

**SUMMARY OF CHARGES MADE BY JOHN WALLACE AGAINST SECRETARY**

**PALMER OF THE BOARD OF EDUCATION**

1. That he failed to notify the Board of Education as required by the By-Laws that certain attendance officers had failed to take the oath of office.
2. That he certified as in conformity with the Charter and the By-Laws payrolls containing the names of certain attendance officers when such attendance officers had not taken the oath of office.
3. That he certified as in conformity with the Charter and the By-Laws payroll of J.B. Robinson, Deputy Superintendent of School Buildings, for the month of April, 1898, when Robinson was not appointed and did not take the oath of office until April 11th.
4. That he certified as in conformity with the Charter and the By-Laws payroll containing the name of Frank A. Collins, Deputy Superintendent of School Buildings, for the month of April, 1898, when Collins was not appointed and did not take the oath of office until April 11th.
5. That he certified as in accordance with the Charter and the By-Laws payroll of William C. Haskell, for the month of April, 1898, as Deputy Superintendent of School Buildings, when Haskell did not take the oath of office until April 7th.
6. That he certified as in conformity with the Charter and the By-Laws payroll of Edward F. Fagan, Associate Superintendent of Schools, for the month of March, when Fagan was not appointed until March 9th, and did not take the oath of office until March 11th.
7. That he certified as in accordance with the Charter and the By-Laws a payroll of James J. Byrnes for six days in March and for April, 1898, when Byrnes did not take the oath of office until April 4th.
8. That he certified as in accordance with the Charter and the By-Laws a payroll of John J. Chickering, as Associate Superintendent of Schools, for March, 1898, when Chickering did not take the oath of office until March 2d.
9. That he certified as in accordance with the Charter and the By-Laws a payroll of Edward L. Stevens, as Borough Superintendent, for March, 1898, when Stevens did not take the oath of office until March 3d.
10. That he certified as in conformity with the Charter and the By-Laws a payroll of A.L. Brasefield, Deputy Superintendent of School Supplies, for nineteen days in December, 1898, when Brasefield did not take the oath of office until December 15th.
11. That he certified as in conformity with the Charter and the By-Laws a payroll of Patrick Jones for twenty-seven days in April, 1898, as Deputy Superintendent of School Supplies, when Jones did not take the oath of office until April 18th.
12. That he certified as in accordance with the Charter and the By-Laws a payroll containing the names of certain persons appointed as attendance officers for services subsequent to January 27, 1899, when said persons had not taken the oath of office and had not been appointed in accordance with the rules of the Civil Service Commission.
13. That in June, 1898, he knowingly and deliberately tried to persuade and convince the Chief Clerk that it would be proper to administer the oath of office to one Thomas R. Morse, who had been appointed an attendance officer, although he would not administer it himself.



14. That in June, 1898, he notified the Chief Clerk of the School Board for the Borough of Queens that it would be necessary for Albert E. Schalkenbach, appointed an attendance officer, to take the oath of office, and that Schalkenbach never took the oath of office, and the Secretary of the Board of Education failed to comply with Section 11 of the By-Laws.

15. That he did not comply with Section 24 of the By-Laws in reference to making reports on the monthly payrolls of absences.

16. That he failed to notify the Board of Education as required by the By-Laws that James W. Dixon, appointed Assistant Secretary of the School Board for the Borough of Queens on February 11, 1898, had omitted to take the oath of office within the time required by law.

17. That he failed to certify to the Board of Education, as required by the By-Laws, that Hubbard R. Yetman, appointed Superintendent of Schools for the Borough of Richmond, had omitted to take the oath of office.

18. That he failed to notify the Board of Education, as required by the By-Laws, that Peter Kiernan, appointed Chief Clerk of the School Board for the Borough of Richmond, had omitted to take the oath of office.

19. That he certified in accordance with the Charter and the By-Laws vouchers in favor of James W. Dixon for services as Assistant Secretary of the School Board for the Borough of Queens, when Dixon had not taken the oath of office.

20. That he certified as in accordance with the Charter and the By-Laws payrolls containing the name of Hubbard R. Yetman as Superintendent of Schools for the Borough of Queens when Yetman had not taken the oath of office.

21. That he certified as in accordance with the Charter and the By-Laws payrolls containing the name of Peter Kiernan for services as Chief Clerk of the School Board for the Borough of Richmond when Kiernan had not taken the oath of office.

22. That he failed to comply with Section 14 of the By-Laws of the Board of Education.

23. That he failed to comply with rule 32 of the Municipal Civil Service Commission rules of the City of New York.

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SUMMARY OF CHARGES MADE BY JOHN  
WALLACE AGAINST SECRETARY PALMER  
OF THE BOARD OF EDUCATION



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MEMORANDUM IN RE BILL FOR THE RELIEF OF A. EMERSON PALMER

Mr. Palmer seeks to be reimbursed for expenditures made by him in maintaining his right to the office of Secretary to the Board of Education, and in defending himself against charges disproven, his total expenditures amounting to \$731.82.

In June, 1899, Mr. Joseph J. Little, then President of the Board of Education, informed Mr. Palmer that the majority of the Board had decided to dispense with his services, notwithstanding the provision of the Charter (Section 1069) that an officer or employee of the Board might be removed for cause by a three-fourths vote of all the members of the Board, and suggested that he offer his resignation. No accusations or charges were made against him. There were no grounds for charges, although an investigation had been carried on by a Special Committee of the Board, extending over several months, for the purpose of finding grounds upon which his removal could be predicated. He was simply told, in effect, that his place was wanted by the Board for another man.

Early in July, 1899, Mr. Palmer became convinced, from information obtained from members of the Board, that at the meeting to be held on July 6th his removal would be effected. To prevent this, he applied through counsel to the Supreme Court, Second Department, for an injunction restraining the Board of Education from removing him in violation of law. A temporary injunction was granted by Justice Lambert, and was served upon the Board of Education prior to the meeting held on July 6th, 1899. The case came on for argument before Justice Stover, who made the temporary injunction permanent. The Board of Education appealed, and the case was argued twice in the Appellate Division. The Appellate Division dissolved the injunction, but in the opinion handed down held that the Secretary could not be removed except for cause, and then only by a three-fourths vote of all the members of the Board.

While technically beaten in this litigation, Mr. Palmer was in reality the prevailing party, as he obtained what he was striving for, viz., a judicial and authoritative construction of the statutory provision applicable to officers and employees of the Board of Education, and defeated the scheme of the majority to oust him and appoint their favorite in his place.



In addition to the injunction suit brought by Mr. Palmer, a taxpayer's suit was instituted in the Supreme Court, First Department, at the suggestion of his counsel, who thought that in case the first action failed an injunction secured by a taxpayer might stand. This second suit, in which an injunction was granted by Justice Andrews, was continued until the latter part of 1901, when it was discontinued by stipulation between counsel.

If Mr. Palmer had not taken prompt and vigorous steps to restrain the Board of Education from carrying its high-handed and partisan scheme into effect, the Board avowedly would have carried out its purpose of removing him and appointing another in his place. He would then have appealed to the Courts for reinstatement, and subsequently would have been reinstated, and would have received salary for the time he was not in office. Thus the City would have been compelled to pay two salaries for the same office for a considerable period, the extent of which can only be surmised. As it was, Mr. Palmer continuously performed service for the Board of Education.

For the expenditures actually made by him, he seeks to be reimbursed. The bills rendered by counsel covering the above matters, and paid, are as follows:

September 15, 1899	- - - - -	\$339.14
April 4, 1901	- - - - -	190.20
Bill paid by check August 9, 1900	- - - - -	20.10
January 1, 1902	- - - - -	32.38
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		\$581.82

In addition, Mr. Palmer was compelled to defend himself before the Committee on By-Laws and Legislation, in 1901, against charges preferred against him by one John Wallace, a former employee of the Board of Education. The facts regarding this matter are briefly as follows: In April, 1900, Wallace, the Chief Clerk, was suspended by the President of the Board of Education for alleged wrongdoing and neglect of duty. The facts on which the suspension was based were brought by Secretary Palmer to the President's attention. In due time formal charges against Wallace were preferred; he was regularly tried, found guilty, and in July, 1900, removed by a vote of three-fourths of all the members of the



Board. Mr. Palmer was a principal witness against him. In revenge, Wallace filed charges against Mr. Palmer, in November following. The charges were of the most trivial character and related wholly to matters which formed the subject of the abortive investigation (above referred to) made in 1899 for the purpose of finding grounds for the removal of Mr. Palmer. So insignificant were the charges that the Board would have refused to entertain them but for its hostility to the Secretary, and its desire to annoy and harass him, on which account they were kept hanging over his head for more than a year. He was cited for trial before the Committee on By-Laws and Legislation, the Chairman of which was Mr. Abraham Stern.

In view of the nature of the charges and the source from which they emanated, Mr. Palmer did not think it necessary to employ counsel, and would not have done so had he not been advised by Mr. Stern that he should be represented by counsel. He was also assured by Mr. Stern that the matter would be disposed of at one session of the Committee. Nevertheless, instead of one session, the trial was extended through four sessions, beginning on March 12, 1901, and ending on November 25, 1901. The trial was concluded and a report dismissing the charges decided upon only after Mr. Stern had been told by Mr. Palmer's counsel that if the Committee did not act he would apply for a writ of mandamus to compel the Committee to give Mr. Palmer a clean bill of health. The charges were finally dismissed on December 11, 1901, when the report of the Committee was adopted by the Board of Education by a unanimous vote. Mr. Palmer paid his counsel in this trial a fee of \$150.

If such a claim is not accounted valid, it is within the power of any enemy of a public official in a department with an unfriendly head to prefer trivial charges, not made in good faith, against him and cause him to employ counsel and defend himself on trial, not once or twice but a dozen or a score of times, subjecting him to unlimited expense, -- and yet the official would have no possible means of redress. To state such a case is to show its monstrous injustice.



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