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Corporation Councils Annual
Report to the Mayor

Corporation Councils

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The City of Seattle

Washington

LAW DEPARTMENT

MUTUAL LIFE BUILDING

December 24, 1909.

Honorable John F. Miller,
Mayor of the City of Seattle,
Seattle, Washington.

Dear Sir:-

In accordance with your request, I geg to herewith submit a report of the business transacted in the Law Department of The City of Seattle since the 31st day of December, 1908, on which date I filed a report with your Honor covering the work done in this department between January 24, 1908, and December 31, 1908.

On the 31st day of December, 1908, the following suits were pending and undisposed of in this department:

Condemnation suits, original proceedings,	37
Condemnation suits, supplementary proceedings,	19
Damages for personal injuries,	31
Damages to property,	19
Damages other than damages to property and personal injuries,	5
Actions to set aside and restrain collection of assessments,	30
Appeals from assessments levied by city council,	28
Injunction suits,	22
Mandamus proceedings,	10

Miscellaneous suits,	20
Suits to quiet title,	16
Suits to recover over and against contractors, owners of property or franchises on account of personal injury judgments paid by city,	7
Cases to recover on street grade warrants,	2
Total - - - - -	246

Since December 31, 1908, there have been begun the following suits and proceedings in which the city was a party in interest:

Condemnation suits, original proceedings,	50
Condemnation suits, supplementary proceedings,	18
Damages for personal injuries,	29
Damages to property,	22
Damages other than damages to property and personal injuries,	10
Actions to set aside and restrain collection of assessments,	19
Appeals from assessments levied by the city council,	12
Injunction suits,	48
Mandamus proceedings,	11
Miscellaneous suits,	30
Suits to quiet title,	7
Suits to recover over against contractors, owners of property or franchises on account of personal injury judgments paid by city,	00
Actions to recover on street grade warrants,	1

Total, -----	257
Actions pending on December 31, 1908,	246
Total actions pending during period of this report,	503

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This shows an increase of 45 per cent. in the general business of the Law Department over the business of 1908.

The following is a statement of actions still pending and those ended since December 31, 1908.

	Still Pending.	Ended.
Condemnation suits, original proceedings,	55	32
Condemnation suits, supplementary proceedings,	19	18
Damages for personal injuries,	30	30
Damages to property,	20	21
Damages other than damages to property and personal injuries,	13	2
Actions to set aside and restrain collection of assessments,	24	25
Appeals from assessments levied by city council,	18	22
Injunction suits,	33	37
Mandamus proceedings,	2	19
Miscellaneous proceedings,	36	14
Suits to quiet title,	11	12

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	still pending:	Ended:
Suits to recover over and against contractors, owners of property or franchises on account of personal injury judgments paid by city,	3	4
Actions to recover on street grade warrants,	<u>00</u>	<u>3</u>
Total,	254	237

PERSONAL INJURY CLAIMS.

	No.	Amount
Claims for Personal Injuries pending December 31, 1908,	77	\$340,482.71
Claims for Personal Injuries filed since December 31, 1908,	89	\$437,740.00
Claims for Injury to Property, referred to this department,	14	\$ 4,168.00
Total claims pending in Law Department during period covered by this report,	180	\$778,228.71
Amount claims settled during year 1909,		\$70,185.00
" paid in settlement,		4,950.00
Average percentage paid in settlement,		7%

PERSONAL INJURY ACTIONS.

	No.	Amount
Pending December 31, 1908,	31	\$213279.60
Commenced since December 31, 1909,	27	230836.00
Total covering period of this report,	58	<u>444115.60</u>

Of the fifty-eight actions pending, during the past year,
thirty-two have been tried or settled, involving in the aggregate

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the sum of \$251,304.60 and in seventeen of these actions tried, a verdict was entered in favor of the city. The total recovery against the city for the balance of the cases tried and settled was \$27,623.00. Two of these cases have been appealed to the Supreme Court, and in four of the cases where recovery was had (including those two appealed) involving the sum of \$16,010, third parties are liable over to the city, so the city ultimately will be liable for only \$11,613. This amount may be still reduced by the Supreme Court in two of the cases, namely: Hase vs. the city and Falldin vs. the city

In actions to recover over against third parties on account of personal injury judgments paid by the city, judgments have been entered in favor of the city in the following cases:

City v. Peterson	\$313.80
City v. Thomas E. Jones	650.00
City v. John C. Reagan Co.	1143.65
City v. Northern Pacific Ry. & Columbia & Puget Sound R.R. Co. (on appeal to Supreme Court)	16775.35
	<hr/>
	18882.80

Resume' Personal Injury Actions.

Amount claimed in actions pending during period of this report	\$444,115.60
Amount claimed in actions tried and judgment entered	251,304.60
Amount of judgments rendered against city in actions tried	27,623.00
Judgments recovered by city against third parties liable over to city on account of old judgments recovered against city	18,892.80
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Balance loss to city	8,730.20

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lessening of the number of cases tried in the Police Court by about 2,000, assuming there has been no increase in arrests for other offenses commensurate with the ordinary growth of the city. On the same theory the city has lost a revenue of \$60,000.00 per annum.

For a period of twelve years up to Sept. 1, 1909, the exclusive work of prosecuting offenders in the Municipal Court devolved upon Mr. Ellis DeBruler, whose resignation as City attorney was accepted on that date to permit of his accepting an appointment as Commissioner of Immigration with the Federal Government at a greatly increased salary. This deserved promotion lost to the city of Seattle one of its most tried and faithful servants. During his long service he handled approximately 75,000 cases in the Municipal Court, and his ability and integrity is sufficiently proven by the fact that not in one instance has his integrity been questioned by either the law abiding or law breaking elements with whom he was constantly brought in contact.

Mr. DeBruler was succeeded in the position of City Attorney by Mr. Ralph S. Pierce, for whom I bespeak the same efficient service.

EMINENT DOMAIN PROCEEDINGS.

The total number of original and supplementary condemnation proceedings entered and still pending during the period of this report shows an increase in this class of litigation amounting to fifty per cent. over the same class of litigation for the preceding year. All of the eminent domain litigation resulting from Jackson Street, Olive Street, Pine Street, Fourth Avenue, Dearborn Street and "Denny Hill" regrades has been completed. Litigation is still pending, however, on the right to assess property receiving damage awards in the condemnation proceedings for the purpose of raising funds to pay the contractor. Owing to the fact that many of the property owners signed agreements to pay this assessment despite an eminent domain damage award by the jury, the city has taken the position that the decision of the Supreme Court in the case of Schuchard vs. The City of Seattle, referred to in my last annual report, does not preclude the right to make such assessments. This question has been raised in various forms, and is now pending before the Supreme Court.

The new law changing the method of ascertaining damages and assessing benefits is now in force, and is receiving a thorough test in the Fifth Avenue regrade case now on trial. It is expected that before the litigation in this case is finally deter-

mined, all new questions arising under this new act will be determined by the Supreme Court.

INITIATIVE AND REFERENDUM.

I beg to advise you in the case of Miles P. Benton vs. the Seattle Electric Company, the Supreme Court has held that the initiative and referendum does not apply to the granting of street railway franchises. In the case of Hartig vs. The City of Seattle, the Supreme Court has held that it does not apply to the granting of liquor licenses. I beg to call your attention again to the matter referred to under this heading in my last annual report, namely, the practice of securing signatures to initiative and referendum petitions without requiring the signer to present himself at the City Hall for that purpose. It is a well known fact that practically all of the signatures on such petitions are secured by catching voters as they go into or come out of the registration department of the Comptroller's office. It is safe to say that not one in one thousand ever reads the petition.

Another vicious practice arising under this amendment is the fact that when private interests are involved, they pay solicitors to visit persons whose names appear on the petition and solicit

their withdrawal from the petition. If an initiative and referendum petition were required by the charter to be placed on file in the comptroller's office, and each person wishing to sign the same required to take an oath before the comptroller that he has read the petition and knows the contents thereof, a true expression of sentiment by the petition would be secured. Surely this is no greater hardship or abridgment of the right of petition than the present requirement of the law compelling a voter to register at the City Hall before he is allowed to vote. Some very tangled litigation growing out of this condition of affairs is now pending before the Supreme Court:

NEW LEGISLATION.

Merely for the purpose of keeping a record in the annual report from this department, I respectfully refer to the nineteen bills drawn in this department, presented to and passed by the last state legislature, on matters affecting rights and powers of cities of the first class.

BALLARD CITY BONDS.

The outstanding indebtedness of the City of Ballard at the time of its annexation to this city was covered by a bond issue

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in the sum of \$65,000.00, which was voted upon by the people of the city at large. When the bonds were offered for sale, they were refused by the successful bidder, Harris Trust & Savings Bank, on the ground that the items of indebtedness had been paid by money advanced out of the general fund, and that the indebtedness no longer existed. Upon an appeal to the Supreme Court, the procedure of the city was sustained and the legality of the bonds established. If this position had not been taken by the Supreme Court, the city would have lost in this instance \$65,000.00.

LAW LIBRARY.

Thanks to the recommendation of Your Honor in your last annual message, and the generosity of the City Council, we have now installed a first-class working law library in this department. All books are stamped and catalogued as city property, and with the additional room recently granted this department, we now have facilities for despatching work which did not exist before.

I take this opportunity of thanking individually and collectively the Judges of the Superior Court for their efforts to advance pending municipal litigation insofar as compatible to fair treatment of other litigants.

The Supreme Court of this State has also appeared desirous of filing early decisions where the public interest would suffer by any delay.

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Thanking you for the uniform courtesy extended by you and your secretary, Mr. Slattery, to the members of this department throughout your term, I beg to remain,

Yours very truly,


Corporation Counsel.