

NOWHERE TO HIDE

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The failure of immigration reform will have unfortunate consequences

DESPITE its name, Smugglers' Gulch is one of the toughest places to sneak into America. The ravine near San Diego is bisected by a steel wall and watched day and night by agents of the border patrol, who track would-be illegal immigrants with the help of floodlights, helicopters and underground pressure sensors. Rafael, a cement worker, has already been caught jumping over the fence five times. Yet he still loiters on the Mexican side of the fence, waiting for nightfall and another chance to cross. How much longer will he keep trying? "Until I get through," he says.

Last week the Senate tried, and failed, to deal with the problem of illegal immigration. After much debate it abandoned a bill that would have provided more money for border security but also allowed many illegal immigrants to obtain visas. Liberals had argued that the sheer number of people like Rafael—some 12m are thought to be living illegally in America—made reform more urgent. For some Republicans, and the small but loud nativist posse who hectored them, it made anything resembling an amnesty unpalatable.

Piecemeal legislation may follow, strengthening the border and, perhaps, making it easier for farmers to employ foreign workers. But a bill that deals realistically with the huge number of illegals in America will be stymied until at least 2009, when the next president is sworn in. And it may take much longer. Any politician who is tempted to throw his weight behind immigration reform may consider the fate of John McCain, the presidential candidate most strongly associated with the Senate bill. His support among Republicans has eroded in the past two months and he is struggling to raise money.

Yet the collapse of the Senate bill does not mean illegal immigration will go away, either as a fact or as an urgent political issue. Indeed, one likely consequence will be an outbreak of ad hoc law-making in cities and states. Liberal and Hispanic enclaves may follow the example of National City, on the outskirts of San Diego, and declare themselves to be "sanctuary cities" where police officers are told not to quiz people about their immigration status. Others—probably a greater number—will tell the cops to do precisely that, or enact other laws against illegal immigrants and the people who house and employ them.

One such place is Arizona, where Janet Napolitano, the governor, signed a bill this week imposing stiff penalties on employers who hire illegal immigrants. Those who are caught once will have their licences suspended; a second offence will put them out of business. Even the governor admits the bill is too broadly drawn and will be hard to enforce. She signed it, she explained, because the federal government has shown itself to be incapable of dealing with illegal immigration.

One in ten workers in Arizona is illegal, according to the Pew Hispanic Centre. So the law, if rigorously enforced, could disrupt the state's economy. Which suggests it will not be. One landscape gardener in Scottsdale who worked illegally for three decades and now pays illicit workers \$7 an hour thinks the measure is ridiculous. "Who else is going to pick lettuces and trim trees in this heat?" he asks, pointing to the sun on a 47°C (117°F) day. He has no plans to change his ways, and says he will simply move if he is caught.

Laws such as Arizona's will make life more unpleasant and unpredictable for illegal workers. But they will not curtail either illegal immigration or illicit working as much as supporters claim. Subcontracting, which is common both in farming and in the construction business, makes it difficult to punish companies for employing dodgy workers. In any case, the border has been so porous for so long that people now have plenty of reasons to steal across it other than work. Of five aspiring immigrants who spoke to your correspondent in Smugglers' Gulch earlier this week, three were trying to join their families.

Those who defeated the Senate's immigration bill won a pyrrhic victory. Not only did they sacrifice funding for border policing; they also lost a guest-worker programme that would have allowed hundreds of thousands of legal grunts into the country each year. At present, importing temporary workers is so difficult and expensive that most bosses find it easier to wink at illegality.

Americans have made it clear over the past year that they want the federal government to do something about illegal immigration. It is hard to know whom they will now blame for its failure. The nativist wing of the Republican party was fiercest in opposition to the Senate bill, and crowed loudest over its defeat—something it may come to regret. On the other hand, the Democrats run both chambers of Congress. Voters may decide to hold them responsible for failing to solve the problem. That would be unfair: because of Senate rules, the Democrats can pass nothing without Republican co-operation.

In the long term, though, anti-immigrant hardliners are likely to suffer most. Latino voters are growing quickly in number and history suggests they will punish intolerant talk on immigration. Mark DiCamillo, a pollster, points out that California's Hispanics used to lean only slightly leftwards. In 1990, for example, they favoured Dianne Feinstein, the Democratic candidate for governor, over Pete Wilson, a Republican, by 53% to 47%. Then in 1994 came a ballot initiative, supported by Mr Wilson, which sought to make life much more difficult for illegal immigrants. Since then California's Latinos have favoured Democrats by a margin of between two-to-one and four-to-one.