

# MAINE STATE LEGISLATURE

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NO ✓  
May 5, 1965

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The Legal Status of the Biddeford Civil Defense and Public Safety Association.

QUESTION #1:

May a group of civil defense workers establish a voluntary association to formulate programs and policy in furtherance of Civil Defense and Public Safety?

ANSWER:

No.

OPINION:

The complete co-ordination necessary for the successful operation of the Maine Civil Defense and Public Safety Act of 1949 as set forth in Title 25, 301-323 M.R.S. 1964 requires that only those organizations created in accordance with the Act be given legal recognition.

"'Local organization for civil defense and public safety' shall mean an organization created in accordance with this chapter by state, county or local authority to perform local civil defense and public safety functions." Title 25, sec. 303 (2), M.R.S. 1964.

Regardless of the nobility of their objectives, a group of citizens cannot form an organization for civil defense and public safety purely on their own volition and demand recognition as an integral part of the Maine Civil Defense and Public Safety Program.

The Statutes dealing with Civil Defense and Public Safety show a clear legislative intent to establish a system of control which will insure maximum co-ordination of operation among the various civil defense units at the local level. The emergence of organizations within the various civil defense units is antithetical to such an objective.

Title 25, sec. 310, M.R.S. 1964 provides for local organizations for civil defense and public safety. Direct responsibility for organization, administration and operation of such local units is vested in a duly appointed local director. The local director cannot delegate this authority which is vested in him by statute.

It is unnecessary to comment on every clause in the By-laws of the Biddeford Civil Defense and Public Safety Association. It is sufficient to point out that under Article three of said By-laws, the Board of Directors of this Association is given authority to plan training programs and to act on matters of civil defense in time of emergency. Such a by-law represents a usurpation of authority vested in the local director. The fact that provision is made for approval by the local director does not validate such a by-law. The local director is under no obligation to consult with subordinate civil defense workers in his unit in regard to the formulation of civil defense policy.

Civil defense workers cannot individually or collectively, through association, challenge the administrative authority vested in their local director by formulating civil defense programs of their own. Where such an association exists, it is the duty of the duly appointed local civil defense director to ask that said association be disbanded.

May 5, 1965

QUESTION #2:

Are all voluntary associations of civil defense workers illegal per se?

ANSWER:

No.

OPINION:

There is no statutory language which either expressly or impliedly prohibits the voluntary associations of civil defense workers where the sole purpose of such association is either to raise funds, or to promote social activities.

When not violative of existing law, freedom of association is a basic right of the individual and the deprivation of such right cannot be tolerated. Such a principle is so clear as to require no further elaboration.

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