The Mira Grant, Cape Breton County, N. S.—By Edwin Gilpin, Jr., A. M., Ll. D., F. R. S. C., C. I. S. O., Etc., Etc., *Inspector of Mines.*

(Read 18th May, 1903.)

The establishment of large iron and steel producing plants at the Sydneys has led to enquiries for iron ores in Cape Breton. These establishments are practically independent of local ores, as their supplies are brought from Bell Island, in Newfoundland; but they are presumably willing to take other ores if they can be laid down equally cheaply at their furnaces. The presence of iron ore beds, in strata of Lower Silurian age, on the south shore of the Mira River, has been known for some years. The ore, a bedded red hematite, of good quality, showed signs of its presence over a tract several miles long. Recent explorations have apparently proved it to be presented in quantity permitting of economic development. Some leases were issued by the Mines Department, when it was unexpectedly found that the land on both sides of the Mira River for several miles had been granted at an early period in the history of the island as a province separate from Nova Scotia.

A judicial investigation before the Mines Department into the extent of the mineral rights under this grant appeared at one time to be unavoidable in order that the demands of rival claimants' for leases, etc., might be settled. This investigation did not take place, but it appeared to the writer that a record of the data, that could be found bearing on the grant, was worth preserving for future reference.

The grant in question was issued by Lieutenant-Governor DesBarres and his council, June 26th, 1787, to Jotham White, George Rogers and their associates. White represented one

hundred loyalists who had petitioned for a grant on the shores of this beautiful sheet of water. It was then settled by a few fishermen, living near its mouth, and by a few families living higher up the river on the site of a small French settlement.

The boundaries of the grant were as follows :—

" Beginning at the north-eastern head of a cove on the north-western shore of Mira Bay, running north five degrees east three hundred and forty chains ; thence south eighty-five degrees west one thousand seven hundred and sixty chains ; thence south fifteen degrees west eight hundred and eighty chains ; thence easterly until it strikes the head of the southernmost branch which empties itself into Milward Lake ; thence through the middle of the lake northward until it bears west from the northwesternmost angle boundary of a reservation for the Crown (a naval reserve) ; thence south seventy-one degrees and thirty minutes east four hundred chains along the north-western boundary of such reservation ; thence north eighty-five degrees east nine hundred and eighty chains, until it strikes on the south-western shore of said Mira Bay at a pile of stones distant one mile easterly from the entrance of Fielding's, alias Catalogne, Lake ; thence westerly and northerly following the roundings of the shore around the head of said Mira Bay across the entrance of Mira River, continuing thence easterly until it meets the first mentioned boundary, containing in all 100,000 acres, more or less, with allowance for roads, glebe, schools, etc."

The grant included also " mines and minerals," reserving, however, " all mines of gold, silver, lead, copper and coal."

After providing for quit rent, among other conditions of settlement necessary to prevent forfeiture of the grant was the following : that the grantee should, " within three years, begin to employ thereon and continue to work for the three years then next ensuing in digging any stone quarry or mine, one good and able hand for every fifty acres."

It appears that few of the original grantees effected a permanent settlement on their allotments, and that gradually

considerable portions along the shores of the river were occupied by squatters.

About the year 1790 many highland estates in Scotland were converted into grazing lands, and the resulting overplus of population was compelled to emigrate. The tide of Scotch settlers turned towards Cape Breton in 1802, and continued until about the year 1827. Had these settlers not come to Nova Scotia, the development of the eastern part of Nova Scotia would undoubtedly have proceeded at a very slow rate. Cape Breton, at the time of their arrival, was practically a wilderness. Grants of crown lands were issued up to March 30th, 1810; after that date up to 1818, crown licenses, warrants, etc., were given. This immigration seized upon the Mira district, which appeared a fair land after the rugged hills of Scotland, although in reality the land was not found, when cleared, to prove as fertile as expected.

Settlers of all kinds were found here in addition to the representatives of the original letters patent, holders of regular grants, crown leases and licenses, warrant of survey, etc., and squatters.

The confusion of titles in the district was several times brought to the notice of the Government of Cape Breton, and later to the notice of the authorities at Halifax. Apparently matters were allowed to drift until legislation appeared necessary.

Chapter 33, acts of 1839, recited that this grant had been issued by the Government of Cape Breton in 1787, that it contained 100,000 acres, as would appear on reference to the Register of Grants, book A, pages 206, 207 and 208, that the conditions of settlement had not been observed by the original grantees, that in 1801 certain of the original grantees and others holding title under them, finding that it was impossible to have the grant divided so as to give them their full shares, petitioned to have the grant declared void so that they could obtain satisfactory deeds of their original allotments, or an equivalent

The petition was entertained and on the finding of a jury, the grant was escheated; and a number of new grants were issued.

The act went on to declare that it was doubtful if the escheat was legal (the reasons not being given) and if the grants subsequently issued conferred legal titles thereon.

The number of the original settlers now on the grant, and of those holding under title from original settlers under the grant, was very small. A considerable number of settlers had, however, come in without title, as it appears that 1,300 people had settled on these lands, who claimed to hold by possession 55,090 acres of the grant, to have cultivated 3,064 acres, and to possess numerous live stock, besides houses, barns, etc. In order that the hopeless confusion matters had fallen into might be straightened out, it was enacted that all grants in the district in question as well as the original grant, were absolutely void, and that the title was revested in Her Majesty.

Provision was further made that it would be lawful for the Governor-in-Council, acting on the report of a commission to be appointed for the purpose, to issue free grants upon such conditions as seemed proper, within the limits of the original letters patent.

This act was reserved for the royal approval, which was presumably extended. This bold attempt at rectifying the innumerable disputes, pleased no one, as even unassailable rights were thereby placed at the mercy of an irresponsible commission, and, as was to be expected, proved impracticable, and fresh legislation was sought.

By chapter 10, acts of 1843, the act of 1839 was repealed. No further attempt was made to divide up the grant; a declaration of rights only was enacted.

The act proclaimed (a) that all who possessed land in the Mira grant under the letters patent of 1787, and any holding under title from any of them should enjoy any such lands in fee simple.

(b) That all grants, leases, warrants of survey, or other title derived from the crown subsequently to the escheat (in 1801) were confirmed and made valid for the purpose for which they were intended.

(c) That all persons claiming under possession prior to the passing of the letters patent (the original Mira grant), howsoever such possession may have begun, should enjoy such tracts in fee simple.

(d) That all persons at the date of the passing of the act in possession, and who had been in possession for, twenty years prior to the passing of the act, holding the same adverse to any persons claiming under any of the aforesaid grants, letters patent, licenses of occupation, warrant of survey or otherwise, should enjoy such land in fee simple.

The title to the remainder of the grant, estimated to amount to between 40,000 and 50,000 acres, was revested in Her Majesty, providing, however, that the Governor in Council could consider any equitable claims of persons residing on such remainder of the grant at the date of the passing of the act, and might issue free grants to any of such persons.

This act simply left the different parties in the position of getting their rights if they fought for them.

It will have been noticed that under the terms of the original grant the iron ore passed with the soil, not being specifically reserved. The opinion prevails among all who now own land within the limits of the original Mira grant, that they own the iron ore also.

The act of 1839, appeared to have made a complete end of the grant, and of all its privileges and franchises. This act was repealed in 1843, and those occupying about half the land embraced in the letters patent were confirmed in their holdings in fee simple, no mention being made either of a grant or of a reservation of minerals. This act of 1843, being intended to be an act which defined anew rights which were suspended under the act of 1839, for the purpose of readjustment, indicated to

what extent the Crown was prepared to grant rights. It, therefore, presumably could not be construed to mean that the minerals were reconveyed as in the original grant, or in other words to mean that it conveyed more than it expressed.

This silence in the act of 1843, on the subject of minerals was apparently due to the following cause. The Duke of York on August 25th, 1826, received from the Crown of England a grant of all minerals held by the Government of Nova Scotia. By the act of 1839, repealing the Mira Grant, the land was revested in the Government of Nova Scotia, which had the power of re-granting it for the crown; the minerals, when the grant was repealed, fell directly into the grant of the Duke of York.

Finally in 1858, the grant to the Duke of York was surrendered except for the reservation to the General Mining Association of London, the purchasers of the Duke's grant, of certain tracts valuable for coal mining. Thereupon all those minerals which the action of the Crown had withdrawn from the government of Nova Scotia came again under the jurisdiction of the province.

Chapter 2 of the Acts of 1858 defined the position of the Government of Nova Scotia in respect to the minerals which had been revested in it by the surrender of the Duke's lease. It reserved out of these minerals gold, silver, lead, copper, tin, iron, coal and precious stones. It would therefore appear that in the lands covered by the limits of the original Mira Grant, the minerals recited above belong to the crown, a reservation somewhat more extended than that mentioned in the original letters patent.