

Cornelius Usher

MASSACHUSETTS

WHEN the Leonard Shoe Company factory of Lynn, Massachusetts, was opened for business on the morning of March 15, 1902, it was discovered that the shop had been entered during the night and that a quantity of lasting pincers and other tools had been taken. The burglars had left no clues.

A day or so later, as Inspector Wells was leaving Manson's Pawn Shop, he saw a man entering with a bundle. He decided to investigate and, after the man had come out, discovered that he had pawned a pair of Niggerhead last pincers for fifty cents. These pincers were subsequently identified as one of the tools taken from the Leonard Shoe Company; and Cornelius Usher, the man who had pawned them, was arrested and charged with breaking and entering the factory and taking the tools.

Usher protested that he had not participated in any theft, but that all he had done was to dispose of certain tools which had been given him by "Jack" Coughlin. His story was that he had been drinking when he met a man by the name of Hart, and then Coughlin, and had gone walking with them, that Coughlin had tried to pawn the tools and then had given them to him to pawn. He denied positively that he knew that they had been stolen. He was, however, convicted

and sentenced by Judge Sherman to from three to five years in the state prison.

Inspector Wells had, in fact, noticed a man named Coughlin standing near the store, but did not arrest or follow him at the time. When he was finally located and brought before Usher, Usher claimed that he was not the right man and that the real Coughlin was a smaller man, who came from Salem. The police continued the search, using the description given by Usher.

On April 16, 1904, John H. Coughlin was recognized in Salem and arrested. When the news of this arrest was made public, Hart appeared before Chief Burckes and stated that he had been present two years before and had seen Coughlin hand the pincers to Usher and tell him to pawn them. He did not explain why he had not volunteered this information before.

Accordingly, a writ of habeas corpus was issued and Usher was brought from the state prison. Judge John W. Berry, before whom the hearing was conducted, declared that the case was a hard one which ought to be brought to the attention of the Governor and his Council, and assured Usher that he would undertake to do this. He ordered Coughlin to be held for the Grand Jury.

Judge Berry became deeply interested in Usher's case and, when proof of his innocence was completed, visited the Governor and began proceedings to secure a pardon. District Attorney W. Scott Peters, whose approval of the pardon was required by the Governor, refused to take action until after Coughlin's guilt was legally established.

On May 20, 1904, Coughlin was arraigned before Judge W. Cushing Waitt in the Superior Court at Salem. He pleaded guilty to the Leonard robbery and was sentenced to eighteen months in the House of Correction. He said that he was sorry that Usher had been sent to the state prison for the crime.

District Attorney Peters then approved the application for a pardon, which was granted to Usher on May 25, 1904.

In March, 1905, the Legislature of Massachusetts passed a bill to indemnify Usher in the amount of \$1,000, "as full

compensation for his confinement for a period of 1 year, 11 months, and 26 days . . . for a crime of which he was innocent." The resolve was signed by Governor Douglas on March 27, 1905.

THIS mistake, based on circumstantial evidence, was perhaps easy to make. Usher was found pawning some of the stolen tools, and it was not unnatural to assume, in the absence of proof of the full facts, that he had participated in the robbery. His story proved to be true, and was established to the satisfaction of all concerned, when Hart appeared and Coughlin pleaded guilty. The Legislature then made limited amends.

BIBLIOGRAPHY

1. *Commonwealth v. Cornelius Usher*, No. 2031, May Term, 1902, Essex County Superior Court.
2. *Commonwealth v. John H. Coughlin*, No. 3216, May Term, 1904, Essex County Superior Court.
3. Records in the Archives Division, State House, Boston, Mass.
4. Massachusetts Legislature, House Bill No. 970, 1905, approved by Governor Douglas on March 27, 1905.
5. *Daily Evening Item*, Lynn, Mass., April 21, May 21, May 25, May 26, 1904.
6. *Boston Herald*, May 26, 1904.
7. Acknowledgment: Miss Opal Slater, attorney, Boston, Mass.