

[12 million can be wrong]

The Politics of Amnesty

When the Senate speaks of immigration reform, it doesn't mean enforcement.

By W. James Antle III

AS SENATORS LEFT Washington for their Easter recess, an estimated 100,000 protestors arrived for a rally on the National Mall. The Senate adjourned without completing work on an immigration bill that was weak on enforcement and offered amnesty to millions in the country illegally. The demonstrators, many of them illegal aliens, were there to demand that they finish the job.

Capitol Hill has been preparing for this fight since President Bush came out for an expansive amnesty program over two years ago. On this issue, the White House has many Senate allies in both parties, but the majority of House Republicans are on the other side. As we go to press, it is unclear whether amnesty proponents have been rebuffed through the midterm elections or have suffered merely a temporary setback.

Public opinion certainly isn't on their side. An AP-Ipsos poll shows Americans list immigration alongside the war and the economy among their top concerns, with a percentage that has quadrupled since January. A Quinnipiac survey showed that 62 percent oppose making it easier for illegals to become citizens. The only polls that show significant support for guest workers or amnesty tend to be vaguely worded. "Under some of them, I'd almost be classified as a Bush amnesty supporter," quips Craig Nelsen of Project USA.

But the look and feel of the immigration debate is changing in ways that make it likely that amnesty will be dis-

cussed again. Last year, it was news stories about the Minutemen—private citizens, concerned about the system's lawlessness and buffeted by economic competition from cheap migrant labor, who organized effective civilian border watches—that predominated. Over the last few months, the focus has shifted to the illegal immigrants themselves.

First came the usual sympathetic human-interest stories in obliging newspapers and magazines about high-school valedictorians and longtime undocumented residents who climbed out of grinding poverty through hard work and entrepreneurial skill. More recently, however, the vast illegal population has shown a more menacing side as huge crowds have taken to the streets waving Mexican, Dominican, and other foreign flags (interspersed with the American flags recommended by more cautious demonstration organizers) while insisting that U.S. immigration law be reshaped to accommodate them. Recent protests brought out 50,000 people in Denver, 350,000 in Dallas, and a staggering 500,000 in Los Angeles.

The catalyst was the proposed crack-down on illegal aliens that passed the House of Representatives in December. Instead of anything that could be construed as amnesty, the House voted to build a security fence along the southwestern border, establish a mandatory verification system for the legal status of workers, and stiffen penalties against alien smugglers and the illegals them-

selves. Immigrant communities joined business, labor, and civic leaders in strenuous opposition.

If the House bill was designed to address the concerns that gave rise to the Minutemen, the Senate has mostly worked with measures that appease illegals and their employers. As the upper chamber took up immigration in January, guest-worker bills proliferated, differing mainly in the details of how many illegals they would legalize and under what conditions. The complexity had its reasons: the more hoops illegals needed to jump through to obtain green cards, the harder senators thought it would be to argue they had passed another amnesty. Even one of the tougher proposals, offered by Sens. John Cornyn (R-Texas) and Jon Kyl (R-Ariz.), contained a large temporary-worker component.

At first it looked like senators would be hopelessly bogged down in these details, preventing any single guest-worker bill from winning majority support. But on March 27, the Senate Judiciary Committee gave preliminary approval to a generous amnesty program sponsored by Sens. John McCain (R-Ariz.) and Ted Kennedy (D-Mass.). Employed illegals would be set on a path to citizenship after spending six years as legal guest workers and paying all fines and back taxes. On top of that, 400,000 new guest workers would be admitted annually to fill low-skilled positions.

McCain-Kennedy received the unanimous backing of the committee's

Democrats plus four Republicans, including Judiciary Committee Chairman Arlen Specter (R-Pa.). But Senate Majority Leader Bill Frist (R-Tenn.) was in a bind. The legislation was more lenient than most Americans—and certainly the conservative primary voters he needs to woo for a 2008 presidential bid—want, and a bill that passed with more Democratic than Republican votes would give him precious little cover.

Conservatives began to talk about filibustering McCain-Kennedy, and McCain soon acknowledged that he did not have the votes to end debate. So Frist continued to tout his own enforcement-only alternative publicly while searching for a compromise behind the scenes.

Enter Sens. Chuck Hagel (R-Neb.) and Mel Martinez (R-Fla.), with the bill that will be the likely starting point for any future Senate immigration deliberations. Hagel-Martinez tried to set illegal immigrants on three separate tracks, depending on how long they had been breaking the law. The bill made the illegals living in the United States for more than five years as of January 2004 eligible for amnesty and required unlawful workers who had been here for two to five years to return home briefly and apply for guest-worker status from a U.S. point of entry. Illegals who have been here for less than two years would be threatened with enforcement.

Hagel-Martinez was more a convolution than a compromise. House members quickly denounced the bill. “It’s miserable public policy, and it will be rejected by the House of Representatives,” argued Congressman Tom Tancredo (R-Colo.). Congressman J.D. Hayworth (R-Ariz.) called it “amnesty wrapped in bureaucracy surrounded by fraud.” But many senators seemed ecstatic.

“We’ve had a huge breakthrough,” Frist enthused. In a joint appearance, Senate Minority Leader Harry Reid (D-

Nev.) said, “We can’t declare victory. But we’ve moved a long way down the road.”

Not that long, as it turned out. Conservatives continued to have misgivings and pressed for amendments—one would have delayed any adjustment in immigrants’ legal status until after the Department of Homeland Security certified that the border was secure—that would make the bill stronger on the enforcement side.

Democrats, fearful of casting unpopular votes against border security during an election year, wanted Hagel-Martinez to pass unchanged. They accused Republicans of “filibustering by amendment.” In the end, a vote to end debate—opposed by six Democrats and all Republicans—was defeated 38 to 60.

“I think politics got in front of policy on this issue,” Ted Kennedy lamented. But Hagel-Martinez is hardly good policy. An example: University of Missouri, Kansas City law professor Kris Kobach argued in the *New York Post* that an obscure provision would effectively staff immigration-court judgments with

were approved. Independent estimates of fraud reach as high as 70 percent.

A recurring theme in this debate is that enforcement has been tried repeatedly and found wanting, while the creation of legal channels for low-skilled immigration will enhance incentives to comply with the law for migrants and employers alike. But in fact, real employer sanctions have never been consistently enforced and both amnesties and guest-worker programs have failed to stem illegal immigration. “With zero enforcement, there’s really no case for amnesty,” says Mark Krikorian, executive director of the Center for Immigration Studies.

The 1986 amnesty was followed by at least six smaller, targeted legalizations. The 2000 reinstatement of the Section 245 (i) rolling amnesty affected at least 900,000 illegal aliens. In 1990, the first President Bush signed into law a 35 percent increase in legal immigration to curb undocumented work, but illegal immigration soared throughout the 1990s—even though we admitted 1 million newcomers per year through legal channels.

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lawyers who have represented aliens in such courts themselves—hardly an indication of a get-tough stance in the future.

The bill’s tough-sounding array of background checks and separate paths to legalization are completely unworkable. Government documents are susceptible enough to fraud; verifying how long an illegal has been in the country through utility bills and rent receipts will be even more challenging.

We have been down this road before. When Congress enacted a broad-based amnesty in 1986, 3 million illegal aliens applied for legalization—about twice the number expected—and 90 percent

“But these legal immigrants, far from being a substitute for illegal ones, were a magnet for them,” observed John O’Sullivan in the *Chicago Sun-Times*. “They sheltered newcomers from home, found jobs for them, and provided a sea in which 11 million of them could swim undetected by the law.” Illegals are drawn as much by pre-existing immigrant social networks as by the jobs Americans supposedly won’t do.

Which may actually be the jobs that Americans can’t get. Steven Camarota of the Center for Immigration Studies recently published a study showing that of the net adult jobs created between

March 2000 and March 2005, only 9 percent were filled by native-born workers.

Yet as Congress decides what to do next, expect politics to play a larger role than complex economic arguments. Here the data is much less in dispute. A Rasmussen poll asked: "One candidate favors building a barrier along the Mexican border and forcing illegal aliens to leave the United States. The other candidate favors expanding the ways foreign workers can legally get jobs in the United States."

Overall, the restrictionist candidate won by 46 percent to 38 percent. But among the 50 percent of voters who said immigration was very important in determining their vote, the pro-enforcement margin was 67 percent to 23 percent.

Thus the stakes are high for both parties. "If the Republicans want to remain the party of law and order and national security, they will have to be the party of border security," says Stephen Manfredi of the political consulting firm Shirley and Banister. "An enforcement-first stance would go a long way toward alleviating the GOP base's doubts." This may be why House Majority Leader John Boehner (R-Ohio), one of the few congressmen to break with his party on immigration in December, has since changed his tune.

Writing at *Talking Points Memo*, Michael Lind had a similar warning for Democrats: "Law and order is a centrist issue, not a far-right issue, and preventing millions of foreigners each year from violating our nation's immigration laws with impunity is the central law and order issue of our time."

Sensing the alienation of the immigrant protestors marching their Mexican flags down Main Street, one wonders if the illegal-alien crisis isn't an even more fundamental issue—one of national identity. The only thing worse than a broken immigration system is a balkanized country. ■

[the roviaian delusion]

New Republican Majority?

California has been the test case for the electoral impact of mass immigration. Color it deepest blue.

By Steve Sailer

AS VETERAN TRUTH-TELLER Thomas Sowell pointed out recently, "Phony arguments and phony words are the norm in discussions of immigration policy." And no myth has become more entrenched in the media than that California demonstrates that cracking down on illegal immigration would be political suicide for Republicans.

For example, reporter Dan Balz proclaimed in the *Washington Post* following the Senate's April 6 immigration "compromise" (i.e., surrender), "GOP officials ... point to California as the example they hope to avoid. Twelve years ago, then-Gov. Pete Wilson (R) pushed an anti-immigration ballot measure that sought to deny state assistance to undocumented immigrants. The initiative passed and helped Wilson win reelection, but it triggered a surge of new Democratic Latino voters in subsequent elections that have left Republicans deep in the minority in the state."

This conventional wisdom is actually a bizarrely demonological distortion of the history of America's largest, most visible state. Instead of one man somehow permanently warping the political destiny of 37 million people, California's shift from the Republican to the Democratic column reflects tectonic demographic shifts, largely driven by immigration, that are spreading nationwide, and thus demand honest study.

The truth is close to the opposite. California voted for Republican presidential candidates in nine of the ten elections from 1952 through 1988. The collapse of the California GOP first became evident in 1992, two years before Prop. 187, when Republicans got skunked in California in the presidential election and two U.S. Senate races. In the last dozen major contests for president, governor, or senator there, Republicans have won only the two times they appealed to voter anger over illegal immigration. The ten times they meekly avoided the topic, they quietly went down to defeat.

After moderate Republican Pete Wilson won the 1990 gubernatorial election, a severe recession made him "the most unpopular governor in the history of modern polling," according to a 1994 *California Journal* article. Wilson entered his 1994 re-election bid trailing by 20 percentage points. By making Prop. 187 the centerpiece of his campaign, Wilson came from behind and won by 15 points. Prop. 187 itself passed by 18 points.

Wilson is now commonly derided as the man who destroyed the California GOP by backing Prop. 187 and two subsequent anti-multiculturalist initiatives. Yet Prop. 209, which outlawed racial quotas, passed by nine points in 1996, and Prop. 227, which banned bilingual education, won by 22 points in 1998.