The Story of Mooney and Billings

Two militant trade-unionists, Thomas J. Mooney and Warren K. Billings, are serving the thirteenth year of life sentences in California prisons. They were convicted on perjured testimony of planting the bomb that killed ten and wounded forty persons during a Preparedness Day parade in San Francisco in 1916.

The perjury, disclosed after their conviction, could not be reviewed by the courts. But the judge and jury who convicted Mooney have declared him innocent in the light of the disclosures. So have the police officials. The trial judge is the chief sponsor of his pardon application, now before Governor C. C. Young. If Mooney is innocent, so is Billings, convicted on the same testimony.

Why have successive governors refused to pardon Mooney and Billings?

Why could they not get relief in the courts?

Why all these years in prison without a persistent agitation for their release?

Why is the issue opened up now?

READ THE FACTS AND HELP

National Mooney-Billings Committee
Room 1403, 100 Fifth Avenue
New York City

(Sponsored by the American Civil Liberties Union)

Price 10¢
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Mooney and Billings active in strikes as militants. Mooney tried and acquitted on charge of having unlawful possession of dynamite. Billings convicted of carrying explosives on a street car and sent to prison for two years. Martin Swanson, a Pinkerton detective, active in both cases.

Mooney and Billings active in organizing employees of United Railroads. Swanson, employed by United Railroads, shadows Mooney. Swanson attempts to bribe Billings to implicate Mooney in dynamiting electric towers.

Bomb explodes among spectators of Preparedness Day Parade, killing 10 and wounding 40 persons. Swanson and District Attorney Fickert direct investigation toward Mooney and Billings.

Mooney, Billings, Mrs. Mooney, Israel Weinberg, a taxi driver, and Edward Nolan, president-elect of Machinists' Lodge 68, arrested and charged with the crime.

Billings tried, found guilty of murder in the second degree, and sentenced to life imprisonment. Motion for new trial denied.

Mooney tried, convicted of murder in the first degree, and sentenced to hang. Motion for new trial denied. Appealed to State Supreme Court.

Oxman, star witness against Mooney, exposed as "suborner of perjury" while Mooney's appeal is before State Supreme Court. Trial judge requests Attorney General to have case returned for re-trial. Attorney General consents and so stipulates to State Supreme Court.

Oxman brought back to San Francisco, tried and acquitted after Fickert employs attorney for his defense. Also whitewashed by Grand Jury which Fickert controls.

World-wide labor agitation with Mooney facing death culminates in demonstration before U. S. Embassy in Russia. President Wilson appoints Mediation Commission to investigate.

Mrs. Mooney tried and acquitted.

Weinberg tried and acquitted.

Wilson's Mediation Commission reports Mooney did not have a fair trial. The President urges Stephens to grant Mooney a new trial.

California Supreme Court affirms Mooney's conviction, ruling it cannot review perjury.

J. B. Densmore, U. S. Director General of Employment, secretly investigates case.

Wilson sends two telegrams to Stephens urging him to act in Mooney case. Governor commutes Mooney's sentence to life imprisonment.

McDonald confesses perjury.

Mooney applies in vain for pardon to Governor Richardson.

Mooney applies to Governor C. C. Young for pardon.

Frank P. Walsh, New York attorney, pleads with Young to review Mooney's petition. Young promises to do so.
FOREWORD

The story of the Mooney and Billings case of California is a simple one. Two men were convicted on testimony later proved to be perjured. The higher courts were prevented by a constitutional provision from reviewing the evidence of perjury. Ever since the trials, the only authority who could pass on that evidence and free the men from prison has been the Governor of California.

But successive governors have refused to pardon the men because powerful interests in California are opposed to their release; and this, despite the fact that the trial judge, nine of the ten living jurors, the police officials connected with the case and one of the prosecutors have declared their belief in the men's innocence and have urged their release. The interests opposed maintain that though the men may be innocent of this crime, they were identified with violence in strikes in San Francisco and ought to be in prison. "We have the right men on the wrong evidence" is the way one of their leaders puts it.

This pamphlet is a careful statement of the whole case in every aspect, prepared from documentary sources to show just how the men were convicted, how the perjury was discovered and what has been done to get the issue before the governors. It presents accurately the undisputed facts; and, as it includes developments after the trial, provides a sounder basis for judgment than the lengthy trial record itself.

Those who want further information can get it by writing the National Mooney-Billings Committee, Room 1403, 100 Fifth Avenue, New York City. The documents exposing the perjury, together with the opinions of competent persons who have examined the case, including the trial judge, jurors and others connected with it, are in print. An
abstract and analysis of the entire testimony covering eleven volumes, reduced to 450 pages by Attorney Henry T. Hunt, chairman of the Committee, may be obtained post-paid for two dollars.

How to Help

(1) Send funds to aid in printing the documents for distribution in California. Make contributions payable to the National Mooney-Billings Committee. They will be forwarded to the proper agency in California.

(2) Write to friends in California about the case. Stir them up. Send them copies of this pamphlet.

(3) Write a letter to the editor of your local paper calling his attention to the issue. See him and ask him to write an editorial on Mooney and Billings. Give him the facts.

(4) Call the attention of any public speakers or writers you know to the facts in the case, so that they may get them before a larger audience.

(5) Write to Governor C. C. Young, Sacramento, California, who now has Mooney's application for pardon under advisement, expressing your view of the case based on these undisputed facts.
The Story of Mooney and Billings

The Petition Now Before Governor Young

A plea to review the petition for the pardon of Tom Mooney was made to Governor C. C. Young of California by Mooney's attorney, Frank P. Walsh, on August 29, 1928. It followed completion of evidence through years of quiet effort, proving perjury on the part of all witnesses connecting Mooney with the crime and corruption in the prosecution itself. It was backed by statements from most of the officials involved in Mooney's case.

A petition was not presented for Warren K. Billings, because he had been convicted of a felony prior to his conviction in this case. By California law, a prisoner serving a second term cannot petition the Governor for pardon without the consent of a majority of the justices of the State Supreme Court. A pardon for Mooney will open the way for securing this consent.

The Governor took Mooney's petition under advisement, promising to "re-read every word of the Mooney transcript as well as every document bearing upon subsequent developments of the case." He stated that "such a study, pursued during spare hours, will take a very considerable number of months."

The Governor also stated: "While, like many other people, I have been dissatisfied with some of the aspects of the trial, I have never been able to bring myself to a belief in the innocence of the accused."

When asked by Franklin A. Griffin, the trial judge who sentenced Mooney to hang, now tireless in his efforts to secure a pardon, upon what information he based his belief in Mooney's guilt, the Governor replied:

"This question on your part is of course purely a rhetorical one. You know that I have never claimed to have additional evidence and you cannot for a moment
believe that I assume to have any. I know that there was a long and well defended trial before an able and conscientious judge, and a jury of twelve, each sworn to give the defendant the benefit of every reasonable doubt.”

This statement of the Governor fails to take into account, first, the fact that the perjury in the cases of Mooney and Billings was not exposed until after the men had been convicted and sentenced and, second, that the “conscientious judge” and nine of the ten living jurors in the Mooney case have declared that they were misled by perjury and support the application for pardon.

The Men Refuse a Parole

It has been strongly intimated by Governor Young that since Mooney and Billings are eligible for parole, he would grant it. Both refuse to consider parole. They declare that only a complete pardon will vindicate them. To accept parole would be an admission of guilt. Also, as paroled prisoners, they would be subject to the indignities of constant police surveillance.

Regarding the proposal to parole Mooney, Judge Griffin wrote Governor Young:

“There is, however, one aspect of the case which, with the greatest respect for your good judgment and opinion, I would discuss with you and that is, that Mooney should be paroled before his application for pardon is considered. I cannot agree with this position for the reason that, in my opinion, Mooney’s case is no different from any other man who has been wrongfully and upon perjured testimony convicted of a crime of which subsequent developments absolutely demonstrate his innocence.

“Speaking very frankly, it seems to me that the great obstacle in the way of Mooney’s pardon has been his alleged bad reputation. In other words, he has been denied real justice because the opinion seems to be prevalent that he is a dangerous man to be at large and therefore should be, innocent or guilty, kept in prison.
"Conceding for the sake of argument that Mooney has been all that he is painted, it is, to say the least, most specious reasoning, — indeed no reason at all, — why Mooney should be denied justice which, under our system, is due even the most degraded. Moreover, such a doctrine is more dangerous and pernicious than any Mooney has been accused of preaching."

Let it be said here that the interests which declared Mooney a “dangerous man” are, in the main, the public utility interests of California. They considered him dangerous because he was an able and aggressive labor leader.

Why a Public Campaign Now?

For years, while the evidence to support the charges of perjury was being gathered, the men hoped to convince the Governor of California of their innocence without resorting to public agitation. With the failure of their efforts with Governor Stephens and Governor Richardson, the two men, their relatives and friends have sanctioned and helped organize a nation-wide campaign to get the cases again before the public.

Mooney himself, from his cell in San Quentin, directs the work of his own union’s committee, the “Tom Mooney Molders Defense Committee,” which is bringing the facts of his case before the voters of California. Mooney’s friends, Ed Nockels and John Fitzpatrick of the Chicago Federation of Labor, are undertaking a campaign in the trade unions. The International Labor Defense is conducting a campaign among its membership on behalf of both men. The new National Mooney-Billings Committee, sponsored by the American Civil Liberties Union, is arousing national interest in both cases and bringing the facts to the attention of lawyers, churchmen, authors and publicists.

The object of such a campaign, while a pardon application is pending before the Governor of California, is to support that application with an expression of public senti-
ment based on a knowledge of the facts. While the Governor has stated that he will not be influenced by "propaganda," and does not desire such a campaign, the prisoners and their friends feel that the facts ought to be widely known and opinions expressed to the Governor by responsible citizens and organizations. If the Governor acts favorably on the application, he will have a body of public sentiment back of him. If he acts unfavorably, the ground will be laid for a further campaign to make the issues clear.

It is obvious that the only effective opinion to secure the freedom of the prisoners must come from California. Outside opinion has weight only as it reacts on opinion in California.

**Trial Judge and Jurors Support Pardon**

Judge Griffin, who sentenced Mooney to hang, has worked ceaselessly for his release ever since the exposure of perjury. In a letter to Governor Young, Judge Griffin wrote:

"I hope and trust that the great wrong done Mooney, of which I was unwittingly a part, will now without delay, in so far as this State may accomplish it, be remedied."

Nine of the ten living jurors in the Mooney case have written the Governor stating their belief in Mooney's innocence and asking that he be pardoned. Only one juror declines to write the Governor. He claims it would be presumption on his part to tell the Governor what to do, but says that he "will be glad for Tom's sake to see him free and will be one of the first to take him by the hand when he is released."

**Police Officials and Prosecutor Ask Pardon**

Captain Duncan Matheson, chief of the San Francisco Detective Bureau, who was in charge of assembling the evidence for the prosecution of Mooney and Billings, wrote to Mooney:
"I am convinced beyond any question of doubt that your rights were violated and that you were entitled to a new trial. . . . This is not possible now, because of legal limitations, and your only available relief is executive clemency, to which I am convinced you are fully entitled."

Police Captain Charles Goff, detailed on the case with Captain Matheson, wrote to Mooney:

"With the two vital witnesses discredited I think the only fair thing to do is to state I do not think you had a fair and impartial trial as guaranteed by the Constitution. A new trial being now impossible owing to legal limitations, I believe you are entitled to executive clemency, the only relief obtainable under the circumstances."

The prosecuting attorney who handled the case against Billings, James P. Brennan, has urged the Governor to pardon both men. He wrote:

"Since the conviction of Billings and Mooney, Captain of Detectives Matheson, who procured the evidence against them, the Judge who presided over the Mooney case, the Attorney General of the State of California, and the foreman of the jury, and all the jurors, except one, now living, who found Mooney guilty, for reasons advanced, have recommended pardons for both Billings and Mooney. . . . It is my opinion under all the circumstances, that the public interest would be best subserved by granting pardons to both Billings and Mooney, and I therefore recommend that pardons be granted."

Mathew Brady, district attorney of San Francisco, has written the Governor:

"The situation is one that comes clearly within the purpose of the provision granting the Governor power to pardon. I believe the imprisonment of men convicted on testimony generally regarded as false is highly destructive to the institutions so dear to the heart of every American."

**Opposition to Release of Mooney and Billings**

Opposing the pardon of Mooney and Billings are Charles M. Frickert, former district attorney of San Francisco, and
his assistant, Edward A. Cunha, who prosecuted the two men. Fickert wrote to Mooney:

"I do not feel justified in joining the (pardon) recommendations. Whenever you can submit to me evidence that shows that my views are not correct, then I will certainly make a favorable recommendation."

But Fickert was completely discredited by the official report of J. B. Densmore, former federal Director General of Employment, who, at the order of William B. Wilson, Secretary of Labor under President Woodrow Wilson, investigated the Mooney case after Mooney had been convicted. Densmore planted a dictagraph in the district attorney's office about two months before Governor Stephens commuted Mooney's death sentence and while the district attorney was attempting to frame evidence to re-try Mrs. Mooney, previously acquitted. The following is his own summary of the information obtained from a day by day record of conversations between Fickert and his associates:

"The record establishes three sets of facts, each one of which has a bearing upon the question at issue, whether Mooney and his fellow defendants received fair trials at the hands of the district attorney. These three sets of facts are:

"First. That Fickert is in constant association with men and interests of such a nature as to render it incredible that he should be either impartial or honest in the conduct of a case of this nature; that he is and has been for some time past cooperating with notorious jury and case fixers . . .

"Second. That Fickert and his associates have within the past month framed and conspired to frame cases with which it was his sworn duty to deal impartially.

"Third. That Fickert and his associates, within the past month, have conspired to fabricate evidence with which to convict Mrs. Mooney; and that to this end they have attempted, in the grossest manner, to intimidate and blackmail a prospective woman witness."

"Fickert," Densmore states, "is seen throughout this report to be prostituting his office in the other cases precisely
as he prostituted it in the bomb cases, and if there was previously any doubt as to whether a prisoner whom powerful interests desired to convict would receive a fair trial at the hands of Fickert there is now no doubt about the matter whatever. The San Francisco district attorney's office, thrown wide open by this investigation, reveals the public prosecutor, not as an officer of justice, but as a conspirator against justice. Fickert is shown setting the guilty free and prosecuting the innocent.”

Fickert's right-hand man, Edward A. Cunha, assistant district attorney, after Mooney's conviction and the exposure of perjury, said:

“If I knew that every single witness that testified against Mooney had perjured himself in his testimony, I wouldn't lift a finger to get him a new trial. If the thing were done that ought to be done, the whole dirty low-down bunch would be taken out and strung up without ceremony.”

Also opposed to Mooney's and Billings' release are the identical forces that were against them at their trials. Densmore, the U. S. Government investigator, lays bare these forces in his official report:

“The basic motive underlying all the acts of the prosecution springs from a determination on the part of certain employer interests in the city of San Francisco to conduct their various business enterprises upon the principle of open shop. There has been no other motive worth talking about. As for their plan of operations, it was simplicity itself. A terrible crime had been committed, and popular indignation and horror glowed at fever heat. From the standpoint of the unscrupulous element among the employer interests the opportunity seemed made to order. To blame the outrage on certain agitators in the labor world seemed not only possible, but, owing to various concomitant plausibilities, doubtless appealed to the foes of organized labor as possessing all the elements of a stroke of genius.”

The exact nature of the more powerful of these “employer interests” is revealed by listing the corporations that
together employed one Martin Swanson, a private detective who had been after Mooney and Billings for years. These corporations were the United Railroads of San Francisco, Pacific Telephone Company, Pacific Gas & Electric Company, San Joaquin Light & Power Company, Western States Electric Company and the Sierra & San Francisco Power Company.

One of these corporations had, in fact, sought "to get" Mooney and Billings as early as 1913 and had employed Swanson, then a Pinkerton man, to do it. Mooney and Billings first incurred the enmity of the Pacific Gas & Electric Company by their activities during a strike of the company's employees in 1913. An unsuccessful attempt was made to convict Mooney in Contra Costa County on a charge of unlawful possession of explosives. Billings was charged with carrying high explosives on a street car in Sacramento. He was convicted of the offense, a felony, and sentenced to Folsom penitentiary for two years. Swanson was active for the gas company in prosecuting both cases. Both men alleged their arrests were the result of a frame-up by the gas company's detectives.

The character of Swanson's activities for these corporations is revealed in the report of President Woodrow Wilson's Mediation Commission, which investigated the Mooney case during November and December, 1917, after it had become an international issue. The report states:

"The utilities against which Mooney directed his agitation or who suspected him of mischievous activities undoubtedly sought 'to get' Mooney. Their activities against him were directed by Swanson, private detective. It was Swanson who had engineered the investigation which resulted in Mooney's prosecution. It was Swanson who was active in the attempts to implicate Mooney in the dynamiting of electric towers in 1916, attempts which failed, it appears, because Billings and Weinberg refused offers of a 'reward' by Swanson to implicate Mooney. Shortly thereafter the preparedness parade explosion occurs.Immediately Swanson takes a leading part, acting for the district
attorney and the police in the investigation of the crime. Within four days, under Swanson's leadership, the arrest of Mooney and the others is made."

The Crime

In San Francisco, on the afternoon of July 22, 1916, while a Preparedness Day parade was in progress, a bomb, planted or thrown, exploded on the sidewalk behind spectators thronging the corner of Steuart and Market streets. Ten people were killed outright or died later from injuries; forty more were wounded. An outrageous crime had been committed. The community was horror-stricken. The words "anarchists," "pacifists," "pro-Germans," were on everyone's lips.

The bomb explosion came just at the right moment to serve the purposes of the utility corporations. San Francisco had long been the scene of industrial strife. The employers had recently banded together and raised a million dollar fund to wage a bitter open shop fight. The community had been stirred and the employers enraged by a long and violent waterfront strike, a strike of the culinary workers, and Mooney's agitation among the street-car men. A Law and Order Committee had been formed by the San Francisco Chamber of Commerce to protect what the employers considered their rights.

The night of the explosion, when the police were frantically seeking clues, Martin Swanson visited District Attorney Fickert who had been put in office through the influence of the United Railroads in order to secure the dismissal of certain graft indictments against its officials. Swanson and Fickert together directed the investigation of the bombing toward Mooney and Billings.

The Arrests

On July 26 and 27, Mooney and Billings were arrested along with Mooney's wife, and two of Mooney's trade-unionist friends, Israel Weinberg, a taxi-driver, and
Edward Nolan, president-elect of Machinists' Lodge 68. All these arrests were made without warrants. The homes of Billings, Weinberg and Nolan were raided by police, led by Swanson. Some powder was found in Nolan's basement. The statement was broadcast that this was saltpeter used in manufacturing the bomb. As proved later, it was epsom salts. Each prisoner was placed in solitary confinement and denied access to counsel or friends.

Hundreds of people were at Steuart and Market streets before and at the time of the explosion; but only one person, John McDonald, a ne'er-do-well waiter and drug addict, could be found who would testify before the Grand Jury that he saw Billings and Mooney at the scene of the crime.

On August 1, 1916 the Grand Jury met and indicted all the prisoners for the murder of each victim of the explosion who had died up to that time; that is, eight indictments were returned against each defendant.

The Prosecution's Methods

No reasonable motive was ever advanced for the alleged action of the accused in bombing the Preparedness Parade. At the trials the prosecution attempted to show that it was the natural culmination of Mooney's and Billings' labor activities and anarchistic beliefs. Later, in a brief of the state's case, District Attorney Fickert stated that they were agents of Germany.

Numerous threatening letters, obviously written by fanatics, were in the hands of the police before Preparedness Day. These hinted at some catastrophe if the parade were held. No real attempt was ever made to discover the authors of these letters.

The Densmore report says of the prosecution's methods: "As one reads the testimony and studies the way in which the cases were conducted one is apt to wonder at many things—at the apparent failure of the district attorney's office to conduct a real investigation at the scene of
the crime; at the easy adaptability of some of the star witnesses; at the irregular methods pursued by the prosecution in identifying the various defendants; at the sorry type of men and women brought forward to prove essential matters of fact in a case of the gravest importance; at the seeming inefficacy of even a well-established alibi; at the sang-froid with which the prosecution occasionally discarded an untenable theory to adopt another not quite so preposterous; at the refusal of the public prosecutor to call as witnesses people who actually saw the falling of the bomb; in short, at the general flimsiness and improbability of the testimony adduced, together with a total absence of anything that looks like a genuine effort to arrive at the facts in the case."

"These things, as one reads and studies the complete record," the Densmore report continues, "are calculated to cause in the minds of even the most blasé a decided mental rebellion. The plain truth is, there is nothing about the cases to produce a feeling of confidence that the dignity and majesty of the law have been upheld. There is nowhere anything even remotely resembling consistency, the effect being that of patchwork, of incongruous makeshift, of clumsy and often desperate expediency."

**The Prosecution's Theory**

In rough outline the case of the prosecution was constructed upon the theory that Mooney and the other defendants, except Nolan, first met at 721 Market Street, over three-quarters of a mile away from the scene of the explosion, and that Billings, with the bomb in a suit case, went up on the roof of this building, intending to drop the bomb on the parade; that, because the section of the parade they wished to disrupt had been delayed, they decided at the last moment to get into Weinberg’s car, drive down Market Street and plant the bomb at a point near the beginning of the line of march; that Mooney and his wife, Billings, Weinberg and an unidentified man did enter Weinberg’s car and proceeded down Market in the face of the parade; that Billings planted the bomb at Steuart
and Market streets and that then they all made their get-away.

The Trials

In September, 1916, Billings was tried and convicted of murder in the second degree. A motion for a new trial was denied, and he appealed. The Appellate Court and the State Supreme Court later affirmed the judgment. He was sentenced to life imprisonment and sent to Folsom penitentiary where he has been ever since.

In January, 1917, Mooney was put on trial and on February 9 was convicted of murder in the first degree. On February 24, after denial of his motion for a new trial, he was sentenced to hang. He was sent to San Quentin prison where he still is. He appealed to the Supreme Court, which a year later, March 1, 1918, affirmed the conviction. Governor Stephens, later in 1918, commuted the death sentence to life imprisonment.

In July, 1917, Mrs. Mooney was tried and in the light of the perjury exposed several months previously, she was acquitted. In October, 1917, Israel Weinberg was tried and acquitted. Nolan, although he had been held in jail for nine months after his arrest, was not even brought to trial.

The Prosecution's Witnesses

Seven principal witnesses testified either before the Grand Jury or at one or more of the trials to having seen some of the defendants at the scene of the crime or at 721 Market Street. It was at this latter place that the prosecution contended the defendants met to commit the crime and then, changing their minds, drove down Market Street in the face of the oncoming parade and planted the bomb at Steuart and Market streets. These seven witnesses were:

1. Frank C. Oxman, an Oregon cattleman, who was the star witness against Mooney. He testified only at Mooney's trial to seeing the defendants arrive at the scene of
the crime. It was chiefly on his testimony that Mooney was convicted.

2. **John McDonald**, a tramp waiter, who testified before the Grand Jury and at all the trials to seeing Mooney and Billings at the scene of the explosion.

3. **John Crowley**, a felon, testified only at Billings' trial, placing Billings at Steuart and Mission streets during the period McDonald placed him at Steuart and Market.

4. **Estelle Smith**, a prostitute, who testified before the Grand Jury and in the trials of Billings and Mrs. Mooney that she had seen the defendants, not at the scene of the explosion, but at 721 Market Street.

5. **Mrs. Kidwell**, mother of Estelle Smith, who testified only before the Grand Jury to the same effect.

6 & 7. **Mrs. Mollie Edeau and her daughter, Sadie**, who testified at all the trials to the presence of the defendants at 721 Market Street.

It is thus evident that only two witnesses at Billings' trial, and only two at Mooney's, placed any of the defendants at the scene of the crime. The other witnesses testified to their presence blocks away.

**The Defense**

Many reputable witnesses for the defense, none of whom has ever been discredited, testified to the presence of Mooney and Mrs. Mooney on the roof of the Eilers Building, over a mile from the scene of the explosion and over a quarter of a mile from 721 Market Street, before and during the parade. It was in this building that the Mooneys lived and Mrs. Mooney had a music studio. Moreover, Mooney and his wife were actually shown by a photograph to be on the roof of this building, watching the parade below, at 2:01, five minutes before the bomb explosion.

This photograph, showing Mooney and his wife on one corner of the roof, was taken, unknown to them, by a young man employed in the building who was taking snap-
shots of the parade. It was turned over by him to the
prosecution before the Billings’ trial. The defense did
not learn of its existence until near the end of this trial.
When it demanded the film, the prosecution claimed it
was unable to produce it and furnished blurred enlarge-
ments. A large jeweler’s street clock appeared in the pic-
ture, but the time could not be read from the enlargements
the prosecution furnished. Just before the Mooney trial the
defense secured a court order for the film. Contact prints
were made by an expert and the exact time the photograph
was taken, 2:01 P.M., could be determined from the street
clock.

This discovery, which threw the prosecution’s case into
confusion, accounts for the facts that McDonald changed
his testimony at the Mooney trial to make it appear that
Mooney and Billings planted the bomb earlier, and Oxman
was brought in to provide corroborating testimony necessary
to restore some order to the state’s case. The prosecution
then advanced the theory that Mooney and Mrs. Mooney
had hurried back to the Eilers Building after the bomb had
been planted in time to appear on the roof at 2:01.

Through all the trials the state contended that the de-
fendants drove down Market Street in the face of the
Preparedness Parade in Weinberg’s automobile shortly be-
fore two o’clock. Market Street was cleared for the
parade long before this time, all traffic having been diverted
from the street after one o’clock. On a cleared street, the
defendants would have had to pass the traffic officers whose
duty it was to keep all cars such as theirs off Market Street.
At Weinberg’s trial these traffic officers testified as defense
witnesses. Many of them were certain no such car as Wein-
berg’s had gone down Market Street at the time indicated.
All of them admitted they had seen none.

The Exposure of Perjury

All of the prosecution’s principal witnesses were later ex-
posed. They either confessed perjury, or discredited
themselves by their own contradictions. Of them, Judge
Griffin, who tried Mooney, said in a letter to Governor Young in 1928:

"But subsequent revelations damned every witness who testified before me against them as perjurious or mistaken. Estelle Smith has admitted her testimony was false. The Edeaus were completely discredited. Oxman is completely out of the case, as a perjurer who also tried to suborn perjury in another witness. John McDonald has since sworn to an affidavit that he knew nothing about the crime."

The first and most important disclosure was that of Oxman's perjury, revealed shortly after the Mooney trial while Mooney's appeal was pending in the State Supreme Court. Oxman was dropped as a witness in the other cases.

Mrs. Kidwell was exposed before she could be used as a witness in any of the trials, through a letter she wrote to her husband, then serving a prison term for forgery. In it she revealed that the authorities had secured her testimony in exchange for a promise to release her husband from prison. She wrote: "You know I am needed as a witness, and they are helping me by getting you out."

Her daughter, Estelle Smith, who testified in the trials of Billings and Mrs. Mooney, had once been indicted for murder and had lived a life of prostitution that had placed her under police surveillance for months at a time. She told of events at 721 Market Street first to newspaper men. At the trials she told a different story. Her testimony conflicted with McDonald's. She confessed later that she was ordered by Fickert and Swanson to rehearse others in their perjury and was threatened with the penitentiary if she refused to testify against Billings.

The Edeaus, who testified in all the trials, were discredited at the trial of Mrs. Mooney. It was proved that Mrs. Edeau had gone to the Chief of Police in Oakland, across the bay from San Francisco, soon after the bomb tragedy, had said that she had been at the scene, and had asked for the opportunity to identify Mooney and Billings,
then being held for the Grand Jury. The police chief sent an officer to San Francisco with her. She failed to identify the men. Yet she testified at the trials of Mooney and Billings, not that she had seen the defendants at the scene of the crime, but in front of 721 Market Street. When the conflict in her two stories was brought to her attention, she said that she and her daughter had been at 721 Market Street, but that their astral bodies had been at the scene of the explosion.

John McDonald, who testified at all the trials, in 1922 signed and made public a confession that he had lied, and had not seen the defendants at the scene of the crime, nor anywhere else until shown them in prison.

John Crowley, who testified only at Billings' trial to seeing Billings near the scene of the crime, was a wife-deserter with a police record too vile to relate. His testimony contradicted McDonald's.

The Oxman Perjury

By far the most important witness against Mooney was Oxman. Mooney's conviction hung on his testimony. The trial judge, Griffin, said of it in his letter to the Governor:

"Oxman was by far the most important of these witnesses. His testimony was unshaken on cross examination, and his very appearance bore out his statement that he was a reputable and prosperous cattle dealer and landowner from the State of Oregon. There is no question but that he made a profound impression upon the jury and upon all those who listened to his story on the witness stand, and there is not the slightest doubt in my mind that the testimony of Oxman was the turning point in the Mooney case and that he is the pivot around which all other evidence in the case revolves."

After Mooney had been convicted and sentenced, while his appeal for a new trial was pending before the State Supreme Court, letters came to light that Oxman had written to a man in Grayville, Illinois, his home town that
he had left twenty years before. Oxman had not seen this man, Ed Rigall, for years, but just before Mooney’s trial he urged him “to cum to San Frico as a expurt witnness in a very important case.”

“You will only hafto answer 3 & 4 questiones,” this letter continues, “and I will Post you on them. You will get mileage and all that a witness can draw Probly 100 in cleare so if you will come ans me quick. in care of this Hotel and I will mange the Balance.”

Rigall came, but when he discovered that he was to perjure himself to convict an innocent man, he refused to have anything to do with the affair. Back in Grayville he told the story to a lawyer who brought him in contact with Mooney’s lawyers.

The letters that Oxman had written Rigall were sent to Judge Griffin after the case had gone to the Supreme Court on appeal. Griffin immediately wrote to Attorney General U. S. Webb, requesting that the case be returned to his court for a new trial.

In his letter to the Attorney General, Judge Griffin stated:

“The authorship and authenticity of these letters, photographic copies of which I transmit herewith, are undenied and undisputed. As you will at once see, they bear directly upon the crediblity of the witness and go to the very foundation of the truth of the story told by Oxman on the witness stand. Had they been before me at the time of the hearing of the motion for a new trial, I would unhesitatingly have granted it.”

The Attorney General sent Judge Griffin’s letter with copies of the Oxman letters to the State Supreme Court. In presenting the material, he stated:

“Believing that justice will be subserved by a re-trial of this case, as the representative of respondent, I hereby stipulate and consent that the judgment and order heretofore entered in this case by the trial court be reversed and the cause remanded for a new trial.”

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The State Supreme Court then held it was powerless to act upon the Attorney General's stipulation. Its opinion concluded as follows:

"But, manifestly, the court has no authority to consider these matters as thus presented, they are no part of the record sent to us from the court below, and there is no provision of law by which newly discovered evidence may be presented to this court in the first instance. The remedy in such cases rests with the Executive. He alone can afford relief."

Oxman was brought back to San Francisco and tried for subornation of perjury. Fickert hired an attorney for his defense. The jury acquitted him. Fickert also had Oxman whitewashed by the Grand Jury, which he controlled. Before the Grand Jury, Oxman testified that there had been another page to his letter in which he told Rigall not to come unless he had been in San Francisco on the day of the explosion. The Grand Jury not only upheld Oxman, but commended Fickert on his handling of the prosecution.

The people of San Francisco, however, were not so easily appeased. The exposure of the Oxman perjury plot brought on a Fickert recall election, sponsored by a number of ministers. After a bitter campaign, the election date was set for December 17, 1917. At one o'clock on the morning of the 17th, there was an explosion in Sacramento, causing some damage to a wing of the Governor's mansion. The morning papers carried exaggerated stories blaming the Mooney crowd and the I.W.W. Fickert won the recall.

Several years after the exposure of the Oxman-Rigall letters, a Mr. and Mrs. Earl K. Hatcher of Woodland, California, swore before the San Francisco County Grand Jury that Oxman was their guest at their home, ninety miles from San Francisco, on the day of the explosion and that he left there on the 2:15 train for San Francisco. This train arrived in San Francisco at 5:21 P.M., over three hours after the bomb explosion. In the light of this it is
clear why Oxman registered at the Terminal Hotel between 5:30 and 6:00 o’clock, instead of just before the bomb explosion, when he claimed he arrived. The evidence of his perjury was complete.

President Wilson Takes a Hand

With Oxman exposed and Mooney under sentence of death, the labor movement, not only in the United States, but all over the world, was aroused to protest against the conviction. Particularly in Russia, then under the Kerensky regime, feeling ran high. A mass demonstration before the U. S. Embassy there in the summer of 1917 put the Mooney case in the headlines of papers all over the world. It was felt in official circles that the relation of the United States to its allies in the World War was being compromised, so President Wilson himself took a hand in the case.

Late in 1917, he sent a Mediation Commission to San Francisco to investigate. This commission, headed by Secretary of Labor William B. Wilson, with Prof. Felix Frankfurter of Harvard, soon to be chairman of the War Labor Policies Board, as secretary and counsel, after a careful investigation made a report to the President.

The commission stated its conviction that “there can be no doubt that Mooney was registered as a labor agitator of malevolence by the public utilities of San Francisco and that he was an especial object of their opposition,” and that “the utilities against which Mooney directed his agitation or who suspected him of mischievous activities undoubtedly sought ‘to get’ Mooney.” The report further emphasized the commission’s lack of confidence in the justice of the conviction, due to “the dubious character of the witnesses.”

“When Oxman was discredited,” the report states, “the verdict against Mooney was discredited.”

President Wilson at once wrote Governor Stephens: “Would it not be possible to postpone the execution of the sentence of Mooney until he can be tried upon one of the other indictments against him, in order to give full weight
and consideration to the important changes which I understand have taken place in the evidence against him?"

**Stephens Commutes Sentence**

Stephens delayed, the time for Mooney’s execution drew near, and the President dispatched two telegrams urging the Governor to act. Stephens, while refusing to grant a new trial on one of the other indictments, as suggested by the President, finally felt constrained to commute Mooney’s sentence to life imprisonment, November 28, 1918.

"I have carefully reviewed all the available evidence bearing on the case," he wrote. "There are certain features connected with it which convince me that the extreme sentence should not be executed. Therefore, and because of the earnest request of the President for commutation and conscious of the duty I owe as Governor of this State to all its people, I have decided to commute Mooney’s sentence to life imprisonment. In doing so I accept full responsibility for the wisdom and justification of the action.

"The record of the trial in the Superior Court was reviewed by the Supreme Court of our State, and it found no reason for upsetting the judgment of the lower court.

"However, there has remained for me to consider in addition, certain developments following the conviction that could not be considered by the Supreme Court. It is because of this new evidence that I find justification for commutation of sentence. In arriving at this conclusion, I have exercised that caution which must be observed in weighing evidence presented outside of established legal procedure."

**Governors Withhold Relief**

Mooney petitioned both Governor Stephens and Governor Richardson, his successor, for pardon in vain. His original application for pardon was made to Stephens on October 30, 1917. Stephens answered it by commuting his sentence to life imprisonment as stated. Mooney next peti-
tioned Governor Richardson, October 22, 1926, after his friends had collected evidence, testimony and supporting letters from the trial judge, jurors, and officials. Richardson denied the application. Mooney applied to Governor Young for pardon on December 13, 1926. It is this last application which Governor Young took under advisement upon the plea of Mooney's attorney, Frank P. Walsh, on August 29, 1928. But no official act has yet brought Mooney or Billings any nearer to freedom. To-day, after all these years, the men are still in prison under life sentences for a crime that every one who has studied the evidence knows they did not commit.
NATIONAL MOONEY - BILLINGS COMMITTEE

Organized to help secure the pardon of Thomas J. Mooney and Warren K. Billings, serving life sentences in California prisons

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