

No. 23

New York, January 22<sup>nd</sup> 1900



The Colonial Bank 160<sup>59</sup>

One hundred and fourth St. Branch.

Pay to the order of Leon Lewin, attorney for Vernon Woodruff ~~\$160.00~~

One hundred and sixty and  $\frac{59}{100}$  Dollars

Safe Deposit Vaults.

E. W. Austin

A

RECEIVED PAYMENT  
Through New York Clearing House  
JAN 22 1900

Pay to the order of

National Bank

NEW YORK

~~Leon Lewin~~  
Attorney for Werner & Windolph

~~Leon Lewin~~

12



No. 1. W. 103<sup>d</sup> Street.  
New York. Jan. 16<sup>th</sup> 1902.

Hon. Seth Low

Mayor of City of New York.

Sir:

Respectfully referring to the interview I had with your honor's Secretary, Mr. Reynolds yesterday, I now, in accordance with his instructions, make the following written statement, with enclosure marked "A".

In the latter part of Dec 1899 a suit was brought against me in the East 57<sup>th</sup> St. Magistrate's court, Judge Josephs. — by Werner and Windolph architects of Liberty St. bet. B'way & Church St. In the absence of my attorney, and without any opportunity for defence a snap judgement was rendered

against me for  $\$160 \frac{59}{100}$  <sup>(2)</sup> Between the 2<sup>d</sup> & 16<sup>th</sup> of  
January, 1900 following, one Wm H. Lee, City, Marshall  
came to my place of business, S. W. Cor. of 110<sup>th</sup> St. &  
& Bway and seized personally from my cash drawer  
the sum of  $\$8$ . - Of this he made no returns to the  
court, and when after paying the judgement I  
demanded that sum back from him, he declined to  
give <sup>it</sup> to me saying "we always pocket such things".  
I have repeatedly made similar demands of him  
to which he has failed to respond. The enclosed  
paid check shows that I satisfied the judgement  
herein referred to.

I respectfully request your Honor to  
institute proper measures to compel this man Lee  
to restore to me the cash of which he deliberately robbed  
me. In addition I want to state that at the time  
he robbed my cash drawer he also threatened to

remove everything from my place of business unless  
I gave him \$25. cash. I am sorry to say that  
I submitted to this extortion and gave him the  
\$25. rather than submit to have my business  
broken up. This money also this man should be  
compelled to disgorge.

Respectfully yours.

E. W. Austin

E. N. Austin

against

City Marshal

Wm. H. Lee.

John  
G. Cook

16<sup>th</sup> at 3

~~14<sup>th</sup> at 11~~

CITY OF NEW YORK.  
OFFICE OF THE MAYOR.

Copy

May 23rd, 1902. M.

William H. Lee, Esq.,

Marshal of The City of New York.

Sir:

You are hereby notified that charges in writing, of which a copy is herewith served upon you, have been preferred to me and that an opportunity will be afforded you to be heard upon said charges at this office on Tuesday, the 3rd day of June, 1902, at half past ten o'clock in the forenoon.

*Seth Low*  
MAYOR.

Case heard June 3<sup>d</sup>. 1902

adjourned to June 12. 11 a m

" " " 16 3 p m

CITY AND COUNTY OF NEW YORK, SS:

being duly sworn says that on the <sup>William Kennel</sup> 24<sup>th</sup> day of May, 1902,  
at <sup>57<sup>th</sup> Street near 3<sup>rd</sup> Ave</sup> in the Borough of <sup>Manhattan</sup> Manhattan  
City of New York, he served a notice of hearing, subscribed  
to by the Honorable Seth Low, Mayor of The City of New York,  
of which a copy is hereto annexed, together with a copy  
of the charges preferred by <sup>E. M. Austin</sup> E. M. Austin  
original of which charges is hereto annexed, upon

<sup>William A. Lee</sup> William A. Lee  
a Marshal of The City of New York, by delivering said  
notice of hearing and said copy of said charges to said  
<sup>William A. Lee</sup> William A. Lee  
personally, and leaving the same with him.

Deponent further says that he is over the age  
of 37 years and that he is well acquainted with said

<sup>William A. Lee</sup> William A. Lee  
and knows the person served as aforesaid to be the said  
<sup>William A. Lee</sup> William A. Lee  
a Marshal of The City of New York.

Sworn to before me this  
<sup>26<sup>th</sup></sup> day of May, 1902.

<sup>John C. Clark</sup> John C. Clark  
Notary Public  
N. Y. Co

<sup>William Kennel</sup> William Kennel

E. W. Austin.

vs

City Marshal

Wm H. Lee

Decision reserved  
June 18, 1902

CITY OF NEW YORK,  
OFFICE OF THE MAYOR.

-----X  
E. W. Austin, :  
vs. :  
William H. Lee, Marshal of the :  
City of New York. :  
-----X

B e f o r e

HIS HONOR, MAYOR LOW.

CITY OF NEW YORK,  
OFFICE OF THE MAYOR.

-----X  
E. W. Austin :  
vs. :  
William H. Lee, Marshal of the :BEFORE HIS HONOR MAYOR LOW  
City of New York. :  
-----X

New York, June 3rd, 1902.

Present: Mayor Low,  
E. W. Austin,  
Complainant in person.  
Elias G. Levy, Esq.,  
For Defendant.

Also William H. Lee, the defendant.

E. W. A U S T I N, called as a witness on behalf of the  
complainant, being **duly** sworn, testified as follows:

In the month of December, 1899, I was sued by one  
Werner & Windolph, architects, of Liberty street, between  
Church and Broadway. They brought a suit against me to  
recover for some architectural work done at 110th street  
and Broadway. The suit came up on a Friday in the latter  
end of December, 1899. It was for \$150. My attorney,  
Mr. Joseph Hover, was engaged in another court and he sent  
his clerk to have it adjourned. The case was not ad-  
journed and judgment was taken. On the following Satur-  
day, in my absence, Mr. Lee came.

Mr. Levy: I object to Mr. Austin testifying to anything in his absence.

The Mayor: I think Mr. Austin is without counsel and is endeavoring to tell his story.

(Mr. Austin -continuing) The levy was made by force.

Mr. Levy: That I move stricken out.

(Mr. Austin-continuing) Mr. Lee waited till I came and I saw Mr. Lee. He had some trucks outside of my door and said he was going to move everything in the place.

Mr. Levy: Unless you paid the judgment?

Mr. Austin: He didn't produce the judgment. He had already taken money from my cash draw, amounting I think to \$8.30 and he insisted upon something in order--

Mr. Levy: Please tell us what he said.

Mr. Austin: I said to Lee I knew nothing about the judgment being taken and I wanted the case tried. Well, he says, what is it worth to go away? He then demanded \$25.

Mr. Levy: Tell His Honor exactly the conversation. Tell what he said exactly.

Mr. Austin: I don't know exactly what he said; but he wanted \$25. to go away. The case was reopened on the following Monday and tried on the following Friday and judgment was rendered against me in the Seventh District Court. I went to the clerk of the Court and asked him if there was any return for the \$8. taken out of my draw. He said no. I went to see Mr. Lee; and he said he usually pocketed those things himself and refused to give it up.

## CROSS EXAMINATION BY MR. LEVY:

Q A judgment was recovered against you for \$150. in the 7th District Court, with interest?

A The total amount was \$160.59.

Q And you did not pay Mr. Lee any Marshal's fees for levying or expenses whatever?

A I didn't pay Mr. Lee, no sir.

(The Mayor) The witness testifies that he was asked for \$25. and paid it.

Q (Mr. Levy) You paid it?

A (Mr. Austin) Yes sir.

(Mr. Levy) Well I didn't hear you say so.

Q What did you pay him \$25. for.

A He said it was to let me alone.

Q He made a levy at that time?

A Yes sir.

Q Where did this take place?

A It was in the dining room.

Q How far is it from the bar room?

A Just a few feet.

Q Who was there beside yourself.

A Several of Mr. Lee's men.

Q Was your man there?

A No sir.

Q Could your man in the bar room see what you were doing in this room?

A No sir, the doors were closed.

Q Did you close the door?

A We usually kept the doors closed on account of the cold.

Q Let me ask you; you are a man of good reputation, are you not?

A Yes sir.

Q You pay all your debts, do you not?

A Yes sir.

Q How much do you owe to your grocers, butchers, etc.?

A I refuse to answer.

Q Don't you owe your butcher anything at present; or grocer; or baker?

A I have running accounts, certainly.

Q Didn't Mr. Lee give you an opportunity to telephone your lawyer when he came there? Did he or did he not?

A One of his men went to the telephone.

Q Did he tell you-- did he say to you that you have an opportunity to see your lawyer?

A No sir.

Q Are you sure?

A Yes sir.

Q Did your lawyer come to the place?

A Yes sir.

Q How did he come there?

A I telephoned for him.

Q And you just now said you didn't telephone for your lawyer. Was that before or after you paid the \$25.?

A Before.

Q Did you take any legal advice about paying \$25.

A I spoke to my lawyer and he said, -I don't see any way out of it.

(The Mayor) I think the lawyer ought to be here. Have you any witnesses?

Mr. Austin: Yes sir, one over here. My bar-keeper  
Mr. Ness.

F R A N K L. N E S S, called as a witness on behalf of  
th e complainant, being duly sworn, testified as follows:

The Mayor: Where do you live Mr. Ness:

Mr. Ness: 510 West 125th Street.

DIRECT EXAMINATION BY MR. AUSTIN:

Q Do you know Mr. Lee?

A I kind a think I know the gentleman's face.

Q Do you remember the matter of Mr. Lee coming to the place,  
making a levy and coming behind the bar?

A I remember the circumstances; I don't remember the date.  
This gentleman came in. This Mr. Lee came in. He asked  
for Mr. Austin. I told him he was not about. He said  
can you get him. I said I don't know. Well, he said,  
I am from the Marshal's Office. I have a judgment against  
Mr. Austin to collect. So he said it was advisable for me  
to send for Mr. Austin. I had no body to send. Mr. Austin's  
porter was sleeping upstairs. I went over to call him and  
when I did, the Marshal took charge of the bar. Before you  
go any further, I said, Marshal, I would like to count the  
money. I think there were \$8. He said all right go  
and count it. I sent the porter to Mr. Austin's house.  
However, Mr. Austin came in and right after him the porter.

Mr. Levy: Then what transpired? What took place after  
that?

Mr. Ness. Mr. Austin had a talk with him and his lawyer  
came there. They went into the back room. I could not say  
what they had to say.

The Mayor: What became of the money in the draw?

Mr. Ness: The Marshal took that.

The Mayor: Did the Marshal leave a receipt with you for \$8.30 or whatever the amount was that was taken from the cash draw?

Mr. Ness: I insisted on it. He said he had a judgment to levy upon the receipts and bar fixtures; I am almost positive of it.

CROSS EXAMINATION BY MR. LEVY:

Q Mr. Austin stated a moment ago that Mr. Lee asked for \$25.

A I didn't hear him.

Q If he asked Mr. Austin for \$25. would you have heard him?

A If he spoke above a whisper I would.

Q How far is the back room from the bar room?

A The next room. The door was open.

Q Mr. Austin said the door was closed?

A It was not closed, it was open.

Q Then you must have heard and saw everything that took place between Mr. Austin, the lawyer and the Marshal. Was \$25 paid?

A Not to my knowledge.

Mr. Austin: You are an involuntary witness in this case Mr. Ness? I had to subpoena him to appear here.

A No sir, I would not call here voluntarily for a man of your character.

Mr. Austin: (pointing to Mr. Ness) This is the gentleman that worked for me behind the bar.

Mr. Ness: I am sorry I did.

(7)

The Mayor: I think the case had better be adjourned until your lawyer can come here.

Mr. Levy:(addressing Mr. Austin) You don't want to call any other witness?

Mr. Austin: I haven't any other witness.

Mr. Ness: The porter is over there.

The Mayor adjourned the case to Thursday, June 12th, 1902, at 11 A. M.



CITY OF NEW YORK,  
OFFICE OF THE MAYOR.

-----X  
: E. W. Austin :  
: vs. : BEFORE HIS HONOR MAYOR LOW  
: William H. Lee, Marshal of the :  
: City of New York. :  
-----X

New York, June 3rd, 1902.

Adjourned to Thursday, June 12th, 1902, at 11

Present: Mayor Low.  
A.M.

Miss Rosalie Loew,  
for Complainant.

New York, June 12, 1902.

Mr. William H. Lee,  
Adjourned to Monday, June 16th, 1902, at 3 P.M.

MR. LEE: I ask for an adjournment, your Honor,  
until the 18th, on account of the absence of my at-  
torney, who cannot be here to-day.

MISS LOEW: I object to an adjournment on the  
ground that it is unfair to ask the witnesses who are  
here to come again.

CITY OF NEW YORK,

OFFICE OF THE MAYOR.

-----X  
E. W. Austin

vs.

BEFORE HIS HONOR MAYOR LOW.

William H. Lee, Marshal of the  
City of New York.

Q You are a practicing lawyer?

A I am not, sir. I don't know his name.

Q Where is your office? New York, June 16th, 1902,  
3 P. M.

A No. 94 Liberty Street.

Present: Mayor Low.

Q Were you present at the business place of Mr. Austin when

Miss Rosalie Loew,

Mr. Lee, as City Marshal, was there? For Complainant.

A I was there when Mr. Lee's Assistant was there on the 15th  
of December, 1900. I think it was. If you will pardon me.

MR. LEE: I ask for an adjournment, your Honor,

until the 18th, on account of the absence of my at-

torney, who cannot be here to-day.

MISS LOEW: I object to an adjournment on the

ground that it is unfair to ask the witnesses who are

here to come again.

THE MAYOR: I will hear the testimony of the preparin witnesses who are here to-day by special, appointment, on which the execution was levied had been taken by JOSEPH ANTHONY, called as a witness on behalf of the Complainant, being duly sworn, testified as follows:-

DIRECT EXAMINATION BY MISS LOEW: paid to him in my presence.

Q You are a practicing lawyer? Assistant's name?

A I am. I don't know his name. I remember you say, Mr. Mayor, that you did not pay the money to me

Q Where is your office? affidavit which I prepared on a mo-

A No. 94 Liberty Street. used, asking that the money \$33.50, I did not. I did not pay it at all; Mr. Austin paid

Q Were you present at the business place of Mr. Austin when

Mr. Lee, as City Marshal, called there? For some reason, you say you were there at the time he paid the money?

A I was there when Mr. Lee's Assistant was there on the 15th of December, 1900, I think it was. If you will pardon me,

Q I will refer to my papers (after looking at papers), it about

was on Saturday, the 15th of December. Mr. Austin tele-

A phoned me and asked me to come up there; he stated that the

Marshal was in charge of the place. I went up there and

found a man who represented himself to be the assistant of

Mr. Lee, the Marshal, who had made the levy, and he had

been there from some time in the morning, I believe. I

Q had a conversation with him, and I told him that I was preparing a notice of motion to open the default, -- the judgment on which the execution was levied had been taken by default, and I asked him to withhold the execution until the papers could be served. He refused to do so and demanded \$25, and the money was paid to him in my presence.

Q (THE MAYOR) What was the Assistant's name?

CROSS EXAMINATION BY MR. LEE:

A I don't know, sir. I don't know his name. I remember you say, Mr. Hover, that you did not pay the money to me that date, having the affidavit which I prepared on a motion, but which was not used, asking that the money \$33.50,

A I did not. I did not pay it at all; Mr. Austin paid which had been taken by the Marshal and his Assistant, that.

Q should be credited upon the judgment. For some reason, you say you were there at the time he paid the money?

Q which I fail to recall now, that motion was never made;

A Yes, I loaned Mr. Austin the money and he paid it in my presence. but the original affidavit I have here.

Q Have you had any conversation with Mr. Lee since then about

Q You say that Captain Steen called upon me and asked me to return the money?

A I don't think so, personally. I don't recall any conversation with him.

A I would not say that. He went to your office, but whether he saw you or not, I do not know.

A office over the telephone about this matter, but whether

Q But he brought back the answer that the Marshal refused to

Q Mr. Lee was on the other end of the telephone or not I do not know.

A not know.

Q Whom did you see there?

Q What date was that, about? answer now.

A It was in November, saw the Marshal? this matter?

Q Did you cause this money to be demanded from Mr. Lee?

A I did. I sent Mr. Steen up there to demand the money.

Q To demand the money of Mr. Lee?

A Yes. money in question, \$33,50?

A Yes. So I spoke to Mr. Lee, of course, and Mr. Levy advised him, he said "You don't need to do that; don't you

Q You say, Mr. Hover, that you did not pay the money to me  
J A Q O By Mr. Lee, to SGT E E N, who called as a witness on  
personally?

behalf of the Complainant, being duly sworn, testified as  
A I did not. I did not pay it at all; Mr. Austin paid  
follows: said in Mr. Lee's presence?  
that.

DIRECT EXAMINATION BY MISS LOEW: when Mr. Levy told me to go to

Q You say you were there at the time he paid the money?

Q Did you call upon Mr. Lee at his office, at Mr. Hover's

A Yes, I loaned Mr. Austin the money and he paid it in my

request? Lee say anything to you?

presence.

A I did. He wouldn't pay anything to me.

Q You say that Captain Steen called upon me and asked me to

Q Do you remember about what time it was?

return the money? MR. LEE:

A No, I could not remember the time, it is so long ago.

A I would not say that. He went to your office, but whether

Q Where did you call upon him?

he saw you or not, I do not know.

A Up in 57th Street, in Mr. Levy's office.

Q But he brought back the answer that the Marshal refused to

Q And was that Mr. Lee's office?

pay it? about two years.

A Yes.

Q What makes you particularly remember that it was an order

Q Whom did you see there?

A I do not recall his exact answer now.

Q Did he say that he saw the Marshal? this matter?

A My impression is that he did. The conversation has with slipped me entirely, as the conversation over the telephone has slipped me.

Q The money in question, \$33.50?

A Yes. So I spoke to Mr. Lee, of course, and Mr. Levy advised him, he said "You don't need to do that; don't you

J A C O B Y t h a n g b e k . t o S T E E N , w i l c a l l e d t a s t a w i t n e s s o n  
behalf of the Complainant, being duly sworn, testified as

Q follows: said in Mr. Lee's presence?

DIRECT EXAMINATION BY MISS LOEW: en Mr. Levy told me to go to

Q Did you call upon Mr. Lee at his office, at Mr. Hover's

Q request? Lee say anything to you?

A I did; he wouldn't pay anything to me.

Q Do you remember about what time it was?

A No, I could not remember the time, it is so long ago.

Q About what month was that when you say you called upon me?

Q Where did you call upon him?

A I don't remember the month.

A Up in 57th Street, in Mr. Levy's office.

Q How long ago is it, about; was it two years ago?

Q And was that Mr. Lee's office?

A I guess about two years.

A Yes.

Q What makes you particularly remember that it was an order

Q Whom did you see there?

- A I saw Marshal Lee and Mr. Levy.
- Q And what did you say to them about this matter?
- A Because I was working in Mr. Hoover's office and I know I am not paid by the week.
- A I had an order from Mr. Hoover, -- I had some papers with that I was sent up to 57th Street to Marshal Lee.
- Q Did you read the order?
- A Yes, sir.
- Q The money in question, \$33.50?
- A Yes. So I spoke to Mr. Lee, of course, and Mr. Levy advised him, he said "You don't need to do that; don't you pay anything back to him, and I will see that it will be all right."
- Q That was said in Mr. Lee's presence?
- A In Mr. Lee's presence, and then Mr. Levy told me to go to the devil.
- Q Did Mr. Lee say anything to you?
- A He said he wouldn't pay anything to me.
- CROSS EXAMINATION BY MR. LEE:**
- Q About what month was that when you say you called upon me?
- A I don't remember the month.
- Q How long ago is it, about; was it two years ago?
- A No, sir. I worked for Mr. Hoover.
- Q What makes you particularly remember that it was an order

Q Did you have Mr. Hoover demanding the money?

A Because I was working in Mr. Hoover's office and I know that I was sent up to 57th Street to Marshal Lee.

Q Did you read the order?

A No, sir.

Q Then how do you know it was an order for the return of the money?

A Mr. Hoover told me it was an order to get back the money.

Q Do you know Mr. Austin?

A Yes.

Q Did you have a conversation with Mr. Austin about this matter?

A A good many times.

Q Did Mr. Austin ever pay you anything to call upon me?

A No, sir.

Q Did he ever promise you any money if you collected it from me?

A He never promised me a cent.

Q But you did expect to be paid, didn't you?

A No, sir. I worked for Mr. Hoover.

Q How much a week does Mr. Hoover pay you?

rived at the place.

Q Did you pay MISS LOEW: Mr. I object to that. is not, we will

A Mr. Lee told his assistant that he wanted \$25 or they  
A I am not paid by the week.

Q would tear out the place. You called at that place?

Q You said you were?

Q (THE MAYOR) Was Mr. Lee there with his assistant?

A I am paid for what I do.

A Yes, sir, Mr. Lee was there with his Assistant when I came

Q Whatever papers you go out to serve you get paid for?  
A there. assistant.

A Yes.

Q When you got to the place you found them both there? money?

Q And you have got a particular interest in serving any

A Yes.

paper and you get paid for it?

Q State everything that Mr. Lee said in reference to the

A I am paid for serving papers.

payment of the \$25 to the Assistant?

Q What makes you say that Counsellor Levy told you he would

A They told me in the back room, -- they demanded \$25 of me  
throw you out of my office?

A or they would tear out the place, and I told them that I

did not. MISS LOEW: I object to, that as not based on

A the many evidence given. Lee stayed there a little while

and then he said he was going away and would be back again,

and he left his assistant there to get the money? was there?

E Jus W say A U S T I N e, said the complainant, recalled: told

BY MISS LOEW: ant in your presence to do?

Q Mr. Austin, to whom did you pay the money in question, the

\$25? thing out of the place, and he had a wagon on the

A To Mr. Lee's Assistant who was there with him when I ar-  
rived at the place.

Q Did you pay that at Mr. Lee's request? it is not, we will

A Mr. Lee told his assistant that he wanted \$25 or they

Q would tear out the place. e? when you called at that place?

Q (THE MAYOR) \$25 Was Mr. Lee there with his assistant?

A Yes, sir, Mr. Lee was there with his Assistant when I came

CR EXAMINATION OF E. W. AUSTIN BY MR. LEE:  
A there. assistant.

Q When you got to the place you found them both there? money?

A Yes.

Q State everything that Mr. Lee said in reference to the

A payment of the \$25 to the Assistant? Broadway.

A They told me in the back room, -- they demanded \$25 of me

A or they would tear out the place, and I told them that I

Q did not have the money to give them, they had taken all

A the money I had. So Mr. Lee stayed there a little while

A and then he said he was going away and would be back again,

Q and he left his assistant there to get the money? was there?

QA Just say what Mr. Lee said about it; state what he told

his assistant in your presence to do?

MR. LEE: I would like to ask Mr. Hoover a ques-  
A He told his assistant to get the \$25 or else he would tear

Q tion. everything out of the place, and he had a wagon on the

Q outside. Mr. Lee said "I am going away and I will be back

money to that man?

later to see whether it is done and if it is not, we will  
 tear the place out."

Q Mr. Hover, was I there when you called at that place?  
 He would see what was done?

A No.  
 Whether the \$25 was paid.

Q To whom?

A To his assistant.

Q And is that the same assistant to whom you gave the money?

A Yes.

Q How long was the wagon there?  
 In Mr. Hover's presence?

A It was there when I came back, up on Broadway.  
 Yes.

Q And how long was it there after you were there; how long  
 before it went away?

A Yes, he came back.

Q I don't know how long it stayed there.  
 And what did he say?

A He asked me if I had complied with his wishes, and I told  
 him I had.

Q Was it there two hours?  
 (THE MAYOR) Was Mr. Lee there when Mr. Hover was there?

A About an hour or so. It was there about an hour at least.  
 A No, Mr. Lee was not there when Mr. Hover came.

Q What time was it when you came there?

A No. You did not leave any receipt for the money you took  
 out of the drawer.

MR. LEE: I would like to ask Mr. Hover a ques-  
 tion.  
 A four and five o'clock, \$10, and he said that was all he had  
 I did.

Q Who was there at the time in that saloon when you paid this  
 money to that man?  
 A Well, I never saw it.

M R The H O V E R was recalled by Mr. Lee: Mr. Hover, I sent

for Mr. Hover and he was there, and your assistant.

Q Mr. Hover,, was I there when you called at that place?

Q And did this man give you a receipt for that money?

A No.

A He did not.

Q Did you ask him for a receipt?

CROSS EXAMINATION OF E. W. AUSTIN BY MR. LEE:

A I did not.

Q You say there was a wagon there?

Q Did your attorney, Mr. Hover, ask him for a receipt?

A Yes. Complainant, being duly sworn, testified as follows:

A No, sir.

Q How long was the wagon there?

Q Is it customary when you give \$25 and an attorney is pres-

A It was there when I came back, up on Broadway.

Q And how long was it there after you were there; how long

A I don't know.

Q before it went away?

Q Did you ask your attorney's advice about it?

A I don't know how long it stayed there.

A He simply gave me the \$25 and I paid it to the man.

Q Was it an hour?

A It might have stayed there an hour or two.

Q Was it there two hours?

A About an hour or so. It was there about an hour at least.

Q And you did not demand any receipt from him?

Q What time was it when you came there?

A No. You did not leave any receipt for the money you took

A It was about four o'clock in the afternoon; it was between

four and five o'clock.

Q I did.

Q Who was there at the time in that saloon when you paid this

A Well, I never saw it.

money to that man?

A The barkeeper was behind the bar, and Mr. Hover. I sent for Mr. Hover and he was there, and your assistant.

Q And did this man give you a receipt for that money?

A He did not.

Q Did you ask him for a receipt?

A I did not.

M R S . A U S T I N , called as a witness on behalf of  
 Q Did your attorney, Mr. Hover, ask him for a receipt?  
 the Complainant, being duly sworn, testified as follows:

A No, sir.

DIRECT EXAMINATION BY MISS LOEW:

Q Is it customary when you give \$25 and an attorney is pres-

Q You are the wife of the complainant? Mr. Austin?  
 ent, not to get a receipt?

A Yes.

A I don't know.

Q And you live at 1 West 103rd Street?

Q Did you ask your attorney's advice about it?

A Yes.

A He simply gave me the \$25 and I paid it to the man. I

Q Have you spoken to Mr. Lee about this matter?

told Mr. Hover that this man had demanded \$25 or he would

A No. I was present when he came up that morning before  
 tear out the place, and he loaned me the \$25 and I gave it  
 the last trial.  
 to him.

Q Where?

Q And you did not demand any receipt from him?

A He came up to our house.

A No. You did not leave any receipt for the money you took

Q What did he say?  
 out of the drawer.

A He offered Mr. Austin \$10, and he said that was all he had

Q I did.

in the world, and he said he would give Mr. Austin an order

A Well, I never saw it.

to pay him this week.

Q So neither you nor your attorney made any demand for a receipt for the \$25? the money.

A No, sir, that?

A That was before the last hearing here.

Q Was it after Mr. Austin had made his complaint? The saloon there?

A Yes.

M R S . A U S T I N , called as a witness on behalf of

Q And he then said that he hadn't the money but would return the Complainant, being duly sworn, testified as follows: it in that form?

DIRECT EXAMINATION BY MISS LOEW:

A He said he would give him \$10, and he held it up to Mr. Q You are the wife of the complainant? Mr. Austin?

A Yes. Austin, but Mr. Austin said he did not think he ought to

Q And you live at 1 West 103rd Street? take the money after making all that trouble, after he

A Yes. went to you (The Mayor) and made the complaint, , but

Q Have you spoken to Mr. Lee about this matter? that he was going to fight it out. He said he would not

A No. I was present when he came up that morning before he would give him \$10 and an order for the balance. the last trial.

Q Where? No cross-examination.

A He came up to our house.

Q What did he say? return the money as I said I had made a

A He offered Mr. Austin \$10, and he said that was all he had in the world, and he said he would give Mr. Austin an order to pay him this week.

Q Give him an order for what?  
BY MR. LEE:

A For the rest of the money.

Q Mr. Austin, you were in that place at 110th Street and

Q When was that?  
Broadway?

A That was before the last hearing here.  
A Yes, sir.

Q Was it after Mr. Austin had made his complaint?  
The saloon there?

A Yes.  
A Yes.

Q And he then said that he hadn't the money but would return  
Q What is the name of that saloon?

A it in that form?  
A The Parkway Hotel.

A He said he would give him \$10, and he held it up to Mr.  
Q Sometimes called the Bungalow?

A Austin, but Mr. Austin said he did not think he ought to  
A Not that I know.

Q take the money after making all that trouble, after he  
Q Now, Mr. Austin, did you call at my office one time?

A went to you (The Mayor) and made the complaint, , but  
A I did.

Q that he was going to fight it out. He said he would not  
Q And you said that you had not been treated fairly in this

A take it, that he was going ahead with it. Mr. Lee said  
Q matter?

A he would give him \$10 and an order for the balance.  
Q I asked you to return to me \$8.

upon you.  
Q You made a demand for \$8?  
A Yes.

Q Isn't it a fact that you called upon Mr. Kingey and told  
A Yes.

Q Mr. Kingey that you had demanded \$8 of me and that I refused  
Q And I refused to return the money as I said I had made a

Q I refused to give it to you?  
A I told him I saw you and asked you, present witnesses on  
A You did not.

Q I asked me for the \$8?  
Q You asked for the return of \$8?

No cross-examination.

E. W. AUSTIN, the complainant, recalled:

BY MR. LEE:

Q And I refused to give it to you?

Q Mr. Austin, you were in that place at 110th Street and

A Yes.

Broadway?

Q And did you then state that you would make trouble for me

A Yes, sir.

Q If I wouldn't give it to you?

Q The saloon there?

A I said that I wanted to collect that \$8 which was my money.

A Yes.

Q When was that, about?

Q What is the name of that saloon?

A That was about thirty days after the judgment was paid.

A The Parkway Hotel.

Q I called at your office two or three times before I saw

Q Sometimes called the Bungalow?

A Not that I know.

Q (THE MAYOR:) Was it two years ago?

Q Now, Mr. Austin, did you call at my office one time?

A About two and a half years ago.

A I did.

Q Have you called at my office in the last seven months?

Q And you said that you had not been treated fairly in this

A Before that I had Mr. Lawrence P. Mingey write you a letter

matter?

A but you paid no attention to it, and then I called myself

A I asked you to return to me \$8.

upon you.

Q You made a demand for \$8?

Q Isn't it a fact that you called upon Mr. Mingey and told

A Yes.

Q Mr. Mingey that you had demanded \$8 of me and that I re-

Q And I refused to return the money as I said I had made a

refused to give it to you? case will be held open and Mr.

levy and it was my fee?

A I told him I saw you and asked you.

A You did not.

Q Asked me for the \$8?

Q You asked for the return of \$8?

18th, 1902, at 11 A.M.

A I did.

Q And I refused to give it to you?

A Yes.

Q And did you then state that you would make trouble for me if I wouldn't give it to you?

A I said that I wanted to collect that \$8 which was my money.

Q When was that, about?

A That was about thirty days after the judgment was paid.

Q I called at your office two or three times before I saw you. wanted the \$33 or you would make a complaint?

Q (THE MAYOR:) Was it two years ago?

A About two and a half years ago.

Q Have you called at my office in the last seven months?

A Before that I had Mr. Lawrence P. Mingey write you a letter

A but you paid no attention to it, and then I called myself upon you.

Q Isn't it a fact that you called upon Mr. Mingey and told Mr. Mingey that you had demanded \$8 of me and that I refused to give it to you?

A I told him I saw you and asked you.

Q Asked me for the \$8?

Wednesday, June 18th, 1902, at 11 A.M.

- A Yes. CITY OF NEW YORK, object to them as immaterial, and
- Q And that I had refused to give it to you? Do you offer them
- A Yes. ----- record?
- Q And then you told Mr. Mingey that you wanted \$33?
- A I did not say anything of the kind. PORE HIS HONOR MAYOR LOW.
- Q Well, how is it he sent me a letter asking for \$33?
- A He didn't do it at my request. You went to see Mr. Mingey  
City of New York.  
and then he asked me if I would take my money back.
- Q You said that you saw Mr. Mingey and told Mr. Mingey that  
you wanted the \$33 or you would make a complaint? 11 A.M.
- A Yes, that was in January.
- Q This year? MISS Miss Rosalie Loew, not from any files. They  
For Complainant.
- A Last January. affidavits made at that time. They are in re-
- Q Wasn't you in my office in January, 1902? Elias G. Levy, Esq.,
- A I haven't been in your office in two years and a half.

MR. LEE: I will prove he was in my office in  
MISS LOEW: I will call Mr. Lee.  
January last. I have the letter. I will prove it.  
two affidavits, one made by Frank L. Webb, verified

the 10th day of January, 1900, and another one by Mr.  
THE MAYOR: The case will be held open and Mr.  
Austin, verified the 15th of January, 1900, in the  
Lee will have an opportunity to present witnesses on  
action in which the judgment in question was rendered.  
his part on

Wednesday, June 18th, 1902, at 11 A.M.

FRANK L. NESS, recalled.  
CITY OF NEW YORK, object to them as immaterial, and  
BY MISS LOEW:  
OFFICE OF THE MAYOR. examination. Do you offer them  
Q I show you this affidavit and ask you if that is your signature  
----- as part of the judgment record? -----

E. W. Austin: No, they are simply original affidavits  
vsd. offered in rebuttal BEFORE HIS HONOR MAYOR LOW.

William H. Lee, Marshal of the City of New York.

MR. LEVY: I have no objection to this affidavit if  
----- X -----  
they are not subject to cross-examination and not a part  
of the record of the New York, June 18th, 1902, red  
11 A.M.  
at that time or at any time.

Present: THE Mayor where are these affidavits from?  
MISS Miss Rosalie Loew, not from any files. They  
For Complainant.  
are affidavits made at that time. They are in rebuttal  
of the Elias G. Levy, Esq.,  
For Defendant. by Mr. Ness.

THE Also William H. Lee, the defendant, this signature  
nature.

MISS LOEW: I would like to offer in evidence  
MISS LOEW: I will call Mr. Ness.  
two affidavits, one made by Frank L. Ness, verified  
the 10th day of January, 1900, and another one by Mr.  
Austin, verified the 15th of January, 1900, in the  
action in which the judgment in question was rendered.

MISS LOEW: The case for the complainant is

F R A N K L I N N E S S recalled.  
 BY MISS LOEW: MR. LEVY: I object to them as immaterial, and not subject to cross-examination. Do you offer them as part of the judgment record?

Q I show you this affidavit and ask you if that is your signature?  
 A MISS LOEW: No, they are simply original affidavits and offered in rebuttal of the testimony given here by Mr. Ness.  
 (Paper handed to Mr. Levy)

MR. LEVY: I have no objection to this affidavit of Mr. Ness. I do object to the affidavit verified by Edward W. Austin, part of the record of the judgment which was rendered at that time or at any time.

MISS LOEW: That is not offered. I withdraw Mr. Austin's affidavit.

THE MAYOR: Where are these affidavits from?

MISS LOEW: They are not from any files. They are affidavits made at that time. They are in rebuttal of the testimony given by Mr. Ness.

BY MR. LEVY:  
 Q THE MAYOR: You will have to identify this signature. When the Marshal took the eight dollars and fifty cents out of the drawer, did he tell you that he levied upon that money?

MISS LOEW: I will call Mr. Ness. That money under an execution he had against Mr. Austin?

A Yes, sir.

Q Did he give a receipt for it?

A I believe he did.

Q Did you take eight dollars and some cents from the cash?

MISS LOEW: The case for the complainant is

F R A N K L . N E S S recalled.

BY MISS LOEW:

Q I show you this affidavit and ask you if that is your signature?

A (After looking) That is my handwriting, yes.

(Paper handed to Mr. Levy).

MR. LEVY: I have no objection to this affidavit of Mr. Ness. I do object to the affidavit verified by Edward W. Austin.

MISS LOEW: That is not offered. I withdraw Mr. Austin's affidavit.

Affidavit of Ness received and marked Complainant's Exhibit 1 of this date.

BY MR. LEVY: THE MAYOR: I will overrule that!

Q When the Marshal took the eight dollars and fifty cents out of the drawer, did he tell you that he levied upon that money under an execution he had against Mr. Austin?

A Yes, sir.

Q Did he give a receipt for it?

A I believe he did.

Q Did you take eight dollars and some cents from the cash

MISS LOEW: The case for the complainant is

Q register belonging to the plaintiff in this case?  
closed.

A Yes, sir. MR. LEVY: I move to dismiss the complaint,

Q What first on the ground that if an offense has been com-

A I kept that as well as all, the testimony and the complaint show

Q Was that your legal fee in the case? about two years ago,

A Yes, sir and that is before your Honor had any jurisdiction

Q Deducted after the judgment was paid? It was then a matter for the

A Yes, sir Mayor who was then in office to pass upon the question

Q And did you receive the sum of twenty five dollars from

A Mr. Austin? Now, Mr. Lee is one of your Honor's of-

A No, sificers and if that offense had been committed since

Q You are sure about that? your Honor has been in office there is no question

A I am positive about the jurisdiction. That is ground No. 1.

Q Did you receive any money whatever from him?  
THE MAYOR: I will overrule that.

A No, sir. MR. LEVY: Exception. you allowed? the complaint

Q (THE MAYOR) MR. LEVY: Did your Deputy receive that? I shall ask Mr. Lee to take the

A Not to my knowledge stand in this case.

CROSS EXAMINATION BY MISS LOEW:

W I L L I A M H . L E E recalled in his own behalf:  
Q How do you make up the sum of your legal fees, please?

BY MR. LEVY:

A Well, if I had the execution with me I could tell you bet-

Q Did you take eight dollars and some cents from the cash-  
ter, Miss Loew?

Q register belonging to the plaintiff in this case?

A Yes, sir.

Q What did you do with it?

A I kept that as my fee.

Q Was that your legal fee in the case?

A Yes, sir.

Q Deducted after the judgment was paid?

A Yes, sir.  
Some \$170 or \$180. I am not sure.

Q And did you receive the sum of twenty five dollars from Mr. Austin?

A No, sir.

Q You are sure about that?

A I am positive.

Q Did you receive any money whatever from him?

A No, sir.

Q (THE MAYOR) Did your Deputy receive that?

A Not to my knowledge.

CROSS EXAMINATION BY MISS LOEW:

Q How do you make up the sum of your legal fees, please?

A Well, if I had the execution with me I could tell you better, Miss Loew?

- A \$1ve miles. ~~because he was not there.~~
- Q Anylotherntfee?thirty cents?
- A Inventory fee seventy-five cents.
- Q Anymothers?ing to your testimony, your fees were \$9.55?
- A Well, I could say there is, yes. ~~and he says it is all~~
- Q Whatyotherslareethere,allowed?ut of the drawer of Mr.
- A Iuamintitledntoskeeper's fees and whatever costs there
- A are.
- Q WhatHcosts?estified the other day that he paid \$25 to a
- A Whichariseeinthegmattersof mileageandn hiring helpasked
- Q How muchmileage? that untrue?y?
- A Six,centsaanmile? is, for Mr. Hover in his testimony --
- Q Doyou knowunder whattsection Ethattis? know.
- A Ido notuntrue
- Q You do not knowthat itaisiSectionr1710cofytheaConsolida-  
tioneAct? he had the money. Is that untrue?
- A Ido notuntrue.up how much was paid on the judgment?
- Q How muchmileage areyouallowed?h your keeper in Mr.
- A Sixtcentspaemile? his word that it was settled?
- Q Howmanyomilesrdid you go?
- A Iiwould sayvallitoldebackhandyforthnitawould not be more

- A five miles back he was not there.
- Q Would that be thirty cents?
- A Yes. Austin.
- Q Then according to your testimony, your fees were \$9.55?
- A Yes. I said to him where is the keeper, and he says it is all.
- Q And you collected only \$8.50 out of the drawer of Mr. Austin's business place?
- A Yes.
- Q Mr. Hoover testified the other day that he paid \$25 to a person representing you, and that you came back and asked for the money; is that untrue?
- A Why, certainly it is, for Mr. Hoover in his testimony --
- Q Answer yes or no; that is all I want to know.
- A That is untrue.
- Q Mr. Austin testified that in his presence you asked the keeper if he had the money. Is that untrue?
- A That is untrue. up how much was paid on the judgment?
- Q Did you have any conversation with your keeper in Mr. Austin's presence? his word that it was settled?
- A He was not there.
- Q Did you leave him there when you went away?

A When I came back he was not there.

Q Whom did you see there?

A Mr. Austin.

Q What did you say to him?

A I said to him where is the keeper, and he says it is all

settled. \$25 and did not have it returned to him. His

Q And you did not stay there?

A No.

Q You did not make a levy again?

A Not after it was settled I did not.

Q And you left the place entirely?

A Yes.

Q Because he told you the case was settled?

A Yes.

Q Did you ask him how much he paid?

A No.

Q Did you reckon up how much was paid on the judgment?

A No.

Q You simply left at his word that it was settled?

A I simply left.

MR. LEVY: I renew my motion for a dismissal of this complaint on the further ground that the plaintiff has failed to make out a case, being contradicted by his own testimony. I understand that he testified that Lee had demanded \$25 from him, that he paid the \$25 and did not have it returned to him. His witness, Mr. Hover, an attorney at law, took the stand and he swore that he was present at the time the \$25 was paid, and that it was not paid to Mr. Lee but to some man in his behalf who was in charge of the place. Now, if that man took \$25 without Lee's knowledge, Lee cannot be held responsible for it because of some outsider doing a wrongful act. I submit that upon these two grounds which I have stated we are entitled to a dismissal of this complaint.

THE MAYOR: I decline to dismiss the complaint.  
Decision reserved.

Testimony closed.

FXE

City Corp.

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es in writing hav  
of the City  
and a  
nity to

CITY OF NEW YORK.  
OFFICE OF THE MAYOR.

Charges in writing having been preferred by E. W. Austin against William H. Lee, a City Marshal of the City of New York, alleging misconduct and malfeasance in said office by said Lee; and a copy of said charges and a notice in writing, subscribed by me, that an opportunity to be heard upon the said charges would be afforded the said Lee at this office, in the City Hall, on Tuesday, the 3d day of June, 1902, at 10:30 o'clock in the forenoon of the said day, having been personally served upon the said William H. Lee at 57th Street near Third Avenue, in the Borough of Manhattan, City of New York, on the 24th day of May, 1902, by William Kennel; and the said Lee having appeared in person and by his attorney, Elias G. Levy, on June 3d, 1902, when the hearing was had before me on the said charges, and said hearing having been continued before me on June 11th and adjourned from June 11th to June 16th when the hearing upon the said charges was concluded; and, thereupon, at the times and place aforesaid testimony, under oath, in support of the charges having been produced by the complainant aforesaid and his witnesses, and testimony in refutation thereof having been produced by the defendant;

Now, therefore, the said testimony having been duly and maturely considered by me, I, SETH LOW, Mayor of The City of New York, do hereby

2d re Lee.

CITY OF NEW YORK.  
OFFICE OF THE MAYOR.

find that the said charges, as alleged in the complaint of the complainant herein, are proved by the evidence submitted to me, and I do hereby remove the said William H. Lee from the office of City Marshal of The City of New York.

In Witness Whereof, I have hereunto set my hand and affixed my seal of office, this 11<sup>th</sup> day of July, A. D. One thousand Nine hundred and Two.

*Lucius L. Lee*

M a y o r .

CITY AND COUNTY

OF NEW YORK, ss.

William Kennel, being duly sworn, says that on the 12th day of July, 1902, at the house of William H. Lee, corner of Second Avenue and 52d Street, Borough of Manhattan, City of New York, he served an Order of Removal, subscribed to by the Hon. Seth Low, Mayor of The City of New York, a duplicate original of which is hereto annexed, upon William H. Lee, a City Marshal of The City of New York, by delivering to the said William H. Lee personally, and leaving with him, said Order, subscribed to by the Hon. Seth Low, Mayor of The City of New York.

Deponent further says that he is over the age of thirty-seven years, and that he is well acquainted with the said William H. Lee, and knows the person served as aforesaid to be the said William H. Lee at the time of the service of said Order of Removal a Marshal of the City of New York.

Sworn to, before me, this

14th day of July, 1902.

*Charles F. Williams*  
*Notary Public*  
*N. Y. Co.*

*William Kennel*