

ANCHORAGE TIMES JUNE 9, 1961

De Long Corp. Threatens City With Suit

Would Sue If Claims Are Denied

The city of Anchorage was threatened with a suit for damages of at least \$841,000 for breach of contract by the DeLong Corp. of New York as arbitration hearings began this morning on \$342,000 in claims against the city's port.

A trio of arbitrators convened the hearings in Z. J. Loussac Auditorium and prepared to hear De Long's claims for work done in excess of its contract for construction of the \$8.2 million dock facility near Ship Creek.

BUT THE FIRST hour was taken up with argument between Edward Higgins, legal counsel for De Long, and City Attorney Richard Gantz on the city's legal position in the arbitration.

De Long is claiming the city owes it approximately \$342,000 over the contract price for delays in construction, redesign, and maintenance costs incurred by the contractor in caring for the port facility over last winter. There are 25 claims in all, Higgins said.

Threat of a suit for damages "over and above" the construction claims came from De Long when Higgins stated that the city refused to sign a submission agreement of De Long claims which Higgins said was provided for in the construction contract.

THE CITY "is under obligation to arbitrate under the terms of the contract," Higgins asserted. Failure to sign the submission constituted "wilful breach of contract," which with "concomitant damages" could amount to the \$841,000, he said.

Gantz replied that the contract was not required to sign the submission of claims agreement.

According to the contract "the submission is the demand type of submission," Gantz asserted. All that is necessary is submission of claims by one party properly notarized, he said.

GANTZ TERMED Higgins' stand a "tenuous legal position."

"We are here to defend ourselves and to reserve what legal rights we may have."

"We are here because the court directed us to be here."

Gantz said he referred to a recent Superior Court decision denying the city an injunction halting the hearings and throwing the dispute over the claims into court.

"Since there is no submission in writing since the city refused" to sign it, "this proceeding cannot properly proceed," Higgins said. The whole arbitration could be a nullity and void if the city chooses to make it so," he added. The result would be a "suit for breach of contract," Higgins said again.

"If the awards of this hearing are going to be a waste of time, we must discuss this" among the arbitrators, said Arbitration Board Chairman Robert Prescott.

Before a recess was declared, Higgins made a demand for payment by the city of a \$55,000 award made by the same arbitration board May 8 made on previous claims by De Long.

Gantz said "decision has not yet been made" whether to pay the claim.

Other arbitration board members are Eino Reinikka and Lee Linck. Prescott was chosen to serve by De Long and Reinikka by the city. Linck was chosen by the other two arbitrators.



ARBITRATION OPENED — For the first time, arbitration hearings were opened to the press concerning claims amounting to \$342,000 against the city for construction of the city port facility. The port contractor claims the amount is owed it for work done in excess of its contract. Two previous series of hearings on other claims by De Long were closed by the arbitrator to the press and public. But today, pressed by legal counsel for the Anchorage Times, the arbitrators admitted a news reporter and photographer. Shown during a recess in proceedings are, from left to right, arbitrators Eino Reinikka, Charles Prescott and Lee Linck.

ARBITRATION SESSION IS OPENED TO PRESS

The Anchorage Daily Times was partially successful today in opening to the public arbitration hearings on contractors' claims against the city for construction of the port.

After 20 minutes of discussion among the board of arbitrators, legal counsel for the Times, and attorneys for the city and the contractor,

a reporter and a photographer finally were admitted to the hearing in Z. J. Loussac Library.

PREVIOUS hearings in a series of disputes between the city and the DeLong Corp. of New York of the claims for work done on the port in excess of contract had been closed to the public by the arbitrators.

They are Charles Prescott of the U.S. Engineers, Alaska District; Eino Reinikka, engineer for the Alaskan Air Command; and Lee Linck, a consulting engineer of Fairbanks.

This morning, at the hearing room, Attorney William Renfrew, appearing for the Times, brought the admission that the public was excluded on the option of the arbitrators.

RENFREW POINTED out that "public money" was involved in the proceedings and the press should be admitted to inform citizens.

A claim by legal counsel for the De Long Corp. that the construction contract provided for the exclusion of the public was denied by City Attorney Richard Gantz.

Following a 10 minute discussion among the arbitrators, they decided the press would be allowed to remain at the hearing.

BUT REINIKKA said it was agreed that the arbitrators would "continue" to exclude the general public.

An arbitrator observed that the public might misdirect the arbitrators' attention.

Anchorage Daily Times, June 9, 1961

Port Asks Waiver For Export Of Cottonwood

JUNEAU — The Port of Anchorage has asked the state to waive its primary manufacture policy and permit the port to ship raw cottonwood logs to Japan, Natural Resources Commissioner Phil Holdsworth said today.

Under the primary manu-

facture policy adopted by the state, raw logs from state lands cannot be shipped out of Alaska without the express consent of the Department of Natural Resources.

HOLDSWORTH said the Port of Anchorage had received specific inquiries from

Japanese sources about the possibility of obtaining raw cottonwood logs from Alaska.

"The port asked us if we would waive the primary manufacture requirement if the market firms up," Holdsworth said. "The port was advised it would have to have a firm market before a decision could be made."

Holdsworth's office has the authority to waive the primary manufacture policy if (1) it can be shown there is a market for a particular specie of wood for export as logs and (2) the export of the logs would not upset an existing state industry using the same specie of wood.

"IT APPEARS that cottonwood might qualify for export," Holdsworth said.

The natural resources commissioner said there are substantial stands of cottonwood in the railbelt area which could be logged rather easily for export. He said the state does not have an inventory of its cottonwood, however.

"Cottonwood is a fast-growing specie," Holdsworth said, "and, properly seasoned, it takes on almost the character of a hardwood."

HOLDSWORTH said he believed the Japanese concerns reportedly interested in Alaskan cottonwood would use the logs for the manufacture of paneling and furniture.

The U.S. Forest Service prohibits the export of raw logs taken from national forests in Alaska.

Holdsworth noted that the Oregon Legislature recently passed primary manufacture legislation covering timber from state lands in Oregon.

"I think that action is bound to draw attention to the forest resources of Alaska," Holdsworth said.

Kazukawa Leaves City Port

Anchorage News
The M/S Kazukawa Maru cleared the Port of Anchorage at 7:20 p.m. Monday.

The Japanese owned vessel is on its way to Sitka and Wrangell to load pulp and timber before returning to its home base. It was loaded with 33 tons of tallow and some birch logs and timber, as well as sample cargo, when it left here last night.

Captain of the ship is T. Kihara. He will bring it back in mid-July. He said earlier this week that he hopes to have a heavier load at that time. This week's Cargo only weighed 1,200 tons.

The Kazukawa Maru was the first Japanese ship to dock in Anchorage last year and the first international vessel to use the newly opened port of Anchorage this spring.

Anchorage Daily Times June 10, 1961

Hearings On Arbitration On Port Work Continuing

Arbitration hearings continued this morning on contractor's claims against the city amounting to approximately \$342,000 for work allegedly done in excess of contract for construction of the Anchorage's port facility.

Three arbitrators are hearing the claims of the De Long Corp. of New York and its subcontractors in the Z. J. Loussac Auditorium. The ses-

sions are expected to continue tomorrow and possibly longer.

DE LONG HAS entered 25 claims against the city for work ranging from piling driving and testing to a \$200,000 claims for maintenance of the port facility during last winter.

The first session yesterday was halted by the arbitrators while they considered whether

the hearings should continue.

It was contended by Edward Higgins, legal counsel for De Long, that the hearings "cannot properly proceed" since the city refused to sign a submission of claims drawn up by De Long.

AFTER conferring, the arbitrators, Robert Prescott and Eino Reinikka of Anchorage, and Lee Linck of Fairbanks, decided it was within their jurisdiction to hear the 25 claims.

The city, represented by City Attorney Richard Gantz, had attempted to throw the dispute into court by seeking an injunction against the proceedings. But last week, the Superior Court failed to issue the injunction.

FIRST considered yesterday was a De Long claim of \$20,813 for the contractor termed "design changes in 24" inch piles. The claim was entered against De Long by the subcontractor M. B. Gilbrough Co., Higgins said.

The city's supervising engineers, Tippetts-Abbett-McCarthy-Stratton, admitted the company was justified to only \$1,905 for the claim.

M. B. GILBROUGH, questioned by his legal counsel, Robert A. O'Neill, stated changing of the piling design by the engineer from open end to closed resulted in difficulty in setting the piling in place and driving them into the ocean bottom.

The piling support the dock deck.

Barnett Sylveston, a partner in TAMS, told the hearing board that the contract provided that the "engineer has the right to change the location of the shoes." He said no distinction is made between the end closure and a collar, sometimes placed around the piling near its base to support the pile in the bottom.

"CLOSED END piles were driven shallower," therefore less time and blows" were taken to drive them, Sylveston asserted.

A second claim, also by Gilbrough, was \$28,507 in extra work and materials in being prevented from using permanent instead of temporary piling in piling tests.

O'NEILL SAID the contractor incurred extra costs because TAMS did not allow it to drive permanent piles in three locations to support pile testing apparatus.

An addendum to the contract, permitted by TAMS, provided that the contractor could use any means of testing the piles if approved by the engineer, O'Neill and Gilbrough maintained.

TAMS FAILED to approve use of permanent piles for the three tests but did approve the method for a final test, it was asserted. Wooden towers had to be erected in the three tests.

Sylveston and other TAMS officials said there was insufficient data to allow driving of the permanent piles to make the tests, except in the last instance.

The arbitrators then took up a claim put forth by Anchorage Sand and Gravel Co. for \$15,921 for dewatering, cleaning and extra work during filling of 42 inch piles with concrete. The claim continued to be heard today.

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EDITORIAL PAGE

Saturday, June 10, 1961

Arbiters Are Highhanded In Excluding The Public

THE ATTITUDE of arbiters in excluding the public from hearings relative to the disposition of up to \$500,000 in public funds, is one of the most ridiculous displayed here in at least a quarter of a century.

The Anchorage Daily Times yesterday broke the veil of secrecy through the presence of an attorney who threatened legal action. The break was only partial, however.

The arbiters agreed to allow Times representatives to attend the hearings. They persisted in their contention that "the public" would be excluded.

Inasmuch as it is "the public" that furnishes the money that is being spent, it would be appropriate for "the public" to be present in person. But the 80,000 residents of this area cannot attend.

The Anchorage Daily Times contends every member of "the public" has the right to attend and that right cannot be abrogated by the summary decision of the arbiters.

TWICE BEFORE the same arbiters have excluded the press and the public from similar hearings.

One hearing pertained to the completion date for the new city port facilities. The other involved claims against the city for \$110,000 more than the contract cost of the dock.

In the latter hearing the arbiters awarded the contractor \$55,000 — exactly one-half of the claim. The people of Anchorage are the ones who must pay the money, but because the hearing was closed nobody had the opportunity to learn how or why they are obligated for the extra payment.

Today the hearing opened with something near \$500,000 in additional claims which have been brought against the city by the contractor who built the dock. The arbiters are to decide whether the city must pay that amount, or part of it, or none of it.

The people have a right to know every detail involved in the claim. They must have such knowledge in order to judge whether their public officials are handling their affairs properly or whether they are delinquent in their duty. They also have the right to form their own judgments as to the equity of the contractor's claims for extra money.

THERE IS NO BASIS for the arbiters to exclude "the public" from such deliberations. The arbiters have put forth nothing but poor excuses.

Thursday one of them told a reporter the public is excluded "so matters will not get out of hand and get into the public eye."

What tommy-rot! Courts handle the delicate matters of justice in full view of the public. Governmental bodies meet publicly. That is a basic element of the democratic system. Public business is everybody's business.

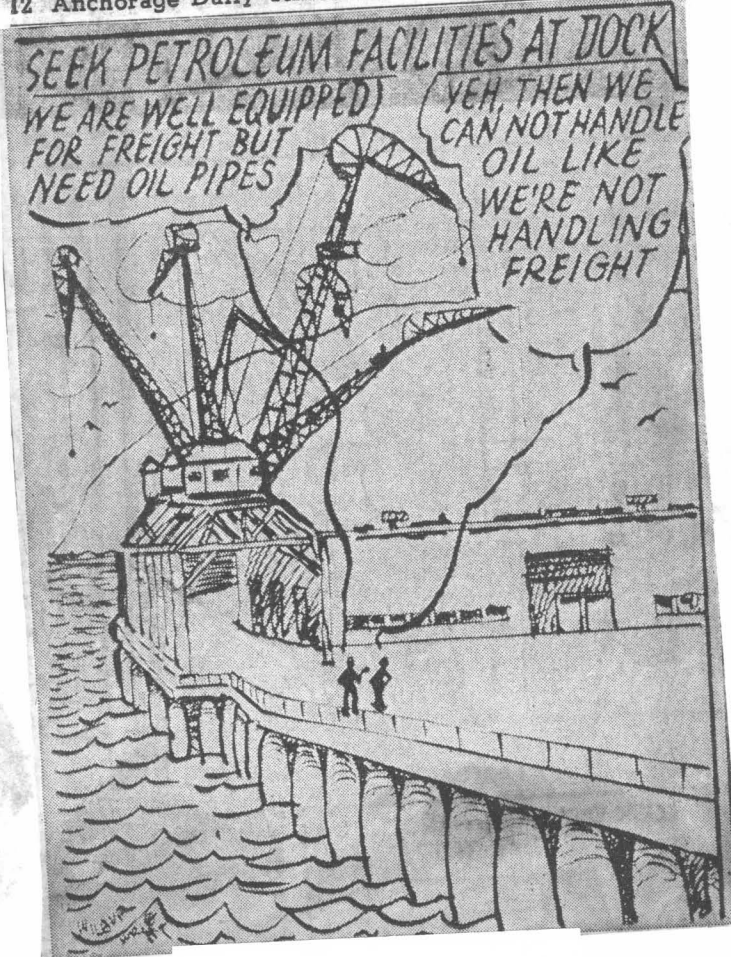
An arbiter claimed to this newspaper that a closed hearing "is a standard procedure of arbitration" and "the privacy of individuals are concerned."

That is equally silly. Privacy may prevail when the dispute is between two private parties and their own funds are at stake. But there is no such thing when the matters involve public funds.

At today's session, an arbiter expressed fear that "the public might misdirect the arbitrators' attention." If those arbiters cannot proceed with the public watching, there is something wrong with the arbiters, not the public. In that case it is the arbiters who should be excluded from the case, not the public.

The high-handed attitude is repulsive. It would be appropriate for citizens to attend to show that they will not forfeit their rights. The hearings are dull and monotonous, but the principle is too great to sacrifice at the whim of the arbiters.

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Officials Explain Customs Procedures at City's Port

Anchorage News
May 17, 1961

Now that international ships are beginning to use the Port of Anchorage, questions come to mind concerning customs and immigration procedures.

How will these functions be handled at the new port?

Each ship which is to dock at the port has an agent. That agent notifies the local customs, immigration, and public health officers as to time of arrival.

When the ship docks, it is met by inspectors from these three agencies. First the public health inspector boards the ship to ascertain whether the ship carries any disease. Until his inspection is completed, the ship is quarantined and no one may board or leave except him.

After the ship receives its bill of health, the customs and immigration inspectors go aboard and check baggage, cargo and personnel.

Similar procedures are followed at the Anchorage international airport whenever international flights land there. The immigration and customs departments

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