evasion of the law, and continues a practice that is now unlawful.....It results in the carrier getting less than the tariff rate for its service, and is therefore unlawful."

In Hezel Milling Co. v. St. Louis A. & T. H.R. Co., 3 Inters. Com., Rep. 701, Veasey, Commissioner, said: "For the carrier to pay the larger expense of transportation of a remote shipper's merchandise to the station and not to pay the less expense of the nearer shipper's merchandise, would be the equivalent of a rebate to the former, the railroad service proper being the same to each, and at the same rate."

In the matter of divisions of joint rates and other allowances to terminal railroads, 10 Inters. Com., Rep. 661, where it appeared that a certain company transported its less than carload freight from East St. Louis to a railway station at St. Louis, and was allowed for it the same rates as were paid by the railway company for transfers by transportation companies from their depots in East St. Louis to St. Louis, the language of the Commission was: "No opinion is expressed as to whether lines leading west from St. Louis may properly apply the St. Louis rate to the station of a bona fide transfer company in East St. Louis and absorb the cost of transfer to its depot in St. Louis. Neither is an opinion expressed as to whether these same carriers might, if they saw fit by proper schedules, allow all shippers from East St. Louis a fixed sum per hundred pounds for transporting their merchandise to the receiving depot of the carrier in St. Louis. These questions are not presented by this record. So far as appears from the tariffs referred to in the statement of facts, the St. Louis rate is only applied at the depots of connecting railway lines or of transfer companies. No way is provided under these tariffs by which the shipper at East St. Louis can avoid the expense of draying his goods from his storehouse to the depot. When, therefore, the western line allows the Grant Chemical Co. 5c. per 100 lbs. for bringing its goods across the river, that being full compensation for the service, this is not only a clear violation of law as a departure from the printed tariff and the payment of a rebate, but is also a manifest discrimination in favor of that company as against its competitor who must dray his goods from the storehouse to the receiving depot in East St. Louis."

There is nothing unjust or unreasonable in a railway company charging the Brant Milling Co. the same rates as other shippers for goods transported from its St. George station to other points; in fact, it would be unreasonable for the Commission to compel a railway company to charge less to the Brant Milling Co. than to other companies for exactly the same service in order to compensate the Brant Milling Co. for any greater expense to which it might be put in hauling its goods to the station. W. B. Wood, of his own volition, purchased a mill at a considerable distance from a railway station. While he may have been induced by the cartage allowance to invest greater capital and enlarge his mill to a greater extent than the business of the locality itself warranted, no definite promise or agreement was made to or with him that the allowance would be continued for any particular period of time. On the contrary, the letter of Oct., 1894, expressly stated that the allowance was to be "for the present and until further advised." The language of Morrison and Shoonmaker, Commissioners, in Stone v. D.G.H. & M.R. Co., supra, is applicable: "The fact that the practice existed prior to the law and was in use to some extent by other carriers does not aid its lawfulness. It never was general, but at most only an exceptional practice, and its lawfulness is to be determined not by former or even present use, but by the provisions of the act."

The only method by which, as it seems to me, any such allowance could hereafter be properly made by the railway company to the Brant Milling Co. would be under special tariff providing either for free cartage from the railway stations to consignees' premises, or by allowances in lieu thereof, made in such a way as to be general in character for all goods, or specified classes of goods, and framed in such a way as not to discriminate between different localities. In my opinion no order should be made upon the present application.

This judgment was concurred in by Deputy Chief Commissioner Bernier.

Interswitching at London.

The Chief Railway Commissioner, A. C. Killam, K.C., recently delivered the following judgment, Deputy Chief Commissioner Bernier concurring:—The C.P.R. Co. has applied to the Board for an order directing the G.T.R. Co. to afford proper facilities for the interchange of traffic between the said companies over the branch authorized by order of July 6, 1904, to be constructed by the G.T.R. from a point on its line between London, Ont., and St. Mary's to the C.P.R. line between London and Toronto, and fixing the amounts to be charged for such interchange of traffic and the interswitching of cars over the said branch. The lines of the two railways in the city of London before the construction of this branch were at a considerable distance apart. Their only present connection at or near London is by this branch, which is 4,800 ft. long. The railway lines now operated by the G.T.R. in and through the city of London were in existence long before the C.P.R. was constructed. The G.T.R. has extensive terminal properties at that point, including a large number of sidings to various business and manufacturing premises, and a considerable number of team tracks upon which cars are loaded or unloaded. The company has an extensive business at that point. The terminal facilities and business of the C.P.R. at London are small as compared with those of the G.T.R. By means of the branch mentioned, the railway cars can be taken to and from a large number of business premises in London to which the C.P.R. has heretofore not had direct access. The advantages which the C.P.R. can offer to the G.T.R. in this respect at and near London are very small as compared with those which this connection will afford to the C.P.R. On this account it is urged that, in the division of rates for traffic interchanged by this branch between the two companies, a very large proportion should be assigned to the G.T.R., much greater than that which would be a fair remuneration for the mere service to be rendered by the G.T.R. in the transportation of cars over this branch and its London terminal lines, and the loading and unloading of the same.

By sec. 253 of the Railway Act, 1903, "all companies shall, according to their respective powers, afford to all persons and companies all reasonable and proper facilities for the receiving, forwarding and delivering of traffic upon and from their several railways, for the interchange of traffic between their respective railways and for the return of rolling stock. . . . . ; and every company which has or works a railway forming part of a continuous line of railway, with, or which intersects any other railway, or which has any terminus, station or wharf near to any terminus, station or wharf of any other railway, shall afford all due and reasonable facilities for delivering to such other railway, or for receiving from and forwarding by its railway all the traffic arriving by such other railway without any unreasonable delay, and without any such preference or advantage, or prejudice or disadvantage, as aforesaid, and so that no obstruction is offered to the public desirous of using such railways as a continuous line of communication, and so that all reasonable accommodation, by means of the railways of the several companies, is at all times afforded to the public in that behalf; and any agreement made between any two or more companies contrary to this section shall be unlawful and null and void."

By sec. 271, "The facilities to be afforded as required by sec. 253 shall include the due and reasonable receiving, forwarding and delivering by the company, at the request of any other company, of through traffic, and in the case of goods shipped by carload of the car with the goods shipped therein, to and from the railway of such other company, at a through rate, and also the due and reasonable receiving, forwarding and delivering by the company, at the request of any person interested in through traffic, of such traffic at through rates."

Sec. 266 provides for the making of joint tariffs by agreement between companies whose railways provide a continuous route.

Sec. 267 enables the Board to require railway companies to agree upon and file a joint tariff satisfactory to the Board, or that the Board "may, by order, determine the route, fix the toll or tolls, and apportion the same among the companies interested and may determine the date when the toll or tolls so fixed shall come into effect, and traffic shall be carried by the companies in accordance therewith"; and by sub-sec. 3, "In any case where there is a dispute between companies interested as to the apportionment of a through rate in any joint tariff, the Board may apportion such rate between such companies."

With the progress of invention, new enterprises are continually supplanting or injuring old ones to the ruin or loss of those interested in the former. Railways have not only directly affected in this way former modes of transportation, but they have also been instrumental in building up particular localities or enterprises at the expense of others. It has never been the policy of the law to afford compensation for losses thus occasioned. When the legislature authorizes the construction of new lines of railway in competition with those formerly existing, this is not done with a view to benefit the promoters of the new lines or to injure those interested in the old ones, but solely for the public good. The provisions of the Railway Act which require railway companies thus to interchange traffic at connecting points are introduced, not for the purpose of benefiting one railway company at the expense of another, but solely in the interest of the public. The law cannot recognize anything in the nature of a good-will of the business of either railway company thus affected for which another should give compensation. In my opinion the division between railway companies of the joint rates for tariff thus interchanged should be made upon the principle of giving reasonable compensation for the service and facilities furnished by the respective companies in respect of the particular traffic thus interchanged, and not by reference to the magnitude of the business of one company or the other at particular points or the respective advantages which each can offer to the other there, or a comparison of the loss which the one is likely to sustain with the gain likely to accrue to the other from the giving of the facilities which the law requires.

It has also been urged on behalf of the G.T.R. that the Board should deal with this question of the division of such rates or the allowance of charges for interswitching in a general way and by reference to all the points in Canada where the railways of these two companies connect. It does not appear to me that this can properly be done. I think that in each case the nature and value of the