charged with granting and overseeing federal charters, stated in a publication earlier this year:

The Subcommittee will not consider any legislation to grant new federal charters because *such charters are unnecessary for the operations of any charitable, non-profit organization* and falsely imply to the public that a chartered organization and its activities carry a congressional “seal of approval,” or that the Federal Government is in some way responsible for its operations. . . . This policy is not based on any decision that the organizations seeking federal charters are not worthwhile, but rather on the fact that *federal charters serve no valid purpose and therefore ought to be discontinued.*

. . . The primary reasons that organizations seek federal charter are to have the honor of federal recognition and to use this status in fundraising. *These charters grant no new privileges or legal rights to organizations.*

H.R. REP. 108-805, at 199 (2005) (emphasis added); *accord*, H.R. REP. 101-1015, at 157 (1991)

(copies of the relevant excerpts from both Reports are attached hereto).

In short, whatever little the federal charter does, it does not override the state statutory authority for members of nonprofit corporations to vote on amendments to Articles of Incorporation when they have gathered the support of 10% of the members.

For all the foregoing reasons, Plaintiffs have a probability of success on the merits of their effort to require a vote on the members' proposals.

B. Plaintiffs Will Suffer Irreparable Injury If the Temporary Restraining Order and Preliminary Injunction Are Not Issued.

Irreparable harm in the context of equitable or injunctive relief is an injury for which there is no adequate remedy at law. *Macleod v. Miller*, 612 P.2d 1158, 1160 (Colo. App. 1980). If an injury is not compensable by adequate damages, an action at law is an inadequate remedy and "only the issuance of an injunction can prevent [such injuries]." *Id.*; see also *American Television & Comm'n Corp. v. Manning*, 651 P.2d 440, 446 (Colo. App. 1982).

Here, the Plaintiffs do not seek money damages. They seek to enforce their statutory and inalienable right to a fair and open vote on the "constitution" of their organization. While their proposed amendments may not be approved in a vote of the members, they have the right to a vote, without the blockade thrown up by a self-perpetuating Board that is willing to flaunt the widely expressed desires of the members. The refusal to allow a vote creates irreparable injury as a matter of law. *E.g.*, *Dillard v. Crenshaw County*, 640 F. Supp. 1347, 1363 (M.D. Ala. 1986); and *cf.*, *Reynolds v. Sims*, 427 U.S. 347, 373 (1964).

Concerning elections for Board members, the current NSP Bylaws provide that the Nominating Committee is to name a slate of candidates by September 1. By September 10 the candidates are to be notified, and in early October "ballots" are to be distributed to the members (although all members are counted as "yes" votes unless they mail in a specific "no" vote). Bylaws, Exh. D to the Verified Complaint, at § 3.10(a) and 3.13. Terms are for three years. At

MINE

Union Calendar No. 605

101st Congress, 2d Session - - - - - House Report 101-1015

REPORT ON THE ACTIVITIES
OF THE
COMMITTEE ON THE JUDICIARY
OF THE
HOUSE OF REPRESENTATIVES
DURING THE
ONE HUNDRED FIRST CONGRESS
PURSUANT TO
CLAUSE 1(d) RULE XI OF THE RULES OF THE
HOUSE OF REPRESENTATIVES



JANUARY 3, 1991.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed.

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1991

87-368

to take effect after one year if Congress
House agreed to the Senate amendment
was signed by the President on November
101-505.

ARE-NEW JERSEY COMPACT

The Subcommittee on Administrative Law
held a hearing on H.J. Res. 657,
consent of Congress to amendments to the
Compact, and would provide statutory au-
thority to be used for new economic develop-
ment amendments to the Compact. The Sub-
committee was chaired by the Honorable Thomas R. Carper,
Senator from the State of Delaware, and the
Honorable James M. Gandy, a Representative in Congress from

the Delaware Compact established and governs the
Authority (Authority), a bi-state agency
responsible for the area in both states bordering
the Delaware River. The Authority was organized on Feb-
ruary 1, 1962, following approval of the enabling legislation by
the State of New Jersey, and the enactment by the
Congress of the United States approving the Compact in Public
Law 87-20, 1962.

was established with the intention of advancing the
development of those areas in both states by
improving transportation, construction, operation, and mainte-
nance of transportation or terminal facilities, and other
improvements and by providing for overall planning for
development of those areas.

The Compact make a number of changes.
It provides the Authority with the power to
develop projects, in addition to the devel-
opment of transportation or terminal facilities;
to use funds generated by tolls to finance
transportation projects; and permit the Authority to
use tolls to finance transportation and terminal
facilities without prior Congressional approval or approval
of the State of Delaware—except that any "major
amendment to the amended Compact) must first be ap-
proved by the State of Delaware.

The revised Compact provides that the planning
for any project, other than a crossing, must
comply with the environmental protection laws of the State in
which the project, in whole or in part thereof, is located; if located in the
State of Delaware, is subject to the Delaware Coastal Zone
Act of 1972; if located in New Jersey, is subject to applicable New
Jersey Wetlands Act of 1970 and the Coastal

and the Delaware Bridge Act to allow toll
crossing purposes and in connec-
tion with economic development projects or trans-

portation or terminal facility projects, as authorized under the re-
vised Compact.

On October 2, 1990, the Subcommittee held a markup and favor-
ably recommended H.J. Res. 657 to the full Committee with two
technical amendments. On October 11, 1990, the Committee consid-
ered H.J. Res. 657 and recommended it favorably to the House (H.
Rept. No. 101-905).

H.J. Res. 657 was passed by the House on October 22, 1990, and
passed by the Senate on October 23, 1990. On November 15, 1990, it
was signed by the President as Public Law 101-565.

FEDERAL CHARTERS

The Judiciary Committee has jurisdiction over the granting of
federal charters to private, non-profit organizations. The primary
reason that organizations seek federal charters is to have the
honor of federal recognition. These charters grant no new privi-
leges or legal rights to organizations.

On February 23, 1989, the Subcommittee on Administrative Law
and Governmental Relations held an organizational meeting at
which it considered the adoption of rules for granting federal char-
ters.

In considering whether to adopt such rules (which had governed
the Subcommittee consideration of charters since the mid-1970's),
the Subcommittee discussed the growing problems regarding the
granting of federal charters. The primary problem with federally
chartered organizations is that the charter leads to the public per-
ception that an organization and its activities carry a congressional
"seal of approval" and worthwhileness for all of the organization's
activities. Despite this perception, in fact Congress does not have
the facilities to monitor the activities and operations of the existing 87
federally chartered organizations spread throughout the country.
Moreover, a number of State agencies have withheld their regula-
tory authority over these organizations with the mistaken belief
that the federal government was monitoring these groups. Also, if
a chartered organization changes or in some way acts inappropri-
ately after its federal charter is granted, Congress has no direct
way to know about these developments, and only another law
passed by Congress can repeal or alter the charter that was grant-
ed.

In response to these concerns, the Subcommittee decided not to
adopt rules for the granting of federal charters. The Subcommittee
approved instead a motion to impose a moratorium on the granting
of federal charters.

The Subcommittee's decision is not based on a decision that the
organizations seeking federal charters are not worthwhile, but
rather is based on the fact that federal chartering does not serve a
valid purpose and therefore ought not to be continued. This, of
course, in no way reflects adversely on any particular organization,
nor does it in anyway prevent organizations from accomplishing,
under their State charters, all of the goals for which they were es-
tablished.

Union Calendar No. 490

108th Congress, 2d Session ----- House Report 108-805

REPORT ON THE ACTIVITIES
OF THE
COMMITTEE ON THE JUDICIARY
OF THE
HOUSE OF REPRESENTATIVES
DURING THE
ONE HUNDRED EIGHTH CONGRESS
PURSUANT TO
CLAUSE 1(d) RULE XI OF THE RULES OF THE
HOUSE OF REPRESENTATIVES



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FEDERAL CHARTERS

Subcommittee policy on new Federal charters

On March 6, 2003, the Subcommittee on Immigration, Border Security, and Claims adopted the following policy concerning the granting of new federal charters:

The Subcommittee will not consider any legislation to grant new federal charters because such charters are unnecessary for the operations of any charitable, non-profit organization and falsely imply to the public that a chartered organization and its activities carry a congressional "seal of approval," or that the Federal Government is in some way responsible for its operations. The Subcommittee believes that the significant resources required to properly investigate prospective chartered organizations and monitor them after their charters are granted could and should be spent instead on the Subcommittee's large range of legislative and other substantive policy matters. This policy is not based on any decision that the organizations seeking federal charters are not worthwhile, but rather on the fact that federal charters serve no valid purpose and therefore ought to be discontinued.

This policy represented a continuation of the Subcommittee's informal policy, which was put in place at the start of the 101st Congress and has been continued every Congress since, against granting new federal charters to private, non-profit organizations.

A federal charter is an Act of Congress passed for private, non-profit organizations. The primary reasons that organizations seek federal charters are to have the honor of federal recognition and to use this status in fundraising. These charters grant no new privileges or legal rights to organizations. At the conclusion of the 104th Congress, approximately 90 private, non-profit organizations had federal charters over which the Judiciary Committee has jurisdiction. About half of these had only a federal charter, and were not incorporated in any state and thus not subject to any state regulatory requirements.

Those organizations chartered more recently are required by their charters to submit annual audit reports to Congress, which the Subcommittee sent to the General Accounting Office to determine if the reports comply with the audit requirements detailed in the charter. The GAO does not conduct an independent or more detailed audit of chartered organizations.

PRIVATE BILLS

During the 108th Congress, the Subcommittee on Immigration, Border Security and Claims received referral of 28 private claims bills, 1 private claims resolution, and 72 private immigration bills. The Subcommittee held no hearings on these bills. The Subcommittee recommended one private claims bill, one private claims resolution, and 4 private immigration bills to the full Committee. The Committee ordered 1 private claims bills and 4 private immigration bills reported favorably to the House. The House passed no private claims bills and 4 private immigration bills reported by the Committee. The private immigration bills were passed by the Senate and signed into law by the President. One Senate private claims bill was passed by unanimous consent by the House (a