

(2) Where the property in goods has not passed to the buyer the unpaid seller has, in addition to his other remedies, a right of withholding delivery similar to and coextensive with the rights of lien and stoppage in transitu where the property has passed to the buyer.

The next section deals with unpaid seller's lien: I speak subject to correction, but I recall that in connection with certain types of goods this difficulty arose and adjustments were made, which it seems to me was but reasonable. The terms of the contract govern and there is no analogy between the scaling down or the lifting up of the sales tax. That does not affect the terms of the contract. If a person in Calgary bought a carload of sugar at the refinery in Vancouver and it was paid for on the basis of the six per cent sales tax, that is, entered in the books and settled on that basis, a certain set of conditions would arise. The carload of sugar might leave Vancouver and reach Calgary with the bill of lading and draft, including the six per cent tax, drawn upon the purchaser. The purchaser might accept and pay the draft on May 5, and it is a little difficult to see why he should be liable for another two per cent even though his goods had not been delivered. They were in the possession of the carrier which was his agent for the purpose of delivery, delivery being complete when the refinery loaded the goods on to the car for Calgary. I have been pressed to bring this point to the attention of the minister as strongly as I could, because it is felt that this would be unfair. For instance, the same condition of affairs would not arise in connection with the delivery of a carload of sugar from Montreal to Toronto.

Mr. DUNNING: I have complaints in regard to that class of transaction.

Mr. BENNETT: If a carload of sugar was ordered from Montreal by a merchant in Toronto on the 29th day of April, and paid for, the goods would actually be in Toronto and the bill paid on the first of May, and that would be the end of it; but because of the long distance hauls in western Canada the purchaser would find himself in a different position. I am asking whether they have ever dealt with these matters in that way. I thought they had, but I may be entirely in error as to that. If they have, I think these are cases in which there would have to be an analysis of the auditors of the facts in each case, but I do recall one case in connection with sugar. The purchase had been completed and the goods appropriated to the contract and put away in a particular warehouse and paid for, including the sales tax, and I remember that the officers were clear that there was

no further tax payable with respect to these goods that had been appropriated to that contract before the tax on sugar became effective.

Mr. KINLEY: Mr. Chairman, I take it that the minister or the department has decided that goods in transit are liable to the tax, and that that would apply to automobiles. It takes seven to fourteen days for an automobile to be carried to Nova Scotia by rail, and for the sake of clarity I would like an answer to the question I asked a moment ago. This is the selling season for automobiles; many have been sold, and dealers have made contracts with people in Nova Scotia to deliver automobiles at a certain price. In the meantime the sales tax has been increased to eight per cent. Does the imposition of that additional tax confer, independent of anything else, upon the vendor the right to collect the extra sales tax from the purchaser, notwithstanding anything contained in the contract?

Mr. ILSLEY: If the dealer has agreed to sell the automobile at a certain price he cannot go back later and charge the purchaser a higher price.

Mr. BENNETT: He takes a chance.

Mr. ILSLEY: Yes.

Mr. KINLEY: Then it is clear that the automobile dealer must pay this tax, and not the person who buys the automobile?

Mr. ILSLEY: It is a matter between him and the manufacturer as to who bears the burden of the tax. The government looks to the manufacturer, not to the dealer, for the tax.

Mr. KINLEY: He has protected himself by sending out telegrams advising the bank not to deliver the bills of lading until he gets the extra two per cent.

Mr. DUFFUS: I am inclined to agree with the views expressed by the hon. member for York-Sunbury (Mr. Clark) and the hon. member for Queens-Lunenburg (Mr. Kinley). I have had twenty-five years' experience selling automobiles, and I know that once a dealer takes a signed order from a customer it is absolutely impossible to get any further sum of money from him, no matter whether it is sales tax or anything else. I think this is going to be a decided hardship on the dealers who had made many bona fide sales before the extra two per cent sales tax went into effect. It will mean just the difference between success and failure for some of them this year. I think some arrangement should be made whereby such dealers will be pro-