

# THE WATCHMAN-WARDER.

Vol. XLV. No. 4

LINDSAY, THURSDAY, JANUARY 23rd, 1902

75c. a Year in Advance; \$1 if not so Paid

OVER  
Stock as  
prices  
Quality

BINSON.

DUS  
One

in a successful tea-  
member of the Meth-  
noir leaves for To-  
Spence will at-  
chool.

NTIA  
this place will give  
on the 24th inst.  
time is looked for.

KLIN  
snow in this part-  
ers are all busy  
wing down. The  
this market lively

on Friday night  
and a good time

Herb Falls of  
Thomas of Guelph.  
day with their  
gether with their  
falls of Port Stan-

and wife of Peo-  
come on Saturday  
weeks with friends.

is rushing things  
has a lot of men  
bush. His stock  
y exceed any ore-  
mencing business

ed on the 6th with  
Miss Scott of  
cher.  
and Johnston will  
services in this  
evening, and it is  
good will be done.

FORD  
brilliant social  
on took place here  
Jan. 6th, when a  
hundred guests as  
use of Mr. W. M.  
rate his home-com-  
formerly Miss  
orth Emily. The  
er wedding dress  
ets as became a  
er first reception.  
spent in congrat-  
ations of good will,  
n to a most excel-  
ling which time all  
and highly amused  
songs and instru-  
mentals of the  
ter supper a very  
tasted until the  
when having sung  
and wished the  
most pleasant jour-  
ne guests departed.  
ning. Keep that  
eek you heard of.  
The mill is al-  
ed has become a  
The new thing  
nk? If not do so  
the town moving-  
pic library, and in  
see the gleam of  
ant.

ried.  
PHREY.—At the  
bride's parents, 63  
on Christmas  
G. Falls, Ph. D.,  
assisted by Revs.  
and G. L. Powell,  
with Annie, daugh-  
 Humphrey, and Mr.  
of Schenectady, N.

con. 12, Mariposa,  
January 8th, Eliz-  
ed wife of John  
ars, 4 months and

ay, on Wednesday,  
Logan, aged 59,  
take place to-mor-  
his late residence,  
2.30, to Riverside

## Here is a Fine Assortment

### OF GILT EDGED VALUES IN HOSIERY



- Heavy Plain Hose, seamless feet, 10c
- Extra heavy Ribbed, wool Hose, 25c
- Extra heavy Ribbed Worsted Hose, 50c
- Plain Black Cashmere Hose, 25c
- Fine Plain Black Cashmere Hose, 40c
- Extra fine Plain Black Cashmere Hose, 50c
- Heavy Ribbed Cashmere Hose, 25c
- Fine Ribbed Cashmere Hose, 40c
- Extra fine Ribbed Cashmere Hose, 50c

Overhose in all sizes for Ladies and Children.

**VESTS** Ladies heavy Ribbed Vests at 15c, 20c, 25c, 35c, 40c, 50c, 75c, \$1, \$1.25.

**CORSETS** in all popular makes styles and prices. Extra value at 50c, 75c, \$1.00, \$1.25, \$1.50 and \$1.75.

**GLOVES** Ladies Kid Gloves in right styles and right prices. We lead in a line of LADIES' UNLINED MOCHA GLOVES at \$1.25.

**IN VEILINGS** we have a most complete range in all prices.

**Ladies' Collars, Belts, Ties, Combs, Hat Pins, Hair Ornaments, etc.**

**HANDKERCHIEFS** with Lace or Embroidered Edges at 5c, 10c, 12c, 15c, 17c, 20c, 25c, 30c, 35c, 40c, 50c and 60c.

Special Reductions in Furs

## O'LOUGHLIN & McINTYRE

CASH AND ONE PRICE

KENT-ST., LINDSAY

## A REAL SALE

We are having our regular January Sale of FUR GARMENTS. Don't think it's any "Clearing Out Sale" or the like. It's a sale of NEW FURS just turned out of our workrooms. They are not poor Furs either, but the best you can buy; carefully tailored, well lined and cut to the newest styles. Our reputation guarantees complete satisfaction, and for the prices the goods cannot be duplicated in Canada.

- 5 Electric Seal and Bear Collarettes, were 7.50, reduced to \$5.00.
- 6 Electric Seal Collarettes, were \$10, reduced to \$7.50.
- 3 Electric Seal Jackets, were \$35, reduced to \$30.
- 3 Electric Seal Jackets, with Alaska Sable Collars and lapels, were \$50, reduced to \$40.
- 4 Black Astrachan Jackets, were \$32.50, reduced to \$25.
- 6 Black Astrachan Jackets, were \$40, reduced to \$32.50.
- 4 Ladies' Coon Jackets, were \$32.50, reduced to \$25.
- 3 Ladies' Grey Lamb Collarettes, large size, were \$16.50, reduced to \$12.50.
- 3 Grey Lamb Collarettes, were \$12.50, reduced to \$9.

- 3 Grey Lamb Collarettes, were \$13.50, reduced to \$11.
- 1 Ladies Fur Lined Cape, was \$25, reduced to \$20.
- 2 Ladies' Squirrel Lined, Capes, were \$35, reduced to \$27.50.
- 1 Ladies' Grey Squirrel Lined Cape, was \$40, reduced to \$35.
- 10 Alaska Sable Muffs, were \$12.50, reduced to \$10.
- 3 Alaska Sable Collarettes, were \$25, reduced to \$20.
- 4 Electric Seal and Bear Collarettes, (long fronts), were \$8.50, reduced to \$6.50.
- 5 Black Astrachan Collarettes, were \$10, reduced to \$7.
- 3 Black Astrachan and Chinchilla Collarettes, were \$13.50, reduced to \$9.

**Ladies' Persian Lamb Jackets** Made to order. Select your own skins and have your Jacket made to suit in every particular. We draft a new pattern for every garment and have all Jackets fitted to the figure for which they are intended during the course of Manufacture. Style, Fit, Finish and Workmanship guaranteed satisfactory.

## ARMSTRONG BROS.

Manufacturing Furriers and Hatters,

Kent-st., LINDSAY

## Gillespie & Co.

The New Shoe Store

We Quote the Following Prices on New Goods Just to Hand:

- Ladies' Felt Congress - 65c
- Ladies' High Felt " - 95c
- Ladies' Juliet Congress, a beauty - \$1.00
- Ladies' Felt Foxed Congress - \$1.15
- Ladies' Felt Foxed Bals - \$1.15
- Gentlemen's best all felt Bals, used by the leading curlers, in stock - \$2.00
- Our Hockey Boots defy competition at \$1.75, \$2.25 and \$3.00

## GILLESPIE & Co.

Next to O'LOUGHLIN & McINTYRE'S 52 Kent-st., Lindsay

There is One

## BOVRIL

Always the same, and Always to be relied upon

For Beef Tea and Soup, for the invalid, or for a hot and nourishing drink on these chilly evenings there is nothing better.

BOVRIL is put up in different sizes as shown in our corner window.

- 1 ounce size - 25c
- 2 ounce size - 45c
- 4 ounce size - 75c
- 20 ounce Beef Cordial \$1

## E. GREGORY,

Corner Drug Store, Lindsay.

## McLENNAN & CO.

BUILDERS' HARDWARE  
CARRIAGE HARDWARE  
PRISM BRAND PAINTS  
SCRANTON COAL

- HORSE CLIPPERS
- TOILET CLIPPERS
- LEATHER MITTS
- WASHING MACHINES
- SCALES
- CHURNS
- PORTLAND CEMENT
- SEWER PIPE
- FIRE CLAY
- CIRCULAR SAWS
- CROSS CUT SAWS
- AXES
- FRUIT CHOPPERS
- MEAT CUTTERS
- BIRD CAGES.

## McLENNAN & CO.

HARDWARE, COAL AND IRON

## Soaps! Soaps

We carry the best values in

## TOILET SOAPS

From 2 Cakes for 5 cents upwards.

We make a specialty of Pure Castile Soap at

## Dunoon's

DRUG STORE

Next A. Campbell's Grocery

Dwelling at Fenelon Falls For Sale.

The undersigned offers for sale at very Low Price on very Easy Terms his fine residence on Francis-st., Fenelon Falls, now occupied by Dr. Gould. ONLY \$100 DOWN and balance at 4% PERCENT INTEREST. Cheaper than paying rent.

H. J. LYTLE.

Lindsay, Ont, 28th, Dec, 1901

## LAWYERS DIFFER CONCERNING QUALIFICATION OF ALDERMEN

### MR. HOPKINS HOLDS THAT MR. McSWEYN IS WRONG

One Lawyer Says Aldermen of 1901 Used Sinking Funds for Town Purposes; the Other Says They Did Not, But Only Made An Investment That They Had to Protect Against Loss.—Full Texts of Both Opinions.

#### MR. McSWEYN SAYS "YES."

To some ratepayers who asked a legal opinion as to whether certain members of this year's council are disqualified on account of their action with regard to Collegiate Institute Sinking Funds when members of last year's council, Mr. McSweyn answers as follows:

In discharge of my retainer for my legal opinion as to the status of the municipal council of Lindsay elected for 1902, I beg leave to say:—

In considering a question of this sort we must discover what the law says about it; for after all when we come face to face with the cold, relentless provisions of the statute, both sympathy and prejudice must disappear. The law must be vindicated and obeyed no matter who may suffer; and all apologies and excuses for violation of it must be set aside as so much rubbish.

#### THE CHARGE

It is charged that such of the members of last year's council as have been re-elected this year, rendered themselves ineligible by illegally applying certain Sinking Fund moneys contrary to Secs. 417 to 425 of the Municipal Act. It was suggested to me that proper accounts had not been kept showing how the Sinking Funds stood as distinct from other special accounts, and from the general funds of the municipality; but as far as I had occasion to examine, I find that these accounts are separately kept as required by the statute, and that therefore there is no ground for charging neglect of duty in that respect, either on the part of the council or their clerk.

The statutory provisions which the council are said to have violated is S. 2 of Sec. 418, which reads as follows:—

No monies levied and collected for the purpose of a Sinking Fund shall in any case be applied towards paying any portion of the current or other expenditures of the municipality, save as may be otherwise authorized by this or any other act."

After giving this saving clause (save & except) special attention, I find nothing either in this Municipal Act or in any other Act, which justifies the manner in which last year's council handled the Sinking Fund in question here.

#### THE EVIDENCE

Now what are the facts as to this? The council of 1901 had on hand monies of the Collegiate Institute Sinking Fund to the amount of \$6637.48, which they properly deposited in the bank awaiting further investment thereof in the securities provided by law. This item is shown in the table of assets in the financial statement of last year's council. The same appears in this year's financial statement as well, but first item of assets in table 3, but instead of being \$6637.48 it is only \$5676.68, showing that \$960.80 was taken out of that Sinking Fund in some way, and the financial statement does not clearly show for what purpose. On inquiry I find that in order to meet the demands of the Waterworks Commissioners the council of 1900 passed a bylaw on the 3rd December, to withdraw from this Sinking Fund account \$960.80 and to turn over into the Sinking Fund in lieu thereof, two mortgages which they held upon town properties sold by them to certain parties under the authority of the special act of 1883, enabling them to sell those properties. Evidently the council of 1900 did not withdraw the \$960.80 from the Sinking Fund, and merely passed a bylaw enabling them to do it, for I find that the amount stated in the table of assets in the financial statement of last year's council (\$6637.48) intact, but the council of 1901 withdrew it and handed it over to the Waterworks Commissioners. They afterwards received it back, or rather kept that much out of the money subsequently raised by debenture which appears as \$4144.93 in the second table of this year's financial statement, and the Water Commissioners appear to be charged with this \$960.80 in the \$1585.93 which appears in the fourth last item of the second table of that statement. This is a mere book-keeping entry and simply amounts to this, that the \$960.80 got into the hands of the council again, for we find a resolution on their books passed on the 19th August, 1901:—

"That certain small sums on hand aggregating \$166.24 and the proceeds advanced to the proceeds of these mortgages transferred to the Collegiate Institute Sinking Fund Account, and Board of Water Commissioners

AND BY THEM REFUNDED TO THIS CORPORATION (\$960.80) be and the same is hereby set apart as a Park Improvement Fund, and that all EXPENDITURES FOR PARK IMPROVEMENT during the present year, be charged to the said fund."

This was a plain direction to misapply these Trust Funds and in pursuance of it a "Park Fund" of \$1127.04 was constituted, and the above resolution was carried out by expending these Sinking Fund monies in "other expenditures" of the town (park purposes) in direct violation of the S.S. above quoted; and as there are only \$314.81 unexpended of the whole of that park fund of \$1127.04 it is clear that after expending their own proper moneys (\$166.24) in the first place they, also expended upon the Park \$645.99 of this very Sinking Fund, contrary to the statute.

#### THE PENALTY

The results of this mismanagement of the Sinking Fund are set out in S. 3 of that Sec. 418 which so far as this point is concerned may be read as follows:—"In the event of a council of a municipality diverting any of said monies (Sinking Fund monies), for current or other expenditure (save as aforesaid) the members who vote for the diverting of said monies, shall be disqualified from holding any municipal office for the period of two years."

#### THE PRECEDENT

The judgment of the present chancellor of Ontario, in Cavanagh vs. Smith reported in 26 O. R. 632, where similar Sinking Fund monies were practically misapplied in the same way as here, leaves no room to doubt that all the members of last year's council who voted for this divertement of these trust funds, are under the ban of disqualification pronounced in this S. 3. The amount involved in that case was much smaller than in this case, but in view of the objects which the Legislature had in view, that learned judge found no ground whatever for excusing the parties complained against; for in delivering judgment his lordship used the following words:

"This conclusion is reached by the application of the doctrine in re Hallett's Estate—that where Trust Monies are mixed at a banker's with other monies and checked out by the depositor, the drawer must be taken to have first drawn out his own money in preference to the Trust Money" (in this case that the \$166.24 were used before any portion of the \$960.80 was used). "The residue was impressed with the character of monies belonging to the Sinking Fund, and the act of the defendant was, pro tanto, a diversion of this fund in contravention of the statute. The present investigation is not one respecting a matter of criminal import, but that condemnation should be withheld unless a guilty knowledge be established. The object of the Legislature is to check careless, unbusinesslike management of the public monies, and with this view to disqualify members of the council, who, with or without design, commit breaches of trust as to this fund. Ignorance that wrong is being done—so far from excusing—is the very thing that the law seeks to mark with disapproval. The erring member, whether he goes astray in the light or in the dark is no safe councillor, and he is placed under two years' sentence of exclusion from office, in order that correct administration of municipal finance may, for the future, be as far as possible, insured."

Let anyone should suppose that the deposit of these two mortgages upon "town property" in lieu of the amount thereof withdrawn from the Sinking Fund, will excuse that misapplication of the monies. I need only say that the class of mortgage in which the law permits councils to invest such monies is "Farm" mortgages, as plainly set out in Sec. 420 "First, mortgages on real estate held and used for farming purposes, etc." In contemplation of this statute these "town property" mortgages are no more valid as investments for that \$960.80 than the promissory notes of the parties would have been and therefore as far as this transaction goes the money was withdrawn without any security for it being given at all.

#### LOSS NOT NECESSARY

It will be noticed that it is not necessary that the money should be lost to the municipality in order to incur this disqualification, nor that the councillors should appropriate

the monies to their own use. If such a charge should be made, or even insinuated by any person, I have only to say that it is without foundation. It is enough or perhaps more than enough, that by the misapplication of these Trust Funds to town purposes, those candidates who assented to it are brought within those statutory disabilities. I shall say nothing either in favor of or against further proceedings being taken; it indeed the parties do not disclaim of their own accord. It is for citizens to proceed or not just as they think proper. The law rather favors proceedings being taken in cases of this kind. My present retainer is at an end with the foregoing expression of opinion, and I can see no escape from the conclusion at which I have arrived.

Yours Truly,  
JOHN McSWEYN  
Lindsay June 15th, 02.

#### MR. HOPKINS SAYS "NO."

To Mayor Ingle Town Solicitor Hopkins gives the following opinion with regard to the disqualification of himself and other members of council by reason of their action with Collegiate Institute Sinking Funds, when members of last year's council:

Lindsay, Jan. 18th, 1902.  
George Ingle, Esq., Mayor of Lindsay:

Re Sinking Fund.

Dear Sir,—I have considered the question of the dealings with the Sinking Fund, which I understand it is alleged disqualified you and other members of the council, and am of the opinion that you are not in any way disqualified. The statute, sec. 418, sub-section 3, provides that in the event of the council of a municipality diverting any sinking fund for current or other expenditure, the members who vote for the same shall be disqualified for two years. Now, in order to bring any member within this section it is necessary to prove that he voted for diverting some sinking fund for current or other expenditure; not that he voted for investing it improperly, but that he voted for using it improperly for current or other expenditure. The penalty for taking part in an improper investment, is an entirely different matter, and is provided for by section 425 which provides that any member so doing shall be personally liable for any loss and that is the only penalty provided. It does not provide for disqualification, and simply means that if a member voted for an investment in a security not authorized, and any loss is sustained, the member is liable for the loss, but if there is no loss there is no penalty.

#### THE FACTS

Now, the facts, as I understand them, are: the town owned two mortgages amounting to \$960.80, bearing interest at 6 per cent. on town property, given in part payment for Queen's Square. These were considered or treated as part of a Park Fund, but under what authority I am not aware. But not being immediately required for park purposes, and money being urgently required for extensions to the Waterworks to Rider & Kitchener, The Rathbun Co. and R. M. Beal Leather Co., the council of 1900 (not 1901) decided to dispose of these mortgages and lend the money to the Water Commissioners for that purpose. At the same time the town had on hand considerable money belonging to the Collegiate Sinking Fund deposited in the bank, bearing interest at 3 per cent., and other moneys invested on mortgage at 4 per cent. It was thought that it would be in the interest of the town to invest the Sinking Fund in these mortgages, which were known to be perfectly good, and thus get 6 per cent. interest, instead of selling the mortgages to a private party and letting him get the benefit, and accordingly a by-law was passed on 3rd Dec., 1900, providing for the investment of the Sinking Fund in these mortgages, and thus securing six per cent. interest instead of 3 per cent. Now, strictly speaking, the statute requires investment in farm mortgage but as the mortgages already belonged to the town and were known to be perfectly good, and as the town gained 3 p.c., or over \$28 yearly, besides saving the cost of assigning 2 mortgages, with registry fees, etc., it was thought wise to do this, and the only penalty that I can see is that any member who voted for it might be liable in case of loss, which there is no possibility of, in fact I would

(Continued on Page 2.)