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ANNUAL REPORT
OF THE LAW DEPARTMENT
CITY OF SEATTLE

December 1, 1916
to
December 1, 1917

ANNUAL REPORT OF THE LAW DEPARTMENT

CITY OF SEATTLE

TO THE MAYOR AND
CITY COUNCIL OF THE
CITY OF SEATTLE.

Gentlemen:

Pursuant to custom, I submit the following annual report of the work of the law department covering the period from December 1, 1916 to December 1, 1917:

I.

GENERAL STATEMENT OF LITIGATION

1. TABULATION OF CASES.

	Pending Dec.1, 1916	Pending Dec.1, 1917	Commenced since Dec. 1, 1916	Ended since Dec. 1,1916
Condemnation suits	27	21	16	22
Condemnation suits, supplement- ary proceedings	10	7	12	15
Damages for personal injuries	42	36	26	32
Damages to property	26	39	22	9
Damages other than damages to pro- perty and personal injuries	8	4		4
Actions to set aside and restrain collections of assessments	2	2		
Appeals from assessments levied by city council	3	3	1	1
Injunction suits	17	16	13	14
Mandamus proceedings	4	5	8	7
Miscellaneous proceedings	170	75	22	117
Suits to quiet title	4	3	1	2
Public Service Commission pro- ceedings	10	5	2	7
Suits to recover over against con- tractors, owners of property or franchises on account of person- al injury judgments paid by city	5	7	4	2
Actions against police, health and other officers,	18	12	9	15
T O T A L	346	235	136	247
Total actions pending during period of this report				482

2. PERSONAL INJURY ACTIONS.

Amt. involved

Pending November 30, 1916,	42	\$296,212.00
Commenced since November 30, 1916,	26	\$156,035.50
	68	\$452,247.50
Tried and concluded to Dec 1, 1917	32	\$205,059.60
Actions pending November 30, 1917	36	\$247,187.90

Of the 32 cases tried since November 30, 1916, 17 cases involving \$146,524.60 resulted in decisions in favor of the city, and in the 15 remaining cases, involving \$58,535.00, judgments were given against the city amounting to \$8065.00. This department resisted successfully 96.1% of the amount sued for in the personal injury cases tried. Of the 36 personal injury cases now pending, 5 of such cases have been appealed to the supreme court of the State of Washington, judgments having been entered against the city in said cases in the lower court in the aggregate sum of \$9600.00.

3. DAMAGE TO PROPERTY SUITS

Amt. involved

Suits pending November 30, 1916	26	\$163,434.20
Commenced since November 30, 1916	22	\$99,687.50
Total covering period of this report	48	\$263,121.70
Tried and concluded to December 1, 1917	9	\$38,639.70
Pending November 30, 1917	39	\$224,482.00

Of the 9 cases tried since November 30, 1916, 5 cases involving \$33,428.70 resulted in decisions in favor of the city, and in the remaining 4 cases, involving \$5211.00, judgments were given against the city amounting to \$1225.10. This department resisted successfully 96.9% of the amount sued for in the actions for damages to property.

4. ACTIONS FOR DAMAGES OTHER THAN DAMAGES TO PROPERTY AND PERSONAL INJURIES.

		Amount Involved
Pending November 30, 1916	8	\$ 31,015.75
Commenced since November 30, 1916	0	
T O T A L -----		31,015.75
Tried and concluded to November 30, 1917	4	1,375.50
Pending November 30, 1916	4	29,640.25

Of the four cases tried involving \$1,375.50, judgments in all cases were given in favor of the city.

5. Miscellaneous cases.

Of the 117 miscellaneous actions tried and concluded during the period of this report, 86 of said miscellaneous cases were accrued interest cases begun by the city during the administration of a former corporation counsel and dismissed by this administration under the direction of and pursuant to a resolution of the city council. During the year there were pending and commenced 27 cases against police officers, firemen and other city officials. Fifteen (15) of said cases involving \$48,337.50 were tried. Of these cases tried judgments were rendered against the defendants therein in the aggregate sum of \$501.00. These cases were begun pursuant to claims arising from various arrests, destruction of property in liquor raids, etc.

6. DAMAGE CLAIMS FILED AGAINST CITY.

		Amount Involved
Claims for damages pending Nov. 30, 1916	16	\$ 12,169.00
Claims for damages referred to this department for investigation, from November 30, 1916 to November 30, 1917	154	490,309.00
T O T A L -----	170	502,478.00
Claims for damages investigated and disposed of as follows:		
Between Nov. 30, 1916 and Nov. 30, 1917:		
Settled ---	3	750.00
Rejected --	136	464,690.00
Total personal injury claims pending November 30, 1917	31	37,038.00
T O T A L -----	170	\$ 502,478.00

7. GARNISHMENTS.

During the period of this report, we made 107 answers in garnishment cases, 86 per cent. of which were for the garnishment of wages of city employes and 14 per cent. miscellaneous subjects. About 39 per cent. of the cases came to trial on questions of exemptions or assignment.

II.

PUBLIC UTILITIES, MUNICIPALLY OWNED

1. LIGHT AND POWER. During the period covered by this report this department has successfully defended the two cases of *Shorts v. Seattle*, the result of which was to establish by a ruling of the supreme court the right of the legislative body of the city to issue bonds without a vote of the people for the extension of the light and power plant and system of the city, such bonds being payable solely out of the earnings of the utility. Under this authority ordinances have been drawn in this department and amended at the request of the city council, adopting a plan or system for the extension of the light and power system of the city by the construction of an additional unit to the steam power plant on Lake Union and issuing bonds therefor, and providing for further extending the system by the addition of a completed hydro-electric plant to be acquired by the proceeds of bonds to be issued in a sum not exceeding \$5,000,000. Specifications for these additions have been approved by this department and the condemnation proceedings resulting in the acquisition of the site upon which the additional unit to the steam plant is being constructed were also conducted.

Forty-six (46) actions were commenced for the lighting department of the city, for unpaid light and power bills, involving \$1304.57 principal, on which we received judgments for \$1407.83, \$103.26 being for costs. Eleven (11) claims were filed for the light department in either bankruptcy or that of estates.

WATER. One of the Shorts cases above referred to also established the right of the legislative body of the city to authorize an issue of utility bonds for the extension of the water supply system of the city. An ordinance was prepared and condemnation proceedings were carried out by this department for the acquisition of Swan Lake and other property for the enlargement of the water system. An ordinance authorizing the issuance of bonds in the sum of \$3,700,000, to pay for this extension, was also prepared and amendments thereto made at the request of the council.

STREET RAILWAY. This department has drawn various ordinances and rendered several opinions affecting the municipal street railway. The greatest amount of work was entailed in the successful defense of the suit brought by T. N. Haller to enjoin the extension of the municipal street railway line into Ballard over the Fifteenth Avenue Northwest bridge, resulting in the removal of all barriers to the completion of this extension. Ordinances and papers necessary in the purchase of the Loyal Heights line by the city were also prepared. Ordinances providing for the condemnation of the right to construct an elevated railway line over Railroad and Whatcom Avenues were also prepared. Also an ordinance providing for the submission to the voters of the matter of the issuance of general bonds in the sum of \$350,000 for said elevated railway.

III. This department under authority

PUBLIC UTILITIES, PRIVATELY OWNED

1. PUGET SOUND TRACTION, LIGHT & POWER COMPANY.

Much of the time of this department has been consumed in apparently endless litigation endeavoring to compel the Puget Sound Traction, Light & Power Company to live up to its franchise obligations.

FOUR-CENT TICKETS. The Public Service Commission, after a farcical hearing, entered an order relieving said company of its obligation to sell four-cent tickets as required by its franchise. The case is now on appeal to the supreme court. This matter has heretofore been fully covered by communications from this department to the city council.

FREMONT BRIDGE CASE. Suit is now pending to compel the traction company to pay the sum of \$60,917.00 as its just proportion of the cost of the Fremont Avenue Bridge now being used by the company for the operation of its cars thereover.

MANDAMUS TO COMPEL PAVING. Pursuant to authority of city ordinances suit was started and brought to trial on the 26th day of March, 1917, before Judge Mackintosh to obtain the issuance of a writ of mandate compelling the company to pave between its tracks, and for eighteen inches on each side thereof, as required by its franchise. This case was held under advisement by the court until the 7th day of July, 1917, at which time the court held in substance that the city had a right to maintain the action, but in the exercise of his discretion the court would not order the paving to be done until the Public Service Commission had passed upon the company's application, made to the commission some years prior thereto, for an order relieving it of its various franchise obligations. A hearing was thereupon obtained before the commission on the 16th day of July, 1917, at which time we had every reason to expect the commission would follow the ruling made by it in the Tacoma case participated in by this department under authority given by the city council. Although the same questions were involved as in the Tacoma case, the commission has now held this matter since July last without rendering any opinion thereon.

Seeking to obtain a final ruling of the courts on the company's obligation to pave, this department began a second action covering other portions of streets than those covered by the first action, and the same came on for hearing before Judge Dykeman on the 19th day of October, 1917. Although the matter was fully presented to the court and briefs furnished by both sides, no decision has been rendered to date.

As shown by this statement of the facts, the responsibility for the failure of the city to obtain an adjudication of this important matter does not rest upon this department. However, we are not discouraged and it may be that a "spring drive" will produce some results.

TWO PER CENT GROSS EARNINGS. An action was brought to compel the company to pay two per cent of its gross earnings for the year 1916. This action resulted in a judgment being rendered in favor of the City in the superior court by Judge Ronald. The company has now appealed to the supreme court.

USE OF SPOKANE AVENUE BRIDGE. Negotiations for the use of the new temporary Spokane Avenue bridge by the traction company were conducted with the city council. This department participated therein and drafted the necessary ordinances to carry out the agreement between the city council and the company. Condemnation proceedings for an approach to the westerly end of the bridge are now being conducted.

2. SEATTLE & RAINIER VALLEY RAILWAY COMPANY.

A number of conferences between the city council and the Seattle & Rainier Valley Railway Company participated in by this department resulted in the drafting of eleven ordinances carrying out the agreements reached by the city council and the company. The absence of litigation between the city and this company is in marked contrast to the litigation hereinbefore referred to between the Puget Sound Traction, Light & Power Company and the City.

3. SEATTLE LIGHTING COMPANY.

The Seattle Lighting Company filed a new schedule increasing its rates and adopting a "ready to serve" charge. The conduct of the Public Service Commission in denying the City an opportunity to be heard before permitting this raise to go into effect has heretofore been called to your attention by communications from this department. The "pitiless publicity" given to the arbitrary and unparalleled action of the Commission in this instance has apparently not been without its beneficial results, as indicated by the now apparent willingness of the Public Service Commission to hear from The City of Seattle on all matters affecting it. In the gas case the attitude taken by the commission was that it had no desire to hear from The City of Seattle as it was not believed that it could aid in the solution of the problems before the Commission.

IV.

WORK OF CITY ATTORNEY.

1. The city attorney has handled 13,044 cases in the police court during the twelve months ending December 1, 1917, including 3,040 liquor cases, resulting in the imposition of fines and forfeitures amounting to \$93,550.95, a gain in receipts over the previous year of \$28,796.45. During the same period 71 appeals from the police court were tried and disposed of in the superior court, and 12 of these cases were appealed to the supreme court of the state. The supreme court has disposed of 7 of these cases, and 5 are still pending therein.

2. The city attorney has also officially represented the mayor and police officers in damage suits brought by the owners of "blind pigs" and other unlawful establishments that have been wrecked by the "dry squad". He has also handled numerous habeas corpus, mandate, injunction, and other special proceedings for the police department. So far no judgments have been secured against the city or the officers by any of the parties suing in these cases. The work in connection with the police court and civil suits arising from the activity of the police force has at times required the services of two assistants in addition to the city attorney.

V.

OPINIONS

During the period covered by this report, 153 written legal opinions were rendered to the various city departments. In addition to this, innumerable conferences, of which no record is kept, have been held relative to city affairs. None of the opinions of this department has been overruled or criticised by the courts.

VI.

MISCELLANEOUS WORK.

1. A vast amount of work has been done by this department in connection with the selective draft for the United States Army. Under act of congress this department was required to advise all the local registration officials and assist in both the registration and the selection of those eligible to draft. One of the assistants in this department has also acted as the executive officer of one of the registra-

tion and exemption boards, and another, by appointment of the governor, has acted as appeal agent for the government in connection with the same work. This additional work, as well as the assistance rendered in the preparation of answers to the questionnaire, has been handled by the department in addition to its regular duties without any increase of force or expense to any one.

2. By direction of the city council I attended the last session of the legislature and spent considerable time in keeping the council informed of prospective legislation which would affect the interest of the city. This was all fully covered in a communication addressed to the council after the adjournment of the legislature and will not be repeated herein. The same recommendations made in my annual report of a year ago are still urged by this department but since the legislature does not meet during the coming year they are not now again set forth herein.

Respectfully submitted,


Corporation Counsel.