

Mr. Thomas J. Murphy, Secretary
Civil Service Commission (continued)

be established by Baltimore City and that the City did so establish it. Its functions, of course, are related to Civil Defense problems of Baltimore City. Its employees are members of the City's pension system. Further, and probably most important, the salaries of its employees are paid by the City, and the City fixes the number of its employees in the annual ordinance of estimates. Therefore, all of the tests laid down in Horn v. Gillespie, supra, are met, and we believe that the employees of the Civil Defense Organization are city employees for purposes of the classified service.

The second test which must be met under Section 144 of the Charter is that the employees receive their appointments from an officer authorized by the Charter or by any law or ordinance to make the appointments. This requirement is obviously satisfied by the fact that the employees of the organization are appointed by the Director, who is authorized by Section 238 of Article 41 to make the appointments.

The question with respect to the Deputy Director of the Civil Defense Organization presents a different problem. Section 238 of Article 41 provides that both the Director and his alternate shall be appointed by the Governor upon the recommendation of the Mayor. You advise us that while the Deputy is designated as such, he is in fact the alternate referred to in Section 238. Inasmuch as his appointment is made by the Governor and inasmuch as Section 238 places no restraint on that appointment other than the requirement that the appointee be recommended by the Mayor, we are of the opinion that the position is not subject to classification under Section 144 of the Charter. In order to bring the position within the classified service, we believe that it will be necessary to make an appropriate amendment to Section 238.