

sions, the whole confession must be taken, even though containing matter favourable to the prisoner; but the jury may attach different degrees of credit to the different parts. So, if the confession implicate other prisoners, it will still be receivable, though the Judge should warn the jury that it is only evidence against the maker."

This rule, which was implicitly observed by the Chief Justice, must now be taken to be too firmly established to be disturbed.

In my opinion, the first question should be answered in the affirmative.

The solution of the second question depends upon the proper construction to be given to sec. 661 (2) of the Criminal Code, read in connection with sec. 3 (b), which declares that the expression "Attorney-General" means the Attorney-General or Solicitor-General for any province of Canada in which any proceedings are taken under the Code.

In England the Attorney-General's right of reply was never seriously questioned: Kyshe on the Law and Privileges relating to the Attorney-General and Solicitor-General of England, p. 123. That was because, as was said by Baron Channell, the right is in the nature of a prerogative right, a right on the part of the Crown exercised by the officer of the Crown, the Attorney-General: *Rex v. Deblanc*, 2 State Trials, N.S., p. 1021. The right of the Solicitor-General was not so freely conceded. However, by resolutions of the Judges adopted prior to the spring circuits of 1837, it was declared that in cases of public prosecutions for felony instituted by the Crown, the law officers of the Crown and those who represent them are in strictness entitled to the reply, although no evidence is produced on the part of the prisoner: 7 C. & P. 676, 677, 2 State Trials, N.S., p. 1020. A consideration of the numerous cases which are to be found in the reports shews that the Crown's right of reply was not in question. The dispute was as to the persons by whom the right was exercisable. Lord Chief Baron Kelly in *Rex v. Waters*, noted in 2 State Trials, N.S., at p. 1021, explained the matter as follows: "The true ground is this, that the Crown by its prerogative from time immemorial has claimed the right, and whether the Attorney-General appears in person, or by reason of accident or other cause does not appear, and is personally represented by some other gentleman (whether the Solicitor-General, a Queen's Counsel, a Serjeant, or an ordinary barrister, is immaterial), the Crown does possess the right, and counsel is entitled to exercise it if he thinks fit." He added: "No Judge who has ever filled the office of Attorney-General has ever doubted it; having had occasion