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CITY OF SEATTLE  
LAW DEPARTMENT

*Annual Report*

1950



**FILED**

At \_\_\_\_\_ o'clock \_\_\_\_\_ M

MAR 28 1951

**W. C. THOMAS**

CITY COMPTROLLER

**A. C. VAN SOLEN** CITY CLERK

Corporation Counsel

**The City of Seattle--Legislative Department**

MR. PRESIDENT:

Your Committee on Judiciary

to which was referred the within annual report

would respectfully report that we have considered the same and respectfully recommend that

Date Reported  
and Adopted

the same be placed on file.

Chairman

Chairman

APR 2 1951 JUDICIARY

APR 9 1951 On File

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

# Annual Report

## OF THE LAW DEPARTMENT OF THE CITY OF SEATTLE FOR THE YEAR 1950

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, 1950.

### 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 1950.

	Pending Dec. 31 1949	Commenced during Year 1950	Ended during Year 1950	Pending Dec. 31 1950
Condemnation suits .....	10	12	11	11
Damages for personal injuries	44	56	46	54
Damages other than for personal injuries .....	46	35	43	38
Injunction suits.....	3	1	3	1
Mandamus proceedings.....	5	5	7	3
Miscellaneous proceedings .....	16	18	14	20
Public service proceedings.....	1	1	1	1
Sub-Total .....	125	128	125	128
Appeals from Municipal and Traffic Courts.....	155	179	175	159
Grand Total .....	280	307	300	287

##### 2. Segregation — Personal Injury Actions:

	Number	Amount Involved
Pending December 31, 1949 .....	44	\$429,455.73
Commenced since December 31, 1949.....	56	865,129.03
Total .....	100	\$1,294,584.76
Tried and concluded since December 31, 1949.....	46	\$460,573.12
Actions pending December 31, 1949 .....	54	\$834,011.64

Of these personal injury actions 46 involving \$460,573.12 were tried or finally disposed of in 1950; 23 involving \$175,134.15, were won outright; in 7 cases involving \$100,119.73 the plaintiffs recovered \$44,855.50. The remaining 16 cases involving \$185,319.24 were settled or dismissed without trial for a total of \$36,147.00.

Of the 56 personal injury actions begun during the year 1950 a large portion involving \$604,677.27 are based on alleged negligence in connection with the operation of the Municipal Transit System.

### 3. Segregation — Damages Other Than Personal Injuries:

	Number	Amount Involved
Pending December 31, 1949.....	46	\$183,522.39
Commenced since December 31, 1949.....	35	106,587.05
	81	\$290,109.44
Tried and concluded since December 31, 1949.....	43	170,287.49
	38	\$119,821.95
Pending December 31, 1950.....		

Of the total of 81 cases for \$290,109.44 involving damages other than personal injuries 43 involving \$170,287.95 were disposed of during the year, of which 27 were won outright. Sixteen cases were tried or settled, aggregate recoveries by the plaintiffs being \$35,298.75.

The total expense for claims and suits involving the Transit System was \$215,912.77 in 1950. This is 2.18% of the gross revenues of the System for that year. This is still remarkably low and reflects credit on all concerned.

### 4. Supreme Court:

Six cases were argued in the State Supreme Court, 3 were won, 2 lost, one is waiting decision.

### 5. Miscellaneous Cases:

Two injunction actions were tried and won, two are still pending. Four mandamus actions were tried and three are still pending. Of fourteen miscellaneous cases tried thirteen were won and one lost by the department. Two actions against the Chief of Police and police officers for false arrest and assault amounting to \$20,000.00 were tried and won and two other cases for false arrest are still pending.

Ten hearings relating to dismissals of employees, etc., were participated in by the department before the Civil Service Com-

mission, in which departments were sustained in nine hearings and in one the charge was withdrawn.

Thirty-eight actions were commenced for the Lighting Department, for unpaid light and power bills; collections, including costs, amounted to \$1528.94. In addition many past due accounts were collected as a result of 1413 letters sent out in cooperation with said department. One hundred four garnishments were handled during 1950. Four actions were commenced for damages to city property and settlements were made in the total amount of \$601.07 which was transmitted to the City Treasurer.

## II.

### CLAIMS IN 1950

	Number	Amount Involved
Claims for damages under investigation		
December 31, 1949 .....	1664	\$2,350,434.45
Claims for damages referred to this department for investigation December 31, 1949, to December 31, 1950 .....	1470	2,825,075.96
Claims disposed of as follows:	No.	Amt. Claimed
Settled .....	855	\$1,132,345.31
Rejected .....	496	734,657.27
	1351	\$1,867,002.58
Claims pending December 31, 1950 .....	1783	\$3,308,507.83
29 of above settled claims were in suit and settled in conjunction with the Claim Agent.		
Amount involved .....		\$238,343.44
Amount of settlement .....		49,718.76
Number of Seattle Transit System accident reports investigated December 31, 1949, to December 31, 1950.....		3,306
Number of circulars and letters mailed in connection with investigation of foregoing claims and reports.....		11,042

## III.

### MUNICIPAL (POLICE) COURT

During the year 1950 the City Prosecutor, Bruce MacDougall, handled a calendar of 21,970 cases other than traffic in the Municipal Police Court, resulting in the imposition and collection of fines and forfeitures in the amount of \$139,971.57.

## MUNICIPAL (TRAFFIC) COURT

In the Municipal Traffic Court for the year 1950 a calendar of 139,232 traffic cases resulted in fines and forfeitures amounting to \$722,263.00. 635 drivers' licenses were revoked and 1447 suspended; 72 jail sentences were imposed. Assistants Corporation Counsel C. V. Hoard and C. L. Conley acted as alternate city prosecutors.

## MUNICIPAL COURT APPEALS

175 appeals (118 Traffic, 57 Police) were disposed of in 1950. In 106 (87 Traffic, 19 Police) convictions or pleas of guilty were entered; in 8 cases the Defendants (5 Traffic, 3 Police) were acquitted; 13 cases (3 Traffic, 10 Police) were dismissed for insufficiency of evidence, witnesses moving away, death of defendants, and defendants being already confined to jail. 47 appeals (26 Traffic, 21 Police) were abandoned by the defendants and remanded to the traffic and police courts to enforce their judgments. A total of \$8508.20 in fines, forfeitures and costs was collected by this department and transmitted to the City Treasurer. Mr. Louis Stokke was detailed by the Chief of Police on a part-time basis to assist the city prosecutors by way of service of process, commitment of the defendants, interviewing witnesses and receiving their statements, the keeping of records, etc. This detail work is of much assistance to this department.

## 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 77 written legal opinions on questions submitted by the various departments of the City government.

Also, the City Employes Retirement System requested opinions on L.I.D. bond issues and 65 preliminary opinions and 66 completed opinions were rendered, making a total of 131 during 1950.

## V.

### ORDINANCES, RESOLUTIONS, PROCLAMATIONS AND MISCELLANEOUS

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, 349 ordinances, 21 resolutions, 3 proclamations and in addition 91 ordinances were prepared for settlement of claims.

During the year 1628 bonds of officials, bidders, contractors, depositaries and others were examined and approved, totaling \$45,-720,349.00.

## MEMORANDA OF UNUSUAL CASES FOR 1950 REPORT

Submitted by MR. SCHRAMM:

*Morrissey v. City* was an action for personal injuries sustained by plaintiff in a fall on a sidewalk on Pine Street between Westlake and 5th Avenues. The defect in the walk was a minor one and the chief question involved was whether it was an inconsequential defect for which the city would not be liable or whether it was sufficient to create liability. The case was tried three times. In each trial the jury was sent to view the scene of the accident. The juries in the first and second trials both disagreed. On the third trial the jury returned a unanimous verdict for the city.

*Cramer v. City* was an action for personal injuries sustained by the plaintiffs when the water jacket on a trash burner in the basement of their home exploded. City Light had installed a new hot water tank about six months prior to the explosion and had disconnected the pipes to the water jacket on the trash burner. The explosion apparently was caused by the fact that someone had plugged the pipe holes in the water jacket while there was still some water in it and when a fire was built in the trash burner the water jacket exploded. The plumber who did the plumbing work in connection with City Light's installation testified positively that he had not plugged the holes in the water jacket and the plaintiffs testified just as positively that they had not done so. The case was submitted to a jury which returned a verdict in favor of the city.

*Eva Thompson v. City* involved a fall on an allegedly defective sidewalk where the claim was not filed within the thirty-day period. Plaintiff attempted to excuse the failure to file the claim by showing that she was an illiterate foreigner, was physically and mentally unable to attend to the filing of the claim within said period and had been advised by her doctor that it was unnecessary to do so. After plaintiff's counsel made his opening statement to the jury defendant moved for a dismissal on the opening statement which was granted by the court.

*O'Connell v. Transportation Commission* was an action to restrain the transit fare raise to twelve cents and to compel the Transit Commission to pay the outstanding bonds and return the transit system to council control. A demurrer to the original complaint was sustained by Judge Roney. An amended complaint was filed to which a demurrer was sustained by Judge James. A second amended complaint was then filed to which a demurrer was again interposed but before this was argued the plaintiffs dismissed the action.

Submitted by MR. NEWTON:

*Washington Public Service Commission v. The Pacific Telephone & Telegraph Co.*, Cause No. 'U-8350. On April 18, 1950, the telephone company filed a schedule for an increase in exchange rates for the State as a whole estimated to bring in approximately four million dollars. On May 17th the Commission filed a complaint on its own motion and suspended the schedule for ten months pending hearing. In September the matter was set for hearing October 23, 1950, for reception of the Company's direct evidence.

Before the hearing the Cities of Seattle, Spokane and Tacoma moved to dismiss the proceeding on the ground that a thorough hearing on rates had been had in 1949 resulting in an order increasing rates in the approximate amount of three million dollars, and that the new application amounted to no more than an attempt to rehear the same evidence in the hope that the Commission would relent and reverse itself by allowing the balance of what had been applied for in 1949; also that such a procedure was not contemplated by the statute.

The motion was heard at Olympia on October 18th and taken under advisement.

At the opening of the hearing on October 23, 1950, the attorneys for the Company orally made application for a further rate increase to raise an estimated additional two million in gross revenues. The Cities moved that the application as to any increase except by schedule duly filed be denied. The original filing of April 18th contained provision for non-optional service to many areas outside and adjacent to Cities.

The hearing was commenced October 23rd at Seattle and concluded November 2nd at Olympia for direct evidence by the company.

On December 26th the Commission set the date January 9, 1951, for cross examination of Company's witnesses and for hearing witnesses for the State and all other parties. At the year's end no action had been taken on the Cities' two motions.

Submitted by MR. LOGAN and MR. WILCOX:

The matter of the condemnation for elevated, depressed and surface roadways on Alaskan Way, *et al.*, Cause No. 397727 under Ordinance No. 77088, as amended by Ordinance No. 77749 referred to in the 1949 Annual Report was concluded in 1950. At the end of 1949 rights had been acquired with respect to 51 parcels and

compensation fixed in the total sum of \$367,894.12. Included in this group was the entire area between 1st Avenue and Battery Street and Alaskan Way and Pike Street, thereby enabling the City Engineer to let the contract for the immediate construction of the portion of the viaduct in that area.

There remained 99 parcels of land affected and on February 27, 1950, these went to trial before Superior Judge Donald A. McDonald and a jury. Nearly six weeks' trial followed and after several stiff contests, particularly over the issue of interference with light, air and access by reason of the viaduct's close proximity to the buildings along Alaskan Way, the trial was concluded on April 5, 1950, 93 verdicts having been entered in the total sum of \$521,-959.70. On May 2, 1950, findings and a decree of condemnation covering three parcels in the sum of \$15,001.00 was entered, and the matter finally concluded on June 12, 1950, when three agreed verdicts totaling \$74,500 were entered before Judge Lloyd Shorett and a jury.

The total of all awards in this noteworthy cause amounted to \$979,354.82.

## CONCLUSION

The Law Department Budget for 1950 was \$125,340 as against \$130,684 obligated in 1949. Cuts were made in the items for Law Library and for Court Costs on the theory that the cost of law books would remain stable, which was not the case and that there would be less litigation, particularly in condemnation cases, which was also not the case. Therefore it became necessary in the summer of 1950 to appropriate \$500 additional for the Law Library and \$6000 additional for Court Costs out of the Emergency Fund. So the total allowance for 1950 was \$131,840 or about \$1200 more than was obligated in 1949. It is noteworthy at this point to state that the 1930 and 1931 budgets in the Law Department totaled approximately \$130,000 each.

It is also worthy of note that the Seattle Transit System pays a special service charge annually of \$7560 toward the salary of three employees in the Claim Division of this Department. The System also pays a total General Fund charge of \$59,440, approximately one-third of which is for Law Department services. It is estimated, however, that payment for services furnished by this department to Transit should be approximately \$40,000 per annum. This information was furnished to the Budget Committee of the City Council with a view to an advancement of Transit's contribution to the General Fund.

Legal services furnished to the Lighting Department cost about \$13,000 and to the Water Department about \$5000 in 1950. The net expense to the General Fund for the maintenance of this department is therefore much less than the budget indicates, but there still should be an adjustment for services now furnished to the Transit System at less than cost to the General Fund.

The Alaskan Way condemnation was completed in 1950 and the entire expense, aside from salaries in this department, was paid from the Alaskan Way Viaduct Fund.

It is apparent from the above that the budget of this department was closely figured as usual and that the staff cooperated fully and enthusiastically in this and all other respects.

A. C. VAN SOELEN,  
*Corporation Counsel.*