"7. All articles marked at O.R. in this Classification must be so receipted for by Agents, and the words OWNER'S RISK written in full on the shipping notes and receipts. Articles marked RELEASED must also be so receipted for, and shippers or owners must duly execute a release in duplicate on the Company's Forms. Provided, however, that in cases where shippers decline to accept such receipts endorsed 'owner's risk' or to sign such releases, the goods may be received for shipment on ordinary shipping notes and receipts, without above endorsation at fifty per cent. in addition to the rates which would be charged if shipped at owner's risk and released, with the exception of plate or mirror glass, which will be as specified herein."

This Rule, as copied in Classification 11, is extracted verbatim from Classification 10, approved 29th July, 1897, and is exactly the same (with the exception of one minor clause relating to plate glass), as Rule 6 of the 9th Classification, which was approved as far back as July 15th, 1893.

Comparing Classification 11 with Classification 10 it does not appear that the list of articles included in the O.R. class has been materially increased, the additions being merely as follows:—

Bronzewear in boxes; cigars and cigarettes, strapped—changed from 1½ to O.R. 1; fire extinguishers; hand grenades; Florida water; saddles and harness, loose or in bundles; tiles, drain or sewer; wicker-work, N.O.S.; wire fencing, and wire flower-pot stands.

It can, therefore, be seen that Classification 11 does not introduce any new and arbitrary rule or oppressively alter the Classification with respect to "owner's risk," the Montreal Board of Trade was wrongly advised.

Turning to the letter of April 5th, 1900, from the Toronto Committee, and dealing first with the objection of absence of authority to make the Rule, the answer must simply be that no authority is necessary. The railway has an undoubted right to demand tolls for its service, subject only to the proper approval of its tariff of tolls under the Railway Act. In the present case, perishable goods are accepted at a high rate of tariff, or 50 per cent. 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 per cent. 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 of tariff that may be considered reasonable.

It seemed impossible to agree w th the Toronto Committee in its conclusion that the O.R. classification "is in the nature of a charge entirely new, and would seem to be not only unauthorized but also opposed to the most obvious duty of public carriers, viz: to deliver goods safely at destination." This is approaching the question from the wrong standpoint. The railway is bound to carry and deliver, it is true, and without the O.R. rule would be subject to full liability for accident. 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. If the O.R. class were abolished the Governor-in-Council (on the principle of increased premiums for dangerous fire insurance risks) would necessarily be compelled to sanction higher rates on perishable goods. In the great majority of cases the goods are delivered without accident, and the public, rather than the railway, derives the chief benefit from the O.R. system.

As to the suggestion of the Toronto Committee that where the goods carried belong to the consignee the railway has no right to enforce the