

OREGON LAW REVIEW

Issued December, February, April and June by the University of Oregon
School of Law

Sent gratuitously (on application) to members of the bench and bar of Oregon. To others subscription price \$3.00 per annum. Single copies 75 cents.

EDITORIAL STAFF

FOWLER VINCENT HARPER, *Editor-in-Chief*

ORLANDO HOLLIS, *Assistant Editor*

CHARLES E. CARPENTER	HUGH E. ROSSON	CHARLES G. HOWARD
CARLTON E. SPENCER	JAMES DUFF BARNETT	BERNARD C. GAVIT

STUDENTS

ROLAND DAVIS, *Business Manager*

WM. B. ADAMS	GLEN R. HUGHES	LELAND B. SHAW
BLISS ANSNES	RICHARD R. MORRIS	THOMAS E. SWAN
CHRIS BOESEN	CLIFFORD POWERS	MAURICE E. TARSHIS
HELEN LOUISE CROSBY	DAVID SANDEBERG	ORVAL YOKOM

BAR ASSOCIATION

WILLIAM BRIGGS	R. K. POWELL	GEORGE H. BULAND
CHARLES H. CAREY	HERBERT SWETT	MAC COBMAC SNOW
NICHOLAS JAUREGUY	IRVING RAND	E. K. OPPENHEIMER
ROBERT L. SABIN, JR.	G. F. KRAUSE	GEORGE BLACK, JR.
WILBER HENDERSON	W. H. MAGUIRE	RALPH H. KING
ARTHUR D. PLATT	ALGEE FEE	C. E. SPACKMAN, JR.
J. H. HENDRICKSON	GEORGE ROSSMAN	FORREST E. COOPER

Editorial and publication office, School of Law, University of Oregon, Eugene,
Oregon, U. S. A.

Vol. VIII

JUNE, 1929

No. 4

THE CASES OF MOONEY AND BILLINGS

A number of years ago, a vast amount of public interest was manifested in the trial and conviction of Thomas J. Mooney and Warren K. Billings for a bombing outrage at a San Francisco preparedness day parade in which a number of persons were killed and injured. The two men were known labor agitators and many members of the public entertained grave doubts at that time of the guilt of the accused. In fact so much public interest was created and so high ran the indignation of certain classes at these convictions that President Wilson urged the governor of California to intervene in the matter, which request resulted in commutation of the sentences from execution to life imprisonment.

Subsequently, an investigation under the direction of Secretary of Labor Wilson revealed the hideous facts that much of the testimony upon which the State had relied for conviction, was perjured. In fact, after the admittedly false testimony had been eliminated, it appears that the State's case, woefully weak at best, was such that it was inconceivable that reasonable men could have found Mooney and Billings guilty. This has been conceded by the eleven living jurors and the trial court, all of whom, save one juror, have repeatedly urged executive clemency.

In spite of the obvious injustice, three governors of the State of California have, for thirteen years, refused to pardon these two men. In spite of the fact that no one argues seriously that Mooney and Billings were in fact guilty of the crimes of which they were convicted, Governor Young is not yet convinced. Mooney's latest application for pardon has been in the governor's hands for nine months without action being taken upon it.

In the light of all the evidence which is available and in the absence of any evidence or proof whatever that seems open to the public upon which conviction could be founded, the following members of the faculty of the Law School of the University of Oregon submitted the ensuing letter to Governor Young, copies of which were sent to the faculty of the School of Law of the University of California, of the University of Southern California, of Stanford University, and to various editors of Oregon newspapers. This action was prompted by the firm conviction that two men have been unjustly imprisoned for thirteen years, primarily because of the political and economic opinions which they hold, all of which was made possible by a monstrous corruption of the machinery of the law. FOWLER VINCENT HARPER.

May 16, 1929.

To His Excellency, Honorable C. C. Young,
Governor of the State of California,
Sacramento, California.

Sir:

We, the undersigned members of the faculty of the School of Law of the University of Oregon, after a careful consideration of the available evidence pertaining to the trial, conviction and subsequent history of the cases of Thomas J. Mooney and Warren K. Billings, respectfully pray for the exercise of executive clemency for these unfortunate men, and especially for a favorable consideration of the application of Thomas J. Mooney for pardon.

It is our opinion that by reason of the exposure of the perjury of the chief witnesses for the prosecution, the revelations of the United States Government Investigator as to the dishonest methods employed by the prosecution, and the unanimous opinion of the court and jury on the evidence subsequent to the convictions, that the said convictions are not only entirely discredited, but that the inference is compelled that these two men were innocent of the crimes charged.

It is further urged that the plain and imperative demands of justice require the liberation of Billings and Mooney for the reason that the opinion of the judge and jury, as men, is entitled to more weight, in view of the subsequent evidence, than their opinion as a court, upon perjured evidence. It is, therefore, respectfully submitted that where the process of the law fails by its own limitations to do full and complete justice, but on the other hand becomes the agency for gross injustice, it is the appropriate and necessary function of the executive to alleviate matters to the end that a lasting reproach upon the law might not endure.

It would seem unnecessary to add that those persons and groups interested in the continued imprisonment of innocent men by reason of the conflict of economic and political opinion, adopt the surest method to alienate the

public confidence in their institutions and work. Regardless, however, of the wisdom of such action, the obligation upon all public minded persons is imperative to forbid the use of the machinery of the law to such ends.

Respectfully submitted,

CHARLES E. CARPENTER, *Dean*;
CHARLES G. HOWARD, *Professor of Law*;
BERNARD C. GAVITT, *Professor of Law*;
FOWLER V. HARPER, *Professor of Law*.