

Article 69 of the Civil Code of Lower Canada declares that burial in these cases cannot take place without the permission of the Coroner, or another officer performing the functions and duties of the Coroner, among which duties is that of inspecting the body in such cases.

The heading of this Article requires only the Coroner to seek for homicide.

This form is deliberate. It is explicit; it does not lend itself to ambiguity.

27. The heading of this present Article, as formulated, leaves no doubt upon two facts which in Article 69 of the Civil Code are, possibly, not clear.

This Article of the Code mentions an officer other than the Coroner as having authority to permit burial, and it is, perhaps, because of this that certain Justices of the Peace, certain mayors of municipalities, certain ministers of religion, and even certain physicians, sometimes take upon themselves to permit the burial of persons dying under the circumstances mentioned in this Article.

Now, no one but the Coroner has authority to give such permits in the Province of Quebec.

28. The laws which of old gave this power to Captains of Militia — 34 Geo. III., chapter 6, section 36 —, and later to parish priests, missionaries and Justices of the Peace, have been abrogated. The last, notably, was in force only one year; it was expunged from the Statute for two reasons: the first, because it gave to too many persons, unqualified for the matter, the task of seeking out a crime, often very difficult to discover; the second, because the State not having provided for the remuneration of these new functionaries, no investigations were made. As a fact, the State abstained from fulfilling a primary duty to society.

It is already long since the first was abrogated, and in favor of this abrogation was pleaded the necessity of confiding only to qualified persons the investigation of so serious a crime.