

case were charged with being. It appears that some of the jurors, in addition to the "suitable" food furnished by the sheriff, obtained and consumed fifteen to twenty gallons of beer, two demijohns of wine, two bottles of whiskey, and also other wine and whiskey at each meal, including breakfast. The Court was of opinion that where there is reason to suspect that, on a trial for homicide, a juror has drank so much as to unfit him for the proper discharge of his duty, the verdict should be set aside, and in the case before the Court, it was held that the jurors had been guilty of such misconduct as made it the duty of the Court below to grant a new trial.

### THE LAWSON-GRAY INQUIRY.

In the London correspondence of the *N. Y. Herald*, reference is made to a singular omission alleged to have been committed by Mr. Justice Lawson in passing sentence on a convict. Two or three months ago, one Patrick Walsh was put on trial charged with having murdered a neighbour who had rendered himself obnoxious by land-grabbing. The evidence against Walsh was circumstantial, and was rebutted, but ineffectually, by the evidence of a number of his friends, who swore to an *alibi* in his defence. On his first trial in Dublin the jury disagreed, but a second jury found Walsh guilty. In due course he was executed, and died protesting his innocence. Before the Parliamentary Committee in the Gray case, one Johnson, the official short-hand writer employed by the Crown, made the startling statement that Walsh had never been sentenced to death. The following questions were put to Mr. Johnson by Mr. Sexton, the member for Sligo:—

Mr. SEXTON—Were you present in Green Street Court House during the second trial of Patrick Walsh—the trial which ended in his conviction for murder?

Mr. JOHNSON—I was present during the whole of the commission.

Mr. SEXTON—Did you hear the judge pass sentence on Patrick Walsh?

Mr. JOHNSON—I did.

Mr. SEXTON—Did he sentence Patrick Walsh to be buried within the precincts of the jail?

Mr. JOHNSON—He did.

Mr. SEXTON—But did he sentence Walsh to be hanged?

Mr. JOHNSON.—No; he did not.

Mr. SEXTON—Did he, in fact, omit the words, "that you be hanged by the neck until you are dead?"

Mr. JOHNSON—He did.

Mr. SEXTON—Do all the other reporters who were present in court concur in this statement of yours?

Mr. JOHNSON—They do.

Mr. SEXTON—Did the Judge ever question the accuracy of the reports attributing to him the omission of these essential words?

Mr. JOHNSON—No; if he had done so the reporters would have had something to say about it.

Mr. SEXTON—Then Patrick Walsh was hanged without having been sentenced to be hanged?

Mr. JOHNSON—Yes!

The evidence is said to have created a marked sensation in the Committee, and, if true, discloses a singular blunder on the part of the learned judge, however just may have been the verdict of the jury with whom after all, it must be said, rested the responsibility for the prisoner's punishment.

As to the result of the committee's work, three reports have been referred to in the despatches. The first, drafted by the Attorney General and favored by the majority of the committee, states that Judge Lawson acted within his jurisdiction in imprisoning Mr. Gray; the second, by Mr. Dillwyn, remarks upon the present state of the law of contempt; and the third, by the Irish members of the committee, suggests certain alterations of the law and reflects upon the conduct of Judge Lawson. The Attorney General's report presented to the committee, Nov. 14, further stated that Mr. Gray had been allowed to make before the committee a statement, which was, however, irrelevant. Mr. Dillwyn, in his report, maintained that Mr. Gray had not been guilty of contempt of court. He said the whole subject of the state of the law respecting punishments for contempt of court should be inquired into. After some discussion the committee decided that there was no occasion for the House of Commons to take further notice of the matter.

### NOTES OF CASES.

#### SUPERIOR COURT.

MONTREAL, Oct. 16, 1882.

Before RAINVILLE, J.

McMARTIN v. WALSH.

*Jurisdiction—Declinatory Exception—Personal or Mixed Action.*

*An action to enforce a promise of sale of an immovable and to compel the vendee to execute a deed, is purely personal, and personal service in the District of Montreal on the defendant*