

EACH CASE ON ITS MERITS

Feeling that the best interests of all concerned would be served by allowing each case to be decided on its own merits, and yet appreciating that a great deal of power would have to be given the administering Board to make this arrangement possible, the Government decided that the only way this could be accomplished was to **give the Board wide powers in arriving at an equitable calculation of the "average earnings" of injured workmen.** This is done in section 22, which reads as follows:

"(1) The average earnings and earning capacity of a workman shall be determined with reference to the average earnings and earning capacity at the time of the accident, and may be calculated upon the daily, weekly, or monthly wages or other regular remuneration which the workman was receiving at the time of the accident, or upon the average yearly earnings of the workman for one or more years prior to the accident, **or upon the probable yearly earnings of the capacity of the workman at the time of the accident as may appear to the Board best to represent the actual loss of earnings suffered by the workman by reason of the injury,** but not so as in any case to exceed the rate of two thousand dollars per year.

"(2) Where the workman was at the date of the accident under 21 years of age, and it is established to the satisfaction of the Board that under normal conditions his wages would probably increase, the fact shall be considered in arriving at his average earnings or earning capacity."

MEANING OF "EARNINGS"

As the English Act uses the term "earnings" and "average earnings," we cannot do better than consider the definitions that have been placed upon these terms by the courts.

"The earnings of a workman may be said to be whatever he receives from his employer in return for his services. They include not only actual cash, but also money's worth, such as the value of the use of a uniform"—"or of board and lodging," "or a cottage." But it will not include matters the value of which are not capable of being estimated in money, such as the "value of tuition." **"Tips may be taken into account in estimating earnings if the employment is of such a nature that the habitual giving of tips is open and notorious, and recognized by the employer; in other words, when the circumstances are such that there is an implied understanding that the employee may retain such tips in addition to wages. The**