



Why Rand's Second Filibuster Flopped

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In Rand Paul's most famous Senate filibuster, he roared, forcing the Obama administration to rule out using drone strikes to kill American citizens on U.S. soil without a trial. When he attempted to repeat that success last week, inveighing for more than ten hours against the renewal of the PATRIOT Act, he seemed to be shouting across a noisy room. What he may have learned is there's a big difference between leading the charge on an issue that unites Republicans and digging in your heels on one that divides them. Which is, as it happens, what he's trying to do in a crowded field as he seeks the party's presidential nomination.

Paul's first filibuster, in March 2013, was almost comically reasonable.

"I will speak as long as it takes, until the alarm is sounded from coast to coast that our Constitution is important, that your rights to trial by jury are precious, that no American should be killed by a drone on American soil without first being charged with a crime, without first being found to be guilty by a court," he began. "That Americans could be killed in a cafe in San Francisco or in a restaurant in Houston or at their home in Bowling Green, Kentucky, is an abomination."

Thirteen hours later, Paul had won the concessions he sought from the administration.

Besides his public feat of oratory endurance, Paul had showcased the administration's belief in a nearly limitless, unrestricted power to kill in the name of national security. He'd beaten the Obama administration with some dramatic flourish. And he'd showcased his appeal to swing voters and the politically uninterested, garnering praise from young people and from figures on the left like Bill Maher and Arianna Huffington.

There's a big difference between leading the charge on an issue that unites Republicans and digging in your heels on one that divides them. But while the first filibuster established Paul as a major figure in the Republican party, the second one differentiates him from his peers, for better and worse. He recently wrote that he is "alone among presidential candidates" in "leading the fight to end this unconstitutional program." During his most recent filibuster, seven Senate Democrats spoke with Paul (giving him a short break in his speaking marathon); only three Republicans joined the fight.

Emily Ekins, a research fellow at the Cato Institute who spent four years as director of polling for the Reason Foundation, suggests Paul's decision to go all-out against the Patriot Act probably helps him with the younger voters most concerned about government surveillance.

"Up until two or three weeks ago, Rand Paul led the Republicans in [head-to-head] matchups against Hillary Clinton," Ekins says, adding that it wasn't until Florida senator Marco Rubio entered the race that he surpassed Paul as the Republican running strongest against Clinton.

"Who are these people who wouldn't vote for any other Republican, who are willing to switch their vote from Hillary Clinton to Rand Paul? I went in and looked – the samples are small, there's some evidence that they're younger — under 39. Although they like President Obama, and they seem liberal on some issues, they're more distrustful of government and they tend to be less in line on these national-security measures, they're more skeptical. Paul staking his claim on this issue is attractive to them. He captures voters from Hillary Clinton by taking on these issues."

That's the good news for Paul. The problem is that he has to win the Republican primary before he can get to a general-election matchup with Clinton, and voters who are young, relatively pro-Obama, and intermittently distrustful of government don't typically vote in Republican presidential primaries.

Every other Republican running for president recognizes as much, which is why none of them were willing to back Paul's take-it-or-leave-it opposition to the Patriot Act. Even rivals unlikely to give Obama the benefit of the doubt, like Senator Ted Cruz, prefer a compromise measure, the USA FREEDOM Act, which would create a new phone-records program overseen by the FISA court. But Paul opposes the FREEDOM Act, contending it doesn't go far enough in restricting the NSA's powers.

Paul's stance has made him a convenient target for the rest of the field, and incurred the ire of influential conservative pundits. William Kristol of the Weekly Standard lashed out on ABC's This Week, saying that "Rand Paul has now decided he wants to be a liberal Democrat — undercut necessary intelligence collection, weaken the police officers and our intelligence services. And Rand Paul thinks that's going to sell in a Republican primary. I think he's deeply misguided about that."

Paul will strut when President Obama criticizes his stance, and there's political benefit to public criticism from New Jersey governor Chris Christie as well. But by refusing a compromise bill that was good enough for 179 House Republicans, Paul risks alienating those who simply disagree on just how far government surveillance needs to be restricted. A loss in the policy battle will be bad enough, but the damage to Paul's standing among GOP primary voters may be worse.