

was appointed a special investigator attached to the office of the Commissioner of Highways.

Upon information and belief your petition alleges that on June 18, 1913, and two days after the appointment of the said Hennessy, a conference took place in the office of the said John N. Carlisle, at which he and the said Hennessy were present, also one James K. McGuire of Syracuse, an agent, representative and stockholder of the Barber Asphalt Paving Company, and several others.

At this conference the said McGuire claimed that the specifications with reference to asphalt were not being lived up to and that the State was accepting asphalt which did not comply with the specifications, and that the only asphalt which complied with the specifications was that produced by the Barber Asphalt Paving Company, the alleged claim being in this connection that the specifications called for a so-called natural, solid asphalt, and that the only company which had a natural, solid asphalt was the Barber Asphalt Paving Company. There were similar conferences thereafter between the said McGuire and the said Carlisle and a so-called board of consulting or advisory engineers of the said Carlisle, consisting of one Harold Parker, George C. Diehl and William DeHertburn Washington. These three last named gentlemen were selected, as your petitioner is informed and believes, in the following manner:

Mr. Washington was selected by the former Governor, William Sulzer, but on the recommendation of the said McGuire.

The said Diehl by a contractor largely interested in highway work in Troy, N. Y., and who, with the said Parker, interested in a corporation known as the Haskam Concrete Pavement Company, who claim to have some process on a pavement which has been used by the State of New York and for which the State of New York is paying large, if not excessive, royalties.

The second charge made against Commissioner Carlisle is that he so interpreted the asphalt specifications as to compel contractors to use only Barber asphalt, in clear violation of that provision of the highway law, which prohibited the use of any material in highway construction that could not be obtained by all contractors under the same conditions of interest.

The third charge reviews the court litigation of the Warner-Quinlan Company to prevent Commissioner Carlisle from prohibiting the use of Warner-Quinlan asphalt upon State highways in repair work, and declares that Commissioner Carlisle was so solicitous of the interests of the Barber Asphalt Company that he pointed out in court that the Barber company had to pay a duty of \$3 a ton on its products brought into this country, while the competing companies were using asphalt produced from Mexico oils, which was free from duty.

In the fourth charge it is insisted that Commissioner Carlisle tried to get around the court decisions which favored the Warner-Quinlan Company by making supplemental agreements with contractors to road repairs, promising the contractors a higher price than was customary, provided they would use only the Barber asphalt.

The fifth charge reviews the work of Consulting Engineers Parker, Diehl and Washington in framing new specifications, and declares that tests of asphalt desired by the Barber Company were made in the new specifications, which would tend only to perpetuate the monopoly of the Barber Asphalt Company.

The sixth charge reviews the fact that the three members of the Board of Consulting Engineers have drawn in salaries and expenses, since May last about \$52,000, including a trip of Engineer Washington to the London Road Congress at a cost of \$3,000.

It is urged that these three engineers are unfit to advise Commissioner Carlisle, that they have no special knowledge of the subject of asphalt, and very little, if any, familiarity with road construction. It is contended that their selection by Commissioner Carlisle as advisory engineers was regarded as a favor and a disgrace by those who are familiar with the construction of good roads.

An "Approved" Pavement. The charges conclude. "Engineer Washington has not yet returned a report on the London trip, but the specifications which he has drawn up are a description of a pavement which may be used on the highways in this State known as the Praced system, which is made of a material mixed with fluxite, asphalt cement or with a natural lake asphalt cement, if specially required, and that this mixture should be laid on a base and mixed by a portable plant known as Berry-Hines road machine."

When questioned Commissioner Washington could not give the system or whether or not it called for a patented or proprietary article. The specifications were drawn by the so-called advisory board of consulting engineers, who admitted at the public hearing that they were unfamiliar with asphalt. One of these engineers, Harold Parker, is vice-president and general sales agent of the Haskam Concrete Pavement Company.

This company tried to obtain a royalty of 50 cents a square yard from this State pavement laid, but as a result of threats of exposure Parker modified his demands to 10 cents a square yard, and that pavement has been laid in this State. The new specifications permit the use of this Haskam concrete pavement.

The Department of Highways as proposed over by Commissioner Carlisle is in a chaotic condition. Commissioner Carlisle is a lawyer claiming no familiarity with highway work, who, by the course of his conduct and the men with whom he has surrounded himself, has shown his utter unfitness for the position which he holds, a position carrying with it the supervision and control of many millions of dollars of the State's money.

Mr. Carlisle's Answer. In answer to the charges Commissioner Carlisle declares: "It is unfortunate that in these charges they have been fit to attack the reputation of the board of advisory engineers, who have been faithfully working for the State for the past year and a half, and to attempt to try and place this department upon an efficient basis, to advise me in regard to the proper types of roads to be built, and in the preparation of specifications for new construction.



litigations and public hearings have been had upon all important matters considered by them.

Denies Conference Charge. Mr. Carlisle takes up the charges one after the other, declaring that he did not attend the reported conference with Gov. Sulzer and George McGuire at Cooperstown on July 5, nor was there a conference in his office on June 18 between himself, John A. Hennessy and James K. McGuire. He repeats his declaration that he was only in Cooperstown once during the time that the Public Service Commissioner, and adds:

"There was no communication sent by Mr. Hennessy from Cooperstown on July 5 and no telegrams or communications were sent out of this office in relation to Barber asphalt or Warner-Quinlan asphalt on that date by Mr. Fuller or any one else."

At the several conferences with the engineers before making my decision the representatives of practically all the asphalt interests of the United States were represented either personally, by their attorneys or by counsel, and no one was granted any favors at the hands of the department nor was any one discriminated against in any way. The matter was decided entirely upon its merits and in accordance with the provisions of the highway law.

Their main contention was that their article was just as good and that, therefore, we should permit it to be used.

Adherence to Specifications. "This has always been the contention raised whenever people have attempted to disregard specifications, and the same would have applied to any specification in the State to a like contention on the part of the people who were engaged in furnishing material.

The Warner-Quinlan Company could have furnished land asphalt from Trinidad and had it in 1910, 1911, 1912, 1913, 1914, 1915, 1916, 1917, 1918, 1919, 1920, 1921, 1922, 1923, 1924, 1925, 1926, 1927, 1928, 1929, 1930, 1931, 1932, 1933, 1934, 1935, 1936, 1937, 1938, 1939, 1940, 1941, 1942, 1943, 1944, 1945, 1946, 1947, 1948, 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 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