

County of Simcoe, for sale for arrears of taxes in the year 1896. The advertisement was forwarded to the plaintiffs by S. J. Sanford, treasurer of the county of Simcoe, in a letter dated 20th October, 1896. The letter directed the advertisement to be inserted the usual number of times, and ordered certain extra copies. It was written on paper with the printed heading, "County of Simcoe, County Treasurer's Office," and was signed S. J. Sanford, "Treasurer County of Simcoe," the last three words being in print. The advertisement was duly inserted, the charge therefor being entered in the plaintiffs' books to the debit of S. J. Sanford, Barrie. Accounts were afterwards rendered, made out and mailed to him. Nothing appears in the plaintiff's books, or in the several accounts produced as rendered, to indicate the official position or office held by Sanford. In 1897 Sanford, who was in fact treasurer for the county of Simcoe, absconded from Ontario, a defaulter for a large amount of the defendants' funds.

Evidence was given to show that in 1894, 1895, and 1896 Sanford paid former accounts to the plaintiffs for similar advertisements by issuing cheques signed by himself and countersigned by one R. H. Stewart (a gentleman said to have been appointed by the county council to countersign the treasurers' cheques, and who was also assistant treasurer), and drawn upon a bank account kept in the Bank of Toronto in the defendants' name.

*J. W. Curry* for the plaintiff: The defendants are liable to pay, because Sanford, as county treasurer and as an officer of the defendants, gave the order for the services charged for; that to direct the publication of this advertisement was within the scope of his authority as county treasurer, and constitutes it a debt payable by the defendants. The account not having been paid by Sanford it is recoverable from the defendants. He relied strongly upon ss. 271 and 274 of the Assessment Act as establishing the liability of the county.

*F. E. P. Zepher, Q.C.*, for the defendants: In taking any proceedings in connection with the sale of lands for taxes, the county treasurer is a statutory officer, and does not act as an official of the county, or for them in their corporate capacity. With regard to the moneys passing through his hands arising from such sales, he is bound to account for them not to the county, but to the various local municipalities who have forwarded to him their several lists of lands liable to be sold for arrears of taxes; that as such statutory officer, and pursuant to the various provisions of the Assessment Act he must advertise and sell for the sole benefit and advantage of such local municipalities. With respect to the costs of advertising, etc., and his own commission (fixed by the statute and connected with such sale proceedings), he is directed by the statute to proportion the amount of such costs and commission over all the lots in his list to be sold, and the proportion so charged against each lot is directed to be added to the arrears of taxes, and so far as the owner of the land is concerned such costs and charges are to be treated as part and