

CITY OF SEATTLE
LAW DEPARTMENT

Annual Report

1947

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AL _____ o'clock
APR 6 1948
W. C. THOMAS
CITY COMPTROLLER
AND EX-OFFICIO CITY CLERK

A. C. VAN SOELEN
Corporation Counsel


MR. PRESIDENT:

Your Committee on Finance

to which was referred the within Annual Report

Date Reported
and Adopted

would respectfully report that we have considered the same and respectfully recommend that
the same be placed on file.


Chairman

Chairman

CITY OF SEATTLE
LAW DEPARTMENT

Annual Report

1947

A. C. VAN SOELEN, *Corporation Counsel*

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CHARLES V. HOARD *Assistant Corporation Counsel*

CHAS. L. CONLEY *Assistant Corporation Counsel*

E. A. SWIFT, JR. *Assistant Corporation Counsel*

BRUCE MACDOUGALL *City Prosecutor*

FAYE FORDE *Secretary*

JOHN F. COOPER *Claim Agent*

FILED

At _____ o'clock _____ M

APR 6 1948

W. C. THOMAS

CITY COMPTROLLER

AND EX-OFFICIO CITY CLERK

Foreword

Section 12 of Article XXII of the Seattle Charter requires an annual report showing the "amount of business transacted" in each department of the city government. Such a report is necessarily and largely a tabulation of figures. This makes for dry reading and unless analyzed, is not especially informative to the public. In this foreward I will attempt to present a general picture of 1947 operation in the Law Department.

The Corporation Counsel is a municipal corporation lawyer, a specialist in the legal field. He is the attorney and legal adviser for all the city departments, including City Light and the Transit System. He is the head of the Law Department. He supervises the work of the staff of 24 men and women, including 12 assistants. The assistants are not in the Civil Service. The Law Department has a Claim Division which operates somewhat in the fashion of an insurance agency. The City Claim Agent is the head of this division.

Taking up first the work of the Law Department proper, we find that in 1947, ~~91~~ ¹⁰¹ civil law suits involving one ~~and a third~~ ^{two} million dollars were disposed of. Sixteen were won outright and in the remainder the plaintiffs recovered a total in round numbers of ~~\$230,000.~~ ^{\$77,000.} These were personal injury actions. Of 23 cases other than personal injury, involving some \$55,000, 10 were won outright and the balance cost the city some \$5,700. Six cases were argued in the State Supreme Court—five were won and one lost. Suits were brought involving some 39 uncollectible light bills; \$1100 was collected.

The Claim Division investigated 3,817 Transit System accident reports in 1947 and sent out nearly 13,000 circulars and questionnaires in connection with such reports. 683 claims were settled and 485 claims were rejected. \$149,256.28 was paid in connection with these settlements.

In the ordinance enforcement section of the Law Department, a calendar of 27,021 cases was handled in the Municipal Court by the City Prosecutor. Fines and forfeitures aggregated \$200,986. In the Municipal Traffic Court, a calendar of 138,823 cases was han-

dled by two Assistant Corporation Counsel alternating in this work. Fines and forfeitures aggregated \$694,317. 98 driver's licenses were revoked and 819 suspended. 33 jail sentences were imposed. 155 traffic court appeals were disposed of in 1947. 10 appellants were acquitted—14 cases were dismissed for insufficiency of evidence, etc. 60 of such appeals were abandoned by the appellants and the cases remanded to the lower court to enforce its original judgments. 71 convictions and pleas of "guilty" were entered. A total of \$5,208.60 fines and forfeitures was collected. This section has become increasingly important since the institution of the Traffic Court.

In the advisory section 86 formal legal opinions were rendered. A growing number of opinions on the legality of L.I.D. Bonds were furnished to the City Employees' Pension System, which has purchased many of such bonds as investments. 285 ordinances and 29 resolutions were prepared. 1,457 bonds aggregating \$33,209,-885.85 were examined and approved as to legal form.

This summary gives some idea, at least as to the volume, of legal advisory and claim business handled. It does not carry with it a picture of the important and responsible work done by the members of the staff in their various capacities. It is plain, however, much legal work has been done and done well in 1947.

Annual Report

OF THE LAW DEPARTMENT OF THE CITY OF SEATTLE FOR THE YEAR 1947

To the Mayor and City Council of the City of Seattle:

Gentlemen: Pursuant to Section 12, Article XXII of the City Charter, I herewith submit the annual report of the Law Department for the year ending December 31, 1947.

I.

GENERAL STATEMENT OF LITIGATION

1. Tabulation of Cases:

The following is a general tabulation of suits and other civil proceedings pending in the Superior, Federal, and Appellate courts during the year 1947.

	Pending Dec. 31 1946	Commenced during Year 1947	Ended dur- ing Year 1947	Pending Dec. 31 1947
Condemnation suits.....	11	10	11	10
Damages for personal injuries.....	47	45	44	48
Damages other than for personal injuries	19	28	23	24
Injunction suits.....	4	0	3	1
Mandamus proceedings.....	3	3	1	5
Miscellaneous proceedings.....	22	10	7	25
Public service proceedings.....	3	1	3	1
Total	109	97	91	114
Appeals from Municipal and Traffic Courts.....	129	109	155	83
Grand total.....	238	206	246	197

2. Segregation—Personal Injury Actions:

	Number	Amount Involved
Pending December 31, 1946.....	47	\$ 672,789.57
Commenced since December 31, 1946.....	45	650,592.10
Total	92	\$1,323,381.67
Tried and concluded since December 31, 1946.....	44	493,332.30
Actions pending December 31, 1947.....	48	\$ 830,049.37

Of these personal injury actions, 44, involving \$493,332.30 were tried and finally disposed of in 1947; 16 cases were won outright; in 12 cases, involving \$156,724.50, the plaintiffs recovered verdicts aggregating \$50,784.40. The remaining cases, involving \$163,922.00, were settled or dismissed without trial for a total amount of \$23,-102.50.

Of the 45 personal injury actions begun during the year, 27 involving \$365,495.00, are based on alleged accidents occurring in connection with the operation of the municipal transit system.

3. Segregation—Damages Other Than Personal Injuries:

	Number	Amount Involved
Pending December 31, 1946.....	19	\$11,196.68
Commenced since December 31, 1946.....	28	52,960.03
	47	\$64,156.71
Tried and concluded since December 31, 1946.....	23	54,343.95
Pending December 31, 1947.....	24	65,372.51

Of the total of 47 cases involving damages other than personal injuries, 23 cases, involving \$54,343.95, were disposed of during the year, of which 10 were won outright. Eleven cases, involving \$3,600.74, were settled for \$1,687.24; 2 cases resulted in verdicts against the city for \$573.15. Eleven of such cases begun during the year, involving \$6,153.34, arose from Transit accidents.

4. Supreme Court:

Six cases were argued in the State Supreme Court. Five were won and one lost.

5. Miscellaneous Cases:

Three injunction actions were tried and won. One is still pending. One mandamus action was tried, five are still pending.

Of 7 miscellaneous cases tried, 6 were won, and 1 lost by the department.

One action against the Chief of Police and Police Officers for false arrest and assault, aggregating \$15,014.00, was filed, and six other cases for false arrest are still pending.

Six hearings relating to dismissals of employees, etc., were participated in by this department before the Civil Service Commission, and in each the action of the department concerned was sustained.

Thirty-nine actions were commenced for the Lighting Department, involving unpaid light and power bills; collections, including costs, amounted to \$1100.86. In addition a considerable amount of past due accounts was collected as a result of 855 letters sent out by this department. Seventy-three garnishments were answered.

II.

CLAIMS FOR 1947

	Number	Amount Involved
Claims for damages under investigation—		
December 31, 1946.....	1,689	\$1,859,786.10
Claims for damages referred to this department for investigation Dec. 31, 1946 to Dec. 31, 1947.....	1,148	1,375,098.71
	No.	Amt. Claimed
Claims disposed of as follows:		Amt. Paid
Settled	683	\$637,703.75
Rejected	485	698,273.29
	1,168	\$1,335,977.04
Claims pending Dec. 31, 1947.....	1,669	\$1,888,907.77

Twenty-seven of the above settled claims were in suit and were settled in connection with the Claim Agent.

Amount Involved	\$207,482.95
Amount of Settlement	33,985.15
Number of transit accident reports investigated December 31, 1946, to December 31, 1947.....	3,817
Number of circulars and letters mailed in connection with investigation of foregoing claims and reports.....	12,988

III.

MUNICIPAL COURT

During the year 1947 City Prosecutor Bruce MacDougall handled a calendar of 27,021 cases, other than traffic, in the Municipal Court, resulting in the imposition and collection of fines and forfeitures in the amount of \$200,986.00.

MUNICIPAL TRAFFIC COURT

In the Municipal Traffic Court for the year 1947 a calendar of 138,823 traffic cases was handled by assistants C. C. McCullough and C. V. Hoard acting as city prosecutors, resulting in fines and forfeitures amounting to \$694,317.00. Ninety-eight driver's licenses were revoked and 819 suspended; 33 jail sentences were imposed.

MUNICIPAL TRAFFIC COURT APPEALS

One hundred fifty-five traffic court appeals were disposed of in 1947. In 71, convictions were had or pleas of guilty were entered; 10 appellants were acquitted; 14 cases were dismissed for insufficiency of evidence, witnesses moving away, death of defendants, and defendants' being already confined in the penitentiary. Sixty appealed cases were remanded to the lower court to enforce its original judgments. A total of \$5,208.60 in fines and forfeitures was

collected by this department and transmitted to the city treasurer; jail sentences were imposed in many cases. Mr. Louis Stokke was detailed by the Chief of Police to assist in the service of process, commitment of defendants, etc. His work is of invaluable assistance to this department. An Assistant Corporation Counsel has been assigned at practically full time to handle this appeal work.

IV.

OPINIONS

During the year, in addition to innumerable conferences with City officials concerning municipal affairs, of which no formal record is kept, this department wrote 86 formal legal opinions upon questions submitted by the various departments of the city government. A growing number of opinions as to the legality of L. I. D. bonds were furnished to the city employees' pension system, which has purchased a great number of such bonds as investments.

V.

ORDINANCES, RESOLUTIONS AND MISCELLANEOUS

The members of the City Council and the Mayor, during 1947, requested this department to prepare 285 ordinances and 29 resolutions.

During the year 1,457 bonds of officials, bidders, contractors, depositaries and others were examined and approved as to legality, totaling \$33,209,885.85.

MEMO ON UNUSUAL CASES — 1947

The following cases handled during the year 1947 are somewhat out of the ordinary and justify particular mention in this report.

Ferguson v. City of Seattle, 127 Wash. Dec. 52, involved an accident occurring near the intersection of 4th Avenue South and Jackson Street about 8:15 A.M., December 27, 1944. The bus involved was returning to the Atlantic Street Garage at the end of its run. Its headlights were not burning at the time because of some failure in the ignition system.

Plaintiff's evidence showed that at some undetermined hour Mrs. Ferguson was found under the front wheel of this bus at a point about 25 feet east of the east line of the 4th Avenue South crosswalk crossing Jackson Street. This is approximately in front of the doors of the Union Station. She had alighted from her husband's car at the northwest corner of the intersection of 4th South and Jackson about 8:00 o'clock and remembered nothing from the time she alighted from the car, but it had been her intention to cross 4th Avenue South to the east and Jackson Street to the south

in order to reach the southeast corner of 4th South and Jackson where she intended boarding a bus to carry her to her place of employment in the Roosevelt Hotel.

There was considerable testimony about the difficulty encountered in backing the bus to remove it from Mrs. Ferguson's leg. The complaint alleged that the accident occurred at 8:15, but none of the plaintiff's witnesses definitely fixed the time and there was no eye-witness to the accident.

The bus driver testified that when he reached the intersection traveling south on 4th Avenue South another bus was stopped ahead of him waiting for a green light; that when the light turned green the bus ahead got the jump on the northbound traffic and made a left turn into Jackson Street, but that the bus involved waited until there was a break in the northbound traffic, when he started to make his turn into Jackson Street. He looked in the crosswalk and there was no one there, made his turn across the crosswalk when there was still no one on it, and at a point about 25 feet east of the crosswalk saw a dark object immediately in front of him which he took to be a lady's hat. He immediately applied his brakes and the object moved or fell across the front of the bus. When he stopped, the bus was resting on Mrs. Ferguson's leg.

The only evidence regarding the hours of darkness (one-half hour before sunrise) was computation made with the aid of an almanac which fixed the hour of sunrise on that day at 8:37 which would mean that the hours of darkness ended at 8:07.

The case was submitted to the jury on three possible grounds of negligence on the part of the bus driver — first, failure to keep a reasonable lookout; second, failure to sound a horn, and third, operating during the hours of darkness without headlights. The jury returned a verdict of \$11,500.00 in favor of plaintiffs.

On appeal the Supreme Court reversed the judgment and ordered the action dismissed, holding that there was insufficient evidence of any negligence on the part of the bus driver, there being no evidence that plaintiff was on the crosswalk when struck nor evidence that the operator failed to keep a reasonable lookout or that he had time or opportunity to sound a horn and no evidence that the accident occurred during the hours of darkness.

This decision created considerable interest among attorneys, and the Seattle Bar Association reviewed the case at a regular meeting.

Gray v. City of Seattle, 129 Wash. Dec. 399, involved an injury to a passenger who fell on a city bus as it was starting up. The plaintiff, a man about 50, was suffering from an arthritic knee and walked with a cane. The trial court instructed the jury that the bus

driver was charged with the highest degree of care to determine whether the plaintiff's infirmity was such that he could not safely start the bus until he reached a seat, and the Supreme Court reversed, holding that this was a matter of reasonable care and that the rule of highest degree of care did not apply to the operator's duty in respect to determining the physical condition of a passenger. The Supreme Court said this question had never been previously decided in this state.

Seattle Transit Riders League v. City and Transportation Commission, was an action to enjoin the Transportation Commission from increasing the bus fares from 8 1/3 cents to 10 cents. The matter was argued at length on a show cause order for the issuance of an injunction, and the Superior Court held that the Transit Commission, under Ch. 47, Laws of 1939, had power to increase the fares and that its action is not subject to court review. The injunction was denied.

M. S. Anderson v. City of Seattle, was an action brought by a property owner on North 85th Street to enjoin the city from parking buses in front of his driveway or residence. The case was tried on the merits and plaintiff offered considerable evidence to show that buses had been parked in front of his house and frequently across his driveway for periods as long as 20 minutes (this being the terminus of the route). The trial court, however, held that if the bus drivers violated the law the proper remedy was action against them in traffic court; that the court could not police the areas and denied plaintiff's injunction.

In the case of the *City of Seattle v. Walter H. Jackson*, the Municipal Judge held Seattle ordinance No. 75624, approved Dec. 24, 1946, unconstitutional, principally on the ground that it required self-incrimination contrary to the fifth amendment to the United States constitution and Article I, Section 9, of the Washington State constitution.

The city procured review of the Municipal Judge's decision in the Superior Court by a writ of certiorari. Judge Findley of the Superior Court held that the constitutional provisions against self-incrimination applied only to criminal cases being prosecuted in court and did not invalidate the ordinance. He further held, from construction of the ordinance together with its title, that it applied only to persons abroad at night under suspicious circumstances and that as so limited it was a reasonable exercise of the police power of the city. Opposing counsel gave notice of appeal to the Supreme Court, which was later dismissed by stipulation. The case was remanded to the Municipal Court for further proceedings. No further question as to the constitutionality of the ordinance has been raised.

CONCLUSION

The department as usual operated within its budget, which was \$99,230 in 1947. The staff again at full strength with the return from war service of four assistants, cooperated fully and enthusiastically in getting out the work under sometimes difficult circumstances, including the fact that salaries in the many specialized positions in the department had not kept pace with the increased cost of living.

Respectfully submitted,

A. C. VAN SOELEN,
Corporation Counsel.

*The Argus Press
Seattle*

