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ANNUAL REPORT OF THE LAW DEPARTMENT,
CITY OF SEATTLE.

December 23, 1916.

Hon. H. C. Gill,

Mayor, City of Seattle.

Dear Sir:

Pursuant to custom, I submit the following annual report of the work of the Law Department. This report covers the period from December 1, 1915 to December 1, 1916. Since taking office March 20, 1916, it has been my endeavor to cooperate with the other departments of the city and I desire to take this occasion of thanking you and your secretary, the other heads of departments and their employees for the cooperation extended to this office. Considerable time has been spent in systematizing the work in the office and some of our records have been supplemented and completed from the records of other departments. Much time has been spent in consultation with members of the City Council and other departments that the City might act advisedly in all matters, thus minimizing litigation.

One hundred and fifty-eight written opinions have been furnished upon the request of various departments during the period of this report. No record is kept of conferences or verbal opinions rendered.

I.

STALE LITIGATION.

1. - ACCRUED INTEREST CASES:

Upon taking office March 20, 1916, I found much litigation to which the city was a party in which no progress was being made. Some of this consists of the so-called accrued interest cases. Previous annual reports magnified the number of cases actually begun. According to the records, 110 of these cases were actually begun. Prior to March 20,

1916, 10 of the same had been disposed of as follows:

1 settled, involving \$712.19;

9 lost, involving \$42,891.23.

Of the remaining 100, 29 are barred by the three year statute of limitations; three are barred by failure of preceding administration to file the complaint; and under the recent decision of Judge Albertson, 27 additional cases must fail because of failure of the city to make the necessary parties defendant, and two additional cases will partially fail for this reason. There are 36 neither wholly barred by the statute of limitations nor subject to the defense of failure to make proper parties defendant. In the event that these actions are tried, the city will be confronted with the testimony of the present and past city engineers to the effect that if the city should prevail in these cases, it will be making the defendants. I am unable to find any authority for the commendement of these actions as contemplated or required by the charter. I have accordingly, under date of December 9, 1916, placed the entire matter before the City Council, requesting instructions in the premises.

2. - TELEPHONE FRANCHISE CASE:

On November 8, 1912, the Pacific Telephone & Telegraph Company, and Sunset Telephone & Telegraph Company, as complainants, filed a bill in the Federal Court to enjoin the city and the board of public works from enforcing Ordinance No. 29777, passed July 29, 1912, which ordinance declared a forfeiture of the Independent Telephone Company's franchise, and in said case a temporary injunction was entered restraining such city and board. The then corporation counsel interposed a demurrer in December, 1912, on behalf of the respondents, which said demurrer was not brought on for hearing until after I assumed charge of this department. During the interim, following the commencement of this suit, and March 20, 1916, various departments of the

city negotiated with the Pacific Company for the continuance of the free telephone service provided for in the Independent Telephone Company's franchise, and a continuance of other service contracted for with the Independent Telephone Company. Pursuant to such negotiations and the Independent Telephone Company's franchise and the contracts made by it, the City of Seattle continued to receive the benefits of such franchise and contracts, and is still benefiting thereby. Ever since July 29, 1912, the city has accepted from the county treasurer taxes levied upon the property of the Pacific Company including properties and rights acquired by it and the Sunset Company from the Independent Telephone Company. Had the suit been diligently defended four years ago the telephone company's case would not have been as strong as it is now.

With a view of disposing of this stale litigation, we prepared and sent to the city council on the 3rd day of July, 1916, a full and complete statement of all fact surrounding the negotiations carried on since July 29, 1912, with the Pacific Company to secure compliance with the terms of the Independent Telephone Company's franchise, and pointed out the parallel existing between the facts in this case and those existing in the unsuccessful attempt of the city to forfeit the franchise of the Seattle, Renton & Southern Railway Company. Notwithstanding the fact that the members of the franchise committee, to whom such communication was referred, agreed that the city of Seattle could not hope to prevail in such suit, it recommended to the city council that the law department be directed to proceed with such litigation, which recommendation was concurred in by the council. Doubtless the result will show

the futility of continuing such litigation.

3. SHILSHOLE AVENUE:

The condemnation proceedings under Ordinance No. 29834, known as the Shilshole Avenue condemnation, were commenced January 31, 1913. The condemnation trial was had commencing June 24, 1913. The Eminent Domain Commission filed an assessment roll March 16, 1914, upon which a hearing was had in May, 1914, resulting in an order by the court re-referring the roll to the Eminent Domain Commission. From this order, appeals and a cross appeal were taken to the supreme court. Judgment was rendered in the supreme court reversing the lower court as to the property owners who appealed, and on November 15, 1916, judgment was entered in the lower court upon the remittitur re-referring the roll to the Eminent Domain Commission. The city appealed the second time but this appeal was dismissed on the 28th day of February, 1916. An assessment roll was prepared to pay for the local improvement of Shilshole Avenue and a hearing was concluded upon this on the 16th day of February, 1916, from which an appeal was taken by the property owners to the supreme court where the same is now awaiting decision by the court. Nothing is to be gained by criticism at this time, but the failure of the city to date to raise the money to pay the condemnation awards amounting to more than \$195,753.31 and costs is due to the way in which this litigation was handled on the part of the city prior to the time that the same was turned over to former Assistant Corporation Counsel Hanson. The latter was retained by me until after he had presented the third appeal in the Shilshole case to the supreme court in October. It was his judgment that the Eminent Domain Commission refrain from preparing a new assessment roll

to pay for the condemnation until there shall have been a decision by the supreme court on this appeal from the assessment roll for the local improvement. For this reason, no further action has been had upon the condemnation assessment roll nor will there be until after the supreme court has decided the appeal from the local improvement assessment roll submitted to it in October. It does not require prophetic ability to foresee much litigation on the same subject for the reasons hereinbefore stated, resulting in ultimate demands upon the general fund.

4. MISCELLANEOUS.

There were a number of other cases pending for years. Since March 20th some of these have been dismissed, others tried and still others are being brought on for trial. It is my intention to close up as much of this litigation as possible, regardless of whether the city has, in each instance, a strong or a weak case. If we are not entitled to prevail in this litigation, the city might as well learn this fact at the present time.

II.

PUBLIC UTILITIES.

1. PROCEEDINGS BEFORE PUBLIC SERVICE COMMISSION.

Due to the failure to keep any accurate records as to proceedings before the Public Service Commission prior to the time that I assumed charge of this department, it has been impossible to formulate any accurate report as to the disposition of matters since the last annual report. The meager records in the department not disclosing the number of cases pending before the commission March 20, 1916 the Public Service Commission was requested to furnish a list of cases in which the city was either directly or indirectly

interested, then pending, and from the information so furnished it would seem that at the time of the last annual report there were twelve proceedings undetermined. Four new proceedings were commenced during the year. Of these matters, eight have been disposed of. The most important cases determined were those affecting (1), the valuation and rates of the Pacific Telegraph and Telephone Company, and (2), heat in street cars. In the telephone case the valuation hearing had been completed before I assumed office, although the decision fixing the total value of telephone properties in the state at \$19,382,209.00 as of December 31st, 1914, was not handed down until April 25, 1916. Thereafter, a hearing was had on the schedule of rates and regulations filed by the telephone company resulting in an approval of the same by the Public Service Commission. To neither of these proceedings was the City of Seattle a party; it had no right of appeal to the courts, and under the existing law it had no power to do other than accept the findings of the commission.

In the street car heating case, after a trial, we obtained an order of the commission requiring the Puget Sound Traction, Light & Power Company to enclose the sides of the rear portion of its open cars with sash and install adequate heating facilities on those cars making the long runs.

We requested the daily press to publish the fact that this department desired witnesses and parties interested to communicate with this office and to testify at the hearing. At the hearing we used as witnesses all persons presenting themselves or willing to testify. In this matter, we received the valued assistance of the utilities department of the city.

Of the matters still pending, some are still under advisement by the commission, although the hearings

have long since been held. In other cases no trial has been had. Of the latter class the most important are the proceedings to make a valuation of the property of the Puget Sound Traction, Light & Power Company, and those instituted by that company and the Tacoma Light & Power Company to obtain relief from their franchise obligations requiring paying rights of way, the payment of a percentage of gross income into the city treasury, the contribution to the maintenance and building of bridges, and like requirements. Although there was an attempt made to force a hearing upon the Puget Sound Traction Light & Power Company cases prior to the completion of the valuation by the engineers of the Public Service Commission we succeeded in obtaining the postponement of all proceedings therein until such a time as an independent valuation could be made by the engineers of the commission as contemplated and required by the statute. In the Tacoma case a valuation was made several years ago of the property of the Tacoma Light & Power Company, and the hearing on the application to be relieved from franchise obligation has now been set for the 15th day of January, 1917. Pursuant to the request of the city council, this department is making preparations to assist the City of Tacoma in resisting the application of the Tacoma Light & Power Company.

We are convinced from a careful examination of the Public Service Commission law, and by the rulings and orders heretofore made by the commission in proceedings in which the city was interested, that such law should be amended so as to require that, in every proceeding, whether instituted by the commission on its own motion or by a public service company, seeking to obtain a ruling or order which in any wise affects any such company in relation to the city from which it holds a franchise, or to the inhabitants of such city, the city be made a party to that proceeding with a right to have

any rule or order made therein reviewed by the superior court and to appeal from such superior court to the supreme court in case it deemed such ruling or order or judgment of the superior court inimical to the best interests of the city. We are further of the opinion that the law should be further amended so that any city of the first class may retain absolute control over all matters connected with any public service company operating within its corporate limits. To the end that these changes may be made in the law, we have prepared an amendment to the law to be presented to the coming legislature, and attach the same hereto as exhibit "A" for your consideration.

2. SEATTLE, RENTON & SOUTHERN RAILWAY:

Under order of the superior court, the assets of the Seattle, Renton & Southern Railway Company were, on the 12th day of May, 1916, sold to the Seattle & Rainier Valley Railway Company. Subsequently to this sale, the city council arranged for a conference with the new company with a view of adjusting differences heretofore existing between the city and the owners of such railway. A proposition was agreed upon at such conference looking to such adjustment and ordinances are now in preparation in this office to carry out the terms of same. Such ordinances, if adopted, will secure for the city common user of the rails of such company on Fourth Avenue and an exchange of transfers to and from Division "A" of the municipal railway. The common user provided for in such ordinances is in accordance with opinion rendered by this department on May 3, 1913, that the city had the right to the common use of the company's tracks upon the terms stated in the company's franchise, with or without the assent of such company.

3. CITY'S WATER SUPPLY - BATTLESNAKE LAKE CONDEMNATION:

Prior to the time that I assumed charge of this department, Ordinance No. 35647, authorizing the condemnation of certain lands in and around Rattlesnake Lake for the further protection of the city's water supply, had been passed and approved. Pursuant to this ordinance, condemnation proceedings were instituted in the Superior Court and an appraisal made of the property involved, not theretofore appraised. Due to the fact that there was a question as to the liability of the city in connection with the rising of the water in Rattlesnake Lake, after consultation with the mayor and the chairman of the finance committee, it was thought best to, and this department did, recommend to the city council that a settlement be effected with the owners of the property flooded by which the city would become the owner of such property and at the same time obtain a complete release from all damages claimed by such owners. In accordance with such recommendation, settlements have been made as to practically all of the property affected by the rising of said waters and the necessary appropriations made to pay therefor. The condemnation case, so far as it pertains to other property, has not been tried because we have not been advised as to the restrictions the city desires to make upon the removal of timber from lands where the fee title alone is to be taken, the right to remove the timber being reserved by the present owners, although this department under date of August 7, 1916, requested such information of the city council. As soon as we are furnished with the necessary data in this respect, we shall prosecute the cause to judgment as expeditiously as possible.

We call special attention to that phase of these proceedings which affects the right of way of the Chicago, Milwaukee & St. Paul Railway Company. That company now

has a right of way through a portion of the land already owned by the city, which right of way also runs through the land sought to be condemned in the condemnation case referred to. The railway company sought to remove the condemnation proceedings to the Federal Court, but upon our motion the same was remanded to the Superior Court. Negotiations are now being carried on by the Engineering Department, we are advised, under the direction of the utilities committee of the city council, looking to an agreement as to the restrictions to be imposed upon the use of such right of way. If the necessary restrictions can be agreed upon, the railway company desires that the same be embodied in an agreement instead of having the right to control such right of way acquired through the condemnation proceedings. To insist upon the acquisition of such right by condemnation will no doubt, entail considerable expense upon the city, for which reason we have heretofore suggested to the Health Department and some members of the city council that the city exercise the police power extended to it by Sec. 7990, Rem. & Bal. Code for the control of such right of way in order to protect its fresh water supply. In this connection we are informed by the Commissioner of Health that further restrictions ought to be imposed upon the manner in which persons are permitted to go within the city's water shed for the purpose of removing timber. We have advised such commissioner that if he furnishes us with the restrictions he deems advisable to be imposed in such cases, this department will embody the same in an ordinance to be submitted to the city council for its consideration.

III.

WORK OF CITY ATTORNEY'S DEPARTMENT.

1. Between December 1st, 1915 and December 1st, 1916, this department has tried 9,261 cases in the police court resulting in the imposition of fines and forfeitures during said period of \$64,754.50. During the period between March 20, 1916 and December 1, 1916, eighty-one (81) appeals from the judgment of the police court were tried and disposed of in the superior court. Three of said cases have been appealed to the supreme court. Since last March there have been tried in connection with the criminal cases approximately one hundred liquor search warrant cases each month. The work of the police court has been increased by reason of the liquor ordinances, the greater portion of said cases being defended by experienced counsel who take advantage of every opportunity to delay and increase the work of prosecution. It has so far not been necessary for us to avail ourselves of your offer to furnish additional assistants or a special prosecutor for these liquor cases. The city attorney's work, however, requires the entire time of at least two men, and on occasions we have three men upon this work. We have installed a filing and docket system covering police court cases and are undertaking to check up and dispose of some 450 old cases. These cover many years last past and through neglect the same have never been tried nor the fines collected. We have followed a policy since last March of forcing on for early trial every case appealed from the police court. The effect of this is two-fold; to collect the fines imposed in the lower court and to discourage useless appeals, which unprosecuted appeals have in the past been simply the means of killing the cases.

One difficulty which the city has is caused by the practice of filing appeal bonds in the police court without giving the city attorney an opportunity to examine the same. Frequently

the defendant disappears and the city attorney, finding a defective bond or that the sureties have no property, is compelled to dismiss the case. Another practice that hampers the work of the city attorney is the allowing of defendants after conviction to go forth on the strength of their recognizance bond or their promise to subsequently appear in satisfaction of judgment, or to give an appeal bond. The state law provides that the police judge in the case of conviction shall forthwith issue commitment unless an appeal bond is given.

Additional work has also fallen upon the office by reason of the necessary defense of damage actions arising out of the activities of the "dry squad". A number of injunction suits, contempt proceedings, damage suits, and replevin actions have arisen and have been, or are being, defended by this office. To date no judgments have been obtained against the city in these cases, nor against any of its officers.

IV

RECOMMENDATIONS:

During the past year, either by virtue of requests for opinions or in conducting litigation, various changes in certain legislation which would be desirable from the city's standpoint have suggested themselves to this department. The following suggestions are therefore made with the idea that some of them may appeal to those who have charge of the city's business as being worthy of advocacy before the approaching session of the legislature.

1. MUNICIPALLY OWNED UTILITIES --SALE OF SURPLUS.

Under date of June 3, 1916, an opinion of this department was rendered upon the request of the City Utilities Committee, to the effect that since the passage of an act by the Legislature of 1915, the city no longer has the authority to sell its surplus light or water for use beyond the city limits.

as it had under the terms of an act of the Legislature of 1911, until it was repealed in 1915. In the event that the city desires authority to so sell its surplus, legislation to this end should be advocated for passage by the legislature which convenes next month.

2. HOME RULE.

Practically all questions affecting public utilities revive the question of whether cities of the size of Seattle or other cities of the first class should be allowed to conduct their own government. Sections 10 and 11, Article XI of the State Constitution, as adopted in 1889, seem to contemplate that the city shall have such power. They did consequently have this power until the passage of the public service commission law in 1911. Believing that under a majority decision of the supreme court a construction has been placed upon said constitutional provision contrary to the intention of the framers of the same and with the idea of submitting this question to the people of the state for an expression of their opinion thereon, I have drafted a proposed amendment of Sections 10 and 11, which, in my opinion, carry out the ideas expressed in the dissenting opinion of Chief Justice Morris and Justice Ellis in the Webster case, in which the public service commission law was first construed by the supreme court, a copy of this amendment being attached hereto as Exhibit "B" for your consideration.

3. PUBLIC SERVICE COMMISSION LAW.

Reference has already been made herein to the public service commission law and the desirability of amendments being made thereto that would permit the cities which have granted franchises to public service corporations to take active part in all things concerning such franchise and which will permit the cities to appeal from the decisions of the commission. A further amendment designed to leave it optional with the cities of the first

class as to whether they will surrender the control of the utilities operated within their limits and pursuant to franchises obtained from such cities, has also been prepared. Such proposed amendment is attached hereto as Exhibit "A"

4. RENICK LAW.

The legal effect of the Renick Law, passed in 1915, has been called to our attention through requests for opinions. The effect of this law is to prevent the city from using cash on hand, even temporarily, for the payment of necessary expenses of the city government, thus causing the issuance of general fund warrants, drawing five per cent (5%) interest, while larger amounts of the city's cash lie idle in the banks, upon which the city receives but two per cent (2%). To illustrate: Treasurer's records show on November 30, 1916, that we have cash in bank on which we are receiving two per cent (2%), the sum of \$2,960,202.47. We had at said time outstanding for want of cash with which to pay the same, warrants against the general fund \$686,104.81, and warrants against the light fund \$420,675.19, or a total of warrants outstanding, drawing five per cent (5%) \$1,106,780.00. In other words, we are receiving two per cent (2%) on this sum of money and are paying five per cent (5%), or a net loss to the city of \$33,205.40. The management of the finances of a private corporation in the same manner could hardly be justified to the stock holders. It can readily be seen from the illustration that the existence of this law tends to increase taxation, because the money to pay the interest upon these warrants while other money lies idle in the banks, is paid from general taxation

5. EMINENT DOMAIN LAW.

There are amendments which in our opinion should be made to the eminent domain statute. This report will not be filled with details concerning the same but in a general way they pertain to certain changes in the eminent domain law to make the same conform more nearly to the practice prescribed in the local improvement statute. These will be taken up by consultation with you and the members of the City Council; we have already had consultations with other departments of the city concerning the same.

6. ANNEXATION OF UNINCORPORATED AREA.

A small tract of land to the north of the old city limits of Georgetown has never been annexed to, nor become a part of, the territory of the City of Seattle. This area, while wholly surrounded by the corporate limits of the City of Seattle, is not under the jurisdiction or control, nor is it a part of, the City of Seattle. We have reached the conclusion that, under existing conditions, it will require a legislative act before the territory can be annexed to the city. We have been advised by various departments of the city that it should be annexed as an aid to sanitary and police regulation. We, therefore, recommend that a bill be drawn for submission to the next legislature authorizing the City of Seattle to annex this territory so the same may be subject to the authority and control of the city.

GENERAL LITIGATION.

	Pending Dec. 1, 1915.	ending Dec. 1, 1916.	and since Dec. 1, 1915.	Inc. Since Dec. 1, 1915.
Condemnation suits,	36	22	17	31
Condemnation suits, supplement- ary proceedings,	29	22	20	27
Damages for personal injuries,	26	42	40	24
Damages to property,	46	25	15	36
Damages other than damages to property and personal injuries,	7	8	8	7
Actions to set aside and restrain collections of assessments	2	2	2	2
Appeals from assessments levied by city council,	9	3	9	15
Injunction suits,	13	17	18	14
Mandamus proceedings,	2	4	5	3
Miscellaneous proceedings,	167	170	66	58
Suits to quiet title,	3	4	3	2
Public service proceedings,	11	10	4	5
Suits to recover over against con- tractors, owners of property or franchisees on account of person- al injury judgments paid by city,	4	5	1	0
Actions against police, health and other officers,	<u>9</u>	<u>18</u>	<u>12</u>	<u>3</u>
TOTAL - - - - -	359	352	220	227

Total cases pending during period of this report: 579

JUDICIAL EXPENDITURES.

		ADA. In- voiced.
Expended Nov. 30, 1915	30	\$ 158,554.28
Expended since November 30, 1915	<u>40</u>	<u>313,152.00</u>
	66	\$ 473,706.28
Tried and concluded to Dec. 1, 1916	24	\$ 177,494.28
Actions pending November 30, 1916	42	\$ 296,212.00

Of the 24 cases tried since November 30, 1915, 16 cases involving \$126,424.28 resulted in decisions in favor of the City, and in the 8 remaining cases, involving \$51,070., judgments were given against the City amounting to \$6,090. This department resisted successfully 96.6% of the amount sued for in the personal injury cases tried.

3. - DAMAGE TO PROPERTY.

		Ant. In- volved
Suits pending November 30, 1915,	40	\$ 313,530.30
Commenced since November 30, 1915,	<u>15</u>	<u>35,037.20</u>
Total covering period of this report,	61	\$ 348,567.50
Tried and concluded to December 1, 1916,	<u>36</u>	<u>\$ 196,133.30</u>
Pending November 30, 1916,	25	\$ 152,434.20

Of the 36 cases tried since November 30, 1915, 23 cases involving \$116,693.30 resulted in decisions in favor of the City, and in the remaining 13 cases, involving \$79,440.00, judgments were given against the city amounting to \$15,615.00. This department resisted successfully 92.3% of the amount sued for in the actions for damages to property. A large portion of this litigation resulted from the Jackson Street regrades.

4. - DAMAGES OTHER THAN DAMAGES TO PROPERTY AND PERSONAL INJURIES.

		Ant. In- volved.
Pending November 30, 1915,	7	\$ 20,237.25
Commenced since November 30, 1915,	<u>8</u>	<u>30,260.71</u>
Total - - - - -	15	\$ 50,497.96
Tried and concluded to November 30, 1916,	7	\$ 19,482.21
Pending November 30, 1916,	8	\$ 31,015.75

Of the 7 cases tried involving \$19,482.21, judgments were given against the city in four cases for \$8,580. Of the above cases, Holt & Jeffrey sued for \$13,000. for breach of contract in grading of Rainier Avenue and recovered \$6391. and Thomas J. Burley

ered for \$2500. damage as result of powder explosion on Elliott Bay and recovered \$1,750.

5. - MISCELLANEOUS CASES.

Of the 58 miscellaneous actions tried and concluded during the period of this report, but 5 cases involved any monetary recovery against the city. In these cases where recovery of \$12,171. was sought, judgment was given against the city for \$4,424. During the year there were pending and commenced 11 cases against the police officers, firemen and other city officials, involving claims amounting to \$87,557.35. Three cases were tried involving \$17,754., and were won. These cases arise upon claims of false arrest, destruction of property in liquor raids, etc.

6. - DAMAGE CLAIMS FILED AGAINST CITY.

		Amt. In- volved.
Claims for damages pending Nov. 30, 1915,	9	\$23,243.00
Claims for damages referred to this department for investigation, from November 30, 1915, to November 30, 1916,	<u>155</u>	<u>\$21,648.25</u>
Total - - - - -	164	\$446,891.25
Claims for damages investigated and disposed of as follows:		
Between Nov. 30, 1915 and Nov. 30, 1916,		
Settled - - - - -	30	\$45,535.00
Rejected - - - - -	118	389,187.25
Total personal injury claims pending November 30, 1916,	<u>16</u>	<u>12,169.00</u>
Total	164	\$446,891.25

During the year, the thirty claims involving demands of \$45,535.00 were adjusted and settled out of court by the Claim Agent for \$8,337.00. In two of the above claims settled for \$3,200., the city acquired the property or valuable rights there-in.

7. - GARNISHMENTS AND COLLECTIONS.

During the period of this report, we made 121 answers in garnishment cases, 90% of which were for the garnishment of wages of city employes and 10% miscellaneous subjects. About 25% of the cases came to trial on questions of exemptions or assignment. Twenty actions were commenced for the lighting department of the city, for unpaid light and power bills, involving \$834.27 principal, on which we received judgments for \$968.77, \$134.50 being for costs. About 25 claims were filed for the light department in either bankruptcy or that of estates.

8. - SUPREME COURT.

On November 30, 1915, there were pending in the Supreme court 23 appealed cases. Since that date, 26 cases have been appealed and the supreme court has handed down decisions in 19 cases. There are now pending before the supreme court 30 cases. We have one case on appeal to the United States Supreme Court.

Respectfully submitted,

Henry W. M. [Signature]
Corporation Counsel.

EXHIBIT "A".

AN ACT Relating to Public Service properties and utilities, and amending Chapter 117, Laws of 1911, by adding thereto two new sections to be known as Section 84 and Section 80.

Be it Enacted by the Legislature of the State of Washington:

That Chapter 117 of the Laws of 1911, entitled: "An Act relating to public service properties and utilities, providing for the regulation of the same, fixing penalties for the violation thereof, making an appropriation, and repealing certain acts", is hereby amended by adding thereto the following sections to be known as Section 84 and Section 80 respectively:

Section 84. This act shall not affect the power to control any public utility heretofore, now or hereafter vested in any city of the first class, that a majority of the qualified electors of such city voting thereon at any election held pursuant to laws heretofore or hereafter passed by the Legislature shall vote to retain; and until such election all powers of control shall continue unimpaired in such city. If a majority of the qualified electors voting thereon at any such election shall not favor the continuation of such powers in the city, the same shall thereafter vest in the commission; provided, that where any such city shall have elected to continue any powers respecting public utilities it may by a majority vote of its qualified electors voting thereon thereafter surrender such powers to the commission in the manner prescribed, or to be prescribed, by the legislature; or if such city shall have surrendered any powers to the commission it may, by a like vote at any time thereafter, reinvest itself with such powers.

Section 80. All complaints filed with the commission as authorized by law, and all investigations undertaken upon motion of the commission, wherein any public service company operating in, or having a franchise from, any city of the first class, is affected, or sought to be affected, shall make such city of the first class a party to said proceedings; and all process and notice now or hereafter authorized or required to be made upon any public service company shall, under the foregoing circumstances, be made and served upon such city of the first class. No order or ruling of the commission in such cases shall be of any force or effect unless the foregoing provisions are complied with. In all of said proceedings such city of the first class shall have equal rights with all public service companies and with the commission itself, to introduce evidence, participate in the hearing and to obtain a review of any order or ruling of the commission by the superior court, or to appeal to the supreme court from any ruling or decision of the superior court in all cases in which the City Council, or other governing body of such city, shall by resolution authorize or desire a review or appeal to be had or taken. Such city shall also have the right in all such cases to petition for rehearing within the time and in the manner in which any interested party now has, or may hereafter be accorded, such right by statute.

EXHIBIT "B"

AN ACT Providing for the amendment of Section 10 of Article XI of the Constitution of the State of Washington relating to the incorporation and powers of municipalities.

Be it Enacted by the Legislature of the State of Washington.

Section 1. That at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1918, there shall be submitted to the qualified electors in the state for their adoption and approval or rejection an amendment to Section 10 of Article XI of the Constitution of the State of Washington, so that the same when amended shall read as follows:

Section 10. Incorporation of Municipalities. Corporations for municipal purposes shall not be created by special laws; but the legislature, by general laws shall, and the people by the initiative may, provide for the incorporation, organization, and classification, in proportion to population, of cities and towns, which laws may be altered, amended or repealed. Cities and towns heretofore organized or incorporated may become organized under such general laws whenever a majority of the electors voting at a general election may so determine, and shall organize in conformity therewith; and cities or towns heretofore or hereafter organized and all charters thereof heretofore or hereafter framed or adopted by authority of this constitution shall be subject to and controlled only by the constitution and the criminal laws of the state. Any city containing a population of twenty thousand inhabitants or more shall be permitted to frame a charter for its own government consistent with and subject to the constitution and criminal laws of this state. Every such city shall have the exclusive and absolute right to grant, control, enforce, extend, and at any time modify, repeal, or amend all franchises, rights and privileges within their respective territorial limits. For the purpose of framing a charter hereunder, the legislative authority of such city may cause an election to be had, at which election there shall be chosen by the qualified electors of said city fifteen freeholders thereof, who shall have been residents of said city for a period of at least two years preceding their election, and qualified electors, whose duty it shall be to convene within ten days after their election and prepare and propose a charter for such city. Such proposed charter shall be submitted to the qualified electors of said city, and if a majority of such qualified electors voting thereon ratify the same, it shall become the charter of said city, and shall become the organic law thereof and supercede any existing charter, including amendments thereto, and all laws inconsistent with such charter, except the criminal laws of the state. Said proposed charter shall be published in two daily papers published in said city for at least thirty days prior to the day of submitting the same to the electors for their approval, as above provided. All elections in this section authorized shall only be had upon notice, which notice shall specify the object of calling such election, and shall be given for at least ten days before the day of election in all election districts of said city. Said elections may be general or special elections, and, except as herein provided, shall be governed by the law regulating and controlling general or special elections in said city. Such charter may be amended by proposals therefor submitted by the legislative authority of such city to the electors thereof at any general election, or in any other manner provided in such charter, after notice of said submission published as above specified, and ratified by a majority of the qualified electors voting thereon. In submitting any such charter or amendment thereto, any alternate article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others."

AN ACT providing for the amendment of Section 11 of Article XI of the Constitution of the State of Washington relating to Police and Sanitary Regulations.

Be it enacted by the Legislature of the State of Washington.

Section 1. That at the general election to be held in this state on the Tuesday next succeeding the first Monday in November 1918 there shall be submitted to the qualified electors in the state for their adoption and approval or rejection an amendment to Section 11 of Article XI of the Constitution of the State of Washington, so that the same when amended shall read as follows:

"Section 11. Police and Sanitary Regulations
Any county, city, town or township may make and enforce within its limits all such local, police, sanitary and other regulations as are not in conflict with the criminal laws of the state."