

The Admissibility of Confessions

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THE SECOND-LAST chapter of the novel has cleared up the mystery. Fordham Jones, the amateur detective, points an accusing finger at the cowering butler. "Arrest that man," he says to Inspector Blank of Scotland Yard. Hitherto the ineptitude of the Inspector has served admirably as a foil for the brilliance of Mr. Jones; but now that the latter has brought the case to a solution, his interest in it has ceased, and besides, he needs both hands to take his pinch of snuff, to tap his cigarette or to indulge whatever other little mannerism he may affect. So the Inspector has his uses. Thus adjured, he places the butler under arrest and leads him away, only remarking as they go, "Anything you say will be used against you."

There has been a world of contention behind the Inspector's matter-of-fact words; there will be a great deal more should he attempt to relate in court something which the butler may say to him.

The rule relating to confessions is very concisely set down in an early edition of Phipson on Evidence, as follows:

"In criminal cases, a confession made by the accused voluntarily is evidence against him of the facts stated."

All the contention arises out of the word 'voluntarily', and the circumstances which may exclude a confession as being involuntary are:

(a) That it was induced by a promise or threat relating to the charge, and

(b) That such promise or threat was made by, or with the sanction of a person in authority.

We need spend no time discussing the position of a constable in this connection; *he is always a person in authority*. As to others, however, it is interesting to note some of the rulings. The prosecutor, or his wife, or his attorney, a magistrate, or his clerk, the gaoler, or chaplain of a gaol, the captain of a vessel (when the accused was one of his crew), a master or mistress (when the accused was a servant), have all been held to be persons in authority.¹

Let us ask, then, what sort of threat or inducement will exclude a confession? In the first place, *it must refer to a temporal benefit*—exhortations to tell the truth in the hope of benefit hereafter, are not included, e.g., "Don't run your soul into more sin; but tell the truth," "You had better, as good boys, tell the truth," "Now, kneel down, I am going to ask you a very serious question, and I hope you will tell me the truth, in the presence of the Almighty." In the cases in which these admonitions were given, confessions afterwards made were received in evidence.¹

Moreover, *such a threat or inducement must relate to the charge*. A promise to give the prisoner a glass of spirits, or to strike off his handcuffs, or to let him see his wife—all these have been held to be collateral to the charge, and confessions made in consequence of them were received in evidence.

On the other hand, there was a case in which a woman, in custody on a charge of murder, was left with another woman to be searched. During