Mr. DUNNING: My right hon. friend touches on what he knows is one of the most difficult matters in the administration of this tax. I hope he will not mind my stating that the precedent of the old luxury tax to which he refers is scarcely a parallel, for this reason; that the removal of the luxury tax immediately lowered the value of every car on every dealer's floor in Canada. Also I have rather a good precedent for the course we are following now in that it was taken previously by my right hon. friend's government. On the basis of the information which I have from the department, delivery is made in law the point of imposition of the tax, and it is the department's view that cars in transit, draft against bill of lading, when the sales tax increase came into effect had not been "delivered to the purchaser" within the meaning of the terms of the statute. Where delivery to a common carrier was made without lien, c.o.d. or draft against bill of lading, the department has regarded delivery as having been made. In former years when the sales tax rate was decreased the automobile companies claimed that the ownership in the cars in transit, draft against bill of lading, had not passed to the customer, and that the lower rates applied. The department acquiesced in that view and accepted the reduced taxes on succeeding reductions, and it is not thought that when the tax rates are going up a different view should be taken of cars in transit under substantially similar conditions. Progressively as the sales tax came down the view accepted here was that taken by the automobile companies and acquiesced in by the department. Surely the rule should work both ways, and that is the principle on which we are proceeding in the proposal now before the committee.

Mr. KINLEY: In this country those who are on the coasts are in this position, that goods take quite a time in transit from central Canada. All cars are shipped draft against bill of lading. The automobile companies sent out telegrams to the banks to refuse the documents unless the buyers paid the extra sales tax. Evidently, therefore, they had interpreted it as the minister says.

Mr. DUNNING: That at least proves that the cars were still in the control of the vendors.

Mr. KINLEY: The question is, what constitutes delivery. Is it delivery to the transportation company, or delivery to a retailer in Nova Scotia?

Mr. DUNNING: It is purely a legal question. I am only asking on the part of the department that the same rule apply when the sales tax goes up as applied when it was coming down.

Mr. BENNETT: That is not quite accurate. The question whether delivery has been made is a mixed question of fact and of law. The first thing is to ascertain the fact, and that depends on the terms of the contract. In law, delivery may be made to a common carrier and can be complete. The Sale of Goods Act in any province covers that, and it is uniform now in practically every province. There are cases where although delivery has passed to the purchaser the vendor's lien attaches until the draft has been paid. But usually in cases where delivery to a common carrier constitutes delivery to purchaser, the bill of lading and draft are sent through the bank, and the right to secure the bill of lading depends upon the payment of the draft. But there is of course always the vendor's lien which attaches, and that vendor's lien is available for the unpaid purchase price in case of insolvency or matters of that kind. The test, however, is a test of mixed fact and law, depending in the first instance, as I say, upon the terms of the contract. The rules as to testing delivery are laid down in the sale of goods acts. They are somewhat complicated and I shall not refer to them now, because it would be a waste of time to discuss here a question of law of that kind. But all the great cases over which difficulties have arisen have been cases in which the question was raised whether or not delivery had been complete, and I say to the minister, notwithstanding what he has read, that in many cases provision has not been made for the exceptions. I think the Department of Justice or any of the legal men connected with the department will tell him that delivery may be made by the vendor to the purchaser by delivering to a common carrier if the terms of the contract contemplate that being done. That is the question of fact which is not determined; it can be determined only by the auditors. I know of cases frequently in my own experience in which draft was made with bill of lading attached; then when the car reached the particular point the purchaser went to the bank, and he was not given the right of inspection by the bank, although as a matter of law he has the right to inspect the goods for the purpose of seeing whether or not they are conformable to contract. If they are not, he has the right of rejection, despite the fact that delivery as between himself and the vendor has been made to the common carrier. But usually the draft is accepted and paid upon the bill of lading being taken up by the purchaser. That is the case I have in mind, about which telegrams have been sent. The purchasers have incurred the liability and must pay the draft when they take the bill of lading. Their