

29. Article 69 of the Code of Lower Canada says, that the Coroner shall make the inspection of the corpse before permitting burial, and mentions no other procedure.

The heading of this present Article as given above, declares that the Coroner shall seek out homicide. The one and the other, fundamentally, say the same thing, but the first seems to lead to the belief, at first sight, that the inspection of the corpse alone suffices to reveal whether death is due to homicide or not. It is evident, nevertheless, that the Civil Code of Lower Canada never meant to say this. It is not because a corpse is mutilated that we may conclude that homicide has been committed, — an accident may bring about the same result, — and it is not because a corpse on inspection offers no traces of violence that we may conclude that death is not due to homicide. The poisons employed in our day by cunning criminals leave no trace behind them.

30. The Civil Code of Lower Canada speaks of inspection (necessary, no doubt) but does not exclude other means at the disposition of justice to seek out the crime.

It is indeed the seeking out of the crime, by all means humanely possible, that the Civil Code of Lower Canada has in view in its Article. The codifiers have been careful to indicate the sources from which they have taken Article 69. They consist of two edicts of the Kings of France, one of the 5th. of September 1712, and the other of the 9th. of April 1736; Article 81 of the Code Napoleon, and Russell on Criminal Law. Edicts, Code Napoleon, and Russell, all these point out that the aim of this prohibition of immediate burial is to find whether the death is due to a homicide or not. We find these sources quoted at length in the library edition of the Civil Code of Lower Canada under Article 69, but I abstain from reproducing them so as not to unduly extend my work.

31. The Civil Code of Lower Canada saying, in Article 69, to the keepers of cemeteries, "You shall not bury in certain cases without a permit from the Coroner"; in saying to the Coroners, "You shall make investigation after certain deaths", lays down a police regulation which was within its rights. To