

ing" and the "third degree" are not only true, but an unwarranted abuse of power. A typical case is presented in Massachusetts, where two officers arrested a thirteen-year-old boy without a warrant, on suspicion of his having committed a crime. In the night, they took him out and questioned him for two hours without warning him of his right not to answer, or affording him an opportunity to consult friends or counsel, and yet his confession was held to be voluntary. It would serve no useful purpose to detail the innumerable cases where persons have been starved, kept in solitary confinement and sweated, and if no evidence of a threat or promise was introduced, the confession elicited by the above methods have been held to be voluntary. Of course, some allowance must be made, since gentle methods are of little avail with the criminal class, but, since in the last analysis the reason for the rule that a confession must be voluntary, is that only in such cases, can it be safely acted upon as being true, it would seem that the probabilities of a confession induced by third degree methods being untrue, ought to be sufficient to render it inadmissible.

PROMISE OR THREAT MUST BE FROM ONE IN AUTHORITY.—In considering confessions where fear or favour are involved, it is an essential and well recognized rule that the promise or threat must be made by one in authority, in order to exclude the confession. The reason for this rule is that a confession made in consequence of a threat or promise held out by a person not in authority, is not liable to the suspicion or presumption of its being untrue, since the accused is presumed to know that such a promise or threat could not be carried out.

The most essential question, therefore, to determine, is who is a person in authority? It is clear that the prosecutor, the officer in charge, and in the state courts, and in England, the injured party is considered one in authority, but in the federal courts by force of statute, the District Attorney is the only prosecutor, and hence the injured party is not one in authority. The reason for the rule is that the authority known to be possessed by those persons may well be supposed either to animate