### **FUTURE FOR SILVER**

S MAY RISE EVEN HIGHER THAN AT PRESENT.

N FINANCIER OPTIMISTIC ON SITUATION.

condon Financier in a lengthy re-the silver situation, and the e future price of the white metal part:

niform steadiness and comparanigh level that have been mi in the price of silver during the months of last year and onward present time are without a paral-e 1896, when the average price of er for the year worked out at in an extensive coinage of silver, e price at one time rose as high 9-16d. per oz. From that date, er, prices experienced a steady ard movement, varied by brief which have redeemed the movement an uninterrupted decline, but beless sufficiently persistent to justify the description on balance involves was reached in November 1993. The values was reached in Novem 2, when bar silver was quoted 1-16d, per oz. In the following irge purchases on behalf on the coal and oil lands in East Rootenay and the respective rights of applicants for licences therefor. Probably the next step will be to renew the original application either to judge Wilson or judge Forin. What, if any thing, the governgovernment rescued the price he abyss to which it had fallen, bject to fluctuations from time to ne tendency has since been gradward, until by the end of Febof the present year it had touch-3-16d per oz. Therefore, between ber, 1902, and February, 1906, sil-

maintenance of silver at the pre-vel of prices, which has now ex-over a period of six months, is ainly to the buying on benalf of lian government, and also to some nurchases on French account. The aption by India during this period. very large. During the current e exports to India have amounted e to about five and a-half milrling, as compared with about d a-half millions sterling for the iding period of 1905.

ponding period of 1905.

In the figures of the past two years dence it would hardly be safe to sate a continuance of this large se did we not, bear in miad the hoarding instincts of the native, and the fact that the Indian ment continues in the market is ce that the present demands are at satisfied. How long that dewill lst it is impossible to say, and rse it may be suspended at any out there are at present no indiof it, and while the requirements ently support of the price of Any cessation of that will, of course, cause the price way, unless other demands imultaneously with the present requirements a further rise in ce of silver would probably re-

question now is, What is likely ussia's requirements in the near With the completion of the ct that that country will be a ne, and this is what the market ing. In that event, it is nat o to anticipate that there will rther increase in the price of bar No doubt this will be the result, the buying on the part of the government does not fall off; but what the best-informed ties on the subject are antici-may happen, in which event it is point whether the present price a slight reaction from that ut its probable effect may be eutralized by purchases in other us, not only for Russia, but al. ce, which is regarded as a likeosed of.

COLUMBIA GARDENS

Spectacle at Sayward-To (Special to The Daily News)
r, April 30.—Arthur G. Crane, of en engaged by manager Hand of pany's books at Ymir. was employed at the Hall Mines for some years and pre as in the employment of an Eng-

Handley, bush foreman of the Rico Lumber Co., has returned trip to Pincher Creek, where he d ten head of horses, four head he Moyle and the balance he brought. Ymir to be used in connection company's operations at this

ph Sturgeon, of Nelson, came here with a number of men to work on halis group of claims on Wild

lover of nature should take a trip umbia Gardens at Sayward owned nter Bros. of Rossland, and John on, banker of Northport. The men mentioned own some 1200 of land, part of the land being the yward townsite, some 400 acres ch has been completely cleared, stand on the bench overlooking and see 400 acres of nothing but grass and strawberry vines with ghty Columbia river at the lower most pleasing to the eye. For me past a large force of Chinabeen cutting up the trees until nd is as clear as a billard table. e runs from Beaver Creek to the

for irrigation purposes.

ON EMPIRE DAY

filner Will be the Guest of Floner in London
on, May 2—The dinner in honor of liner on Empire day will be one of ost representative gatherings that en held in London for many years mr. Chamberlain, who is to preside, supported by members of the civil, the army and navy, and indeed all of the public service.

## MUST ISSUE LICENSES IF LAW IS COMPLIED WITH

calling for the grant of a licence the

ment may do remains to be seen.

Mr. justice Duff's judgment reads as This is an appeal from an order made

and the appellants from further proceeding with the prosecution, or the consideration, of certain petitions represented by the appellants severally to that court, alleging that a dispute has arisen respecting the right or title to a risen respecting the right or title to a

arisen respecting the right of the to a prospecting licence over the several areas described in those petitions, and asking a determination under section 9 of the Coal Mines Act, that the appel-

lants are severally entitled to prospect-ing licences over those areas. "The application as presented to Mr.

The application as presented to Mr. justice Martin, was an application for an order prohibiting further proceedings in respect of any or all of these petitions, and the order was granted in that form. "In the view I take of the questions raised by the appeal, it is not necessary to deal with the point raised by sir Hibbert Tupper that the order ought to be tracide on the ground that the prac-

tions of it, under the Coal Mines Act, and that on the 16th of June, 1904, there appeared a notice, signed by the chief

commissioner of lands and works in the B. C. Gazette, to the effect that licences

to prospect for coal and pertoleum up-on and under lands within block 4593

south east Kootenay, which includes the

south east Kootenay, which includes the area in question, would be issued in a form referred to in the petition. The petition concludes with the prayer that the chief commissioner of lands and

works may be ordered and directed to grant the petitioner a prospecting licence over this area on the payment of the fee of \$50.00 and that the petitioner may have such further relief as to the

adge of the said court might seem fit.

This petition was filed the 6th of Nov-

"On the 23rd of February, 1905, an order was made by the judge of the

ember, 1904

The recent decision of the full court in the appeals of Smart and Leckie are of the utmost importance to all holders of provincial licenses, and in view of that fact the full text of Mr. justice Duff's judgment delivered at Victoria on April 21 is appended. His lordship's judgment constitutes the finding of the full court, Morrison, J., concurring and Irving, J., concurring in one appeal but differing with the other two judges on the second case.

The facts of the cases are very clearly set out in the judgment of Mr. justice Duff, the main points at issue being well remembered by all readers of The Daily News. The result of the judgment is to hold that if an applicant has complied with the statutory conditions calling for the grant of a licence the chief commissioner must grant such ap

for the purpose of deciding some dis-pute between the holders of prespecting licences which may be alleged to affect that area.

"In substance, I think, the questions to be determined upon the appeal are fairly presented by these two objections; at all events, those questions can be most conveniently discussed concur-rently with a consideration of the ob-jections. chief commissioner must grant such ap plicant a licence under the regular form without any special or other conditions imposed. Incidentally Mr. justice Duff holds that the chief commissioner had no legal authority for inserting the celebrated "special clauses" in the licences issued for East Kootenay coal lands. The judgment marks another step in the long drawn out tangle involving the coal and oil lands in East Kootenay and jections.
"It will be convenient to consider

"It will be convenient to consider these two objections together. The Act provided that any person who has complied with the provisions of section 2 and 3 shall be entitled, if no valid objection has ben substantiated, to a grant of a prospecting licence under the Act. I entirely agree with the views expressed by Mr. justice Martin, with which counsel for both the appellants and respondents concurred on the argument, that a given area cannot be subject at one and the same time to more than one valid licence under the Act; and that in that sense the licence which the Act authorizes is an exclusive licence; and it is very essential, I think, to keep this in view in construing the provisions of the Act. Mr. justice Martin acted upon the view that by section 3 the question whether a valid objection acted upon the view that by section 3 the question whether a valid objection has been substantiated within that section is entirely a question for the assistant commissioner, and consequently that any dispute raised by such an objection is not a dispute within section 9 of the Act. I cannot agree with that view. The Act does not, I think, reserve to the assistant commissioner, or to the chief commissioner, any discretion respecting the granting of a prospecting licence. An applicant, who has complied with the provisions of the Act is, I think, subject to the existence of any prior right, entitled to a licence provided that the area in respect of which the

belle put the spoul, it is an inner 210 bet Trapert that correct wants that the present of the power of the potential control to object that the area is respect of which the spoulewing management of the present of the power of the potential control to object that is not the spoulewing that the present of the

shown by the fact that he was entitled, and in certain cases required, to sum-mon a jury to assist him in the decision of questions of fact.

"In the Act of 1883, which was ex-"In the Act of 1883, which was expressed on its fact to be passed for the purpose of encouraging prospecting for coal, the same condition was imposed upon the right of the applicant to acquire a prospecting licence; and by section 11 of that Act, there was for the first time enacted tha section which appears in the present Act as section 9. The legislature in other words, in the Act of 1883 substituted for the assistant commissioner the county court or a judge theeof as the tribunal to determine the question whether the condition that "no

theeof as the tribunal to determine the question whether the condition that "no valid opposition had been substantiated" had been complied with. By the Act of 1892, which mainly reproduced the provisions of the Act of 1883, "valid convextion" access "walls as "valid convextion" access "walls as "the Act of 1883,"

"On the 23rd of February, 1905, an order was made by the judge of the order of Kootenay directing that all persons haing any objections to the prayer of Leckie's petition should file with the registrar of that court, at Cranbrook, a petition or statement setting forth his claim and the grounds of his objection; that notice should be given to all interested persons for four weeks in the B. C. Gazette and in certain local newspapers; and that copies of the petition should be forwarded to any party interested on application being made for the same to the registrar.

"On the 17th of April, 1905, a petition was filed on behalf of A. W. McVittle in the county court of Kootenay at Cranbrook, asking that Leckie's petition be disallowed, and claiming a declaration that McVittle was a prior applicant for a prospecting licence. This last maned petition alleged that McVittle had obtained a licence on the 3rd day of August, 1904, to prospect for petroleum on the lands in question for one year.

"Connsel for the respondents endeavored to support the order of Mr. justice Martin mainly on two grounds. It was contanded, first, that the class of disputes over which by section 9 of the Coal Mines Act the county court is given.

whether the county court judge has pow-er to issue a mandatory order against the commissioner or the chief commis-sioner. If my view as to the kind of disputes committed to his jurisdiction be correct, it would seem that many questions might arise on an application for a licence which it would be beyond be correct, it would seem that many questions might arise on an application for a licence which it would be beyond his jurisdiction to decide; and consequently that (exercising a limited jurisdiction) he is not, in making such an order, acting within the limits of his powers. It does not follow that the right to a prospecting licence under the statute is not a right enforceable by legal process. In performing the functions under the statutes, the chief commissioner and the assistant commissioner do not act as agents of the crown, but as the mandatories of the statute; and as such, it is a mere commonplace to say they are not beyond the control of the courts. Where there are disputed claims to a licence over a given area, there will always be the preliminary question whether the objection giving rise to the dispute can be sustained; and if the objection come within the class I have mentioned then these constitutions.

there will always be the preliminary question whether the objection giving rise to the dispute can be sustained; and if the objection come within the class I have mentioned, then that question must, before the powers of a court of general jurisdiction can be called into exercise, be first decided under the provisions of section 9.

"It is hardly disputed that the second contention must fall, unless the respondent can make good his position as a licencee under section 12. I'do not think that the respondent has established the contention based upon section 12. That section, in my opinion, merely provides for the application of the preceding sections to lands held under reserve, subject, with respect to the licence itself, to such restrictions, conditions and regulations as the lieutenant-governor in council may impose. The section does not contemplate the granting of the licence by the chief commissioner under sections 2 and 3. The words "it is lawful" therefore, must be read as extending the function of the assistant commissioner and chief commissioner, under those sections, to lands held under reserve. So read, they effect no abatement from the obligatory character of the duties of those officers when dealing with such lands. Julius vs The Bishop of Oxford (1880) 5 A. C. 214. Here, as in other cases, they are, as regards these duties, the creatures of the statute only. Lockhart vs. Mott (1883) 8 A. C. 568.

"The functions of the lieutenant governor in council under the section, too, are limited. His power do not extend to the prohibition of the grant of licences over such lands. A grant of the power to regulate or the power to impose conditions or restrictions does not import a grant of the power to repulsity Vives.

tion: Cox vs. Hakes, 15 A.C. 506. Nothing, I apprehend, can be more clear than this: that the granting of a vast numthis: that the granting of a vast number of licences over the same area would defeat that object which, as I have said, the Act of 1883 declares to be the object of that legislation—to encourage the prospecting for coal. "If these views be correct, it follows that the respondent does not stand in the position of a licencee under the Act, His licence contains the following conditions:

for licences to prospect for coal and petroleum, and the peculiar circumstan-ces surrounding the application for and petroleum, and the peculiar circumstances surrounding the application for and issuance of these licences, and the well known fact that the issuance has been unavoidably suspended for so many months, the government of British Columbia finds it impossible to determine the equitable rights of the numberous applicants. Therefore, for the purpose of enabling all persons to go before the proper tribunal for the determination of their respective rights and priorities, this licence is issued and accepted subject to such prior rights of other persons as may exist by law, and the date of this licence is not to be taken or held as in any sense determining such priority, and further it shall not be taken or held to waive enquiry by the courts into the proper performance of all conditions precedent as between adverse claimants; and further on the understanding that the government shall not be held responsible for, or in connection with any conflict which may arise with other claimants of the same ground, and that under no circumstances will licence fees be refunded. And the holder hereby waives any claim or demand against the government, and expressly agrees not to take any steps or proceedings, or present any petitions to

W. Sherring of Hamilton Defeats the Athletes

one metre apart, exactly at 3 o'clock. The weather was splendid, the thermometer showing 80½ degrees in the shade. A mounted officer, riding in front with a chronometer, acted as time-keeper. Hundreds of vehicles of all kinds followed the fortunes of the contestants, outside the cordon holding the course. The race started at a hot pace. At the tenth kilometre W. K. Frank, American ,was leading, followed by the testants, outside the cordon holding the course. The race started at a hot pace. At the tenth kilometre W. K. Frank, American ,was leading, followed by the Bohemian, Brenslay. At the 15th kilometre Frank was still ahead, but Daly, metre Frank was still ahead, but Daly, Ireland, had taken second place with Blake slowly creeping up. At the 20th kilometre, which was reached at 4.1 p.m. Blake was leading grandly, running a magnificent race, followed by Frank and Sherring, Canadian. The latter, who was now beginning to show himself in his true colors, was slowly gaining on his opponent. At the 26th kilometre uphill work was going on.

At the beginning of the last ten kilometres of the race Frank was still leading but obviously numbed and dis-

ing, but obviously pumped and dis-tressed. Sherring was second and Blake third. The time at this point was 4.40 fore the proper tribunal for the determination of their respective rights and priorities, this licence is issued and accepted subject to such prior rights of other persons as may exist by law, and the date of this licence is not to be taken or held as in any sense determining such priority, and further it shall not be taken or held to waive enquiry by the courts into the proper performance of all conditions precedent as between adverse claimants; and further on the understanding that the government shall not be held responsible for, or in connection with any conflict which may arise with other claimants of the same ground, and that under no circumstances will licence fees be refunded. And the holder hereby waives any claim or demand against the government, and expressly agrees not to take any steps or proceedings, or present any petitions to enforce any alleged claim or demand against the government of the province of British Columbia arising out of the issuance of this licence or of any other matter or thing appertaining thereto.

Hamilton, Ont., May 1.—William Sherring is a Hamilton boy, who all his life has been devoted to thietics. That he should win the Marathon race is not to be wondered at, when it is considered that Hamilton is the city where all Canada's great long distance runners have been coming from during the last few years, including Caffrey, who won the Marathon race at Boston, which is over a distance of about 25 miles, for two years. Sherring has run in this race, and in 1900 came second to Caffrey.

and adopted.

The finance committee reported recommending the payment of pay rolls aggregating \$2,300.95, which was authorized.

A letter from city solicitor W. A. Macdonald drew attention to the fact that the title to the city's foreshore was not yet completed.

The dity solicitor when the first that the title to the city's foreshore was not yet.

title to the city's foreshore was not yet completed.

The city solicitor also stated that he was informed by A. H. MacNelli, K. C., that the West Kootenay Fower & Light company intends to carry its appeal to the privy council, and suggested that steps be taken at once to secure counsel to represent the sity.

In regard to by-laws dealing with dog taxes, nulsances, and with parks, the city solicitor asked that he be furnished with material for drafting them, and that arrangements be made for submitting them to the people.

On motion of alderman Hume and Annable the city solicitor was authorized to engage suitable cousel in London.

A letter from J. H. Love asked that the city water be extended to his lot on Vernon street near Railway. The request was referred to the fire, water and light committee.

Alderman Rose, on behalf of the Eagles, asked for water service to their cemetery lots. The city clerk explained that the water in the cemetery was intended only for the city's use but that it had been extended to the lots of several fraternal societies.

Alderman Kidkpatrick thought the city

# EXPLAINS AMENDMENTS

APPLICATION OF NEW PROVISIONS OF SCHOOL ACT

of assessment are available. Application of such advances are invited through the education office, and must be accompanied by detailed statements of the purposes for which they are to be used.

One important change affects both teachers and trustees. Hereafter a teacher may neither resign nor be dismissed except at the end of a term or within ten days after the annual school meeting.

Residents of assisted school districts have hitherto raised funds for expenses by voluntary contributions. They are still permitter to do so, but are empowered, wherever, such is the wish of the majority, to raise funds by assessment instead.

NELSON MAN PROMOTED

A. B. Netherby Becomes Manager of Branch of Royal at Mt. Pleasant
A. B. Netherby, who has been accountant of the Nelson branch of the Royal Bank of Carada for the last two years, has been informed of his promotion to the position of manager of the Mt. Pleasant branch in Vancouver.

The Royal, like many other banks, has been keeping bace with the growth of Vancouver, by opening branches in the new business districts. It now has four, the original office on Hastings street, and branches on Granville street, in the east end and in Mt. Pleasant.

Mr. Netherby's rise in the service of the bank has been unusually rapid since he entered it in Victoria seven years ago. His many friends in Nelson will be pleased to learn of the recognition of his ablitity and diligence, while sincerely regretting his loss to Nelson.

Mr. Netherby will leave for the coast tomorrow morning. His successor as accountant in the Nelson branch will be A. C. Futcher of Victoria.

FATALITY AT CENTRE STAR

Miner Falls 1600 Feet Down the Shaft of the Mine
Roswand. April 28—Christopher Curry was killed at the Centre Star mine at 13:20 p.m. today. The skip became fouled in the headworks with rock, and Curry went into the skipway to take the rock out. He lost his balance and fell, striking the railing at the collar of the shaft and rebounded into it, falling 1600 feet. The bedy was almost torn to fragments by the projections. rebounded into it, falling 1600 feet. The body was almost torn to fragments by the projections. Curry was 25 years old and a native of Milton, Ont., and is a brother of Samuel Curry, formerly a conductor on the Med Mountain railway. Deceased had only been working at the Centre Star for about

The land bring under reserve from premanagement of the control o

bodying his suggestion, but it found no seconder.

Alderman Kirkpatrick recommended the employment of a pound keeper. All admitted the nuisance of straying horses and cattle, and the danger to shade trees from them.

The mayor suggested that he be authorized to employ a pound keeper, which was assented to.

The city engineer reported that 55 men were still employed at the power plant, and that the number could not be reduced for some time; about 450 yards of concrete work remained; when that is finished 30 men will do.

The council then adjourned to May lith.

The council then adjourned to May lith.

Lord Grey has received the following cablegram from the British ambassac. at Athens: "Congratulations on Sherring's victory. (Sgd.) Elliott."

Hon. Clifford Sifton returned the morning from a trip to the Bahama He noticed, he said in the house today in New York newspapers his name connected with the North Atlantic Trading company, and had wired the premiet to try and hold the debate until he arrived, but the telegram reached sir Wilfid Laurier too late for this.

Mr. Sifton declared that he had heno opportunity as yet of hearing a

and stated he would give nin-ility to do so. Mr. Sifton ed at every sentence na in opposition side found h.m. e. make any reply.

railway was reported. It authorize construction of a line from Asher Kamloops to Fort George. Pe. In for branches to Barkerville and Grand Trunk Pacific were refused R. G. Macpherson introduced a mespecting the Dominion Fire insum company.

There was a conference today between the representatives of the Lords Day Alliance and the railway and shipping interests with a view of reaching a compromise as to transportation and stipping on Sunday. No decision was reached.

SINKING ON THE OTTAWA.

Tunnel Plan of Development Being Abandoned.—New Plant.
Important developments are taking place at the Ottawa mine which will have a serious bearing upon the future output of that well known property. Having neached, practically, the limit of the tunnel development which has heretofore been the method of exploiting, the company has decided to sink and at the present moment a plant is being installed which will follow the well defined fissure vein, on which the stability of the Ottawa has so far depended, to depth.

of the Ottawa has so far depended, to depth.

R. J. McPhee, who is the manager of the Ottawa, said yesterdey to a Daily News reporter when questioned as to the recent developments of the mine that he was now installing machinery to sink. The vein upon the property is high grade and runs from four inches to two feet in width, being the paystreak of fissure lodge averaging two feet in width, the values chiefly being found on either side of the taic, a characteristic of the fissure.

the fissure.

This vein has been exploited by tunnel down to the fifth level and now it is in order to go deeper. But the surface inclinations are such that a tunnel is no longer an economic method of development. Hence it is necessary to sink. But to sink to advantage the method must be by winze. That is to sink. But to sink to advantage the method must be by winze. That is to say that the sinking must begin from within the interior of the mine. Hence on the fifth tunnel a chamber has been excavated to receive the winding plant and outside a compressor is being erected at a convenient distance in order to supply power by pipe line. The hoist and compressor, the latter being a double ten drill plant, Lidgerwood type, the old standby of miners from its campactness, is now in process of erection and at a later date the Ottawa will be able to resume its shipments, as Mr. Mcto resume its shipments, as Mr. Phee pharses it "in pursuit of divider