

brings the case into full light. I speak of the confession of the accused to witness Hubbell. A great deal has been said on both sides with regard to the admissibility of this confession. The defence alleges that inducements were held out by a person in authority to the accused, and therefore his confession should be rejected. A large number of authorities are quoted to show that a confession made under the influence of a promise is not admissible. It is a well known principle of law that a confession to be admitted should be freely and voluntarily given. The confession in the present case is claimed by the defence to have been made to a person in authority and under the inducement of a promise. Now, let us see what the evidence is in regard to this point.

First, was Hubbell a person in authority? A person in authority is the prosecutor—the master or mistress of the accused, and a constable or a magistrate. Now, it is not claimed that Hubbell was a constable or a magistrate. Was he a master? On the contrary, he held in the bank a position inferior to that of the accused. It might be said, though, that he represented the board of directors who were the superiors or employers of the accused. We must not forget, however, that the accused had deserted his post—he did not consider himself any longer an employee of the bank, and he had (see Gen. Barlow's evidence) sent in his resignation before the interview. I cannot, then, consider him in the relation of a servant towards his master in this respect. Was Hubbell in the position of a prosecutor? No criminal proceedings had yet been commenced against the accused; no charge had been brought against him. Hubbell was the first to speak to the directors of the bank about this interview; his object was to straighten his books. The directors consented to his going. No directions were given by them to him about the manner he should conduct the interview; no promise of any kind emanated from them.

Let us see, however, if anything was promised by Hubbell to the accused to induce him to confess. This interview was brought about through Mr. Copeland, a friend of the accused, who knew where the accused was stopping at the time. Hubbell did not. He

told Copeland, one day, that if he could see the accused it would enable him (Hubbell) to straighten his books, which he was then unable to do for want of information, and he asked Copeland if a meeting could take place between him and the accused. Copeland replied it could, but he would like to know to what end and what was to be accomplished. Mr. Hubbell said: "All I want to see him about is in reference to the matters pertaining to my position in the bank and to get my books straightened up." Copeland then remarked: "If I arrange for such a meeting, what position would the accused be put in?" The reply was that "it would be in no way detrimental to his case, but on the contrary would be a benefit; for one of the sources of annoyance in the bank at the present time was the fact that they could not get this matter straightened up, and that Mr. Hubbell was the only man that could do it, that is, by means of this interview." After some further conversation, Copeland agreed to think it over and let him know. Before separating, Hubbell, talking to Copeland, stated positively that there was nothing behind it whatever, that he merely wanted certain information from the accused to assist him in the manner before stated. Copeland then decided to arrange for the meeting if possible, and went and saw the accused. Copeland, who is a witness for the defence, relates what took place in his interview with the accused. Here are his own words: "I met Charlie (the accused), and he says, 'Well, how are things in New York?' and I said, 'Things are working first rate,' and we went up-stairs and sat down together, and he said, 'Let me know what it is?' and I said, 'There is one move afoot, and that is to have you meet Hubbell,' and he said, 'I don't want to do it;' 'and now,' says I, 'hold on, wait till I tell you something:' says I, 'Mr. Hubbell is in trouble about his books, and he wants to see you in a friendly way, and ask some questions, believing that you can help him to get his books straightened out;,' he replied, 'I don't know whether I ought to do that, Ed., but,' he says, 'I will do whatever you say.' I replied, 'Charlie, I think you had better do it, because I have been told it