

SUPERVISORS MAY HAVE BEEN MISLED

It Is Said That a Contractor Hoodwinked Them With Old Report of Rock Tests.

AUDITOR HOLDING DEMAND

The Merchants' Association Still Objects to Paying Henning & Burke.

The Merchants' Association has filed with the City and County Auditor a protest against the demand of Henning & Burke for payment of the final installment of \$6458 75 on this firm's contract for the yard work at the Clement School, the whole amount of which was \$24,840. Auditor Boyle is holding the demand for consideration, but whether the Merchants' Association will be able to convince him any more than it did Mayor McCarthy, the Mayor's Board of Public Works and the administration members of the Board of Supervisors, that payment in full should not be made, remains to be seen.

Auditor Boyle heretofore has always found sooner or later some reason for coinciding with the views of the administration in regard to paying funds out of the city treasury. He depends on his attorney, Ed Moran, to advise him what to do on disputed points, and as Moran's opinions in the past have been in accord with those of the powers that be, there is not thought to be any great likelihood that Auditor Boyle will be counseled by his legal adviser to turn down Henning & Burke's claim.

A false impression apparently was created by the report of tests of rock which Contractor Burke of Henning & Burke produced at the meeting of the Board of Supervisors recently, when the protest of the Merchants' Association was discussed. Burke asserted that the rock used in the concrete for the Clement School yard had been tested by Smith, Emery & Co. and been found superior to the rock called for by the specifications, which he referred to as the "Ocean Shore rock." He presented a statement by Smith, Emery & Co. of the tests which these engineers and chemists had made, and gave the impression that these tests were of the rock actually used by Henning & Burke at the Clement School this year.

THE TESTS OF THE ROCK.

The idea was conveyed that these tests were made after complaint had been made by the Merchants' Association's inspection bureau about the character of the rock that was taken this year to the school yard, and that the samples submitted to Smith, Emery & Co. were from the rock actually unloaded there for Henning & Burke.

Supervisor Bancroft, who opposed paying the demand, started to question Burke, but the contractor refused to give him the information he sought, as to who obtained these tests and how the samples were selected, and the administration majority of the Board rushed the demand through by adopting the resolution for payment.

Some days later the Merchants' Association learned that Smith, Emery & Co. had made no test this year of the rock used by Henning & Burke, and the report presented by Burke was then sought at the office of the Board of Supervisors. It was found that Burke had taken the document away, and he was notified by the clerk of the Board of Supervisors to return it, as it had to be filed. When filed it was seen that the date of Smith, Emery & Co.'s report was August 1, 1910, it being more than a year old. The samples tested had been submitted to Smith, Emery & Co., on July 25, 1910.

Had the age of the report about the tests which Contractor Burke triumphantly waved before the Board of Supervisors been understood at the time of the Board's meeting Burke would have been requested to explain how tests made a year ago of some samples of rock, which were submitted by interested parties, and the source of which was not stated in any available record, proved that the rock actually used by him this year was good.

It is said that the rock used by Henning & Burke came from the same quarry as that from which the samples analyzed by Smith, Emery & Co. were taken, but there is no evidence of this alleged fact on file. It is argued that if the samples reported on were good, the rock furnished to Henning & Burke from the same quarry also must have been good.

WHERE ROCK CAME FROM.

The samples were submitted to Smith, Emery & Co. by the Western Development Syndicate, which is said to be another name for Gray Brothers, and are supposed to have come from Gray Brothers' quarry. Henning & Burke have explained that they got rock from this quarry of the Gray Brothers because of its nearness to the Clement School, which is at the corner of Day and Noe streets. They assert that the price of this rock was as much as that asked for the other rock, which was called for by the specifications, and that they merely saved the cost of transportation.

On the other hand, it is said that little, if any, rock was taken from Gray Brothers' quarry for a long period before Henning & Burke got their supply, and that these contractors received a lot of loose rock which had been lying exposed for many months. The inspectors of the Merchants' Association said that when they picked up pieces of the rock from the pile at the school yard it easily broke and crumbled in their hands.

Samples of the rock were taken from the school yard by several of the Merchants' Association's inspectors, under specified conditions, so that there might be no question that they fairly represented the kind of rock used by Henning & Burke, and these were submitted to Abbot A. Hanks, chemist and assayer, whose report has been given by the Merchants' Association to the Auditor as bearing out the objections to payment.

The point raised by the Merchants' Association was that Henning & Burke did not comply with the specifications, and that for the protection of the city no contractor should be allowed to substitute material of his own choosing for that which he contracted to furnish, even if he or some city official thought that the substitute was "just as good."