

the use of the county or for the use of the local municipalities are entitled to have it reach its proper destination and if the treasurer fails to pay over the amount so placed in his hands the county must make good the default; but a creditor with a claim against the treasurer as a statutory officer is not, in my judgment, within the protection of this section. Section 274 appears to me to support this view, for it settles the form of action: "Any person aggrieved by the default of the treasurer may recover from the corporation of the county, city or town the amount due or payable to such person as money had and received for his use."

Now, here it could not be reasonably contended that there were any moneys in the hands of the county treasurer of the County of Simcoe which were moneys had and received for the use of the plaintiffs. The moneys in the hands of the treasurer were moneys had and received for the use of the local municipalities. They are moneys paid by taxpayers, had and received by the treasurer to be applied in payment of their taxes due the local municipalities; but the moneys collected by the treasurer for his costs of advertising and commissions were not moneys had and received for the use of the plaintiffs in the sense contemplated by s. 274. The treasurer was not bound to account for these moneys either to the local municipality or the county. It is true he was expected out of these moneys to pay any outlay made by him, or indebtedness for advertising, but the statute does not make these expenditures a charge against either the local municipality or the county. The statute authorizes the county treasurer to collect from the ratepayers in arrears for taxes an additional amount to reimburse himself for incidental disbursements in connection with the performance of his statutory duties. It evidently contemplates that he will pay these amounts in the first instance out of his own personal funds. If credit is given to him by the persons publishing the advertisements that is a matter exclusively between himself and the creditor. Creditors of that class cannot look beyond the individual authorized to make the expenditure, not as a corporation, but as *persona designata*.

Under sub-s. 2 of s. 184 of the Assessment Act the county treasurer is only to account to the local municipality for the full amount of the taxes paid. Sec. 181 directs him to add to the arrears published his commission or other local charges and the cost of publication. Sec. 177 directs him to include in a separate column the proportion of costs chargeable on each lot for advertising and for the commissions authorized by this Act to be paid to him. The person paying to the treasurer arrears of taxes pays two amounts—the arrears of taxes to be remitted by the treasurer to the municipality, and the proportion of costs of advertising and commissions in respect of his lot—the latter for the treasurer's personal use, to recoup him *pro tanto* his disbursements for the cost of advertising and for his commission for collecting the arrears due in respect of the lot that is being settled for. This commission is fixed in the statute itself by s. 196 at $2\frac{1}{2}$ per cent. on all sums over \$10, and a fixed sum of 25c. for \$10 and under.