

to look into precedents and to consider the principles upon which the right really rests, no one who has for any length of time filled either of the chief offices of the Crown has ever entertained a doubt upon it." The controversy may be said to have turned altogether upon whether the exercise of the Crown's right should be allowed to others than the Attorney-General. In 1884 the Judges of England resolved that the right should be confined to the Attorney-General and Solicitor-General when personally present: 5 State Trials, N.S., 3 (note).

By 32 & 33 Vict. ch. 29 (D.), relating to procedure in criminal cases, sec. 45 (2), providing for the manner in which addresses to the jury should be regulated, it was amongst other things, enacted that "the right of reply shall be according to the practice of the Courts in England, provided always that the right of reply shall be always allowed to the Attorney or Solicitor-General or to any Queen's Counsel acting on behalf of the Crown." Unquestionably by the right of reply thus accorded was meant the Crown's right of reply, which had always been exercisable in Crown cases by the Attorney-General for England. The right or privilege thus conferred upon the Attorney-General or Solicitor-General or any Queen's Counsel acting on behalf of the Crown, was the right to reply after all addresses had been delivered on behalf of the accused.

All question as to the effect of the accused having adduced no evidence was excluded by the distinct and imperative language of the proviso. And so by sec. 661 (2) of the Code it is provided that the right of reply shall be always allowed to the Attorney-General or Solicitor-General, or to any counsel acting on behalf of either of them. Here, as in the preceding Act, there is no uncertainty as to the right of reply that is to be allowed. Nor is there any doubt as to the persons by whom it may be exercised. Instead of being restricted to the law officers of the Crown and Queen's (or King's) Counsel acting on behalf of the Crown, it is now extended to any counsel representing either of these law officers. In effect the provision establishes a rule identical with the resolution of the Judges of England adopted in 1837, to which reference has already been made. It is true that the preceding portions of the enactment appear to be pointed at giving to counsel for an accused person on whose behalf no witnesses are examined, the privilege of addressing the jury last. Yet this must be considered in the light of the long well-understood meaning of the Crown's right of reply. As before pointed out, there never was any question as to the Crown's right of reply. The only question was as to the