

I quote further :—

"The railway has an undoubted right to demand tolls for its service, subject only to the proper approval of its tariff or tolls under the Railway Act. In the present case perishable goods are accepted at a high rate of tariff, or 30% lower when at owner's risk ; this is simply stating Rule 7 in another way. That the railway has a right to charge a high rate of freight on perishable goods if duly approved, or has an equal right to reduce these rates 50% if taken at O.R., and similarly approved, no one can question, and no one can question the right of the Governor-in-Council, under Sections 226 and 227 of the Railway Act, to approve any classification or tariff that may be considered reasonable."

This is not a statement of the case, but if it were, will the Governor-in-Council assume the responsibility of deciding that such a tariff would be considered reasonable. The tariff on these goods, without the additional 50%, is much higher than it is on the same goods out of Buffalo, Detroit, Cleveland, or other distributing points in the United States. Without enforcing this rule, our people are taxed beyond what is reasonable, and through freights are carried at cost or less for the benefit of American producers. On the case, as stated by your Department, the Governor-in-Council would not be justified in approving the rule.

Your clerk does not agree with our Committee that it is the obvious duty of public carriers to deliver goods safely at destination. He has evidently not looked at the question from a constitutional point of view. Any lawyer will tell you that our law is founded on the old Roman law, and that the very foundation of that law was a contract of indemnity. The carrier is bound to indemnify against loss, and has no right to ask the owner of the goods either to relieve him or accept his responsibility. His contract with the public precludes him from the right. To do so should cancel his franchise.

The subtle question of ownership is, in your clerk's opinion, too serious a matter for the railways to concern themselves with. I did not ask the opinion of the railways ; I want your opinion. You have the interests of the public in charge, and the Committee would like to know what the rights of the public are.

I note that the rule in one respect is illegal, in that the Company has no right to refuse to carry goods, and I admit that the rule should be modified when applied to such goods as dangerous explosives.

The Committee cannot help expressing regret at the tone and terms of the memorandum coming from your Department. It does not read like a judicial opinion of a law officer of the Crown. I quote the following from the memo. for your serious consideration :—

"To protect itself and to avoid becoming a purely charitable organization, the railway must either raise its rates on articles susceptible to damage, or must ask to be relieved, in consideration of lower rates, from the effect of the common law principle of insurers against loss."

The question is of such importance to the public that the Committee requests me to press for a solution of the matter, and to say that, if you cannot see any probability of having this obnoxious rule withdrawn, that the Committee, with your consent, would like to have the matter brought up in the House and discussed, in order to obtain a proper expression of public opinion.

I have the honor to be, dear sir, very truly yours,

Dictated by the
Chairman of the Committee.

(Sgd.) EDGAR A. WILLS,
Secretary.