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CITY OF SEATTLE
LAW DEPARTMENT

Annual Report

1948

FILED
At _____ o'clock _____

MAR 30 1949

W. C. THOMAS
CITY COMPTROLLER
AND EX-OFFICIO CITY CLERK

APR 4 - 1949

**FINANCE
JUDICIARY**

APR 11 1949

ON FILE

A. C. VAN SOELEN
Corporation Counsel

The City of Seattle--Legislative Department

MR. PRESIDENT:

Your Committee on Judiciary

to which was referred File No. 202402, The City of Seattle, Law Department

Annual Report, 1948, would respectfully report that we have considered the same and respectfully recommend that

Date Reported
and Adopted

APR 11 1949

THE SAME BE PLACED ON FILE.

Chairman

Chairman

Pauls

CITY OF SEATTLE
LAW DEPARTMENT
Annual Report

1948

A. C. VAN SOELEN, <i>Corporation Counsel</i>	
J. AMBLER NEWTON	<i>Assistant Corporation Counsel</i>
CAMPBELL C. McCULLOUGH	<i>Assistant Corporation Counsel</i>
GLEN E. WILSON	<i>Assistant Corporation Counsel</i>
ARTHUR SCHRAMM	<i>Assistant Corporation Counsel</i>
JOHN A. LOGAN	<i>Assistant Corporation Counsel</i>
JOHN A. HOMER	<i>Assistant Corporation Counsel</i>
CHARLES V. HOARD	<i>Assistant Corporation Counsel</i>
CHAS. L. CONLEY	<i>Assistant Corporation Counsel</i>
GEORGE T. MCGILLIVRAY	<i>Assistant Corporation Counsel</i>
E. A. SWIFT, JR.	<i>Assistant Corporation Counsel</i>
BRUCE MACDOUGALL	<i>City Prosecutor</i>
G. GRANT WILCOX	<i>Law Clerk</i>
FAYE FORDE	<i>Secretary</i>
JOHN F. COOPER	<i>Claim Agent</i>

Annual Report

OF THE LAW DEPARTMENT OF THE CITY OF SEATTLE FOR THE YEAR 1948

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, 1948.

I.

GENERAL STATEMENT OF LITIGATION

1. Tabulation of Cases:

The following is a general tabulation of suits and other civil proceedings pending in the courts during the year 1948:

	Pending Dec. 31 1947	Commenced during Year 1948	Ended dur- ing year 1948	Pending Dec. 31 1948
Condemnation suits	10	15	7	18
Damages for personal injuries.....	48	54	41	61
Damages other than for personal injuries	24	37	23	38
Injunction suits	1	5	3	3
Mandamus proceedings	5	4	7	2
Miscellaneous proceedings	25	7	21	11
Public service proceedings.....	1	2	1	1
Sub-Total	114	124	103	104
Appeals from Municipal and Traffic Courts	83	163	125	121
Grand Total	197	287	228	225

2. Segregation—Personal Injury Suits

	Number	Amount Involved
Pending December 31, 1947.....	48	\$707,212.85
Commenced since December 31, 1947.....	54	670,573.57
Total	102	\$1,377,786.42
Tried and concluded since December 31, 1947.....	41	581,168.49
Suits pending December 31, 1948.....	61	\$796,617.93

Of these personal injury suits, 41 involving \$581,168.49 were tried and finally disposed of in 1948; 16 involving \$207,255.60 were won outright; in 12 cases, involving \$153,419.04, the plaintiffs recovered verdicts aggregating \$26,231.94. The remaining 13 cases, involving \$220,493.85, were settled or dismissed without trial for a total of \$34,525.00.

Of the 54 personal injury suits begun during the year, 37 involving \$534,592.62, 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, 1947.....	24	\$54,343.95
Commenced since December 31, 1947.....	37	101,025.42
	61	\$155,369.37
Tried and concluded since December 31, 1947....	23	35,997.83
Pending December 31, 1948.....	39	119,371.59

Of the total of 61 of such cases, 24 involving \$35,997.83, were disposed of during the year, of which 11 were won outright. Six involving \$3,035.00 were settled for \$1,119.00; three resulted in verdicts against the city for \$4,838.76. In three cases the city brought suit and collected \$2,737.01. Twelve cases begun during the year, involving \$5,255.98, arose from transit accidents.

4. Supreme Court:

Eleven cases were argued in the State Supreme Court. Six were won and two lost; and three were not decided.

5. Miscellaneous:

Three injunction actions were tried and won. Three still pending.

Seven mandamus actions were tried, two are still pending.

Of 21 miscellaneous cases tried, 20 were won, 1 lost.

Four actions against the Chief of Police and Police Officers for false arrest and assault, aggregating \$76,201.92 were tried and won and three other such cases are still pending.

Seven hearings relating to dismissal of employees, etc., were participated in by the department before the Civil Service Commission, in which departments were all sustained.

Fifty-one actions were commenced for the Lighting Department, involving unpaid light and power bills. Collections, including costs, amounted to \$2,912.75. In addition a considerable amount of past due accounts was collected as a result of 725 letters sent out. Sixty garnishments were answered.

II. CLAIMS FOR 1948

	Number	Amount Involved
Claims for damages under investigation—		
December 31, 1947	1,669	\$1,888,907.77
Claims for damages referred to us for investigation		
December 31, 1947, to December 31, 1948.....	1,212	1,183,345.38
Claims disposed of as follows:	No.	Amt. Claimed
Settled	595	\$422,277.91
Rejected	459	708,357.91
Claims pending December 31, 1948.....	1,827	1,941,617.33

Nineteen of above settled claims were in suit and settled in conjunction with Claim Agent.

Amount Involved\$170,505.90

Amount of Settlement 21,419.00

Number of Transit System accident reports investigated December 31, 1947, to December 31, 1948..... 3,300

Number of circulars and letters mailed in connection with investigation of foregoing claims and reports..... 3,112

III.

MUNICIPAL POLICE COURT

During the year 1948 City Prosecutor Bruce MacDougall handled a calendar of 20,961 cases, other than traffic, in the Municipal Police Court, resulting in the imposition and collection of fines and forfeitures in the amount of \$168,938.25.

MUNICIPAL TRAFFIC COURT

In the Municipal Traffic Court for the year 1948 a calendar of 116,960 traffic cases was handled by assistants acting as city prosecutors, resulting in fines and forfeitures amounting to \$660,830.00. Two hundred thirty-six drivers' licenses were revoked and 762 suspended; 86 jail sentences were imposed. Assistants C. C. McCullough and C. V. Hoard acted as alternate city prosecutors.

MUNICIPAL COURT APPEALS

One hundred twenty-five appeals (68 traffic) were disposed of in 1948. In 67 (41 traffic) convictions were had or pleas of guilty were entered; 15 appellants (8 traffic) were acquitted; 16 cases (6 traffic) were dismissed for insufficiency of evidence, witnesses

moving away, death of defendants, and defendant being already confined in jail. Twenty-eight appeals were abandoned and remanded to the trial court; 10 of them were traffic. A total of \$5,199.00 in fines and forfeitures was collected and transmitted to the city treasurer; jail sentences were imposed in many cases. Mr. Louis Stokke continued on detail by the Chief of Police to assist in the service of process, commitment of defendants, etc. His work is of invaluable assistance to us. An Assistant Corporation Counsel has been continued 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 rendered 85 written legal opinions upon questions submitted by the various departments of City government.

V.

ORDINANCES, RESOLUTIONS, PROCLAMATIONS AND MISCELLANEOUS

The members of the City Council and the Mayor have from time to time requested us to prepare, during the period of this report, 290 ordinances and 33 resolutions, and 3 proclamations.

During the year 1,718 bonds of officials, bidders, contractors, depositaries and others were examined and approved, totaling \$36,-164,556.10.

MEMO ON UNUSUAL CASES — 1948

ARTHUR SCHRAMM—Assistant Corporation Counsel:

The case of *Young v. Seattle*, 130 Wash. Dec. 329, involved the statute of limitations on claim cases. Plaintiff filed a claim within the thirty-day period but failed to bring his action until three years and seventy-two days after the accident. The lower court sustained a demurrer on the ground that the statute of limitations had run against the action, but the Supreme Court reversed the case, holding, that in view of the charter provision requiring filing of a claim within thirty days and prohibiting the bringing of action for sixty days after the claim was filed that the action was not barred until sixty days after the claim was filed.

Lyle George Gray v. Seattle, 29 Wn.(2d) 428, was tried for the third and last time in April, 1948. At the first trial plaintiff took a

voluntary non-suit and started a second action which was tried before Judge Todd, resulting in a plaintiff's verdict for \$8,000.00. Plaintiff, who suffered from arthritis, was walking with a cane when he boarded a trolley coach. Before he reached a seat the coach started and plaintiff was thrown against a seat suffering a fractured leg which medical testimony showed had resulted in permanent injuries. The trial court instructed the jury that the coach operator was charged with the highest degree of care in determining the physical condition of a boarding passenger. The Supreme Court reversed the case stating that this was a case of first instance in this state on this question, holding that the rule of ordinary care applied in determining the physical condition of a passenger.

The third trial in April, 1948, resulted in a defendant's verdict. Notice of appeal was given but the appeal was never perfected.

Discargar v. Seattle was also tried for the third and last time in June of 1948. Discargar, a Filipino, lost his left arm in an accident on Fifth Avenue South between Jackson and King Streets. He was attempting to get into an automobile in the middle of the street with which he had been towing a disabled car when a bus passing the towing car struck him.

On the first trial of the case defendant recovered a verdict which was reversed on appeal to the Supreme Court because of an instruction by the trial court that plaintiff was guilty of contributory negligence as a matter of law if he violated the ordinance prohibiting him from stepping into the traveled portion of the street between intersections in a business district without any qualification giving him the right to do so in case of an emergency. Upon the second trial, plaintiff recovered a verdict of \$13,500.00, the trial court granting a new trial on the ground of misconduct of plaintiff's counsel. Plaintiff appealed and the Supreme Court affirmed.

The third trial in June, 1948, resulted in a defendant's verdict. Notice of appeal was given and a settlement was made for \$300.00.

C. V. HOARD—Assistant Corporation Counsel:

State ex rel. Wescott v. Ronald. Relator was convicted of reckless driving in the municipal traffic court and his operator's license suspended for 30 days. He appealed the conviction and secured a writ of prohibition from the Superior Court to prohibit the suspension of his operator's license pending appeal. On hearing the Superior Court (Judge Ronald) held that the judgment suspending the license was self-executing and was not superseded by the appeal and quashed the writ of prohibition. Relator secured a writ of certiorari from the Supreme Court to review the Superior Court's judgment quashing the writ of prohibition. On hearing the Supreme Court sustained the city's motion to dismiss the writ of certiorari on the ground that relator had an adequate remedy of appeal.

JOHN A. LOGAN, Assistant Corporation Counsel—G. Grant Wilcox:

Alaskan Way Condemnation Ordinance No. 77088, Cause No. 397727. Summons and Petition and Lis Pendens filed August 12, 1948; affects 125 descriptions of property and 250 parties. This includes all property affected from Aurora Avenue and Thomas Street to Alaskan Way and Washington Street. Property south of Washington Street is to be included in an Amended and Supplementary Petition.

SUMMARY AND CONCLUSION OF ANNUAL REPORT 1948

A total of 124 civil suits were commenced against the city in 1948 and 103 were disposed of; 163 appeals from Municipal and Traffic Courts were commenced and 125 disposed of; 41 actions involving nearly \$600,000 were for personal injury; 16 of these cases were won outright and in 12 cases plaintiffs recovered verdicts aggregating \$26,231.94. The remaining 13 cases were settled or dismissed without trial for a total of \$34,525.

Of 54 personal injury suits begun in 1948, 37 involving over a half million dollars were in connection with the Municipal Transit System. Twenty-four civil suits other than personal injury were disposed of in 1948, of which 11 were won outright; 6 were settled for the aggregate sum of \$1,119; 3 resulted in verdicts against the city for an aggregate of \$4,838.76. In 3 cases the city brought suit and collected \$2,737.01.

Eleven cases were argued in the State Supreme Court in 1948—6 were won, 2 were lost, and 3 await final decision.

Four actions against the Chief of Police and police officers for false arrest and assault, aggregating some \$75,000, were tried and won and 3 other such cases are still pending.

In seven hearings before the Civil Service Commission relating to dismissal of employees, etc., the departments concerned were all sustained.

The Claim Agent settled 595 claims involving \$422,277.91 for \$147,778.68; 459 claims involving \$708,357.91 were rejected. Three thousand three hundred Transit System accident reports were investigated in 1948.

The City Prosecutor handled a calendar of 20,961 cases other than traffic in the Municipal Police Court, resulting in the imposition and collection of fines and forfeitures in the amount of \$168,938.25.

In the Municipal Traffic Court there was a calendar of 116,960 cases handled by assistants acting as city prosecutors, resulting in fines and forfeitures amounting to \$660,830. Two hundred thirty-six

driver licenses were revoked and 762 suspended. Eighty-six jail sentences were imposed. One hundred twenty-five appeals (68 traffic) were disposed of in 1948. In 67 (41 traffic) convictions were had or pleas of guilty were entered; 15 appellants (8 traffic) were acquitted; 16 cases (6 traffic) were dismissed for insufficiency of evidence, witnesses moving away, death of defendants, and defendant being already confined in jail. Twenty-eight appeals were abandoned and remanded to the trial court; 10 of them were traffic. A total of \$5,199.00 in fines and forfeitures was collected and transmitted to the city treasurer; jail sentences were imposed in many cases.

Eighty-five legal opinions were written—290 ordinances, 33 resolutions and 3 proclamations were prepared.

One thousand seven hundred eighteen surety bonds, totalling \$36,164,556.10, were approved as to legal form.

The department again operated well within its budget, which was \$115,515 in 1948. The staff cooperated fully and enthusiastically in getting out the work under sometimes difficult circumstances.

Respectfully submitted,

A. C. VAN SOELEN,
Corporation Counsel.

*The Argus Press
Seattle*

