

My View: Obama not entirely to blame for NDAA

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The Journal-Standard recently published three columns by Nat Hentoff, all decrying President Obama's signing of the National Defense Authorization Act (NDAA) on December 31.

In the first column (April 18) Mr. Hentoff, member of the Cato Institute, a conservative think tank funded largely by the billionaire Koch brothers, called Obama "possibly the most dangerous and destructive president we have ever had." In the second (April 26) he declared Obama "will go down in history as the president who enshrined indefinite detention (imprisonment) without trial in US law." "As if he were our king," adds Hentoff.

But the President of the United States is not a king. As Hentoff surely knows, the US Constitution provides for a system of checks and balances, creating the judicial and legislative branches as well as the executive branch.

The NDAA was passed on Dec. 12 by a Republican-controlled House of Representatives. The vote was 283-136 with 14 members not voting. There were 190 Republicans who voted for the bill, including two from our area: Representative Bobby Schilling and Representative Don Manzullo. Republicans who voted against the bill numbered 43. The Democratic vote was 93 for and 93 against.

The Senate vote, on Dec. 16, was 86-13. Six Republicans voted nay. Seven Democrats also voted nay, including Dick Durbin, Senator from Illinois.

President Obama had threatened to veto the original Senate bill. The White House maintained that the Authorization for Use of Military Force (AUMF), signed by President Bush in 2002, already granted presidential authority for indefinite detention. An executive statement issued on Nov. 17, 2011 declared that although detention might be necessary to protect the American people, "because the authorities codified in this section already exist, the Administration does not believe codification is necessary and poses some risk."

The White House statement went on to object to the mandate for "military custody for a certain class of terrorism suspects," which it called inconsistent with "the fundamental American principle that our military does not patrol our streets."

Having rejected an amendment proposed by Senator Mark Udall (D-Colorado), the Senate adopted (98-1) a compromised amendment proposed by Dianne Feinstein (D-California). A Senate-House compromise removed the requirement of military detention for terrorism suspects arrested in the United States. President Obama then agreed not to veto the bill.

The final version, in sub-section 1021(e) states, "Nothing in this section shall be construed to affect existing law or authorities relating to the detention of United States citizens, lawful resident aliens of the United States, or any other persons who are captured or arrested in the United States."

President Obama should not have signed the bill. However, he seems to have attempted to preserve some liberties that many Senators and Congressmen were willing to give away. In signing, he explained, "I have signed the Act chiefly because it authorizes funding for the defense of the United States and its interests abroad, crucial services for service members and their

families, and vital national security programs that must be renewed ... I have signed this bill despite having serious reservations with certain provisions that regulate the detention, interrogation, and prosecution of suspected terrorists.”

The bill has been criticized by the American Civil Liberties Union (ACLU) and the Bill of Rights Defense Committee, who fear that the bill may allow present and future presidents to hold indefinitely US citizens arrested on US soil. Senator Feinstein and others argue that the law, as it now stands, does not allow the indefinite detention of American citizens. However, President Obama, as well as Senators Carl Levin and John McCain, has said that such detention may still be allowed.

Nat Hentoff is right to object to this bill. However, to blame the National Defense Authorization Act almost entirely on President Obama is a mistake, perhaps encouraged by Hentoff's affiliation with anti-Obama organizations such as the Cato Institute. Obama actually objected to the required detention authorization and at least got the requirement, though not the possibility, removed.

The AUMF of 2002 was passed as an aftermath of the incidents occurring on 9/11. Instead of blaming Obama's "monarchical wishes," Hentoff should blame the panic and fear arising from 9/11 and the subsequent demands that Congress and the President do everything in their power to protect our country from terrorists, even at the price of our own freedoms.

Perhaps we all need to remember Benjamin Franklin: "Those who would give up essential liberty to purchase a little temporary safety deserve neither liberty nor safety."

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