

## *John H. Chance*

MASSACHUSETTS

A MAN, about thirty, wearing a light overcoat and carrying a revolver in his hand, entered the drug store and ordered the lone clerk to put up his hands. The clerk, Charles L. Russell, nervously turned away from the pointed gun, and the bandit fired. Russell fell mortally wounded.

The drug store was on the first floor of the United States Hotel in Boston, and the murder occurred about 8.30 the night of Monday, April 4, 1898. No one saw the shooting, and the robber escaped without any loot.

The shots attracted several persons, who saw a man run from the store, the revolver still in his hand; and from them the police obtained the only description they could find to work on.

The bandit ran through Kneeland Street as far as the old Boston & Albany Station, followed the tracks a short distance, turned off into an alley on Harvard Street, and disappeared.

For three weeks the police were without a clue. Then an overcoat was turned over to them by tenants at 74 Hudson Street, not far from the scene of the killing. The coat had

been found in the basement of the Hudson Street house, and it answered the description of the one worn by the bandit.

The police began an inquiry among residents of the neighborhood, and in a house on Indiana Street, near Harrison, they found John Henry Chance. He identified the coat as his own, but said he did not know how it got into the basement.

He told the police, however, that he had loaned it to a friend, Arthur Hagan; but Hagan could not be found. As Chance admitted ownership, was thirty-one years old, and answered the general description of the robber, he was arrested.

The search for Hagan continued, and in October he was finally located in Chicago and brought back to Boston to answer to the indictment for murder in the second degree that had been returned against him and Chance, June 11.

Both men went to trial together February 8, 1899, the prosecution relying upon the theory that one of the men was the murderer and the other an accessory.

Hagan offered an extensive alibi. He did not testify, but instead offered a statement through counsel, made while in jail in December. In it he described his movements in some detail during several days preceding the murder.

He said that he lived for two weeks prior to the crime with one Liz Nagle, a government witness at the trial. He said Chance was living with Mrs. Chance at this time, and that he saw both of them and a mutual friend, Doc Malley, nearly every day.

The night of April 2 (two days before the killing) Chance and Malley broke into a cutlery store at Broadway and Washington Street, Chance said, and stole eighteen revolvers and about fifty razors. Some of the razors were sold to his brother, a barber in South Boston. Each man kept two revolvers out of the loot and disposed of the rest.

Sunday, the day before the crime, Hagan said, he changed overcoats with Chance because his was shabby and he had an engagement with a girl in Roxbury in the afternoon. He kept the engagement, wearing Chance's coat, and

returned to Boston about 6 P.M., went to Chance's home and found him drunk, so he left about 9.30, hired a room, and slept until ten o'clock Monday morning.

He said he spent most of Monday on the water front trying to find a berth on an outgoing ship. He was unsuccessful, and in the evening loitered around Court Square until 7.30, when he walked down Tremont Street to Dover, down Dover to Harrison, and then to Chance's home. He said there was a light in the window and he gave the usual whistle, but got no reply from Chance, who usually answered by coming to the window and moving the curtain. Hagan continued down Harrison Street to Connolley's Corner, where he met Chance talking to one Frank White. It was then about 8.30, according to Hagan.

After talking with the two men a few minutes he went home, he said, and went to bed. In the morning he called on Chance and read the papers at the latter's home, discussing the murder that had occurred the night before.

He spent Tuesday and Wednesday nights in Roxbury, returning to Chance's Thursday night. He found Mrs. Chance and Malley's wife together. Liz Nagle came in drunk, he said, and was soon followed by Chance, who started an argument with Liz over her condition. Liz got angry and walked out, taking Hagan with her.

They went to a place on Tyler Street, and Hagan set forth in his statement that Liz then told him that Chance was the murderer, basing her conclusion on the fact that she had seen him with a revolver two days before the murder.

Hagan stayed in Boston until the following Monday, when he started for Chicago with a tramp after selling his pistol and other personal articles to Chance for \$1.50, so he wouldn't have to carry them with him. He said he arrived in Chicago May 1, and stayed there, working as a barber, until he was arrested in the fall.

Chance's defense was one which could not but impress the jury unfavorably. When arrested he had accounted for his actions the day of the murder and admitted ownership of the coat, saying he had worn it within an hour of the shooting. The day after his arrest he told a different story in which he

said he was in bed at the time of the murder, and in a third statement he told another story.

All three stories were admitted in evidence over the protest of Chance's counsel, and the court informed the jury that "the testimony of the woman with whom he lived [Mrs. Chance?] was that he was away from home after eight for a greater or less time" the night of the holdup. Liz Nagle testified that he had returned to his rooms about the hour of the murder.

After the three stories were spread upon the record, Chance introduced another line of defense by offering to prove that one O'Brien was the guilty man. He introduced witnesses to show that Mrs. O'Brien, then deceased, once took two bullets from a closet in her home, exhibited them during a quarrel with her husband, and remarked, "The third one killed Russell." Another witness said O'Brien had worn an overcoat like the one belonging to Chance.

This testimony was excluded by the court, however, and Chance then put forward his strongest argument by claiming that he was a partial cripple, lame, and, by virtue of such a physical handicap, prevented from running from the store after the shooting as described by witnesses. Even though his infirmity was but partial, he said, he could not have run fast enough to outdistance his pursuers.

It seems, however, that this contention of physical incapacity was not convincing to the jury after experts failed to agree as to just how serious his infirmity actually was, and to what degree it would influence his movements.

Nothing further was produced by the defense, and the case was submitted to the jury February 22. After twenty-one hours of deliberation, a verdict of guilty was returned against Chance, while Hagan was acquitted. Chance's appeal was denied, and he began serving a life sentence in the penitentiary September 11, 1899.

HAGAN returned to Chicago, and Chance began a series of appeals for executive clemency on the ground that he was innocent; but he elicited no practical response. On Novem-

ber 20, 1905, he wrote to Governor Douglas repeating his claim of innocence and adding that Hagan was reported to have made a voluntary confession in Chicago in which he admitted that he, and not Chance, was the murderer. He also told Governor Douglas that George R. Swasey, Hagan's lawyer at the trial, knew the truth of the case, and that if he would talk he could state facts that would free him.

This report of the alleged confession was ignored, however, and nearly six years passed before it was finally given serious consideration. Governor Foss, in response to repeated requests from Chance, began an investigation of the Hagan statement and sent Joseph Dugan, chief inspector of the Boston police, and Florence Sullivan, an associate counsel in Hagan's trial, to Chicago.

They found Hagan, who had married and was leading a respectable life, and asked him to repeat the confession. He talked freely about himself and told the two men that the matter had preyed on his mind and that he would tell the truth, which others could corroborate, if promised immunity. His request was granted, and he then admitted that he had shot the drug clerk. He said he ran from the store to Chance's home, discarding the coat in the basement where it was later found.

He said he stopped under Chance's window and called up to his friend, saying: "I just plugged a fellow down the street and had to shake your coat. Let's take a walk down the street and see how things are."

Chance came down, bringing Hagan's own coat, and the two men walked to the corner of Harrison and Harvard Streets, where they met a friend and stopped to talk.

Hagan signed a formal statement of the whole affair, in which he said that three people knew the truth of these matters—Sullivan, Swasey, and Liz Nagle.

The confession was taken back to Boston by Sullivan and Dugan. It was submitted to the Governor and his council. Other statements were also presented in behalf of Chance—one from Judge Stevens, who presided at the trial, saying he felt that Chance was completely innocent, and another from Swasey. These documents, supplemented by further

investigation, convinced the council that a mistake had been made in the conviction, and a unanimous vote recommended a full pardon for Chance.

The pardon was issued June 7, 1911, and Chance was released the same day. He was about forty-four when he left prison and had served nearly twelve years. Agitation began as soon as he was out to have the Legislature pay him \$10,000, but the bill did not pass, despite considerable support.

CHANCE's case arouses no special sympathy. It may even be doubtful whether his compensation should not have failed, because he contributed to his misfortune by telling crucial falsehoods in court. It seems that he was much under the influence of Hagan and tried to shield him, believing that he himself was in no danger of conviction. His several inconsistent stories, his shady record, and the admitted ownership of the incriminating overcoat were sufficient, on the misleading circumstantial evidence before it, to warrant a jury's concluding that Chance was guilty. Luckily he was not given the death penalty. Nevertheless, it seems unfortunate that his repeated pleas for the investigation of Hagan's confession, and those of Swasey, Sullivan, and Liz Nagle, should have been ignored until 1911, when the truth might have been disclosed so many years earlier. The Boston public seems to have been much interested in the case, and the community's belief that Chance had paid too high a price for the miscarriage of justice led to the movement for his indemnification by the state.

#### BIBLIOGRAPHY

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