## CHAPTER v.

An Act for rendering valid certain letters patent granted to Samuel Mathews Vauclain for an invention for improvements in compound steam locomotives. A.D. 1906.

[29th May 1906.]

WHEREAS by letters patent under the seal of the Patent Office bearing date the second day of November one thousand nine hundred being the sixty-third year of the reign of Her late Majesty Queen Victoria and numbered 11,342 of 1901 His Majesty King Edward VII. did give and grant unto Samuel Mathews Vauclain of 500 North Broad Street Philadelphia Pennsylvania United States of America together with his executors administrators and assigns or any of them therein referred to as the said Patentee his especial licence full power sole privilege and authority that he the said Patentee by himself his agents or licencees and no others might at all times thereafter during the term of fourteen years from the date of the said letters patent make use exercise and vend within the United Kingdom of Great Britain and Ireland and Isle of Man an invention therein mentioned for "improvements in compound steam locomotives":

And whereas the said letters patent contain a proviso making void the said letters patent if the said Patentee should not pay all fees by law required to be paid in respect of the grant of the said letters patent or in respect of any matter relating thereto at the time or times and in manner for the time being by law provided:

And whereas by section 24 of the Patents Designs and Trade Marks Act 1883 certain fees in respect of the said letters patent were payable by ten annual payments which vary in amount spread over a period of thirteen years from the date of

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the grant of the said letters patent and the first of such payments became due on the second day of November one thousand nine hundred and four:

And whereas the said Patentee instructed Messrs. Abel and Imray his patent agents in London to apply amongst other places for the said letters patent in the United Kingdom of Great Britain and Ireland on or about the third day of June one thousand nine hundred and one and requested them in making the application for patent to ask under the provisions of the International Convention for the Protection of Industrial Property that it should be dated back as of the second day of November one thousand nine hundred basing his application for such priority of date on his corresponding application for patent in the United States of America filed on the second day of November one thousand nine hundred serial number 670,745:

And whereas the said Patentee has also obtained corresponding patents in Belgium dated the third day of June one thousand nine hundred and one number 156,856 in France dated the third day of June one thousand nine hundred and one number 311,448 in Italy dated the thirtieth day of September one thousand nine hundred and one volume 144 number 158 and in Russia dated the thirty-first day of August one thousand nine hundred and four number 9,339 all of which patents are in full force and subsisting:

And whereas the said Patentee relied on his said patent agents to advise him of all necessary steps for keeping on foot the several patents referred to above including the patent for Great Britain and Ireland:

And whereas the said patent agents omitted to advise the Patentee of the first tax falling due in one thousand nine hundred and four and the same was not paid under the following circumstances:—

The application for the patent having been filed on the third day of June one thousand nine hundred and one received the number 11,342 of 1901 although the patent itself is actually dated as of the second day of November one thousand nine hundred under the provisions of the international convention Owing to the patent agents tax clerk being misled by the year endorsed on the outside of the letters patent as the year of the patent he entered it in the tax book as of the year one thousand nine hundred and one and entered the fourth year's tax as being due on

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the second day of November one thousand nine hundred and five instead of the second day of November one thousand nine hundred and four Consequently the first advice the Patentee received as to any fees being due was dated the twenty-fifth day of September one thousand nine hundred and five When about to pay the tax the tax clerk for the first time noticed a divergence between the number and the supposed date of the patent and discovered that the fee should have been paid in one thousand nine hundred and four Notwithstanding this accident mistake or inadvertence the amount of the tax was tendered in the prescribed form to the patent authorities before the date on which it was believed to have been due but was refused:

And whereas the said letters patent were announced in the official journal published under the provisions of section 40 of the Patents Designs and Trade Marks Act 1883 on the fifteenth day of February one thousand nine hundred and five to have become void:

And whereas the time prescribed by section 17 of the Patents Designs and Trade Marks Act 1883 during which the Comptroller General of Patents Designs and Trade Marks (in this Act called "the comptroller") is empowered to enlarge the time for the payment of the renewal fee which became due on the second day of November one thousand nine hundred and four expired on the second day of February one thousand nine hundred and five:

And whereas considerable expenditure has been incurred in the development of the said invention in the belief that all the said patents were valid and in force and the Patentee has great faith that his particular construction of steam locomotive will be adopted in this country in the near future and the Patentee has not as yet received any return whatever in respect of his invention and patent:

And whereas the omission to pay the said fee or to apply to the comptroller within the prescribed period for an enlargement of the time for paying the same arose solely from the circumstances herein-before stated and not from any negligence or misconduct on the part of the Patentee:

And whereas the said prescribed fee has now been paid and the total amount of fees (including the prescribed fee for enlargement) due and to become due upon the said letters patent have been deposited with the comptroller and the certificate of the

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comptroller to that effect has been lodged in the Office of the Clerk of the Parliaments:

And whereas it is expedient that the said letters patent should be rendered valid in manner herein-after mentioned:

And whereas the purposes aforesaid cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted and be it enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows (that is to say):—

Letters patent confirmed.

**1.** Upon the passing of this Act the said letters patent (a true copy of which is set forth in the Schedule to this Act annexed) or a duplicate thereof certified by the comptroller for the purposes of this Act shall be considered deemed and taken to be and to have been as good valid and effectual to all intents and purposes as if all the payments prescribed by the Patents Designs and Trade Marks Act 1883 to be made in respect of the said letters patent either before or after the passing of this Act had been duly made or satisfied.

Saving rights.

**2.** No action or other proceeding shall be commenced or prosecuted nor any damage recovered—

(1) In respect of any infringement of the said letters patent which shall have taken place after the fifteenth day of February one thousand nine hundred and five (being the day on which the letters patent were announced as void in the official journal of the Patent Office) and before the passing of this Act:

(2) In respect of the use or employment at any time hereafter of any mechanism machine machinery process or any operation actually made or carried on within the United Kingdom and the Isle of Man or of the use or sale of any article manufactured or made in infringement of the said letters patent after the said fifteenth day of February one thousand nine hundred and five and before the passing of this Act Provided that such use sale or employment is by the person or corporation by or for whom such machine or machinery or article was bonâ fide manufactured or made or such mechanism machine machinery process or operation was bonâ fide

made or carried on his or their executors administrators successors or vendees or his or their assigns respectively :

(3) In respect of the use or employment or sale at any time hereafter by the person or corporation entitled for the time being under the preceding subsection to use or employ any machine machinery mechanism process or operation or any improved extended or developed machine machinery mechanism process or operation or of the use or sale of any article thereby manufactured or made in infringement of the said letters patent Provided that the use or employment of such improved extended or developed machine machinery mechanism process or operation shall be limited to the buildings works or premises of the person or corporation by or for whom such machine machinery or mechanism was manufactured or such process or operation was made or carried on within the meaning of the preceding subsection his or their executors administrators successors or assigns.

If any person shall within one year after the passing of this Act make an application to the Board of Trade for compensation in respect of money time or labour expended by the applicant upon the subject matter of the said letters patent on a bonâ fide belief that such letters patent had become and continued to be void it shall be lawful for the said Board after hearing the parties concerned or their agents to assess the amount of such compensation if in their opinion the application ought to be granted and to specify the party by whom and the day on which such compensation shall be paid and if default shall be made in payment of the sum awarded then the said letters patent shall by virtue of this Act become void but the sum awarded shall not in that case be recoverable as a debt or damages.

**3.** This Act may be cited as Vauclain's Patent Act 1906. Short title.

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## The SCHEDULE referred to in the foregoing Act.

A.D. 1901. No. 11342.

Edward by the Grace of God of the United Kingdom of Great Britain and Ireland King Defender of the Faith To all to whom these presents shall come Greeting:

Whereas Samuel Mathews Vauclain of 500 North Broad Street Philadelphia Pennsylvania United States of America hath declared that he has made an application abroad for protection of his invention of improvements in compound steam locomotives and that the said invention was not in use within the United Kingdom of Great Britain and Ireland and the Isle of Man by any other person or persons before the date hereunder written of these presents to the best of his knowledge information and belief:

And whereas the said applicant hath humbly prayed that a patent might be granted unto him (herein-after together with his executors administrators and assigns or any of them referred to as the said Patentee) in priority to other applicants for the sole use and advantage of his said invention:

And whereas the said Patentee hath by and in his complete specification particularly described the nature of his invention:

And whereas We being willing to encourage all inventions which may be for the public good are graciously pleased to condescend to his request:

Know ye therefore that We of Our especial grace certain knowledge and mere motion do by these presents for Us Our heirs and successors give and grant unto the said Patentee Our especial licence full power sole privilege and authority that the said patentee by himself his agents or licencees and no others may at all times hereafter during the term of years herein mentioned make use exercise and vend the said invention within Our United Kingdom of Great Britain and Ireland and Isle of Man in such manner as to him or them may seem meet and that the said Patentee shall have and enjoy the whole profit and advantage from time to time accruing by reason of the said invention during the term of fourteen years from the date hereunder written of these presents And to the end that the said Patentee may have and enjoy the sole use and exercise and the full benefit of the said invention We do by these presents for Us Our heirs and successors strictly command all Our subjects whatsoever within Our United Kingdom of Great Britain and Ireland and the Isle of Man that they do not at any time during the continuance of the said term of fourteen years either directly or indirectly make use of or put in practice the said invention or any part of the same nor in anywise imitate the same nor make or cause to be made any addition thereto or subtraction

therefrom whereby to pretend themselves the inventors thereof without the consent licence or agreement of the said Patentee in writing under his hand and seal on pain of incurring such penalties as may be justly inflicted on such offenders for their contempt of this Our Royal command and of being answerable to the Patentee according to law for his damages thereby occasioned :

Provided that these Our letters patent are on this condition That if at any time during the said term it be made to appear to Us Our heirs or successors or any six or more of Our Privy Council that this Our grant is contrary to law or prejudicial or inconvenient to Our subjects in general or that the said invention is not a new invention as to the public use and exercise thereof within Our United Kingdom of Great Britain and Ireland and Isle of Man or that the said Patentee is not the first and true inventor thereof within this realm these Our letters patent shall forthwith determine and be void to all intents and purposes notwithstanding anything hereinbefore contained Provided also that if the said Patentee shall not pay all fees by law required to be paid in respect of the grant of these letters patent or in respect of any matter relating thereto at the time or times and in manner for the time being by law provided and also if the said Patentee shall not supply or cause to be supplied for Our service all such articles of the said invention as may be required by the officers or commissioners administering any department of Our service in such manner at such times and at and upon such reasonable prices and terms as shall be settled in manner for the time being by law provided then and in any of the said cases these Our letters patent and all privileges and advantages whatever hereby granted shall determine and become void notwithstanding anything herein-before contained Provided also that nothing herein contained shall prevent the granting of licences in such manner and for such considerations as they may by law be granted And lastly We do by these presents for Us Our heirs and successors grant unto the said Patentee that these Our letters patent shall be construed in the most beneficial sense for the advantage of the said Patentee.

In witness whereof We have caused these Our letters to be made patent and to be sealed as of the second day of November one thousand nine hundred.

C. N. DALTON
Comptroller-General of Patents Designs
and Trade Marks.

L.S.

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