

LAW OFFICES OF WEIL & THORP

821 FRICK BUILDING

A. LEO WEIL
CHARLES M. THORP
S. LEO RUSLANDER
MALCOLM GOLDSMITH

PITTSBURGH, PA.

March 7, 1917.

Miss Ida Tarbell,
132 E. 19th Street,
New York, N. Y.

Dear Ida:

I flatter myself with the belief that the enclosure will be of interest to you, as indicating a complete vindication in the matter of the charges made against me in West Virginia, by the action not only of the present Prosecuting Attorney, but of the Prosecuting Attorney who initiated the proceedings against me, both making statements in writing, to be filed of record in the case in court, that there was not even sufficient evidence to bring me to trial and that an injustice had been done.

Truly yours,

A. Leo Weil

W-L-527-23.
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CHARLES M. THORP
S. LEO RUSLANDER
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PITTSBURGH, PA.

March 5, 1917.

Dear Sir:

Permit me to call your attention to the attached stenographic report of the proceedings dismissing the indictments in West Virginia against me. Not only did the charges, as is now admitted by the State, do me injustice, but the press reports of the same piled injustice upon injustice. This effect, however, was not intentional on the part of the newspapers. The original sensational report of the arrest, and every move in the case thereafter made, was prefaced with the introduction, - "charged with attempt to bribe two of the Public Service Commissioners of West Virginia", etc. This created in the minds of the reader a wrong impression. The actual charge was substantially as follows, viz: That I authorized a statement to the Commissioners that if they were called as witnesses in a suit pending in the United States District Court and would testify to the truth as to the interference by the Governor with the Commission in the consideration of the case of my client, and on account of their so testifying to the truth they should be removed from office by the Governor, I would see that they obtained other positions that would pay them equally as well.

But to the lay and to the professional mind this is not bribery, and judges of the Supreme Courts of the United States and of many States have held that such propositions were neither criminal nor immoral.

While I have always most emphatically denied that I authorized this proposition, and the attached proceedings by the State authorities confirm this; nevertheless, if the purport of the real charge had been published instead of the charge of attempted bribery, the public would have obtained a very different impression of the moral turpitude involved. Moreover, those who read the charges and will not see the vindication, would have a different impression left upon their minds, because, after all, even to be charged with crime is of itself a reflection upon one's character.

Those who have been so fortunate as to have had no personal experience, cannot appreciate how each time I read the item - "charged with attempted bribery", it cut like a knife. Those who will never know the vindication, or the above facts, will always unwittingly do me injustice. The value of a good name is my apology for thus intruding upon you this personal explanation.

Faithfully yours,

A. Leo Weil

IN THE INTERMEDIATE COURT OF KANAWHA COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA, *Plaintiff*,

vs.

A. LEO. WEIL, *Defendant*.

APPEARANCES:

The Prosecuting Attorney and T. C. TOWNSEND, Esq., Counsel for Plaintiff.

Messrs. R. S. SPILMAN and CHAS. A. MCCAMIC, Counsel for Defendant.

PROCEEDINGS FEBRUARY 24, 1917.

MR. TOWNSEND: "If the Court please, there has been a case here on the docket for two years—the case of the *State vs. A. Leo. Weil*. On account of the wide publicity that has been given to this case, it is deemed proper that any statement that might be made to the Court should be made in writing. I have drafted here a statement in regard to these cases which I will be glad to read to the Court:

'A special grand jury of the Intermediate Court of Kanawha County, in January, 1915, while I was prosecuting attorney of said County, returned four indictments against A. Leo. Weil, two felonies and two misdemeanors; the purpose of the four indictments being to cover different phases of the same alleged offense. After the indictments were returned the defendant appeared in Court and the Court set March 5, 1915, to dispose of any preliminary motions which might arise upon the indictments.

A day or two prior to the 5th of March, 1915, the Circuit Court of Kanawha County granted a writ of prohibition, which, upon hearing, was made permanent, prohibiting the Intermediate Court from further proceeding in any way with the cases. The State appealed from this decision to the Supreme Court of Appeals of West Virginia, and, upon hearing, the Circuit Court was reversed. From the decision of the Supreme Court of the State, the defendant was granted an appeal to the Supreme Court of the United States, where the case is now pending.

The criminal charges against the defendant grew out of the rate case of the Manufacturers Light & Heat Company against the Public Service Commission, involving the fixing of gas rates for industrial and domestic consumers throughout a large section of the northern part of the State. The rate case a short time ago was amicably adjusted and the several phases of it pending in the Federal Courts were dismissed.

As a result of the investigation which I made while Prosecuting Attorney of this County, and recent developments in connection with the criminal charges, which satisfied me that there was not sufficient evidence to justify the State in bringing Mr. Weil to trial, I became and am convinced that it was impossible to secure a conviction. The criminal charges have already cost the State much money and to proceed further with this case upon the indictments would involve the further expenditure of large sums. Being familiar with these cases in every detail, and convinced, as I am, that a conviction could not be secured, it would be abortive to proceed further.

The present Prosecuting Attorney of this County, with the consent of the Court, has signified his willingness to *nolle* the indictments pending against the defendant upon this recommendation from me, and with the further assurance that this action is satisfactory to all parties interested in the prosecution.

I have gone over this matter in detail with all the parties interested and they endorse unhesitatingly this course. Therefore, I would recommend to the present Prosecuting Attorney and to this Court that the indictments against the defendant, A. Leo. Weil, be *nollied*, with the understanding, of course, that the appeal now being prosecuted by the defendant in the United States Supreme Court be at once dismissed.' ”

THE PROSECUTING ATTORNEY: “If the Court please, these cases, the same as any others, I had expected to come up in their regular turn and to deal with them as they came. The matter has been brought to my attention by those interested in the prosecution and in the defense of these cases, with a view of a recommendation of this kind and, if possible, to secure the dismissal of these cases from the docket. They are to me the same as any other case or cases that would come regularly upon the docket.

In view of the fact of the statement that has been made by the former prosecuting attorney of this county, and of the results of investigations which he made as such, I do not hesitate to take the steps in the case which I deem proper. And in view of the further fact that, as has been said by Mr. Townsend, these cases have borne wide publicity and he deemed it proper to submit his recommendation in the form which he did, I deem it likewise proper to make the following statement to the Court:

“The Weil indictments were pending when I went into office as Prosecuting Attorney, and upon investigation of the contemplated procedure theretofore undertaken by the State, and the evidence upon which it relied to secure trial and conviction, I became convinced of three things:

FIRST. The State could not secure a conviction for the alleged offense under its circumstances.

SECOND. That no offense in fact had been committed.

THIRD. That if trial and conviction were to be based alone upon statements of such witnesses as one Guy Biddinger, upon whose evidence the State's case was predicated, and who is now under numerous indictments in the State of Illinois, Kanawha County for the next four years would have a minimum of Criminal Court work.

In the first two I have been borne out by the statement of Mr. Townsend, the former

Prosecutor, who was originally in charge of the case, and who, in view of his statement, should have taken this step himself.

It is my hope and desire to prosecute violations of the law, as contemplated by the statutes of this State, but to make such prosecutions justly. I am convinced of the injustice that has been done in this matter and do not hesitate to remedy it to the extent of my ability.

This is my answer to those who seek prosecutions for political purposes in Kanawha County throughout the next four years.'

In view of my investigation in the cases and in view of the investigations made by Mr. Townsend, and based on these investigations while such prosecuting attorney, I do not hesitate to ask that these indictments be *nollied*—all four of them."

THE COURT: "The Court, of course, is not familiar with the evidence upon which these indictments were founded, nor the evidence that is in the hands of the State, and must rely upon the statements of counsel as to their ability to secure evidence to convict.

Where counsel for the State and those representing the State are satisfied there is not sufficient evidence to warrant a conviction, at least attainable, it would be needless to hold these cases upon the docket, therefore, the motion for leave to *nolle* is granted and the cases may be dismissed."

State of West Virginia }
County of Kanawha } To-wit:

I, Reuel E. Sherwood, shorthand reporter, do hereby certify that the foregoing is a true and correct transcript of the proceedings had in the case of *State of West Virginia vs. A. Leo. Weil* in the Intermediate Court of Kanawha County, West Virginia, on the 24th day of February, 1917, as reported by me in shorthand.

Given under my hand this 24th day of February, 1917.

REUEL E. SHERWOOD,

Shorthand Reporter.