

missioner tries nothing, and decides nothing. He is not a judicial officer.

The affidavit of the plaintiff complains of the commissioner having asked for complaints to be sent, and having received letters relating to the parks department, and makes suggestions of improper motives and prejudiced action on the part of the commissioner. Nothing beyond mere suspicion of bias and inference or conjecture that wrong will be done in the result of the investigation, can be drawn from the affidavit.

Now, regard what the commissioner may do in entering upon this and like investigations without being blameworthy in any culpable sense.

It is not beyond the competence of the commissioner himself to initiate proceedings to procure papers, books, and documents which are likely to further his investigations; nor is it beyond his competence to invite communications to be sent in by persons who are willing to assist in the inquiry; it is also within his powers, though it may not be a discreet course, to confer with possible witnesses with a bona fide view of ascertaining what they knew and whether it will be worth while to have them duly subpoenaed. So long as *ex parte* affidavits are not procured from such persons, the commissioner may take (or preferably direct to be taken) such steps in the way of collecting evidence as are permissible in the case of solicitors preparing for trial. But, of course, such communications do not become evidence till the deponent speaks openly under the sanction of an oath and under liability to be forthwith cross-examined. Whatever *ex parte* information has been or may be obtained, I cannot suppose that the commissioner will act upon it or return it as evidence in his report; much less can I assume that he is being actuated by any partizan spirit, however zealously he may seek to gain light from every available quarter to guide him in giving permanent shape to all the relevant facts.

I deprecate the making of affidavits impugning the integrity of an officer designated by the legislature and accepted by the municipality as statutory commissioner, upon such slender grounds as are here alleged. Aspersions of this serious kind are easy to frame upon "information and belief," but they should not be listened to for a moment when the function of the commissioner is merely to collect and report materials for the subsequent consideration or action of the