

MAINE STATE LEGISLATURE

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JB from JC

December 12, 1968

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Executive
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Board of Commissioners of Pharmacy

SYLLABUS:

When the Governor chooses a nominee for public office from a list of names submitted and duly certified by a proper selection agency, the agency is estopped from contesting the Governor's choice on the grounds that the list submitted is erroneous.

FACTS:

On October 30, 1968 the Maine Pharmaceutical Association submitted a list of names to Governor Curtis from which he should make a selection to fill a vacancy occurring on December 1, 1968, on the Board of Commissioners of Pharmacy. The Governor made his selection and a name was posted for nomination. The Maine Pharmaceutical Association then advised the Governor that they had submitted an erroneous list of nominees and on November 14, 1968 submitted another list from which they wished the Governor to make another selection.

QUESTION #1:

Should the original list submitted on October 30, 1968 be considered as official?

QUESTION #2:

Should the name posted for nomination on November 13, 1968 taken from the original list be considered official?

ANSWERS:

- 1. Yes.
- 2. Yes.

REASONING:

The statutory guidelines expressly set forth by the Legislature for the selection of members to the Board of Commissioners of the Profession of Pharmacy must be strictly followed.

32 M.R.S.A. § ²851 subsec. 4, par. 2 provides as follows:

"The Maine Pharmaceutical Association may, at its annual meeting each year, nominate 6 members of said association, whose names shall be forthwith certified by the president and

secretary of said association to the Governor, and members of said board, (Board of Commissioners of Pharmacy) appointed during any year, shall be selected from the persons whose names are so certified for said year, unless in the opinion of the Governor said persons are manifestly unsuitable or incompetent. (emphasis supplied)

The original list submitted on October 30, 1968 was a certified list within the terms of the above-quoted statutory language and the Governor had every reason to rely upon this list in making a selection. It is not incumbent upon the Chief Executive to ascertain the accuracy or validity of the list of names which are submitted to him. This is strictly the obligation of the certifying agency, The Pharmaceutical Association.

The Association, by submitting an erroneous or inaccurate certified list of names, was estopped from challenging the choice of the Governor, when the latter in good faith relied upon said list and did in fact make a selection therefrom prior to any notification that the list was inaccurate.

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PMK: vbw