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How our liberties can survive the Obama-Bush legacy

By: Nat Hentoff - December 5, 2012

As a climax to the discovery I've been reporting that the ever growing number of American public school students actively immersed in the Constitution will help lead the way back to who we are as knowledgeable, voting Americans, I introduce you to Alton Lu, who describes himself as:

“Just a typical (then-18-year-old) teenager in a stereotypical high school residing in an unextraordinary town ... I am now embarking on the longest, most extensive campaign to the presidency. If you agree with my views, look forward to voting for me in about 30 years” (huffingtonpost.com/alton-lu).

At 87, unless there is a seismic change in medical technology, I won't be here to vote for Alton, but many members of his generation and even older citizens could — even if his name is unfamiliar to them — because of what he writes about the National Defense Authorization Act. It is not finalized; at this writing, amendments are still being fought over in the Senate. His objections mirror the Constitutional views of the new generation of students involved in the governing of their own schools as well as in the politics of their cities, states and Washington, D.C.

In “The National Defense Authorization Act: Our Disappearing Rights and Liberties,” this patriotic offspring of James Madison emphasizes that many Americans are “unaware” that “the NDAA allows the government (its military) to whisk a citizen away with no reason other than being suspected of terrorism” — and without any appearance before a court (Jan. 3, 2012, huffingtonpost.com).

Lu also — unlike many members of Congress voting for a 2012 version of the NDAA — accurately underlines “the simple fact is that it is unconstitutional.”

Why? Look at the Bill of Rights, he says: “The Fourth Amendment grants liberty from unreasonable seizures, while the Sixth guarantees every U.S. citizen a trial in front of a jury.”

Now dig what follows: Obama's vague definition of terrorism. I'm not aware of any mention of this in current or previous congressional debates about the NDAA bill, nor has President Obama said a word about it. How could he in view of all the shadowy raids on the Constitution he has conducted all by himself?

Alton Lu begins his charge of the fundamental lawlessness pervading the National Defense Authorization Act with a huge misunderstanding of his own:

“As we know, there is no single accepted definition of terrorism present in the United States.”

How many of us do know that?

The Transactional Records Access Clearinghouse — after deep and thoroughly described research — issued this report on Sept. 28, 2009, and the situation has since worsened: “Who Is a Terrorist? Government Failure to Define Terrorism Undermines Enforcement, Puts Civil Liberties at Risk” (trac.syr.edu).

It begins:

“Federal agencies can’t seem to agree on who is a terrorist and who is not. The failure has potentially serious implications, weakening efforts to use the criminal law to combat terrorism and at the same time undermining civil liberties ...

“Even for the government terrorism investigations that ultimately led to an actual prosecution for what often appeared to be serious crimes, TRAC found that the federal agencies differ markedly about who was labeled a terrorist and who was not.”

If and when Alton Lu becomes president, he should investigate and then update the TRAC report and feature the results in his first State of the Union address, while also demonstrating the quality of the Transactional Records Access Clearinghouse, a division of openthegovernment.org.

Obviously, I’m romanticizing. Even if Alton Lu survives the pyramid of long odds and takes residence in the White House, we can’t wait that long for him and others in his new generation of constitutionalists to focus on this sweepingly dangerous federal government incompetence that undermines national security and personal liberty.

So that’s why a range of civil liberties organizations should now get after this dragnet definition of terrorists. Meanwhile, where is the media, in all its forms, on this vital story that all of us, regardless of political party, should know?

With all this confusion about what terrorism is, Lu’s generation of knowledgeable, self-governing, public-school-educated Americans should start forming committees for their own research on the depth of constitutional knowledge of future candidates for city, state and federal office — presidential aspirants included. (Obama’s pervasive ignorance of who we are as Americans was not an issue in his re-election.)

This can be helpfully and effectively accomplished by getting diverse media involved to perform their corollary reporting and analysis.

The press, as they used to be called, was made by our founders to be an integral part of

the First Amendment. As James Madison in particular reminded the new Americans:

“To the press alone, chequered as it is with abuses, the world is indebted for all the triumphs which have been gained by reason and humanity over error and oppression ... to the same beneficent source the United States owe much of the lights which conducted them to the ranks of a free and independent nation” (my book, “The War on the Bill of Rights and the Gathering Resistance,” Seven Stories Press, 2003).

Would you say this is true of our galloping media during the despoiling of our Constitution during the Bush and Obama regimes?

The press can redeem itself by joining this new edition of Samuel Adams’ pre-revolutionary Committees of Correspondence to tell Americans again what they must do to be American.