

BOYD, C.:—A resolution has been passed by the city council under sec. 324 of the Municipal Act, 3 Edw. VII. ch. 19 (O.), requesting the Judge of the County Court to investigate certain charges alleged of breach of trust or misconduct on the part of the city commissioner of parks. The Judge has entered upon the inquiry, and is, by virtue of the said section, clothed with all the powers which are conferred upon a statutory commissioner under the Ontario statute providing for inquiries into public matters: R. S. O. 1897 ch. 19. Among other things, he has the power of summoning before him any party or witness, taking evidence upon oath, calling for the production of such documents and things as he may deem requisite to the full investigation of the matters of inquiry. In these regards he exercises the same power as is vested in any Court: sec. 2, as amended by 4 Edw. VII. ch. 10, sec. 7. An injunction is now asked, based upon a writ issued in the High Court to restrain the County Court Judge as such commissioner from proceeding with the inquiry in a private manner, with closed doors, as in camera, and from proceeding first to examine the said parks commissioner, who is the plaintiff in the action, and is a party to the inquiry.

An opinion being expressed by Meredith, C.J., at an earlier stage of the action, that the proceedings should be conducted in public, I understand that the County Court Judge has expressed his willingness to conform himself to that method of procedure, so that nothing now needs to be said on that branch of the motion, except that I quite agree that in a matter of public interest such as this, where misconduct is alleged, it is expedient to have the inquiry conducted as in open court. The procedure of the Court is impliedly recognized as the normal method of examining the witnesses and parties, though I do not say but that in exceptional cases the commissioner will exercise a wise discretion in excluding witnesses (while one is being examined) or excluding the general public when the disclosures are of a nature unfit for publication. But evidence should not be taken behind the back of the person chiefly interested. The general rule as to the ordering of business is that the commissioner has the absolute power of regulating the proceedings of his own tribunal, so long as he keeps within his jurisdiction: Todd's Parliamentary Government, 2nd ed., vol. 2, p. 445.