

the search the accused asked, "If I tell the truth, shall I be hung?" to which the other woman answered, "No, nonsense, you will not be hung." The holding out of so obvious a hope was held sufficient to exclude the confession.² The following are other illustrations of statements which have been held to render confessions inadmissible:

"Tell me where the things are, and I will be favorable to you"; "You had better tell all you know"; "You had better split, and not suffer for all of them"; "It would have been better if you had told at first"; "I only want my money, and if you give me that you may go to the devil if you please."

It may be remarked in passing that the word 'better' in such a context has almost acquired a technical meaning. Certainly it is true that a suggestion made by a person in authority to a person accused, that any particular course would be better for him, is practically sure to make the latter's statements inadmissible.

No consideration of the cases in which confessions have been dealt with, should fail to point out the highly debatable ground which this subject covers. The leading case is that of *Ibrahim v. The King*, a decision of the Privy Council, in which the following is laid down:

"It has long been established as a positive rule of English criminal law, that no statement by an accused is admissible in evidence against him unless it is shown by the prosecution to have been a voluntary statement, *in the sense that it has not been obtained from him either by fear of prejudice or hope of advantage held out by the person in authority.*"³

On the other hand, we are told that "the mental attitude of the *accused* determines the question of voluntariness, and the court must ascertain the accused's state of mind from the various factors constituting the surrounding circumstances." The warning, about which we hear so much, is only one of these factors; others are the age, mental development and characteristics of the accused. The distinction is not an easy one to follow, but we shall come back to it again.

It is not to be supposed that a threat or inducement will necessarily exclude everything that an accused person may afterwards say. Even when there has been a threat or promise, a confession may be admitted if it can be shown that meanwhile something had been said or done to remove the effect of it. For example, a magistrate interviewed a man accused of murder and told him that if he was not the man who struck the fatal blow, he (the magistrate) would do everything in his power to prevent any ill consequences from falling upon him if the accused would disclose what he knew of the murders. The magistrate also said that so many persons were concerned in the crimes that some one or other of them would make known the facts. He wrote to the Secretary of State of the Home Department, who replied that, for reasons specified, mercy could not be extended to the accused. The magistrate communicated this answer to the accused. Later, the accused sent for the coroner, who told him that any confession he made would be used against him at his trial and that no hope or promise of pardon could be held out to him by the government or anyone else. After this the accused made a confession which was received in evidence, as it was held that the effect of the inducement held out by the magistrate must have been removed by the letter from the Secretary of State and by what the coroner said.⁴