

THE ARTS AND SCIENCES

Government

THE NEW IMMIGRATION LAW

By J. G. WILSON

It is not the quota limitation itself which makes the new Immigration Act so cruel, but rather the provisions for making the individual selections from the quotas. Some of these provisions are hang-overs from old un repealed immigration laws, and some are snakes and pink elephants which belong to the last attack of immigration restriction delirium tremens. An opiate, introduced ostensibly to reduce suffering to the minimum, is the provision that all immigrants, both quota and non-quota (except returning aliens who have provided themselves with permits to return to the United States before their departure therefrom), must obtain the permission of a United States consul, stationed in their district, before proceeding to America. The original advocates of this provision supposed that it would be drawn in such a way that once the consul had passed favorably on the alien's eligibility, his permission to land in the United States would be virtually assured. But as finally passed it contained no such milk of human kindness. The way the matter now stands, getting the consular visa is simply the first gauntlet the immigrant has to run,—and running it successfully means only that he has permission to try to get by the other torture posts which mark the line from Europe to Battery Park.

Making due allowance for slight differences of detail in the different districts, the consular gamut is substantially as follows:

The person desiring to emigrate to the United States makes written application to the consul in the district where he resides. The consul replies, giving him a number and setting a day on

which he is to appear in person, and instructing him to bring with him certain documents, such as police records, birth certificate, evidence of nationality, his photograph and such other data as may be necessary to determine his status and eligibility. When the applicant appears with the data the consul makes a careful inquiry into the whole matter, viewing it from the standpoint of the alien's desirability and eligibility. If satisfied on these points, he instructs him to go to a certain designated physician for an examination as to his mental and physical fitness. The applicant goes as instructed, the examination is made, and he receives in a sealed envelope the doctor's certificate, which he takes back with him to the consul. If the certificate convinces this official that the applicant is not liable to deportation for medical reasons, he attaches it to the other papers and issues the visa, and—that ends it so far as the consul is concerned.

But by no means so far as the applicant is concerned. He must now try to persuade the steamship company to sell him a ticket. These companies have had longer practical experience with the operation of the immigration laws than the consuls, and visa or no visa, they will take no chance on accepting a person for passage whom they believe is likely to be deported. For if this happens they not only have to bear the expense of the immigrant's trip home, but are also liable to a fine ranging from \$250 to \$1000. So now the doctors employed by the lines give the prospective emigrant another examination and it frequently happens that they refuse him, even though he has been accepted by the consul.

The consular doctors are honest and make their examinations as carefully as possible. The difficulty lies in the fact that in most instances they are only imperfectly informed of the particular kind of defect that renders deportation, at the moment, most likely. Thus their certificates frequently fail to state all the facts that should be before the consul to enable him to make a correct decision. It takes some

time to realize that a good life insurance risk is not necessarily physically and mentally eligible to enter the United States. In the course of time all of them will undoubtedly learn that a foreign-born moron, however fit physically, may under *no circumstances* be permitted to augment our native-born moron population, and that myopia in a highly intelligent man may be the determining factor in the consideration of the question as to whether he should be deported as one liable to become a public charge.

Even when the physician understands the law perfectly, there still remains the fact that it takes many years of experience either as an employ   of a passenger carrying steamship line or at an American immigration station to make even a guess as to what action the immigration authorities will take in the case of an alien certified for a physical defect that does not necessarily and irrevocably exclude him. The action of the authorities is as nearly uniform as possible, but the modifying or mitigating factors are so numerous that it takes long practice before one is able to understand why it is likely that one man with a given physical defect will be admitted while another with the identical defect will be deported. Neither the consul nor the official examining physician has had this practice. Hence it happens that the steamship companies pay but little attention to the fact that an alien has been medically examined and passed by the consulate's physician unless that physician is also employed by their own or some other line. Even if the physician examining for the steamship company turns the applicant down he still has his visa, and can peddle himself around among other companies in the hope that he will find one that will take a chance on him.

But this is rather a forlorn hope, because by the time he has found such a company, and consumed time in making the new financial arrangements which his delayed departure usually necessitates, the four months' time limit on his visa will in all

probability have expired. This means that he loses his turn entirely for the year, and incidentally that his country's yearly quota is diminished by one, for the law does not permit any one else to take the place of an immigrant who, after receiving his consular visa, fails to avail himself of the privilege of trying to enter the United States, whether owing to his own fault or otherwise. The term "trying to enter" is used advisedly, because, even though the consul passes him and the steamship company accepts him, the Ellis Island authorities do not relax one particle of their vigilance. Congress has distinctly charged them with the duty of enforcing the law, and the new Immigration Act did not take away one jot or tittle of their old prerogatives and functions. In fact, the law clearly says that "nothing in this act shall be construed to entitle an immigrant to whom an immigration visa has been issued, to enter the United States if, upon arrival in the United States, he is found to be inadmissible to the United States under the immigration laws." So the Ellis Island doctors and immigration inspectors pick up what the consulates miss. The number of such cases is by no means negligible, and many of them are pathetic illustrations of the viciousness of the system.

First, of course, come the diseases which manifest themselves for the first time after the immigrant has embarked. Notably among them are the venereal diseases. Then come the cases wherein there has been an honest difference of opinion. The consul, weighing all the evidence at his disposal, decides that the physical defect of the immigrant does not warrant the withholding of a visa, but the reviewing authorities at Ellis Island think differently, and the immigrant is the sufferer. Lastly come those cases where the alien is deported for a condition either overlooked by the consulate's doctor or believed by him to be so trivial that it was not worth noting. These cases are, from their very nature, impossible to eliminate entirely. Human judgment is not infallible

and the best doctors will sometimes disagree. In any event the immigrant suffers.

The State Department takes a whack at him before he goes to buy his ticket; the steamship company's doctors hammer and thump him before they sell it to him; and then Ellis Island strips his soul for moral turpitude and hidden diseases. This final examination operates to create a healthy rivalry between the consuls and the Immigration Service. The latter, which is under the Department of Labor, naturally exercises its prerogative to pass in critical review the work of the consuls, who are under another and entirely unrelated government department, and these in their turn just as naturally desire that they shall not be caught napping or wanting in efficiency. Hence there is a perfectly legitimate tendency on their part to take no chances. This means that the desires and circumstances of the alien get less and less consideration, and the lines grow tighter and tighter. Here are some legally possible cases:

1. An American girl who married a German before the Cable Act relative to the citizenship of married women went into effect accompanies her husband to Germany, taking her two children, born in the United States, with her. In Germany her husband deserts her. She has no money. She desires to return to America, where her whole family on both sides have been American citizens since the year 1798. They are now poor, but they are willing to receive her. She gets the visa required of emigrants (she is now a German subject by virtue of her marriage) and returns to the United States with her two children. On arrival at Ellis Island the children are admitted at once. They are American citizens and cannot be kept out. Her own case is held in abeyance pending the receipt of word from her father that he will take her home. The immigration authorities may believe that she is liable to become a public charge, but if the necessary affidavits are filed the legal technicalities will be met. The case is exceptionally meritorious and there is no desire on the part of any of them to be more cruel than the law requires. While waiting for the necessary papers she develops a heavy cold, is taken to the hospital, and in the course of routine examination is found to have tubercle bacilli in her sputum. The doctors therefore have no recourse except to certify her as suffering from tuberculosis, and as this is a disease which makes exclusion mandatory there are no legal steps which can be taken to secure her admission. If she is deported, what will happen to her on her return to Germany? And how about her children?

2. A man now fifty years old was taken by his

parents to America when he was four years old. He knows that his father always voted at elections and he naturally supposes that he had taken out citizenship papers, and that he himself had therefore automatically acquired American citizenship. His father is now dead and there are no papers of any kind to establish his citizenship. The man suddenly finds it necessary to make a business trip to Europe and applies for a passport. Unable to establish his citizenship the State Department has no recourse save to advise him to apply to the Commissioner General of Immigration for the permit the law provides for resident aliens who intend to leave the United States temporarily. Armed with this, he goes to Europe, transacts his business, takes ship back to America, —and on the return voyage develops an attack of mania. He is mad as a hatter when he reaches Ellis Island, and insanity in any form is anathema. What will be done with him? Under the law what can be done save deport him?

3. The pregnant wife of a foreigner who has made a formal declaration of his intention to become an American citizen, domiciled three years in the United States, returns to Europe to visit her family. While there the baby is born. The labor is long and complicated, with the result that the child has sustained an intra-cerebral hemorrhage. It is a sickly infant and the mother delays her return as long as possible in the hope that it will get better. It is a year old before she finally decides to take a chance on returning. The doctors examining for the consulate have no doubt about the mental status of this baby. They tell the plain truth and certify it as feeble-minded. The consul sees the certificate, and, knowing that the infant is inadmissible under the law, naturally refuses the visa. What can the woman do? Can she simply stay in Europe another year? At the expiration of that time her husband will have completed the five years' continuous residence required by the Naturalization Act and can then become a fullfledged American citizen. And one certainly cannot keep out the children of American citizens! But that is not the answer at all. Her child is foreign-born—born of parents who were foreigners at the time of its birth—and is seeking admission to the United States the first time, and therefore has no more rights under the law than it would have if the whole family were making their first effort to enter.

4. A large family, having many relatives settled on farms in the United States, decide to sell their property and start life anew over here. They have been assured that as skilled agriculturists they will fall in the preferred classes, but having known many instances where physical defects have at the last moment prevented the issuance of the consular visas, they wisely decide not to sell their homestead until these precious documents are actually in their possession. Fortunately, they all succeed in passing the requirements and obtain their visas. But now the man who had agreed to buy their property changes his mind and they face the necessity of hunting a new buyer and closing up their affairs before the expiration of the time limit on their visas. This they find impossible, so the father of the family remains behind to conclude the business. After

five months he is successful. But now he must wait till the beginning of the new fiscal year, because, having failed to avail himself of the privilege to emigrate within four months after receiving permission, he automatically lost his chance. When he finally lands at Ellis Island, ten months or a year later, he is beginning to show signs of a nervous breakdown; and there is every reason in the world to justify a certificate of "mental defect," or "psychopathic constitutional inferiority." Hence he is excludable under the law; and although his wife and children are now comfortably located, and every dictate of reason and humanity calls for his admission, there is no help for it. He must return to the land of his fathers. If his family return with him they lose every material advantage that the change has brought them. If he returns alone his chances of complete recovery are practically nil.

5. Six years ago a German family emigrated to America, leaving behind with relatives a fifteen-year-old son who was studying to be an electrician. Arriving in the United States the father opened an electrical repair shop in Chicago. The business has prospered and he desires his son, who is now twenty-one years old, to join him. The boy has completed his technical education and will be an asset to his father's business and better his own position. He applies for a visa. The consul notes that the medical certificate states that he has varicose veins of the legs, which, considered from a purely medical standpoint, are properly certifiable as affecting his ability to earn a living. But hearing the young man's story and being convinced that the chance of his ever becoming a public charge are exceedingly remote, he quite properly feels that he should at least be given a chance, and accordingly grants him the visa—but the steamship company has just finished paying fines on account of a round half dozen deportees who had been certified at Ellis Island for varicose veins, and so it is not disposed to run any further risks. Con-

sequently, the boy never actually gets the opportunity to find out whether he is or is not eligible to enter.

It is unnecessary to multiply examples. Enough has been said to show that even though the new law may reduce the total number of deportations its provisions inevitably intensify the cruelty of those which are made, and also unintentionally operate to prevent many a perfectly eligible immigrant from getting a chance to prove his eligibility.

We wanted a selective immigration law and we got it. First we selected the nations which we thought were capable of amalgamation—which is an indirect way of saying, fit to associate with us; and now we select the individuals. The first selection, with its 2 per cent quota provision, is strongly reminiscent of the $\frac{1}{2}$ of 1 per cent alcohol limit of the Volstead Act, and is probably equally unenforceable. But the provisions for the selection of individuals *are* enforceable, and if they are unnecessarily cruel it should be remembered that the fault does not lie with any of the governmental agencies that operate the sorting machinery. They are no more to blame for the dirty work than is the warden of Sing Sing when he pushes the button that sends some poor murderer's soul to hell.

Medicine

HEART DISEASE

By JAMES A. TOBEY

A GENERATION ago tuberculosis was the captain of the men of death in this country. Today heart disease is. For two decades or more the prevalence and mortality from tuberculosis have been steadily declining. For an equal length of time heart disease has been gradually increasing. The death-rate from the latter caught up with that from the former in 1912 or thereabouts and has been forging ahead ever since. Now tuberculosis, with a mortality of about 99 per 100,000 of population,

ranks fifth as a cause of death, being exceeded by kidney disease, cancer, and cerebral hemorrhage and apoplexy, beside heart disease. Organic affections of the heart rank first, with a mortality of about 150 per 100,000.

Twenty years ago a definite national movement was launched against tuberculosis. The constant warfare which has been maintained against it ever since seems to have borne fruit, for the death-rate has been reduced more than half. Competent observers believe that in a few more decades it will cease to be a serious factor in the mortality statistics. The campaign