

statement was made to the prisoner that the confession would save him from prosecution; there was no threat or promise.

Subsequently the prisoner made out a list of moneys which he admitted had not been accounted for by him. This list was also admitted in evidence.

The prisoner was convicted and sentenced to three years' penal servitude.

The question for the opinion of the Court is whether the evidence of the confession was properly admitted.

The case having been sent down for amendment, the following statement was added:-

At a meeting of the directors a question was asked by one of the directors as to the value of the stock on a farm occupied by the prisoner's brother, and it was suggested that a bill of sale over the stock should be given. The prisoner stated that the worth of the stock was over 1000l., but that he could not accept the suggestion about the security without telling his brother. At the same meeting the prisoner said, "My brothers have got it" (meaning the money); "it has gone to pay interest on mortgages." Mr. Crewdson said, "I never agreed not to prosecute, if a bill of sale was given."

After the charge was made £340⁵ was received from the prisoner, together with some money and an I.O.U. for 25£ which were found in the cash-box. Of the sum of 340£., 90£. was paid into the bank by the prisoner, and 250£ by his brother. Mr. Crewdson stated that no arrangement was made as to the discrepancy being treated as a debt, and that the sum paid was simply by way of restitution.

Shee, Q.C. and Cavanagh, for the prisoner. Evidence of the confession was not admissible. In the absence of proof by the prosecution that it was voluntary, evidence of a confession cannot be received; Reg. v Baldry (2 Den.C.C.430); Reg v Warringham. (2 Den.C.C.447, n.) Here no such proof was given. It has been repeatedly held that proof of the use of such an expression as "it is better to tell the truth" by a person in authority excludes evidence of a confession; Reg. v Gillis (11 Cox C.C.69) Reg. v Garner (1 Den C.C. 329) Reg v Bate and