

James A[lexander] Hamilton and H[ugh] Maxwell statement, 19 October 1820

Second Statement

In the Cause of the People against John W. Thorne Valentine N. Livingston & Henry D. Tracy, the undersigned were associated as Counsel for the prosecution with Martin Van Buren Esquire, (then Atty Genl). The accused were indicted for a conspiracy to defraud the Merchants Bank in the City of New York. The Cause was prepared for trial by Peter Jay Munro Esquire, but as he was a material witness he declined taking part as Counsel on the trial. Colonel Varick called as a witness proved the course of the business of the Bank, the amount of money purloined, the circumstances attending the discovery of the fraud & the participators with. Mr Munro was called to prove the confession of Thorne (which had been taken down in writing and sworn to by him before a commissioner) which testimony was objected to by the Counsel for the accused on the ground that the confession was made under the allurements of hope. Colonel Varick was then Cross examined & stated that the Confession of Thorne was made under the influence of his promise of making him states evidence Mr Munro being re-examined declared he knew nothing of the promise that had been made to Thorne

The Court after argument rejected the confession on the ground taken by the Counsel for the accused. And after consulting with Mr Munro and informing Mr Varick of the course proposed to be pursued on which we understood him to acquiesce We concurred with the attorney General in the propriety of abandoning the prosecution believing (as we now believe) that without that Testimony there was not sufficient evidence to convict the accused.

James A Hamilton

Sigd

H Maxwell

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