# PROCEEDINGS

OF THE

# KOOTENAY ROYAL COMMISSION.

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SATURDAY, 13TH APRIL, 1878.

COMMISSIONERS PRESENT:

The Honourable SIR MATTHEW B. BEGBIE, KT.,
The Honourable H. P. P. CREASE,
The Honourable JOHN H. GRAY.

G. RICHARD LAYTON,
*Secretary.*

MR. MCCREIGHT, Q.C., appeared to watch the case for Mr. Elliott.

CHARLES GALLAGHER, M.P.P. for Kootenay, called and sworn,—

On 6th August, George A. Kelly, Constable at Kootenay, came to me and told me that George Dacres, Storekeeper at Wild Horse Creek, had returned that day, and had brought letters from Mr. Elliott to Kelly, and that he (Kelly) had the privilege of offering me his situation and also $1,000 and the best situation in the gift of the Government, inside of three months, on condition that I was to resign my seat in the House of Assembly, and give him a chance of being elected. He told me he had the promise of the Provincial Secretaryship. I gave him to understand that I would not accept any such conditions. I would not betray my party. I gave him to understand that by telling him so. He said I was foolish; that I had no chance of being re-elected, for the elections would be carried by money next time. I was on intimate terms with Kelly. He had often spoken with me to the same effect, but did not seem to have any authority for it. He did not show me the letter. I did not ask for it. I do not know whether he had received any letter. He told John Russell, Kootenay, to the same effect; also James Morrisey, John Galbraith (brother of M.P.P.), and, I believe, Mr. J. G. Norris. I asked Norris, telling him I understood he knew about it. He said he would keep out of it as long as he could, and would say nothing until he was forced. About 8th August, Father Fouquet told me he had received letters from Mr. Elliott—or seen, I am not sure—in which Elliott guaranteed Constableship at Kootenay (i.e. Kelly's position) if Kelly and I could arrange matters between us. I told him of the offer of the money, of which he disapproved, but as to the accepting of the situation he saw nothing wrong. Of course I could not have held the situation without resigning the M.P.P.ship. I think the gentleman (George Dacres) who took the letters there would know whether Fouquet had letters or not. Dacres also told me that he was authorized to offer me the Constableship—not money. I told him neither he nor the Government had right to insult me. Mr. Kelly told me, about a month afterwards, that he had done it all on his own responsibility. Dacres told me that he was present at an interview between Vernon, Elliott, and Mr. Speaker. The latter came in and told them that Mr. Milby told him that if he did not get the Secretaryship they need not look for his support any longer. From this I thought that Dacres must be on very intimate terms with the Government, and so that what he told me as to the Constableship was entitled to weight.

To Mr. Commissioner Crease.—I understood by the best situation in the gift of the Government, a Stipendiary Magistrateship.

Cross-examined by Mr. McCreight.—Dacres made me no other offer than the position. No person offered me money except Kelly. Kelly seemed sober. I met him in the trail, as I believe expressly coming to see me on this business. I do not think Kelly has much means. Did not ask how he was going to pay the $1,000.

Did he say when, or how, or from whom? I did not enter into any conversation about it. He did not say anything. Said he had instructions from Elliott. Did not ask to see the letter to Kelly. Did not take a minute to study the matter. I did not state in the House that Fouquet had ever offered the money.

Did Kelly say he had $20,000 to spend at the next election? No. I never said that, or anything to that effect, in the House. Quite sure I never said so. Quite sure Kelly never told me so. He said the next election would be decided by money. I thought he was speaking the truth at the time. I would not rely on his judgment on all occasions. I did not believe him when he told me, a month after, that he had no authority. I do now believe that Mr. Elliott wrote Kelly a letter authorizing him to make the offer of the 6th August. I think Kelly made the subsequent contradiction to save Elliott. I have no other grounds for this belief except as mentioned by me.

(Signed) CHARLES GALLAGHER.

ROBERT LESLIE THOMAS GALBRAITH, M.P.P. for Kootenay, sworn.

I met George Kelly near the Ferry, five miles from Wild Horse Creek, in the beginning of August. Many persons there, viz.: Gallagher, Norris, and a packer, Mark Newcombe. Kelly called me aside, asked me had I heard the news, i.e. reported news from Victoria, V.I., by Dacres. I said "Yes." I had not up to that time seen Dacres, who had passed up to Wild Horse Creek, passing at my brother's place. Do not know whether Kelly or I asked the first as to the truth of the report of the offer to Gallagher. I think I asked him, was there any truth in the report Dacres had brought up? He said he had made Gallagher an offer of $1,000 and situation of Constable at Kootenay, and that Gallagher had refused it. He said—Don't you think they (the Government) acted indiscreetly in taking a stranger like Dacres into their confidence? I said I thought so, for he was a citizen of the United States, and a comparative stranger to the Government. Kelly then said that he was to write by Dacres, on his return to Victoria, V.I., as to the success of his negotiations with Gallagher. That was all that took place on that occasion, at least all I recollect. There were many people there, and my attention was called away. In the month of September, or October, (I was not a M.P.P. nor intending to be), my brother John and I were in a field near Joseph's Prairie. Kelly came into the field to us. After some conversation, my brother, John Galbraith, asked directly "Did you offer Gallagher your position of Constable and $1,000?" He said "I did." He never told me that he had been in joke, either then or at any other time. I did not converse much on the subject afterwards. The matter was common subject of conversation for several months. Kelly was Constable when I left, and I suppose is so now. Dacres is a citizen of the United States, and lives habitually at Walla Walla, but he has a store at Wild Horse Creek. I do not remember asking Kelly whether he had any authority; but I had often heard him say—he openly boasted—that he was the confidential agent of the Government and a personal friend of the Premier.

Asked—"Will you swear that you believe the accusation to be true?" Ans.—"I had rather not say. I think there were some grounds for believing the report to be true. I will not say whether I now believe the charge, i.e. the whole charge, to be true or not. I see no grounds to change my opinion, i.e. my opinion that I formerly held, that there were grounds."

Cross-examined by Mr. McCreight.—I do not think Kelly a discreet man. I had rather not pass an opinion as to his veracity. He is an amusing man. He has a great number of anecdotes. He used to boast of his intimacy with Mr. Elliott. It was reported that Kelly had boasted that $20,000 Canadian money would be spent in next election. He is not known in Kootenay as Punch Kelly. I believe he wrote under that name in some papers.

(Signed) ROBERT L. T. GALBRAITH.

JAMES TRIMBLE, M.P.P. and Speaker of the House of Assembly, sworn.

The meeting alleged in Mr. Gallagher's evidence of the report spread by Dacres is not truly described. I have spoken with Dacres in town here, but I should not know

him if he came into Court. Mr. Dacres asked me in this town if I would introduce him to Mr. Elliott and also to Mr. Vernon. I took him over to Mr. Elliott's office, but prior to arriving there Dacres spoke to me about Gallagher, saying he (Gallagher) was in very bad circumstances and owed him a large sum of money, and did not intend giving him any more credit, and he wondered very much at Gallagher returning to Kootenay, as he (Gallagher) had no business there; did not know how he could get back to Victoria, V.I., and that he (Gallagher) was about to resign his M.P.P.ship. Dacres asked if I thought Mr. Elliott would do something for him (Gallagher.) I said I did not know, but I could introduce him. We went over together. I introduced him to Mr. Elliott. Dacres repeated same story to us which he had told me previously, nearly in the same words. Mr. Vernon was not there. Mr. Elliott said it was impossible to offer Gallagher anything, his (Mr. E.'s) position did not permit him. Dacres said Kelly was very anxious to become a M.P.P. If Kelly resigned the Constableship at Kootenay, would Mr. Elliott object to give that situation to Gallagher. Mr. Elliott said any arrangement they might make among themselves he had no objection to, but that he could not, nor would, promise to do anything; it was a thing he could not think of (i.e.) making any promise of the kind. Dacres urged him very strongly in favour of Gallagher. I also said to Mr. Elliott, I think under the circumstances, if he is so hard-up and about to resign, it would be no harm to give him the position, i.e. of Constable. After some persuasion, Mr. Elliott agreed to send a note to Father Fouquet. I presume he wrote almost immediately after leaving. Dacres wanted to go and see St. Joseph's Hospital. We went—we two alone. He said it was singular how Gallagher supported Mr. Walkem and his party, and assigned the reason that Mr. Gallagher was an American subject, and Walkem knew it, and he expected something from Walkem. I said Yes. I had an interview with Mr. Vernon and Dacres, before the Public Buildings. They began to talk about bridges, I think. I don't remember anything that occurred, as I walked on a little way after introducing Dacres. We then went on to the Hospital. I saw Dacres next day, again. He never said a word to me about these interviews. Don't remember the month when they occurred. Never spoke with Mr. Elliott or Mr. Vernon about them.

Mr. Gallagher and Mr. Galbraith were asked if they had any question to put.

Mr. Gallagher said—Did Dacres tell you what sum of money I owed him?

Dr. Trimble—I think he did, but I have no recollection of what it was.

(Signed) James Trimble.

Adjourned till Monday at 11 a.m.

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## Monday, 15th April, 1878.

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Andrew Charles Elliott, M.P.P., sworn.

I am Attorney-General and leader of the Government alluded to in the charge recited in the Commission.

About the middle of 1877—can't recollect the month, nothing to guide me,—a Mr. Dacres was introduced to me by Doctor Trimble; represented himself to be a merchant from Kootenay. He stated that Gallagher was "very hard-up" or "dead broke;" that his claim was worked out, or played out; that he had been working for wages, and I think he said that Gallagher was then stopping with Father Fouquet. He also said Gallagher was in his (Dacres') debt. Don't recollect whether he stated the amount, but he said he could not afford to give him any more credit, and that it was Gallagher's intention not to come to the House again. Dacres then asked me whether I would object to give Gallagher the situation of Kelly, if he resigned. I said, I could not entertain any proposition of that character, or enter into any arrangement. He then urged the matter more strongly on me, and Doctor Trimble, who was present, said, if Mr. Gallagher resigned he saw no objection—there could be none—to his taking the office, if Kelly resigned. I said as far as I was concerned I had no objection to do a good turn to Gallagher, as I had been always on good terms with Gallagher. Mr. Dacres asked me if I would write to Gallagher to that effect. I declined; but Father Fouquet, who

was a friend of mine and of Gallagher's, and as his name had been mentioned, I said I would write to on the subject. I did so, viz.: that understanding from Dacres that Gallagher intended to resign his seat and that Kelly intended to stand for Kootenay, I said that, although not in a position to make any promise to Gallagher of Kelly's situation, yet, as far as I was concerned, I saw no objection to Gallagher getting Kelly's office. I kept no copy of the letter. I attached no importance to it. I gave that letter to Dacres, I think not open, but it might have been. I did not read it to Dacres before giving it. I wrote after he left me and have never seen him since. To the best of my belief I did not write to Kelly on that occasion. I certainly did not write authorizing him, nor anybody else, to offer Gallagher $1,000, or $1. I never dreamt of Gallagher in connection with Kelly's office until Dacres broached the subject. I have often had letters from Kelly since he was appointed Constable—gossiping letters. He has in some of those letters, which I have not kept, mentioned his intention to stand for Kootenay when a vacancy should occur. Sometime late in 1877 I had a letter from Kelly in which he said he had offered $1,000 to Gallagher to resign his seat. I regarded that as a joke. He had not only no authority from me to make any such offer, but the subject had never been broached. I would not give one thousand cents. I attached no importance to the communication, also because I was utterly unable to conceive where Kelly could get $1,000. Neither officially nor unofficially had anything passed between Kelly and me to justify him in making the offer as from me. I feel quite satisfied that I did not write at all to Kelly on that subject, neither at the time nor since. George Kelly and I have been on very familiar terms, but only in Victoria, before he went up as Constable. I never knew him at Lillooet. I did not authorize the promise of any situation in the gift of the Government to Gallagher, nor ever made him any such offer.

Mr. Gallagher being here called upon states—that Mr. Elliott's account of what he wrote to Father Fouquet is pretty much the same as Father Fouquet told him.

Mr. Elliott's examination resumed.—With his brother Edward Kelly I have been intimate ever since 1863. I have known Father Fouquet very long; have not seen him for 10 or 12 years; he is a very honourable man. I wrote to him, feeling confident there could be no misrepresentation making him the medium. I intended an act of kindness to Mr. Gallagher, but not to influence his vote.

Mr. Gallagher recalled at his own request, states—Father Fouquet never made me any offer of any Government situation. It is a mistake to suppose I ever said so in the House When that was so reported I contradicted it. Father Fouquet stated nothing except as to the Constableship, if I would resign. I never said he mentioned anything else. I have heard Mr. Elliott's statement to-day of what he thinks he wrote to Father Fouquet. It is pretty nearly the same as what I think Father Fouquet told me.

Mr. A. C. Elliott, cross-examined by Gallagher—Can't tell the month when that letter to Father Fouquet went up. Can't say whether before or after defeat of Davie in Cariboo. My conviction is that I did not send any other letter at that time to Kelly.

Mr. Gallagher—I saw one other letter at all events, recommending Booth to patronize Dacres.

Mr. A. C. Elliott—The mention of that recalls to my memory. I believe Dacres did improve the occasion by asking me to write to Mr. Booth to give Dacres a chance to supply Government stores. I think Dacres passed on about the time of the Montana Indian troubles, and may have been some time on the road.

Mr. Gallagher—Did not Dacres and you have much conversation about Cariboo defeat?

Mr. A. C. Elliott—Don't remember the topic being touched. I never had any application from you for the Constableship. Dacres did not say directly that he had any authority from you.

To questions by Gallagher—The impression left on my mind was, Dacres had some kind of authority from Gallagher to speak on the subject. I formed that impression only from Dacres, not from anything that ever fell from you. Dacres expressly said that Gallagher did not want to come again to Victoria, and mentioned reason, namely, that his finances would not permit him.

Mr. Gallagher recalls himself, and states—I did not owe Dacres $10 in August last. I never authorized him, nor anybody else, to make any such suggestion about my resigning my seat for a Constableship. I would not do so for a Constableship.

(Signed) A. C. ELLIOTT.

FORBES GEORGE VERNON, Chief Commissioner of Lands and Works, sworn.

On Saturday, 14th July last, I was introduced by Mr. Speaker to a Mr. Dacres. After a few minutes conversation, to the best of my recollection, Dacres said he had some business in the Land Office. We went there. He produced a letter from Mr. Booth, an order for money on Lands and Works Department. I had previously been advised by Mr. Booth of drawing this order, and of its being sent by Dacres, $800 for liabilities incurred by Booth for works in Kootenay District. I think I told him to call again on Monday. On Monday, 16th July, the money was paid to him. Neither Mr. Gallagher's nor Kelly's names, nor anybody elses in Kootenay, was mentioned by Dacres, only Booth's, neither on Saturday nor Monday. Assistant Commissioners often get money in this way. I produce order, dated 13th June, Cornelius Booth, A. C. L. & W., in favour of George Dacres, or order—paid 16th July. I believe I saw him at the office again on the Monday, but had no further conversation with him. Nothing was said on Saturday or Monday regarding Gallagher or Kelly, or any one else, and I have never seen him since. Nothing was said, when I did see him, about the Constableship, the $1,000, or about the best situation in the gift of the Government. I was not aware that Mr. Elliott had written to Father Fouquet until the allegation was brought up in the House and Elliottmentioned he had written. I mention what Mr. Gallagher stated in the House. He said the offer of $1,000 was made by Father Fouquet. Next day he retracted and corrected himself, as no doubt he had a perfect right to do so. That's all I know about the case. I was as much surprised as any body when Mr. Gallagher rose up in his place and made the remarks he did.

Mr. Gallagher declined to ask any questions.

Mr. Mason was sent to ascertain dates, and brought back the papers and information that the writ for the election at Cariboo was returned, and with Davie defeated, on the 7th July, a week before the conversation with Mr. Dacres, which was sworn to by Doctor Trimble.

(Signed) FORBES GEO. VERNON.

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FRIDAY, 5TH JULY, 1878.

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GEORGE ALONZO KELLY, sworn.

In the spring of 1876 I was introduced to Gallagher in Victoria, then M.P.P. for Kootenay. We were stopping at the same house. He told me a great many electors in Kootenay were Irish. In Government Street I asked if I were in Kootenay would I have a chance of being elected. He said I might have a good chance after awhile. Soon after he told me the Constableship at Kootenay was vacant, and that it was a very good thing because there was nothing to do, and "if I (Gallagher) were not fixed as I was I should like to get it myself." I did not ask, but I thought "fixed" meant being a M.P.P. I knew Humphreys, then Finance Minister, and asked him to get me the appointment. A few days afterwards, Mr. Humphreys met me in Government Street. He said he had mentioned my application to Mr. Elliott, and it was all right. I had told Humphreys that if I were sent to Kootenay then I should probably get elected after awhile. I mentioned no passed services. I surely would have been a supporter of the Government. I did not say that to him. I got the appointment, and arrived at Kootenay on the 31st July, 1876. There were a great many Irishmen there, 9 or 10. I found Gallagher quite right; there was nothing to do. I found Gallagher there already when I arrived. Remembering what had passed between us in Government Street, I said to him in August, before I had been there three weeks, "Now you might like to get the Constableship; you could resign and I have no doubt you would get it." He thanked me kindly and said he would take a day to consider. At the expiration of two days, he said he would not take it; that he would be very glad to get an appointment anywhere, but would not take one in Kootenay. In August, 1877, George Dacres arrived in Kootenay from Victoria, V.I. He had a letter from Mr. Elliott to myself. I have not got it; do not keep letters of no consequence, and this I thought of no consequence. I think I have destroyed every letter I ever had,

except five or six. The letter said Mr. Elliott had been informed by George Dacres that Gallagher wished to resign M.P.P. and get the Constableship. "I will not interfere at all in the matter," and said he had no objection to oblige Gallagher, who he understood was a very poor man. I saw Gallagher a day or two after that; he was employed on the Mission Farm. That is about half-way between the Ferry and Joseph's Prairie. Father Fouquet is at the head of the Mission. I met him in the wood alone. He was going to his work, mowing wheat. I said I am told you wish to resign and get the Constableship. "Oh no!" he replied. I was very anxious to get into Parliament, and I said to Gallagher, knowing him to be a poor man, if you resign I will give you $1,000 in cash. If I get elected I will support the Elliott Administration, and I shall use any influence I may have to secure your promotion. I said, you are a great friend of mine; you must say nothing about it, and no one will be the wiser for it but you and I. He shook his head, and said "No, I don't think I could." That was all our conversation. I never had any instructions from Mr. Elliott, or from any other person in any shape, to make any proposal at all to Mr. Gallagher. I never said anything to him about the best situation under Government in three months, nor made any other promise or proposal, except as I have stated. I never spoke with him any more about the matter. Dacres told me Gallagher was a fool and would not resign; that it was no use talking to him. I never mentioned it to him again. I talked with Dacres about it as soon as I got back to Wild Horse Creek. I knew that he was aware of the conversation. I suppose he got the information about the conversation from Gallagher. I did not see Dacres until two days probably after that conversation with Gallagher. After this I had a conversation with Father Fouquet. He said I was very wrong to offer money, and he had advised Gallagher not to take it, but thought he was wrong not to take the office; he knew he wanted it. I knew Father Fouquet had received a letter from Mr. Elliott, though he did not tell me so. I did not know what the letter was about. I saw it in Dacres' possession, addressed to Father Fouquet. I knew that Father Fouquet was in communication with some of the Ministry about pre-empting land. He had told me that he had written to the Ministry. I had no other conversation with Dacres on this subject than the one I have mentioned. I considered it decisive and said no more. I do not remember any conversation with John Galbraith, J.P., except that in answer to a question from him, I told him I had offered Gallagher $1,000. He said aren't you afraid, and looked very angry. I understood him to mean afraid of physical force if I opposed him. Galbraith had 15 or 16 men and Gallagher 5 or 6. United they could carry the whole district; separated they would probably both fail. Every one in the whole country knew I had offered the $1,000, and all thought and said that Gallagher was very foolish—all but Dacres' bar tender. The Court would be astonished if they knew the corruption in Kootenay. I was to have Gallagher's influence with his friends, who would vote with him, good or bad; at least I understood this, and I believe Gallagher did so too. I am sure he did, but nothing was expressed. Bribery was effected with beasts, money, receipts for old debts—anything. One man says he got $300; another that he was promised $600; another makes a complaint before the J. P. of a promised bribe being withheld. Five or six of the voters there were American citizens; made a kind of an oath before a Magistrate and then go in and vote. Did not get out their papers properly before the Supreme Court; and several, after doing this and voting, still boasted of being American citizens. I don't remember anything else of any importance.

Cross-examiued by Mr. Gallagher.

Gallagher—You said I encouraged you to get the Constableship.

Kelly—I did not say you encouraged me, but just what I have said. I recollect you saying, in Government Street, I might have a good chance to be elected, and about the Constableship. The next time we met was in August, 1877, in Kootenay.

Gallagher—What did I tell you when you offered me the Constableship? Did I lead you to make such an offer?

Kelly—The conversation we had on Government Street reminded me that you might like the Constableship.

Gallagher—Had you no conditions attached to your offer of the Constableship? Was it not for supporting the Elliott Government?

Kelly—It was not; not a word about it.

Gallagher—Did not you tell me you had the privilege, on leaving Victoria, of giving your position to any one you choose? This was on the mining claim.

Kelly—No; I never told you so; not a word about it.

Gallagher—This was at Wild Horse Creek.

Kelly—No; I did not say by supporting Mr. Elliott you'd get this or that. You told me Galbraith had given a promise to support Mr. Elliott, and you told me that he went to you (Gallagher) and said "I will give a written guarantee to support the Walkem Government, if Gallagher and Paddy Kirk would vote for him" (Galbraith). I said to Gallagher "You'd vote for the people that elected you, for Galbraith certainly means to betray his constituents." Two days after, Galbraith said to me "I can't get elected without Gallagher. I could leave the written guarantee to support Walkem in your hands. I will vote for Elliott, and you can tear it up."

Gallagher—Have you ever spoken to me about that before the times you stated you met me in 1876 and 1877?

Kelly—We had one or two conversations about the times you mentioned. You did not come to me, I met you. You always seemed indisposed to accept office. I believe I asked you several times to resign.

Gallagher—Did you say you would have the salary raised from $1,400 to $1,800?

Kelly—No; I did not. On the first occasion, you said "If I weren't fixed as I am I would like the Constableship,"—the only time you expressed an intention of getting office. I heard some one say—indeed it was a report on Wild Horse Creek—that you were going to get the Stipendiary Magistracy, if Mr. Walkem should become Premier. I think you have wished and tried to get the Magistracy. I think Mr. Corny Booth said so. The want of merit is the best recommendation there a man could have. It is only by alliance of your five solid votes with the Galbraith faction, and they are 15 votes, that you could get elected at all.

Gallagher—What are the names of the five men?

Kelly—James Morrison, Peter McQuade, Jack Murphy, John Russell, and the Honourable Member himself. I never said a word about my getting the Provincial Secretaryship. You asked if I had a promise of getting the Provincial Secretaryship. I said, "If you resign, I may possibly get made Provincial Secretary." I did this to try and make you resign.

Gallagher—Why did you not keep the letter of Mr. Elliott to you?

Kelly—If I had known the letter of Mr. Elliott had any importance I would have kept it. Everybody who knows my habits knows it is my habit to destroy all my letters that are of no importance and not about money.

Gallagher—Did you keep the secret after the offer you made me?

Kelly—It was no use my keeping it, after you had told it to everybody.

Gallagher—Did you see anyone in company with me at the time you spoke of? Was it Mr. Armstrong?

Kelly—There might have been, but only you and I had this conversation together. I know you were working at the Mission. I think you did ask me once, as you had nothing to do, would I go over with you and help them at the Mission. I don't recollect any requisition to you from majority of the people to support the Government. I said to Father Fouquet, "Gallagher said if a majority were to ask him to resign he would resign." But the majority were completely in the hands of Mr. Galbraith and himself, so there was nothing real in that.

Gallagher—Did you offer money, $500 to any but me?

Kelly—No. I did not offer $500, if I got the Provincial Secretaryship, to anyone. I never said one word about the money to anyone but you. Witness—I correct myself. In talking to Father Fouquet, to secure his good services, I said "It is not impossible I should be made Provincial Secretary, if I get in. In that case I should be rich enough to give a good subscription to your School." He said he did not like I should talk of giving money to him. There was nothing so likely to offend him. Indeed he is the last man to take any money.

Gallagher—Did you say the elections would be carried by Dominion money; that the Dominion might spend $20,000 on elections?

Kelly—I did say it was very possible that such would be done. I had heard of it in the papers of its being done; that was in the Province, not in Kootenay. He did say to me, pointing to himself, there was one in Kootenay that the Dominion Treasury could not buy. I did not believe him. He always sets himself up as the unpurchasable patriot, but its the opinion of every one in Kootenay that he is bought body and soul by George Anthony Walkem.

Mr. Gallagher offered an opportunity of going into the witness box, but declined; only as to what has occurred to-day.

Chief Justice—Did you get any letter besides the one you spoke of, from Mr Elliott?

Kelly—None with reference to this matter, except my letter of dismissal from Mr. Elliott. The exception is only one letter about my business at Victoria, and not referring in any way to this matter. In the interval I received no other letter except that brought by Dacres, which mentioned either Gallagher or the Constableship.

To Mr. McCreight—No. Nobody suggested my coming to British Columbia from San Francisco. Mr. Elliott did not. I had no promise to induce me to come. It was Mr. Humphreys got me the appointment. I knew him when I was living near Lillooet.

(Signed) GEO. A. KELLY.

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FRIDAY, 30th August, 1878.

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PRESENT—MR. JUSTICE CREASE.
MR. JUSTICE GRAY.

Mr. McCreight, Q.C., appeared on behalf of Mr. Elliott.

FATHER LEON FOUQUET appears in pursuance of subpœna, served on 8th of August. Sworn:

The subpœna was served on me at Wild Horse Creek on the 8th August. In the summer of 1877 I received a letter from Mr. Elliott in relation to Messrs. Gallagher and Kelly, which I now produce. I am the Priest and Missionary at the Roman Catholic Mission at Kootenay. I am not, and have not been, an officer of or connected in any way with any Provincial Government. With the Dominion I had a blank to fill in the name of a person to act *ad interim* in case of death or absence of Mr. Seely. I never used it or filled it up.

Produces the letter hereunto annexed, read:

[COPY.]

"(Private and confidential.) "VICTORIA, 16th July, 1877.

"DEAR AND REVEREND SIR,—In all probability you have forgotten me. I had the pleasure of making your acquaintance some years ago at New Westminster.

"I wish now to address you *privately and confidentially*. I hear that our friend Mr. George Kelly has a notion of becoming a candidate for the Kootenay District should your present member, Mr Gallagher, feel disposed to resign. I am also given to understand that Mr G. is desirous of resigning, should he succeed in exchanging places with Mr. Kelly. This, of course, Mr. Kelly could not do without the consent of the Government. I should be glad to let Mr. Gallagher know that there would be no objection to his having Mr. Kelly's office if he felt so disposed. Indeed, you might give him your assurance, without mentioning my name, that he should have the place on Mr. Kelly resigning it.

"I trust you will excuse the liberty I take in writing to you on the subject, but I am assured by the bearer, Mr. Dacres, that I could do so.

"I hope you are having a prosperous season at Kootenay, and that you are well and your Mission flourishing.

"Revd. dear Sir,
"Yours very faithfully,
(Signed) "A. C. ELLIOTT.

"*Rev. Father Fouquet.*"

I do not remember who handed it to me, but I think it was Mr. George Kelly, who said he received it from Mr. Dacres. I do not remember any instructions or hints, in writing or verbally, offered to me at that time or at any time by Mr. Kelly or Mr. Dacres or any other person relative to the appointment of Gallagher as Constable, except that Mr. Kelly told me that he had offered $1000 and the Constableship to Mr. Gallagher to resign, but that he had no authority from Mr Elliott to do so. He added, if I succeed it will serve Mr. Elliott and then it will be all right. He told me then he would run and take the chances of being elected. Kelly was at that time the Constable. I saw Mr. Dacres the same day or the day after. He knew of the offer that Kelly had

made to Gallagher, and both of us agreed that it would have been better that Gallagher should have accepted the Constableship, but I strongly disapproved of the offer of $1000 ; and our reason for thinking it better that Gallagher should accept the office of the Constableship was that we—Dacres and I—both knew him to be deeply in debt, and I was afraid of the scandal, because I knew that some of the debts he owed was for money he borrowed and used in bribing the electors at the time that he (Gallagher) was elected. I don't remember to have mentioned that last reason to Mr Dacres, but I may have done so. I knew the fact from his (Gallagher's) own statement. He told me himself, after the election, that he had some difficulty with the man from whom he borrowed the money for the election—Mr. Milby was the person—may be $200 or $300, to bribe a man by the name of Henry Roberts. After he (Roberts) got the money, Roberts told Gallagher that was only enough for him to vote for one, Gallagher himself ; that he wanted as much more to vote for Mr. Milby. Mr. Gallagher said he and Mr. Milby determined to pay him no more, and then he voted the other side—at least so Mr. Gallagher told me he thought, though he was not sure. The other side then were Mr. Robert Galbraith and Mr. Arthur Vowell. Mr Vowell and Mr. Gallagher at that time got in. The difficulty between Gallagher and Milby was that Milby wanted Gallagher to pay all, but he (Gallagher) thought half was enough. I am not positive about another case that Mr Gallagher told me, but I think there was another. I am positive of another case of bribery, but whether that was one of the debts that Gallagher owed or not I will not be positive. After I received the letter from Mr. Elliott and had seen Dacres and Kelly, then I saw Gallagher at Wild Horse Creek, where I met him. As far as I remember, he expressed himself indignant at the offer of Mr. Kelly. I told him I disapproved very much of the offer of money, as for the Constableship I had nothing to say. He then launched out in very bitter terms against Mr. Elliott, whom he accused of trying to bribe him and insulting him. I told him he was mistaken as to Mr Elliott. He told me he knew Mr. Elliott, who had lied to him on the School Tax question, and he said, I know you have received a letter from Mr. Elliott. I told him I had, and there was nothing in it against the law—nothing but what one gentleman could write to another—if otherwise I would be the first person to be offended at it, and that he (Gallagher) knew I was hardly acquainted with Mr. Elliott, and that I did not care much between Mr. Elliott and Mr. Walkem. I did not show him the letter, and took very good care not to tell him what was in it, because from the state of his mind I thought he would misunderstand what was in the letter and try to make a case against Mr. Elliott. I thought he was very bitter against Mr. Elliott—that was what I mean by the state of his mind. He was sober at the time. I say that because I had heard at times he was not. I told him distinctly I did not want to meddle between him and Mr. Kelly. I had private reasons for that. I said to Mr. Gallagher, the only thing I have to do is to release you from the promise you made to me—not to exchange your seat in the House for an office. I told him, though generally I did not approve of members changing their seats for office, there are cases when it might be done ; that Mr Walkem had done it for Mr. Booth, and Mr. Elliott had done the same for Mr. Vowell ; however, if you don't feel inclined to do so, I had no more to say. I knew before I saw him he did not feel inclined to do so, and I did not want to advise him at all ; only that if he did, I was ready to release him from his promise. I did not give him my reasons for releasing him from his promise—I did not wish to hurt his feelings needlessly ; they were that he was in debt. As I have said before, I have not known Mr. Elliott intimately. I met him once or twice in Lillooet about 1863, and did not remember meeting him at New Westminster until he mentioned it in his letter. I have never acted as Government Agent for either party.

Mr. Justice Gray reads the charge in the Resolution of the House to witness :

"That the Leader of the Government had, through his Kootenay Agents, or otherwise, and alone or in connection with any other members of the House (of Assembly) "virtually endeavored to influence the representatives or electors of the district by "offering him (Mr. Gallagher) $1000, and the Government Constableship, filled by "George A. Kelly, worth $1400 a year ; and, inside of three months, the best position "in the gift of the Government."

Commissioner Crease.—Please give us any information as to the truth of this statement, whether asked directly or not.

Witness—I know nothing more about the truth of any of the statements in that allegation than I have told you. Whether the best position in the gift of the Govern-

ment was offered or not, I know nothing about it—nothing but what I have read in the newspapers. I never did or said anything to indicate either to Mr. Kelly or Mr. Gallagher or anybody else that I was acting as a Government Agent or Electioneering Agent. I do not remember to have said to Mr. Gallagher—though I may have—that the next Dominion election was to be a matter of money and $20,000 spent by the Dominion Government. There was a *canard* to that effect, and Mr. Kelly and myself and many others had spoken of it, but I never spoke of it as a serious matter. I have come down here from Kootenay to give my evidence in obedience to the subpœna, and solely on that account. I did answer Mr. Elliott's note. I kept no copy. My reply was short. Though I do not remember the exact words, it was to the effect that I had seen the parties and that it was useless to speak to them about the matter, and that I had told Gallagher that there was nothing in the letter contrary to the law, or that any gentleman might not write to another. I did this to put Mr. Elliott on his guard, because I suspected Gallagher might try to use it to his disadvantage. I don't know that Mr. Elliott endeavored to influence any elector by any offers of the nature charged. Personally I know nothing of bribery at Kootenay further than I have mentioned, but bribery I know is openly spoken of there as carrying the elections. They count the numbers of votes that are not to be bought, and then the number that are to be bought. There are 17 or 18 votes on each side and the casting vote. Galbraith's brother told me his brother's election cost them $500. I told him I would not pay the bills for $3000.

Mr. Justice Gray reads over Kelly's statement: "Kootenay is rottener than any "rotten borough in England or Ireland. The Court would be astonished at the cor-"ruption at Kootenay if they knew it. They pay in money, and beef and flour, and "receipts for old debts for votes. It is publicly spoken of. Five or six of the people "there are American citizens and vote,"—and asks is that so?

Answer.—Everybody speaks about it and nobody seems to doubt it. Can't say whether the List of Voters is confined to British citizens. They say there that foreigners take an oath before a Justice of the Peace and then go in and vote. As to bribery in Kootenay, there are so many things to be said that it would take one a long time to talk about it. I know of no bribery as regards Mr. Elliott.

Cross-examined by Mr. McCreight, Q.C.—When Gallagher told me of his borrowing money to bribe at the elections I told him I was very sorry he had done it. I had advised him before not to do so as it might get him into trouble. I got one letter afterwards from Mr. Elliott. It had nothing to do with this matter. That letter was to let me know that a Mr. Todd would or might come up to Kootenay, and that he was not a friend of the Government. That was all that was in it,—very short note. I think that was the election before the last. I don't remember when it was.

(Signed) L. FOUQUET.

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WEDNESDAY, 18TH SEPTEMBER, 1878.

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COMMISSIONERS PRESENT:

MR. JUSTICE CREASE,
MR. JUSTICE GRAY.

Mr. McElmen appeared on behalf of Mr. Gallagher.

GEORGE DACRES, called and sworn, asked for expenses.

The charge read as in the printed Resolution of the House.

Question—Are you personally acquainted with Mr Elliott?

Answer—No. Last July, a year ago, I first became acquainted with Mr. Elliott. Have known Mr. Gallagher about ten years. I reside at Walla Walla I am acquainted with Kootenay, Wild Horse Creek; do business there; have a place of business there. I have been acquainted with Mr. Gallagher at Kootenay since he came there, for about ten years. He did not carry on business there; he was a miner, mining there.

Question—How did you become acquainted with Mr. Elliott?

Answer—I became acquainted with Mr. Elliott about June last year. I came down with furs from Kootenay to sell. Mr. Boscowitz, after looking through my furs, asked me if I was acquainted with Gallagher. Mr. Elliott was not there. Mr. Boscowitz

asked me if Gallagher would resign if he got to be Constable at Kootenay. I answered I thought he would, and would be very glad. That was not in consequence of anything Gallagher had said to me. He had nothing whatever to do with it. Mr. Boscowitz answered, was I acquainted with Dr. Trimble. I said no, sir. He asked me would I return in an hour, Dr. Trimble would be there, and he would introduce me to him. I got back in an hour. Dr. Trimble was there. Mr. Boscowitz introduced me to him, and he asked me the same question as to the Constableship. I gave the same answer as to Mr. Boscowitz. He asked me was I acquainted with Mr. Elliott. I said no, sir. Then he asked me would I come up to the Government Offices and he would make me acquainted with Mr. Elliott. I said, yes. I went then with Dr. Trimble. Mr. Elliott was outside with four or five gentlemen. Mr. Vernon was one. I did not know the others. He (Dr. Trimble) introduced me to Mr. Elliott and the balance of the gentlemen standing by. He introduced me to them all. Mr. Elliott brought me into his office with Dr. Trimble. We talked a good deal there. At last Dr. Trimble told him he had asked me if Gallagher would resign if he got the Constableship. The Doctor repeated what I had said in reply, viz.: that I had thought Gallagher would be very glad of it. Dr. Trimble spoke to Mr. Elliott about it then. Mr. Elliott did not see there would be any objection, and that he (Gallagher) would get the billet if Mr. Gallagher resigned. I used my influence with Mr. Elliott. I told him that I thought that Charley Gallagher would be very glad of it. At the same time I advised him to write up to Father Fouquet, that he had more influence with Gallagher than I had. At the same time I wanted him to write to Mr. Booth, that if there was any trading to be done by the Government there that he would give me the preference for it. He said also, he would write to Mr. Kelly to find out if he (Gallagher) wanted to resign, and that he might get his place, i.e. Kelly take the chance of getting elected and getting his (Gallagher's) place as Member, and Gallagher getting his as Constable. We spoke (Dr. Trimble and me, not Mr. Elliott) a good deal about Mr. Milby, but nothing to do with this business. The questions with reference to Mr. Milby had nothing to do with this business. We spoke about Mr. Milby. I said, if Mr. Milby did not get the Provincial Secretaryship he would throw off on Mr. Elliott and join Mr. Walkem. Mr. Elliott said he did not care, that he (Milby) would not get the Provincial Secretaryship; that if all went to all he would go to the people. That was all that was said with regard to Mr. Milby. I made a remark that Mr. Gallagher would be very foolish if he did not accept of the Constableship, instead of being in Parliament; because I thought $1,400 or $1,800 a year was better than being a Member of Parliament. I said I thought he (Gallagher) needed it. Dr. Trimble made a remark that the reason Gallagher was sticking so much to Mr. Walkem was that Mr. Walkem knew he was not a citizen, not a British subject. I told him, of course I did not know anything about it. I told him I thought he was an American citizen up to the time he ran to be a Member of Parliament. That's all that passed with Dr. Trimble.

Question—Did anything else happen between you and Mr. Elliott?

Answer—Nothing more took place, only Mr. Elliott promised to write the letters, and I would call for them.

Question—Did you, after that time, again meet Mr. Elliott, or have anything to say to him, until you went to Kootenay?

Answer—I went up to his office for the letters; they were not ready. He said he would bring the letters down to the American Hotel. He would leave them there for me, as I was to go away at 3 o'clock. Nothing else passed between us. He left the letters there for me. I did not see the contents of the letter to Father Fouquet, then or at any time. Did not see the contents of the letter to Kelly at any time. Did not see the contents of the letter to Mr. Booth.

Mr. Crease—Was anything said down here, by Mr. Elliott or any one else, with regard to the offer of $1,000 to Mr. Gallagher if he would resign?

Answer—No, there was not; and nothing was said as to offering Mr. Gallagher the Provincial Secretaryship, nor of any other office in the gift of the Government than the Constableship; nor any offer of a Stipendiary Magistrateship was mentioned in any way. When I broached this matter to Mr. Boscowitz and Mr. Elliott it was entirely out of my own good feeling for Mr. Gallagher. He (Mr. Gallagher) knew nothing about it at all. I had no conversation with Kelly or Gallagher, previously to my interview with Mr. Elliott, touching the double resignation. It was started down here—Boscowitz was the first that started it—and of course I pressed it. I mean the young Mr. Boscowitz. He is not here now. I pressed it because I thought Mr. Gallagher was a poor man and

it would do him good. I had no authority from him to do so. I told Mr. Elliott he was a poor man. He was mining there, doing nothing; he was a little embarrassed, in debt. I told Mr. Elliott his (Gallagher's) friends would be very glad for him to get the billet. I have told you everything that occurred respecting this matter down here.

Mr. Gray—Now tell us what occurred at Kootenay.

On my return to Kootenay, I met Mr. Gallagher at my store and told him that if he would resign that he would get the Constableship for Kootenay. He got highly indignant at it; said Government had a good deal of impudence; that he was the first man of the name that ever got to be a Member of Parliament; that he would never disgrace it. I told him he would be a long time in Ireland before he got to be a Member of Parliament. He said that was the reason he did not want to disgrace the name. I said he was very foolish. I did not think Mr. Walkem had any chance of getting to be Premier, and that he was losing his time. He said he knew better. I advised him to accept it, but he would not listen to it at all. The next time I saw him, about three days after, he told me Father Fouquet had been speaking to him on the same subject, and to the same effect as I had done, if he would resign he would get the Constableship. I then advised him to accept the Constableship. He did not say Father Fouquet had given him any advice or suggestion on the subject; but he did say that there was no use any one speaking to him. Gallagher did not say to me at that time anything about an offer of $1,000. I said nothing to him (Gallagher) about $1,000.

Question—What passed between you and Kelly?

Answer—I met Kelly a couple of days after this last conversation. Kelly said he had been speaking to Mr. Gallagher; that he wanted Gallagher to resign, and that if Gallagher resigned that he (Kelly) would get elected; Gallagher would get his billet; and he (Kelly) would be bound to be Provincial Secretary. He praised Mr. Elliott a good deal. He thought that Mr. Elliott would give him the billet, as he was well acquainted with him. It was then vacant, I believe, at that time. He then commenced telling me that he offered Mr. Gallagher $1,000 and the Constableship if he would resign. I asked would not Mr. Gallagher accept of it and the $1,000. He said no, he was a fool. I said so too. I would have taken the $1,000 myself and the Constableship in exchange for my seat if I had been a member. Nothing more then took place. Mr. Kelly had been running around and telling everybody what he had offered Gallagher.

Question—Did he say Mr. Elliott had authorized Mr. Kelly, or any one else on his behalf, to offer $1,000?

Answer—No; he did not say Mr. Elliott had anything to do with it. He said he did it on his own account, and with his own money. Nothing further took place that I know of touching either Gallagher, or Elliott, or Kelly. I might have been a little presumptuous perhaps, because I did it without his knowledge, and as I supposed for his benefit.

Question—Give us an idea of the state of the Kootenay constituency heretofore at at Elections.

Answer—There has been a good deal of bribery going on—with money principally. One man, who owed $1,000 to $1,200 in a store, was forgiven the debt if he voted for the man running to be member. He did go with that man. That man then running was Milby. He was not forgiven. There was a good deal of trouble about it afterwards. Gallagher and Vowell were elected at that time. The store was Milby's. The man who was to be forgiven was Pat. Quirk. Trouble came out of it afterwards. He was not forgiven. He left the country—went to Cassiar; came down to make a complaint against Milby; but I don't know whether he did. There was a good deal of money changed hands in bribery at that election. Money was a little flush there then. The miners up there are very poor, and when elections are coming on they think they can get money from the candidates to get their outfits and clear their indebtedness. It is a matter of indifference to them (that is some of them, not with all) who may get elected. There are some men there, very good men, they could not buy. I think there is only 31 or 33 voters there, altogether.

Question—How many can't they buy?

Answer—I suppose about 20. It is a matter of calculation how much money can be got out of candidates that way. It was not so at last election. None was spent; there was no opposition; no opportunity.

Question—Is there anything more you would like to tell us?

Answer—Nothing that I can think of.

Mr. Elliott—Did not catch the answer to the question about the Provincial Secretaryship to Kelly, whether he (the witness) said Elliott had offered it, or promised it to Kelly.

Answer—Kelly did not give me to understand, either directly or indirectly, that he had a promise from Mr. Elliott of the Provincial Secretaryship. He said he thought Mr. Elliott thought so much of him that he would get to be Provincial Secretary.

To Mr McElmen, on behalf of Mr. Gallagher—After we left the office, Elliott, Trimble, and I went away together. Mr. Elliott went across the bridge. Dr. Trimble and I then went to the Hospital, and then a conversation took place between Dr. Trimble and myself.

Mr. McElmen—Did you tell Dr. Trimble, at any time, that Mr. Gallagher intended to resign and not return to the Parliament here?

Answer—No, sir.

Commissioner—Did Mr. Gallagher ever tell you that he intended to resign his seat?

Answer—No, sir.

Mr. McElmen—Did you tell Dr. Trimble that he was in bad circumstances financially, and he owed you a large or any sum of money?

Answer—I told him he was in bad circumstances financially, but did not tell him that he owed me any money. He did not owe me any money at that time.

Mr. McElmen—Did you say to Dr. Trimble that you would not lend Gallagher any more money?

Answer—I did not. He (Gallagher) never asked me for any money, nor did I lend him any, unless my Clerk done it, but I don't know of any. It is about a year since I have gone into my business at the Creek with my Clerk. When I said his (Gallagher's) circumstances were embarrassed financially, I meant he was not well off, and I understood from parties he was a little in debt; not much.

Mr. McElmen—Did you ever assign to Elliott, Walkem, Dr. Trimble, or any one else, as a reason for Gallagher's support of Walkem, that Gallagher was an American citizen?

Answer—Not in that way; but in this way. I said I could not make out how it was he gave his support to Walkem. Dr. Trimble said it was because that Walkem knew that Gallagher was not a British subject. I answered, I thought so too; that he was an American citizen up to the time he ran for Parliament. I did agree with Dr. Trimble that was the reason why Gallagher supported Walkem was that Walkem knew Gallagher to be an American citizen. I did not assert it in words, but I did agree with it.

The question put again by the Commissioners.

I do think the reason why Mr. Gallagher was supporting Walkem was that Mr. Walkem knew Gallagher was an American citizen.

Mr. McElmen—Did you ever state to Dr. Trimble, or any one else, that Gallagher was promised when Walkem got into power again, that he would give him (Gallagher) Mr. Booth's position as Stipendiary Magistrate?

Answer—Well we only surmised that he would. I cannot say that I ever stated to any one that he was promised it. I do not say that. I did not know what Mr. Walkem would do. But we so surmised that he would have got Mr. Booth's position if Walkem came into power. By we, I mean Dr. Trimble and myself, here at Victoria. We surmised it.

Mr. McElmen—Did Gallagher, as well as Kelly, ever tell you of an offer having been made of $1,000 to him by Kelly?

Answer—To the best of my opinion Gallagher did mention to me the offer by Kelly of $1,000 with the Constableship. This was afterwards. No one was present at our first conversation. I am not quite certain Mr. Booth was not present; but I don't know that he was present. After two or three days I broached the subject with Gallagher again. Booth might have been present, but I don't know whether he was or not. Myself and Mr. Gallagher were together. I know of no one else who was present. Mr. Booth might have been there, because I often brought it up in the store. There might have been a dozen there. I thought Charley was very foolish. That's the way I thought of it. Mr. Booth has been in my store pretty much all the day. Booth and myself are next door. My store is next the Government Office. There's no other place to go to for talk and cards, &c., but my store. I brought the matter up myself many times. No one else brought it up. I thought he (Gallagher) was very foolish. His friends did so too.

Question—As to the $1,000 forgiven by Milby; what election was that.

Answer—I believe it was the second time. Mr. Gallagher was then already a Member. I think that election was between Milby and Galbraith. This was on Vowell's resignation. Milby and Galbraith were running for the seat. I had no authority to offer Mr. Gallagher the Constableship—none at all. Mr. Elliott did not ask me to use my influeuce to get Gallagher to resign, and that he should have the Constableship; but he gave me to understand that if Gallagher did resign he would get the Constableship.

Mr. Elliott had no further questions to ask.

Mr. McElmen—Do you know this matter yourself with reference to the $1,200, or was it hearsay?

Answer—It was general notoriety.

Mr. Elliott—Did I suggest in the first instance at our interview? Did I not in the first instance object to the proposition?

Answer—I can't bring my memory to it. No; I don't remember whether I asked you to write to Mr. Gallagher. I did not think anything of it—such a trouble about nothing—or I assure you I would not have gone into it. I did not impress it on my memory.

To Mr. Elliott—I can't recollect whether you gave your consent reluctantly or not to giving Gallagher the Constableship.

(Signed) GEORGE DACRES.

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