1923 this provision, which is now proposed, differed from the English act that was then in force and that it purported in some of its terms to follow, but providing in addition that in the case of any abuse of the exclusive rights of the patentee, the commissioner of patents could order the patentee "to supply the patented article within reasonable limits at such price as may be fixed by him and in accordance with the custom of the trade to which the invention relates as to the payment and delivery, or to grant licences for the use of the patented invention as may be fixed by him, in either case within and after such time as may be fixed by him and on pain of forfeiture of the patent."

That section, which purported to authorize the commissioner of patents to fix the prices at which patented articles might be sold in this country, has been considered on many occasions by the leading legal counsel of the country, and there has been at least a grave apprehension that the parliament of Canada has not legislative competence to fix and determine the price of articles which are sold generally throughout this country. That grave apprehension as to the validity of any such fixing of prices has I think been the chief deterrent against the attempt to enforce that provision. But, on May 1, 1928, Canada ratified the Hague international convention of November 6, 1925, and that provision in our Patent Act then came into direct conflict with Canada's international obligations under that convention. Section 40 of the existing act, which it is now proposed to revive, purports to authorize the commissioner of patents to order the patentee to supply the patented article within reasonable limits at such prices as may be fixed by him, that is, as may be fixed by the commissioner of patents. It is obvious that the patentee's monopoly right under a patent would be valueless to him if the commissioner were authorized to fix the prices at which the patented article should be sold in this country. It is obvious also, I think, that there is, and there has been grave doubt whether the parliament of Canada under clause 22 of section 91 of the British North America Act of 1867, having authority to make laws in relation to patents of invention and discovery, has also, in respect of the laws relating to patents of invention, the legislative competence to fix the prices at which patented articles may be sold to the public in Canada. But apart from that doubt as to the legislative competence of parliament, after Canada adhered to the Hague convention of May 1, 1928, there can be no doubt that any attempt on the part of an official of the government of Canada to fix such prices, under the provisions of any such section of the Patent Act as the old section 40, would be and be deemed to be a violation of the terms of the international convention to which we became parties.

After correspondence between the late government led by the right hon. leader of the opposition with the government of the United Kingdom it was arranged that the government of the United Kingdom would deposit the British ratification of this Hague convention on the same date, May 1, 1928. So that the United Kingdom and Canada became parties to that convention on the same day. The government of the United Kingdom then reformed its patent laws so that those laws would entirely conform to and be consistent with the terms of the international convention to which both governments had become parties.

But two conditions were imposed by the Hague convention, which may be briefly stated as follows: That each of the contracting countries shall have the right to take the necessary legislative measures to prevent the abuses which might result from the exercise of the exclusive rights conferred by the patent, for example failure to work or other abuses, but it is also strictly stipulated by the terms of this convention that these measures shall not provide for the revocation of the patent unless the grant of compulsory licenses —that is, to enable others to enter and compete and manufacture and sell and use—is insufficient to prevent such abuses. Therefore the English patent act, in conformity with the Hague convention, was made to provide that in case any person interested made application in the prescribed manner, alleging in case of any patent that there has been an abuse, the first remedy must be sought in the grant to others of a compulsory licence to import, manufacture, sell or use the patented article. And thereafter, if the grant to others of such compulsory licence shall prove insufficient to prevent such abuses, then the comptroller of patents, as he is called in England, or the commissioner of patents, as he is denominated in Canada, may revoke the patent and thereby completely destroy the monopoly and all the monopoly rights existing thereunder. In this bill we deemed it advisable to follow in exact terms the English legislation, which is equally applicable to this country and the conditions which prevail in this country.

The patent laws of the United States do not permit of the revocation of a patent under any circumstances, therefore, no matter what abuses may arise during the term of sixteen years for which the patent is in force, there is