Higher Mathematics at Ellis Island

By GEDDES SMITH

APRIL 1, 1927, will of course be April Fool's Day. By a pleasant coincidence, it will also be the day on which the President of the United States is to promulgate a new set of immigration quotas. Those quotas are being worked out under the direction of the secretaries of state, commerce, and labor, in one of the most thankless tasks ever imposed on a public servant.

The trouble is that politics and logic don't mix, and the Immigration Act of 1924 tried to mix them. Immigration restriction on a basis that kept eastern Europeans out and let western Europeans in (at judicious intervals) was politically right in 1924, and probably is just as right politically today. In 1924 this end was achieved by limiting the annual quota for each nationality to "two per centum of the number of foreign-born individuals of such nationality resident in continental United States as determined by the United States Census of 1890," with a minimum quota of 100. That was arbitrary, illogical, and effective.

But in a luckless moment Congress tried to have it both ways. The 1890 Census quotas were to be superseded in 1927 by a new and more reasonable plan—quotas based on the "national origin" of the inhabitants of the United States in 1920. The annual quota for each nationality was to be

> a number which bears the same ratio to 150,000 as the number of inhabitants in continental United States in 1920 having that national origin (ascertained as hereinafter provided in this section) bears to the number of inhabitants in continental United States in 1920, but the minimum quota of any nationality shall be 100.

When you have worked that out, it sounds plausible. We want to keep immigration down. We think 150,000 newcomers in a year are about enough. We will choose those newcomers from among the nations in roughly the same proportion that we Americans owe our origin to those nations: we won't change the mixture any more than we can help. That is logical, whether it is wise or not. But complications arise when we try to work it out.

The law goes on to direct that in computing how many of us in 1920 had this, that or the other "national origin,"

> determination shall not be made by tracing the ancestors or descendants of particular individuals, but shall be based upon statistics of immigration and emigration, together with rates of increase of population as shown by successive decennial United States censuses, and such other data as may be found to be reliable.

But there are no statistics of immigration before 1820, and no census figures showing country of birth before 1850. It is a little difficult to apply decennial rates of increase without having something to apply them to. In 1790, when the first national census was taken, a list was made of heads of families. In 1909 the Census Bureau made a gallant effort to classify these heads of families into national groups —specifically, into those originally English, Scotch, Irish, Dutch, French, German, Hebrew, and "other." Aside from some fragmentary information from state censuses of 1790 and thereabouts, this classification is based on the nationality which seems, a century after the recording, to be implied by the recorded name. This is a slender peg on which to hang the present-day chances of a lonely Bohemian millwright to bring his wife and children to this promised land. The fact is, of course, that the plan is almost a statistical absurdity.

But the statistical difficulties pale before the political ones. At the request of uneasy senators, the President sent to the Senate on January 7 a preliminary report from the quota commission. While the figures are not final, the President believes "that further investigation will not substantially alter the conclusions arrived at." Those conclusions are unpalatable in several respects. Some of the quotas most sharply reduced by the existing law, to the satisfaction of the professional Nordics, would be increased. Italy, for example, would gain nearly 60 per cent of its present tiny quota.

Nearly half the total allowance of 150,000 immigrants a year would fall to Great Britain and North Ireland. The Irish Free State would lose half of its quota; Irishmen would be barred to make room for Orangemen and Englishmen. That doesn't sound well in Boston and Chicago, and as for the English, a loyal American told me in Washington that they are the worst bolsheviks of the lot nowadays! The Germans would lose 27,000 from their present quota of 50,000; St. Louis might have something to say to that. The Scandinavian countries would be docked two-thirds—and what would the wheat-belt insurgents make of that? Good "Nordics" are to be shut out, and good voters alienated. It is one thing to offend Russians and Roumanians, it is quite another to offend Russians and Roumanians and Germans and Swedes and Irishmen. The fact that the law is statistically unsound might not matter, but when a law is certain to rouse sharp protest and cannot be defended by appealing either to Nordic prejudice or to the cold facts it becomes a serious matter, and Congress is uneasy.

THE wording of the Act is peculiar in one respect. It provides that the three cabinet officers already named "shall" report the quotas to the President, and that the President "shall" proclaim and make known the quotas so reported, and that the proclamation "shall" be made known on or before April 1, 1927. But then it adds that "if the proclamation is not made on or before such date, quotas proclaimed therein shall not be in effect for any fiscal year beginning before the expiration of ninety days after the date of the proclamation." As though in the face of a clear-cut mandate it might still be prudent to leave a back-door open for postponement. Will the President actually proclaim the new quotas? At this writing he seems reluctant to do so. If he does not, the old ones will automatically remain in force another year. Will Congress take time in a crowded session to change the law, and so save the President from embarrassment and its own neck from outraged constituents? That remains to be seen.

Meanwhile the Senate at least has shown itself to be accessible to merely human considerations. On December 1, in considering a bill passed by the House at the long session, which would admit outside of quota American

women who had lost their citizenship by marrying aliens, the Senate attached an amendment providing for the entry of 35,000 wives and children of aliens who were admitted before July 1, 1924, when the present quota law went into effect, and who have since applied for citizenship. The reasoning seems to be this: men who have come since the present quotas were finally determined and in force take their chances, knowingly, of bringing in their wives and children under the shrunken quotas; those who came before the law went into force, and who have indicated by their request for naturalization that they mean to stay here and become Americans, should not be penalized by being compelled to wait for their wives and children until the narrow quotas admit them—which in many cases means waiting indefinitely, or until they have completed the five-year process of naturalization. The arrangement seems just and the number involved would hardly swamp our native institutions; yet the House has not at the time of writing accepted the amendment, and it has been referred back to the severely restrictionist Committee on Immigration and Naturalization, where its chances are problematical.

Immigration is likely to be a disturbing subject whenever it comes up in Congress. Some friends of the quota law fear that the whole structure of restriction will be threatened if the basis of the quotas is discredited. But there is no evidence that the country as a whole has changed its mind about restriction, and it seems probable that some way will be found to withdraw quietly from the too-reasonable position in which we find ourselves, and to restore the prejudiced, unscientific, rule-of-thumb quotas based on the 1890 census—which, at least, do what they were intended to do.

Five Minutes for Parole

By ROBERT W. BRUÈRE

GEORGE W. ALGER, in his report just published on the parole system of New York State, which he has investigated for Governor Smith, strikes a sturdy blow for common sense against the flare-back toward medievalism that has colored certain recent legislative enactments and judicial opinions relative to the treatment of criminals. Early last summer the legislature enacted the so-called Baumes laws, which provide that if a person who has been convicted in any state of a felony or an attempt to commit felony, repeats the offense, he must be sentenced for a term not less than the longest term nor more than twice the longest term provided by existing law where such term is less than life; and further, that for a fourth or subsequent offense, he must be sentenced "to imprisonment in state prison for the term of his natural life." Incidentally, these laws provide that the recidivist need not have been indicted or convicted as a previous offender to be liable to this extreme penalty.

Contending that this provision violated the state constitution where it says that no person shall be held to answer for an infamous crime unless upon presentment and indictment by a grand jury, two prisoners so held sought a ruling from the higher courts. On December 31, the Appellate Division of the Supreme Court of New York, in sustaining the constitutionality of the Baumes laws, indulged in a hot flow of *obiter dicta* in which they berate "certain misguided individuals, imbued with the notion that they have some mission to perform for the betterment of the unfortunate who has been apprehended and convicted" and score the leniency of courts and district attorneys and "our existing parole system" for turning loose vicious and confirmed criminals "to repeat their wrong-doing and to again prey upon their fellow men, instead of receiving punishment commensurate with the seriousness of the crime of which they stood convicted."

This unqualified condemnation of the parole system as accessory to the criminality against which it was designed to safeguard both the unprisoned offender and society, coming from judges who may fairly be assumed to express prevailing public sentiment, indicates not only the intensity of the medievalistic flare-back but also some serious inadequacy in the parole system itself.

Mr. Alger faces the problem without the moral indignation of the distinguished jurists or the strong-arm vindictiveness of the tooth-for-tooth law-makers. He looks at the problem of the ex-convict who may become a repeater as an engineer would regard the problem of flood or fire control or as a public health officer would regard an epidemic. He knows that we used to imprison those afflicted with smallpox, or yellow fever, or leprosy as if they were moral delinquents and that until we tackled the disease instead of visiting our superstitious wrath upon the afflicted, the disease still pursued us. When an engineer has a job to do, he doesn't tear his hair or "rip off his shirt," as the phrase goes; he defines his job, brings his technical knowledge to bear, figures out its execution.

As for the parole system of New York state, he trenchantly concludes that it is and for years has been "an under-financed moral gesture." But if we are justly dissatisfied with the present results of the state parole system, what reason have we for assuming that an under-financed and under-manned system is a fair test for parole? On the record, parole has failed because we, the tax-payers, have been unwilling to finance it adequately. And may it not be precisely because we are guiltily conscious of our evasion of responsibility where its honest assumption might mean an additional point or two on the tax-rate that we are so swift to anger when our under-financed moral gesture shows us up?

What is the problem? What is the job? "We are faced," says Mr. Alger, "with only two possible alternatives. They are a definite improvement in the parole system which will justify the policy of placing prisoners on parole under adequate supervision; or, a very great increase in the cost of facilities for keeping men in prison as a substitute for parole." The so-called Baumes laws went into effect on July 1 last. There has not been time to appraise their effect. But already those who used the "crime wave" of last year to whip up public support for the banishment of all "mollycoddling" of hardened sinners and a return to