

Mr. Thomas J. Murphy, Secretary
Civil Service Commission

(continued)

The department heads argue that if they are forced to make appointments from lists containing only one name, they are being deprived of the right given them in Section 13 of the Baltimore City Charter (1949 Edition) to have the sole power of appointment of their subordinate employees. However, this very section makes such right of appointment subject to the provisions of Sections 150 to 152 of the Baltimore City Charter. Section 150 of the Charter requires that where a vacancy occurs in the Classified Service, the appointing officer "shall fill such position provisionally by the appointment of one of the persons certified to him by the Commission as above provided, which appointment shall be on probation for a period of six (6) months". Inasmuch as Section 149 (e) anticipated the possibility of the certification of only one name, and Section 150, to which the department head's right to appoint is made subject, makes it mandatory that the appointing officer fill the position from one of the persons certified to him, it is our opinion that the head of the department must make his selection from the eligible list presented to him by the Civil Service Commission, and if there is only one name on this list, the department head has no alternative but to choose this candidate if he desires to fill the vacancy. The department head retains the right, however, to remove the appointee during the first six months of his employment (Section 150, Baltimore City Charter, 1949 Edition).

It should be noted that a department head may be required to make his appointment from a list composed of only one name under other circumstances. Rule 31 of the Rules of the Civil Service Commission, supra, also requires the Examiner to certify to the department head "the name of the person standing first on the re-employment list for the class in question * * * *". Therefore, if there is in existence at the time the department head wishes to make his appointment, a reemployment list of only one name, the department head is required to select the one candidate if he wishes to fill the vacancy.