

DEMOCRATS REFUSE NON-BINDING RESOLUTION LIMITING PRESIDENTIAL DRONES AGAINST NON- COMBATANTS, TOO

I noted earlier that Eric Holder suggested that a law prohibiting the use of drones against non-combatant Americans in the US would be unconstitutional.

Grassley: Do you believe Congress has the Constitutional authority to pass a law prohibiting the President's authority to use drone aircraft to use lethal force against Americans on US soil and if not, why not?

Holder: I'm not sure that such a bill would be constitutional. It might run contrary to the Article II powers that the President has.

That's interesting background for a move Rand Paul tried at roughly hour 8 of his filibuster.

He proposed a non-binding resolution saying precisely what Grassley had laid out 10 hour earlier, voicing the position of the Senate to be opposed to the "use of drones to target Americans on American soil who pose no imminent threat."

As I understand it, the resolution was independent from the Brennan nomination (so it would not disrupt that, aside from a vote).

But – as just one of two Democrats to show up during this filibuster (Ron Wyden showed up in support during the 3:00 hour) – Dick Durbin showed up to oppose Paul's unanimous consent to call for that resolution.

Durbin promised his subcommittee of the Senate Judiciary Committee would hold a hearing on drones. Nevertheless, he objected to Paul's resolution. He suggested more Constitutional review of this simple measure was needed.

A leader of the Democratic party (and the President's fellow Chicagoan) opposed a non-binding resolution prohibiting the use of drones in the US against non-combatants out of Constitutional concerns.

I've got a lot of theories why that might be. A belief this is all about making trouble for another nomination. insistence that nothing limit potential Article II claims.

But I keep thinking about the fact that there's a wrongful death suit out there, with state secrets as the fallback claim crumbling with the public discussion.