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Annual Report
Law Dept 1932

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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 1932

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, 1932.

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:

	<u>Pending Dec.31, 1931</u>	<u>Commenced during Year 1932</u>	<u>Ended dur- ing Year 1932</u>	<u>Pending Dec.31, 1932</u>
Condemnation Suits	18	3	13	8
Condemnation Suits, Supple- mentary	11	3	13	1
Damages for Personal Injuries	124	70	48	146
Damages other than Personal Injuries	75	44	36	83
Actions relating to collec- tion of Assessment Rolls ..	0	0	0	0
Injunction Suits	17	22	9	30
Mandamus Proceedings	6	8	4	10
Miscellaneous Proceedings ...	65	60	46	79
Public Service Proceedings ..	1	1	0	2
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	317	211	169	359

2. Personal Injury Actions:

	<u>Number</u>	<u>Amt. Involved</u>
Pending December 31, 1931	124	\$1,193,740.84
Commenced since December 31, 1931.	<u>70</u>	<u>774,118.67</u>
Total	194	\$1,967,859.51
Tried and concluded since Dec. 31, 1931	<u>48</u>	<u>396,738.70</u>
Actions pending December 31, 1932.	146	\$1,571,120.81

Of the personal injury actions pending in the department during the year, forty-eight, involving \$396,738.70, were tried and finally disposed of. Twenty-five of these cases resulted in judgments in favor of the City, and in the remaining twenty-three cases there were recoveries aggregating \$24,966.50, which is six and three-tenths per cent. of the aggregate damages claimed, as against eight and three-tenths per cent. for the preceding year.

Of the seventy personal injury actions begun during the year, thirty-six, involving \$485,556.97, 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, 1931	75	\$ 327,997.54
Commenced since December 31, 1931.	<u>44</u>	<u>132,338.98</u>
Total	119	\$ 460,336.52
Tried and concluded since Dec. 31, 1931	<u>36</u>	<u>143,149.48</u>
Pending December 31, 1932	83	\$ 317,187.04

Of the total of one hundred nineteen cases involving damages other than personal injuries, thirty-six cases, involving \$143,149.48, were disposed of during the year. In eighteen cases there were judgments entered in favor of the City; in the

remaining eighteen cases, judgments were entered against the City in the aggregate amount of \$17,382.57.

4. Miscellaneous Cases:

Three actions were commenced against police officers for \$20,000.00 for false arrest. In these actions this department was authorized by ordinance to defend said officers.

Of forty-six miscellaneous cases tried, forty were won by the department.

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

Fifty-eight minor actions were commenced for the Lighting Department, involving unpaid light and power bills amounting to \$4,800.00. Judgments, including costs (amounting to \$728.20), were collected in twenty-nine cases. In addition thereto, the collection of a considerable number of past due accounts, amounting to \$4,146.00, 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. Two hundred fifty garnishments were answered.

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.

Tabulation 1 shows that the volume of pending trial work has increased from 317 cases pending December 31, 1931 to 359 pending December 31, 1932. Eminent Domain (condemnation) litigation has dropped to a nominal figure, but injunction suits, mandamus proceedings and miscellaneous proceedings show a substantial increase. The disposal of pending litigation, particularly tort actions, was impeded during 1932 by the congested condition of the Superior Court trial calendar. Despite this, 169 cases were completed during 1932.

The Aurora Avenue et al. assessment roll case (Ordinance No. 59719) involving special benefits arising from the extensive north and south approaches and connecting laterals to the George Washington Memorial Bridge, was tried, commencing January 4th and concluded January 21st, 1932. This was one of the largest condemnation assessment projects ever undertaken by the City. It affected thousands of pieces of property and was subjected to a concerted organized attack, thousands of objections being filed, the objectors being represented by numerous local attorneys. The trial court (Judge Hall) after several days of consideration announced that he was unable to render any decision in the matter until after the convening of the 1933 session of the State Legislature, and he urged the presentation to that body of the proposal that the cost of the condemnation be paid by the State out of gasoline tax moneys.

The case of the City against the Pacific States Lumber Company, mentioned in the 1931 Annual Report and involving the logging operations of the Company in the upper Cedar River watershed -- 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 -- was decided adversely to the City by the State Supreme Court in February, 1932 (166 Wash. 517).

RATE HEARINGS

In July an ordinance imposing a 3% occupation tax on utilities became effective. The Seattle Gas Company filed application with the State Department of Public Works to increase rates to absorb the tax. The City protested this increase. The Department of Public Works granted the increase pending the hearing of the matter and directed the Company to keep the proceeds in a special account to be turned back to consumers in event of an adverse decision. The taking of evidence began August 15th and lasted five days.

The City presented evidence of fictitious items in the rate base of 1914 consisting of approximately \$1,500,000 in capitalization of past losses incurred by the Company between 1904 and 1914. These losses were based upon figures showing failure to earn 8% on plant valuation during these years. This was called development cost. Another item of approximately \$1,000,000 was allowed for theoretical "paving over mains uncut". The gas mains had been laid before paving. This theoretical cost was based upon an estimate of the cost of relaying these mains in 1914, requiring cutting of paving, excavation of earth, refilling and repaving of the streets over the mains. Other items related to properties valued in the rate base which had ceased to be used or useful in connection with the utility. The total of all these items of value approximated \$3,000,000.

Evidence was also offered of losses in the merchandising business which had been charged to the consumer as operating cost and some \$85,000 per year in so-called management fees paid to the Chicago holding company which controls the capital stock of the Gas Company through various subsidiaries.

The City by ordinance engaged as engineers for this hearing, Messrs. Carey and Harlan, who had years of experience in utility rate and valuation matters. The State through its engineers offered evidence to the same effect.

An early decision had been expected but the matter had not been decided on January 1, 1933.

II.

STATEMENT AND INVESTIGATION OF DAMAGE
CLAIMS FILED AGAINST THE CITY

	<u>Number</u>	<u>Amt. Involved</u>
Claims for damage under investigation December 31, 1931	1221	\$3,025,771.64
Claims for damages referred to this department for investigation Dec. 31, 1931 to Dec. 31, 1932	<u>767</u>	<u>1,217,915.15</u>
	1988	\$4,243,686.79

Claims Disposed of as follows:

	<u>Number</u>	<u>Amt. Claimed</u>	<u>Amount Paid</u>
Settled	355	\$ 329,735.70	\$ 54,747.00
Rejected	<u>465</u>	<u>1,108,601.95</u>	
	820	\$1,438,337.65	
Claims pending Dec. 31, 1932	1168	\$2,805,349.14	

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

Amount Involved	\$ 70,068.90
Amount of Settlement	13,197.17

Number of street railway accident reports from Department of Public Utilities and investigated, Dec. 31, 1931 to Dec. 31, 1932 4108

Number of circulars and letters mailed in connection with the investigation of foregoing claims and reports 8046

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 been suspended by reason of reduction of force and the drastic economies in operation enforced in 1932.

IV.

WORK OF THE CITY ATTORNEY

1. Prosecutions for Violations of City Ordinances:

During the year the City Attorney disposed of 15,719 cases in the Police Court, resulting in the imposition and collection of fines and forfeitures in the amount of \$68,317.10. During the year 37 appealed cases were tried and disposed of, resulting in fines and forfeitures amounting to \$850.00.

V.

OPINIONS

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 forty-one written legal opinions upon various questions submitted by the several departments of City government. A material increase in the amount of advisory work of the department with a reduced force and drastic salary reductions, constitutes a serious problem.

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 eighty-three ordinances and resolutions; many of these, including voluminous proposed occupation tax and other revenue measures, were of unusual difficulty, involving a great deal of time and research.

During the year, 800 bonds of officials, bidders, depositaries and others were examined and approved.

VII.

SERVICE OF PROCESS

During the year, 1033 services of process were made by our witness clerk, who traveled 9,988 miles by the Ford automobile assigned to this department. A considerable amount of time was required in locating and serving subpoenas upon witnesses in damage cases. Cost of operating auto in this service, for gas, oil and repairs, was \$113.87.

VIII.

MISCELLANEOUS MATTERS

1. Charter Amendments:

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

CONCLUSION

The budget allowance for this department for 1932 was \$112,301. By the exercise of the most rigid economy \$11,077.85, or approximately ten per cent. of the entire budget, was voluntarily saved by the department, and an additional reduction of

\$5,250.14, or approximately five per cent. additional, was effected by the Mayor and City Council through drastic salary decreases running as high as thirty to thirty-five per cent. in this department. In the case of the Assistants, some were reduced to the salary they had received as law clerks several years before.

The fact that we were able to save fifteen per cent. of the budget and to operate at a total cost of \$95,584.20 in 1932 as against a total cost in 1920 of \$107,665.00, is a tribute to the industry, efficiency and loyalty of the personnel.

As hereinbefore pointed out, the volume of advisory work increased materially in 1932 and the total number of cases pending at the close of the year was larger than in 1931, illustrating that the work (except condemnation cases) has not lessened during the depression.

The legal problems presented by the business and governmental activities of the City of Seattle are probably not appreciated by those not familiar with the operations of this department. They have multiplied during the depression. The demand for utility rate adjustments; measures for the relief of the unemployed; legal problems arising out of reduction of force; sometimes unreasonable demand for economy without curtailment of service, and search for a legal basis for raising revenue other than by taxation of property, are illustrative of the legal problems mentioned.

Respectfully submitted,


Corporation Counsel