

Rand Paul won an important constitutional victory

By: Nat Hentoff – March 13, 2013

I am postponing a planned column on the educational struggles of low-income kids because of Kentucky Republican Sen. Rand Paul's rousingly inspirational 13-hour filibuster last week on Barack Obama's nomination of John Brennan to become director of the CIA. This caused many Americans who do not think of themselves as libertarians to prize anew their individual self-governing constitutional rights against an overreaching government.

I'd previously written that I hoped one day to vote for Paul for president in 2016, knowing his national name recognition was so low that there would be no chance. But now, with the Constitution being reborn among more of us, this March 7 Politico headline looks more likely: "Rand Paul: 'Seriously' weighing 2016 bid."

It is important to keep in mind that the new CIA director was not the subject of Paul's magnetic 13 hours. As the senator wrote in an editorial for The Washington Times, he used the filibuster "to speak as long as it took, until an alarm was sounded from coast to coast that our Constitution is important, that our rights to trial by jury are precious, and that no American should be killed by a drone on U.S. soil without having been found guilty in a court of law" ("Rising in defense of the Constitution," Rand Paul, washingtontimes.com, March 8).

Paul's maneuver, which would have delighted James Madison, was essentially aimed at the extra-constitutional reign of President Obama. Paul thought he won an important round in that battle, but another battle remained. Brennan became the CIA director the day after the filibuster began. This officially demonstrated to the world, both our allies and our terrorist enemies, that Brennan's previous internal support of CIA torture and other brutal crimes would not prevent his promotion.

However, as Paul emphasized in the Times, "I didn't rise to oppose Mr. Brennan's nomination simply based on him as a person. I rose to defend the principles of our Constitution, principles for which we have fought long and hard."

I, on the other hand, continue to oppose Mr. Brennan as a person.

But before examining Brennan's record, I should explain what Paul requested from the Obama administration prior to his filibuster:

"When I asked the president, 'Can you kill an American on American soil?' it should have been an easy answer," Paul wrote. "It should have been a resounding and unequivocal, 'no.' But what was the president's response?"

“For his first response, the president said, ‘I haven’t killed anyone yet, and I have no intention of killing Americans. But I might.’”

The day after Paul’s filibuster started, though, Attorney General Eric Holder (surely with the approval of his boss) gave him the answer he wanted: “Does the president have the authority to use a weaponized drone to kill an American not engaged in combat on American soil?” The answer to that question is no” (“Senate Confirms John Brennan as CIA Director,” Z. Byron Wolf and Sunlen Miller, abcnews.go.com, March 7).

That did it. ABC News reported that “senators voted (on March 7) 63-34 to elevate President Obama’s top counter-terrorism adviser at the White House to lead the Central Intelligence Agency after Paul ... dropped his opposition to a vote ...

“After (Holder’s) letter was produced, Paul voted with 85 other senators to end debate.”

The Kentucky senator, who voted against Brennan, talked about the White House’s response to his drone inquiry on the Senate floor:

“It has taken awhile, but we got an explicit answer. I’m pleased that we did, and to me, I think the entire battle was worthwhile.”

It certainly reminded many Americans that the Constitution has an active presence in their lives, whether they know it or not. But dig the Associated Press’ account of how Brennan slyly participated in his powerful promotion:

“With Obama in attendance but media excluded (of course), Brennan took the oath from (Joe) Biden in the Roosevelt Room. Rather than swearing on a Bible, Brennan placed his hand on an original (draft) copy of the Constitution from 1787 (without the Bill of Rights) that had George Washington’s handwriting and annotations on it. He told Obama he requested the document from the archives because he wanted to reaffirm his commitment to the rule of law” (“Brennan at CIA fills 3rd key national security job,” Donna Cassata and Robert Burns, The Associated Press, March 8).

Gee, I wonder if the new director of the CIA, with its classified “renditions” and other foreign sites, was also humming “The Star Spangled Banner” as he took the oath of office.

Meanwhile, is anyone speculating on whether Attorney General Holder’s pledge to Paul is as trustworthy as President Obama’s assurances to the American people of being faithful to the Constitution and transparent during his administration?

And what about the credibility of Brennan’s recent assertions that during his years at the CIA he had no role in the agency’s torture program and internally disapproved of it? In a lecture last month at Yeshiva University’s Cardozo School of Law in Greenwich Village, retired CIA general counsel John Rizzo said: “(Brennan) never expressed any concerns to me, and his office was 50 feet away from mine” (“New doubt on CIA pick,” Josh Margolin, New York Post, Feb. 12).

But, the Post’s Margolin wrote, it was Rizzo “who gave the final approval to use waterboarding and other harsh interrogation techniques in the war on terror.”

And Brennan's office was only 50 feet away from his?

Brennan, moreover, was a knowledgeable top assistant to then-CIA Director George Tenet, under whose direction "the CIA strapped men to boards and poured water down their throats to the point of near drowning; placed them in small boxes; subjected them to extreme hot and cold..." ("Enhance This Interrogation," Andrea J. Prasow, foreignpolicy.com, Feb. 6).

I'm inclined to vote for Rand Paul in 2016, but I do hope he watches carefully what John Brennan does — not what he says he's doing — during the next four years. I also hope the senator looks deeply into what Brennan has already done at the "black site" that is still the CIA.