

wages earned at the date of the accident cannot be the sole test. Such a test would operate most unfairly, some times for and some times against the workman. There are many employments in which work is more plentiful and wages are higher at some seasons of the year than in other seasons."—Cozens-Hardy, Master of the Rolls.

WIDER SCOPE IN BRITISH COLUMBIA

It will be observed, however, that the section in the British Columbia Act requires the Board to take into consideration **not only the "average earnings," but the "earning capacity,"** so that the amount actually earned by the workman is not the sole guide, as in England, in finding the amount upon which the compensation allowance of 55 per cent. is based. For instance, assume a bricklayer, or any other worker in a seasonable occupation, should be temporarily totally disabled on the first day of the working season. Assume, further, that he has worked but little or not at all for some months previous, or that he has worked continuously during the off season as a labourer. In this case his average earnings would be much less than his earning capacity, because the wages of the bricklayer are double that of an ordinary labourer. If the man should be disabled during the whole bricklaying season, then his earning capacity has been destroyed by the accident, and his compensation should be based on the wages paid to bricklayers during the season in which he was disabled. The same principle should apply in all occupations where the work is seasonable.