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Report
Law Dept. - 1931

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H. W. CARROLL,
CITY COMPTROLLER,
AND EX-OFFICIO CITY CLERK

A N N U A L R E P O R T
OF THE LAW DEPARTMENT OF THE CITY OF SEATTLE
FOR THE YEAR 1931

* * *

TO THE MAYOR AND CITY COUNCIL OF THE CITY OF SEATTLE:

Gentlemen:

Pursuant to Section 16, Article XXIV, of the City Charter, I herewith submit the annual report of the Law Department for the year ending December 31st, 1931.

I.

GENERAL STATEMENT OF LITIGATION

1. Tabulation of Cases:

The following is a general tabulation of suits and other proceedings pending in the Superior, Federal and appellate courts and before the Department of Public Works of Washington during the year:

	Pending Dec.31, 1930	Commenced during Year 1931	Ended dur- ing Year 1931	Pending Dec.31, 1931
Condemnation Suits	21	13	16	18
Condemnation Suits, Supple- mentary	4	13	6	11
Damages for Personal Injuries.	121	94	91	124
Damages other than Personal Injuries	71	63	59	75
Actions relating to collection of Assessment Rolls	2	0	2	0
Injunction Suits	23	9	15	17
Mandamus Proceedings	12	1	7	6
Miscellaneous proceedings	76	52	63	65
Public Service Proceedings	1	0	0	1
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	331	245	259	317

2. Personal Injury Actions:

	<u>Number</u>	<u>Amt. Involved</u>
Pending December 31, 1930	121	\$1,268,546.40
Commenced since December 31, 1930	<u>94</u>	<u>1,059,143.75</u>
Total	215	\$2,327,490.15
Tried and concluded since Dec. 31, 1930	<u>91</u>	<u>1,123,749.31</u>
Actions pending December 31, 1931	124	\$1,193,740.84

Of the personal injury actions pending in the department during the year, ninety-one, involving \$1,123,749.31, were tried and finally disposed of, as against eighty-two for the preceding year. Fifty-one of these cases resulted in judgments in favor of the City, and in the remaining forty cases there were recoveries aggregating \$93,340.50, which is eight and three-tenths per cent. of the aggregate damages claimed.

Of the ninety-four personal injury actions begun during the year, seventy-four, involving \$807,868.05, are based on alleged accidents occurring in connection with the operation of the municipal street railway system.

3. Damages other than Personal Injuries:

	<u>Number</u>	<u>Amt. Involved</u>
Pending December 31, 1930	71	\$ 251,977.10
Commenced since December 31, 1930	<u>63</u>	<u>180,829.66</u>
Total	134	\$ 432,806.76
Tried and concluded since Dec. 31, 1930	<u>59</u>	<u>104,809.22</u>
Pending December 31, 1931	75	\$ 327,997.54

Of the total of one hundred thirty-four cases involving damages other than personal injuries, fifty-nine cases, involving \$104,809.22, were disposed of during the year. In thirty-five cases there were judgments entered in favor of the City; in the remaining twenty-four cases, judgments were entered against the City in the aggregate amount of \$17,204.72.

4. Miscellaneous Cases:

Four actions were commenced against police officers for \$51,500.00 for false arrest, slander, etc. In these actions this department was authorized by ordinance to defend said officers.

Of sixty-three miscellaneous cases tried, all were won by the department, except two.

Seven hearings were conducted by the Department before the Civil Service Commission, in which two decisions were rendered by the Commission sustaining dismissal of the employees from service. Reinstatement was ordered in five cases.

One hundred fifteen minor actions were commenced for the Lighting Department, involving unpaid light and power bills amounting to \$7,738.38. Judgments, including costs, were entered in one hundred six cases. In addition thereto, the collection of a considerable number of past due accounts was effected without litigation by means of writing letters advising the various users of electric current that their accounts had been turned over to this department for collection, or that the removal of merchandise purchased on conditional sale from the City and out of the jurisdiction of the court rendered them liable to both civil and criminal actions. The handling of this work of the Lighting Department requires about eighty per cent. of the time of one of the Law Clerks of this department.

This department has commenced numerous actions for the abatement of buildings on private property, on the ground that they are public nuisances. These cases are becoming increasingly numerous, and while quite effective, consume a great amount of time and considerable funds.

We feel that comment on individual cases and problems of the department and many details heretofore included in the annual report may be dispensed with. It seems appropriate, however, to refer to three matters of unusual magnitude.

The Aurora Avenue, et al, condemnation case, under Ordinance No. 59719, embracing the extensive north and south approaches and connecting laterals to the George Washington Memorial Bridge, was filed November 18, 1930. Trial commenced May 4th and was concluded June 8, 1931. There were 718 awards of the jury, aggregating \$1,738,512.70. In response to public demand this matter was pushed with the utmost speed and was concluded in less than seven months, which is an all-time record for a condemnation case of this magnitude.

Another unusual case was that brought by the City against the Pacific States Lumber Company involving the logging operations of the Company in the upper Cedar River watershed. This case was commenced pursuant to ordinance in response to pronounced public demand that logging operations in the upper Cedar River watershed cease, if it were possible that such an object could be consummated by court action. The Company defended its operations by pleading the contract of 1917 pursuant to Ordinance No. 58305. The City contended that the contract was ultra vires and therefore void. The defendant Company secured the change of venue to Kittitas County. The trial of the case consumed more than a month, during which two Assistant Corporation Counsel were withdrawn from their usual duties to handle this case at Ellensburg. The trial court sustained the defense of the Company.

The recall of former Mayor Frank Edwards, in 1931, presented several complex questions of law. This department was necessarily forced into the litigation through injunction suits brought by certain taxpayers and by former Mayor Edwards personally against the City Comptroller. The position taken by the Comptroller, in accordance with our written opinions, was sustained by the trial court and ultimately by the Supreme Court in a four to four decision.

II.

WORK OF CLAIM AGENT.

Statement and Investigation of Damage
Claims filed Against the City:

	<u>Number</u>	<u>Amt. Involved</u>
Claims for damage under investigation December 31, 1930	1164	\$2,859,070.85
Claims for damages referred to this department for investigation Dec. 31, 1930, to Dec. 31, 1931	<u>964</u>	<u>1,665,140.88</u>
	2128	\$4,524,211.73

Claims Disposed of as follows:

	<u>Number</u>	<u>Amt. Claimed</u>	<u>Amount Paid</u>
Settled	404	\$377,128.47	\$57,868.76
Rejected	<u>503</u>	<u>1,121,111.62</u>	
	907	1,498,240.09	
Claims pending Dec. 31, 1931:	1221	5,025,771.64	

Eighteen of above settled claims were in suit and settled
in conjunction with Claim Agent:

Amount Involved	\$179,772.50
Amount of Settlement	14,303.80

Number of street railway accident reports from
Department of Public Utilities and Investiga-
ted, Dec. 31, 1930, to Dec. 31, 1931 5128

Number of circulars and letters mailed in
connection with the investigation of fore-
going claims and reports 11100

III.

MISCELLANEOUS

1. Recodification:

As mentioned in the 1928 and 1929 reports, the City Council, with a view to recodification of the City penal ordinances, included an item therefor in the 1928 budget and provided for continuance of the work by subsequent appropriations long since exhausted. The work of recodification has gone forward as speedily as possible, in view of its volume and many complex problems and the impossibility, of late, of detailing an Assistant Corporation Counsel to this work exclusively. It is hoped that the recodification will be finally completed during 1932, without the necessity for additional appropriations, except the use of an unexpended balance of \$1200.00 from the 1931 budget allowance.

IV.

WORK OF THE CITY ATTORNEY

1. Prosecutions for Violations of City Ordinances:

During the year the City Attorney disposed of 20,232 cases in the Police Court, resulting in the imposition and collection of fines and forfeitures in the amount of \$117,994.60. During the year, 26 appealed cases were tried and disposed of, resulting in fines and forfeitures amounting to \$2,779.93.

V.

O P I N I O N S

During the year, in addition to innumerable conferences with City officials concerning municipal affairs, of which no formal record is kept, this department rendered one hundred twenty written legal opinions upon various questions submitted by the several departments of City government.

VI.

ORDINANCES, RESOLUTIONS AND BONDS

The members of the City Council and the Mayor have, from time to time, requested this department to prepare, during the period of this report, one hundred seventy-five ordinances and resolutions.

During the year, 1104 bonds of officials, bidders, depositaries and others were examined and approved.

VII.

SERVICE OF PROCESS

During the year, 2,000 services of process were made by our witness clerk, who traveled 17,881 miles by the Ford automobile assigned to this department. Services were made in fifteen condemnation cases. A considerable amount of time was required in locating and serving subpoenas upon 398 witnesses in sixty damage cases. Cost of operating auto in this service, for gas, oil and repairs, was \$201.37.

VIII.

MISCELLANEOUS MATTERS

1. Charter Amendments:

At the request of the City Council, we have prepared seven resolutions submitting charter amendments.

CONCLUSION

The matters tabulated give some idea of the volume of the business of this department, which was handled by a force of less than thirty employes at a total cost of less than \$130,000.00 per annum.

The legal problems presented by the business and governmental activities of a \$100,000,000.00 corporation, such as the City of Seattle, are perhaps not appreciated by those not familiar with the operations of this department. In addition to the volume of varied litigation included in the tabulation hereinbefore set forth, a most important function of the department is its advisory one. This is reflected to a considerable extent in the one hundred twenty opinions furnished by the department for the guidance of the City and its officers. Unusual care must be exercised in deciding these questions of law, as the City's position must frequently be defended in the courts, which are the final judges of the law. Many matters considered in our opinions of the past year were litigated, and the courts invariably sustained our conclusions concerning the applicable law.

In concluding this report, it is proper to express a high degree of appreciation of the industry, efficiency and loyalty of the personnel of this department. The measure of their devotion is not prescribed by the office hours designated in the City Charter. They have at all times been willing, during office hours and after office hours, to do anything necessary to the success of the cause and the interests of the City, notwithstanding the fact that they receive no compensation for overtime work.

Respectfully submitted,



Corporation Counsel.