postponing the trial for the purpose, may suffice to overcome the advantages of a view, particularly when the nature of the issue or of the object to be viewed renders the view of small consequence. Accordingly, it is proper that the trial Court should have the right to grant or to refuse a view according to the requirements of the case in hand. In the earlier practice, the granting of a view seems to have become almost demandable as of course; but a sounder doctrine was introduced by the statute of Anne (which apparently only re-stated the correct common-law principle); so that the trial Court's discretion was given its proper control."

"That the Court is empowered to order such a view, in consequence of its ordinary common-law function, and irrespective of statutes conferring express power, is not only naturally to be inferred, but is clearly recognized in the precedents. Nor can any distinction here properly be taken as to criminal cases. It is true that here, by some singular scruple, a doubt has more than once been judicially expressed. But it is impossible to see why the Court's power to aid the investigation of truth in this manner should be restricted in criminal cases and the better precedents accept this doctrine." Wigmore on Evid., sec. 1163.

"Moreover, the process of view need not be applicable merely where land is to be observed; it is applicable to any kind of object, real or personal in nature, which must be visited in order to be properly understood. Thus at common law there need be no limitations of the above sorts upon the judicial power to order a view. The regulation of the subject by statute, which began in England some two centuries ago, was concerned rather with the details of the process than with the limits of the power. Statutes now regulate the process in almost every jurisdiction, but it may be assumed that the judicial power to order a view exists independently of any statutory phrases of limitation." Wigmore on Evid., sec. 1163.

In *Springer* v. *Chicago* (1891), 135 Ill. 553, 561, 26 N.E. 514, Craig, J., said:—"If the parties had the right upon the trial to prove by oral testimony the condition of the property at the time of the trial, . . . upon what principle can it be said the Court could not allow the jury in person to view the premises and thus ascertain the condition thereof for themselves? . . . If a plat or photograph of the premises would be proper evidence, why not allow the jury to look at the property itself, instead of a picture of the same? There may be cases where a trial Court should not grant a view of premises where it would be expensive or cause delay, or where a view would serve no useful purpose; but this affords no reason for a ruling that the power to order a view does not exist or should not be exercised in any case. . . . If at common law, independent of any English statute, the Court had the power to order a view by jury (as we think it plain the Court had such power) as we have adopted the common law in this state, our Courts have the same power."

Under sec. 11 of the Criminal Code, 1906 (Can.), the criminal law of England as it existed on the nineteenth day of November, one thousand eight hundred and fifty-eight, in so far as it has not been repealed by any Ordinance or Act, still having the force of law, of the colony of British Columbia, or the colony of Vancouver Island, passed before the union of