

will be an advantage to you, as well as a help to the bank.' He replied, 'Did you get this from Mr. Hubbell, or did you get this idea from Gen. Barlow?' (meaning the counsel of the National Park Bank) and says I, 'I not only got it from the General, but,' I says, 'I got it positively from Mr. Hubbell, and he put the desire for the meeting purely on the ground that I have stated in the first place, that you were old friends and that he wanted to see you in your trouble,—and in the second place, he wanted to see you to ask some questions, in order to get the accounts and books straightened up;' and he said, 'All right, I will go with you to-morrow.' And the next day Hubbell was told by Copeland where he could see the accused, and he went at once."

Let us see now what Hubbell says in his deposition at this meeting: "I said, Charlie, I don't come here to upbraid you, or find any fault, I only come to ascertain for my own satisfaction and the officers of the bank who have given me permission to come and see you, the total amount and the manner in which it was done." And I said to him: "Do not tell me anything that you are not willing I should return to the bank and report to the officers." The accused then confessed that the amount was \$95,000, that it had been done by means of fictitious drafts, and he explained the method of presenting a fictitious draft on Baltimore to the collection clerk, having it go through the books regularly, waiting a sufficient time for the draft to reach Baltimore and back again, and then obtaining a ticket from the collection clerk, charging it to the Baltimore Bank, and on that ticket obtaining the money from the paying teller; then, to make the accounts correspond, he would alter the account of the Baltimore Bank when received, to correspond with the account of the Park Bank. He said also that the next morning when the package of tickets was brought up for his examination, it would come into his possession, and on the return of the package of tickets to the cheque desk, that ticket would be missing.

From the conversation of Copeland and Hubbell with the accused, above related, it does not appear to me that any inducement was held out to him to make this confession,

and if there was, it was not done by any person in authority such as the law contemplates. Let us refer to some of the authorities in this matter.

Woolrich's Crim. Law, vol. 1, p. 189, says: "It may be added that the validity of a confession is for the judge's decision, and that he will require to be satisfied that the confession flows from the inducement." At page 192 he says: "It is the presence of a person in authority which is said to operate prejudicially to the reception of this evidence. The mistress said nothing whilst her servant confessed to a third person, who was not in authority, but held out an inducement. The mistress did not dissent, and the confession was refused, because the inducement which the third person held out was considered as the inducement of the mistress. Had not the witness been present, the statement would have fallen under the rule, that a confession made to a person not in authority is receivable."

In Roscoe's Criminal Evidence, 8 edit, p. 44, we find this: "Parke, J., in delivering a carefully considered judgment of the Court of Criminal Appeals in *Rex v. Moore*, said that, if the inducement was not held out by a person in authority, it was clearly admissible. The question may, therefore, be considered as settled." Again, at page 46, the same author says: "Although a confession made under the influence of a promise or threat is inadmissible, there are yet many cases in which it has been held that, notwithstanding such threat or promise may have been made use of, the confession is to be received, if it has been made under such circumstances as to create a reasonable presumption that the threat or promise had no influence, or had ceased to have any influence upon the mind of the party." And again at page 49, "where a person took an oath that he would not mention what the prisoner told him (*R. v. Shaw*, 6 C. & P. 373), and where a witness promised that what the prisoner said should go no further, (*R. v. Thomas*, 7 C. & P. 345), confessions were held admissible."

Archbold's Criminal Evid. 18 ed. p. 239, says: "To exclude a confession made under the influence of a promise or threat, the