

# Cato's Letter

A QUARTERLY  
MESSAGE  
ON LIBERTY

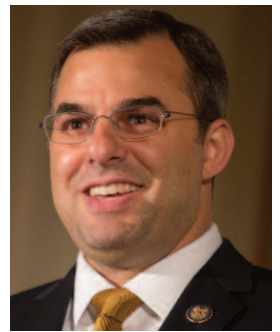
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## Defending Liberty in Congress

REP. JUSTIN AMASH

Let me start by welcoming you to the halls of Congress. This is the Cannon House Office Building. Cannon is the oldest of the congressional office buildings, and it's been the setting of many events that have ended up in history books. This room in particular has an interesting past. This is the Cannon Caucus Room. For many years, it served as a hearing room for the House Un-American Activities Committee, or HUAC.

Back then, the walls and the ceiling looked the same as they do now. The curtains have changed, but the doorways, the chandeliers, the wall sconces all looked the same. HUAC used one long elevated table that snaked around this side of the room. During the hearings, the members could sit up there and look out over the rest of the room, which would've been absolutely packed—dozens of reporters and staff were seated around tables toward the front, and members of the public would sit in chairs in the back or stand along the sides of the room. And the witness would sit at a table in the front, facing the committee.



REP. JUSTIN AMASH (R-MI) is the chair of the House Liberty Caucus, as well as a member of the Joint Economic Committee and the Committee on Oversight and Government Reform. He recently addressed Cato University during an event held on Capitol Hill.

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One witness in particular will be familiar to this audience. In October 1947, Ayn Rand sat here and testified as part of a series of hearings on “The Communist Infiltration of the Motion Picture Industry.” She testified to refute a rosy depiction of the Soviet Union in a film that had come out a few years before. There was an obvious irony to her willing participation in those hearings. She had a personal understanding of the dangers of unchecked power, but HUAC undermined the values and protections that keep power in check. The nation was gripped by the fear that it was being infiltrated by ideas hostile to the American way of life, and HUAC responded by tossing away respect for due process, free speech, and the presumption of innocence.

“The executive branch has used that fear to push for laws that give it broader powers in the name of national security and public safety.”

We see parallels today in the fight against terrorism. Americans are worried about the threat of terrorism, and the executive branch has used that fear to push for laws that give it broader powers in the name of national security and public safety. And my colleagues are often eager to pass them through Congress with weighty titles that sound like something out of 1984.

What’s a libertarian in Congress to do? Today, I want to share with you a couple recent stories that illustrate how my staff and I operate, how it’s different from other offices, and how just one person can make a difference in the defense of liberty.

A couple weeks ago, the House considered H.R. 5606, the so-called Anti-terrorism Information Sharing Is Strength Act, or the “Anti-ISIS Act.” I’m sure you won’t be surprised to hear that this bill has little to do with stopping terrorism. It was listed among the suspension bills for the week, meaning leadership intended to have it fast-tracked through the House, skipping committee and all the other normal procedures. In exchange for the fast-track process, suspension bills need a two-thirds majority to pass instead of just a simple majority.

Unlike most offices, my staff and I actually *read* all the bills—yes, even the suspension bills. The stated reason for having a process to suspend the rules and fast-track a bill is that some bills are considered uncontroversial—if few members object to a bill, the idea goes, it would simply be a waste of everyone’s time to have it go through the normal committee process. Most offices take leadership at their word when a bill is put on the suspension calendar—they assume that if it’s up under sus-

pension, it must be fine. Needless to say, that's not how my office works. We read and think about *each* and *every* bill, which is no small undertaking—on Friday night we were given a list of 25 bills that were to be considered the following Monday.

H.R. 5606 amends a section of the Patriot Act that instructs the Treasury Department to adopt regulations encouraging cooperation between banks and the government, with the “*specific* purpose of encouraging” the government to share information with banks about persons suspected of terrorism or money laundering. This section also includes a provision that allows banks to share information about these people with each other, without being liable to their customers for sharing their private information.

On the face of it, this law plainly encourages sharing of information *from* the government *to* financial institutions. But this is the Patriot Act. “Plain meaning” doesn't apply. Instead, Treasury has used this law to create a program whereby the *government* can compel *financial institutions*—22,000 of them—to provide law enforcement the account and transaction information of people they *suspect* of terrorism or money laundering.

“ I had to stop this bill, but I didn't have much time. ”

No probable cause. No warrant. No due process.

This program is bad enough as it is, but H.R. 5606 expands the program to cover dozens and dozens of additional federal crimes. Murder, drug offenses, copyright theft . . . all the way down to stealing mail. I had to stop this bill, but I didn't have much time.

We spent the weekend drafting materials to oppose the bill, and, of course, I took the fight to social media. On Monday morning, I issued a vote alert on the bill through the House Liberty Caucus, of which I'm chairman. Throughout the day, I lobbied my colleagues personally, and my staff lobbied other offices through emails and phone calls.

On Monday afternoon, I went to the floor early to make sure there would be an *actual* vote on the bill. You see, House leaders often pass suspension bills with only a few members present. Votes are officially scheduled for 6:30 p.m. on the first voting day of the week, but leaders typically *voice vote* suspension bills in the afternoon before most members are even back in town! How do they do that without a quorum? Well, if no one is on the floor to object to the lack of quorum, they simply ignore the quorum requirement!

So, I made sure I was there on time for the floor debate. Sure enough, both Republican *and* Democratic leaders had planned to pass this expansion of the Patriot Act by voice vote! Under the rules, did I have enough support to demand a roll call? No. But they didn't have enough members for a quorum. I asked for the yeas and nays to secure a roll call vote for that evening. And they granted me the roll call, knowing that I could stall the entire process simply by objecting to the lack of quorum. At 6:30 p.m., just before votes, the scheduling email came out from the whip team. They had changed the order of the votes to put the Patriot Act bill last. This is usually done to give leadership time to convince members on the floor



to support the bill, so I knew leadership must have been at least a little concerned by my actions.

The vote series started. I brought copies of the vote alert from the House Liberty Caucus with me to the floor and passed them out to my colleagues as we voted on the other bills. Then we got to the last vote in the series, a two-minute vote on the Patriot Act bill. And, to everyone's surprise, it *failed*. It had 229 yeas, 177 nays, but it needed two-thirds because it was considered under suspension.

It failed.

Think about that. It's not as if bills never fail on the floor, but it is exceedingly rare—it happens only a few times a year, if at all. My office learned about the bill only three days ahead of the vote, and when Monday morning rolled around, we had less than 12 hours to put out our material and lobby other offices. No one was talking about this bill except for my staff and me—not the outside groups, not other members who care about these issues, because no one was paying any attention to it. Without our efforts, this bill would have passed 400-and-something to 2 or 3, maybe 4.

We hear so often: "I'm only one person. What can I possibly do?" Well, I'm here to tell you firsthand that one person's efforts really can make a difference. But making that difference doesn't happen overnight. You have to lay the groundwork. In this case, it wouldn't have been possible if my staff and I didn't operate the way that we do—if we didn't believe strongly in following the Constitution, in reading every bill, in consistency and the rule of law. These things have earned me trust from my colleagues—especially on due process, civil liberties, and privacy—and respect from other offices for my staff.

A few weeks earlier, in mid-June, the Orlando shooting happened. The following week, a bill called the Homeland Safety and Security Act, H.R. 5611,

appeared on the legislative calendar. It was introduced by Majority Leader McCarthy as a response to Orlando, and it included one short, terrifying section that mirrored the Republican-backed Cornyn proposal the Senate had voted down the week before. It allowed the Department of Justice and a judge to deny gun purchases to anyone investigated for terrorism within the last five years (i.e., on one of those secret government lists) merely upon probable cause to believe that the person *will* commit an act of terrorism. Not that the person *had* committed an act of terrorism, or had conspired or attempted to commit terrorism, but that he or she *will* commit terrorism *in the future*.

Having judges make factual, legally binding determinations of what an innocent person will do is not the practice of a free society—it's precrime; it's something out of the film *Minority Report*. Due process requires more.

We issued a statement through the House Liberty Caucus, blasting the bill and telling my colleagues we would be scoring against it. I filed an amendment to strike the gun section from the bill. That night, I went to a meeting of the House Freedom Caucus (not to be confused with the House Liberty Caucus!). At the start of the day, almost no one else opposed the bill—at best, they were neutral—but one by one, members were convinced to oppose it. And before the meeting adjourned, HFC took an official position against it. The Democrats also were expected to oppose it (because it wasn't dystopian enough), so without HFC's support, the bill didn't have enough votes to pass. Soon after, leadership quietly pulled it from the calendar. We never voted on it.

Speaker Ryan was later asked about the bill at a press conference, and he said, "We're not going to take away a citizen's constitutional rights without *due process*." Remember, this was the Cornyn proposal that *Republicans* had been lauding. This was Republican *leadership's* bill in the House. It was offered by the *majority leader*. It was supposed to pass with overwhelming Republican support. But here was Speaker Ryan on TV suggesting it violated due process! I had made the constitutional argument that convinced my colleagues, and here it was, being echoed in the speaker's remarks.

Now, this victory, along with the other victories over the past couple months, was modest. But these are just small examples of what's possible with this approach to legislating. Abiding by the Constitution, upholding the rule of law, and applying principles consistently doesn't just allow me to take the right votes—it also makes me more effective at defending liberty in the halls of Congress.

And, in recent weeks, it has allowed me to convince my colleagues that our rights must always be secured if we are to avoid repeating the kind of history that happened in this room. ■



## SCHOLAR PROFILE

# Emma Ashford

EMMA ASHFORD is a research fellow at the Cato Institute with expertise in international security and the politics of energy. Her work has been published in *Foreign Affairs*, the *New York Times*, the *Los Angeles Times*, *Foreign Policy*, and *National Interest*. Ashford holds a PhD in foreign affairs from the University of Virginia.

**You recently worked with Chris Preble and Travis Evans on a foreign policy guide. What is the purpose of the guide? Why do we need to rethink America's global role?**

Looking at our foreign policy legacy over the last two decades, it's not hard to see why a rethink of U.S. foreign policy is in order. In Iraq, Libya, Afghanistan, and elsewhere, our involvement has failed to improve the situation and has often made it worse. Cato scholars have written a lot about this over the years, but our new foreign policy guide takes a different approach. It includes a variety of chapters presenting policy proposals for today's top foreign policy challenges, on areas as diverse as the defense budget, the war in Afghanistan, U.S.-Russian relations, U.S.-China relations and even the rise of ISIS. The guide acts as a practical roadmap for policymakers: if they want to improve the conduct of U.S. foreign policy and move it in a more restrained direction, this is how it could be done.

**You focus on the politics of energy in places like Russia and the Middle East. What drew you to this particular research interest?**

Oil-rich states are fascinating. On a per capita basis, they are among the wealthiest countries on the planet, yet their economic and political institutions are often so distorted that the wealth is more of a curse than a bounty. These states tend to be corrupt and authoritarian, with economies that are heavily state-controlled. My dissertation focused on this from a foreign policy angle, looking at the fact that

oil-rich states are also more likely to start wars. It's an important question for international security: in the last few years alone we've seen petrostates like Russia and Saudi Arabia engage in conflicts in Ukraine, Yemen, Syria and elsewhere. So understanding these states more thoroughly is important for the conduct of U.S. foreign policy, and will let us better anticipate and respond to their actions.

**You recently traveled to the Republican National Convention in Cleveland. Did anything strike you there about the trends in U.S. foreign policy?**

There was limited foreign policy debate at the convention this year, and that's unfortunate. On the one hand, I think this election season has finally highlighted to policymakers the fact that many Americans aren't happy with our current foreign policy approach. In fact, polls show that Americans in general, and millennials in particular, are more restrained on foreign policy than policymakers: more than 70 percent of Americans believe that the Iraq War was a mistake, while less than one third of Americans believe that the United States should be doing more around the world. On the other hand, this dissatisfaction hasn't yet resulted in an informed debate about foreign policy. Instead, we have one major party candidate who advocates the flawed foreign policy status quo, while her opponent's foreign policy ideas can be best defined as incoherent. Voters deserve a real debate about the future of U.S. foreign policy, but so far, this election season hasn't provided it. ■

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# Partnering for a Better Future



In our fight for a freer world, we have opportunities to reflect on our vision for the future whenever we update our wills, trusts, and estate plans. Cato's Legacy Society, which confers the same benefits as received by Benefactor Sponsors who make annual contributions of \$5,000 or more to Cato, allows Sponsors to partner with the Institute on a shared vision and identify funding that can make a lasting impact for liberty.

One new Legacy Society Sponsor, for example, wants to support the Institute's efforts to reach young people. This Sponsor recognizes the unique exposure to constitutionalism and the principles of individual liberty that Cato's educational opportunities provide for students who might otherwise complete college without encountering these ideas—in 2015, the Institute's student programs engaged 5,235 young people.

Following conversations about the intended vehicle and size of the proposed bequest, we created a plan enabling this Legacy Society Sponsor to support the Institute's internship programs for several years. The Sponsor's gift will secure opportunities for young liberty-minded people to be fully trained to advocate for the philosophy of freedom wherever their careers take them. Cato recently heard from a former intern, now a successful economist, who still fondly recalls his time at the Institute 20 years later. "Because the environment at Cato is one in which the open exchange of ideas is encouraged, my time spent there forced me to sharpen my analytical skills and made me a more consistent thinker," he said.

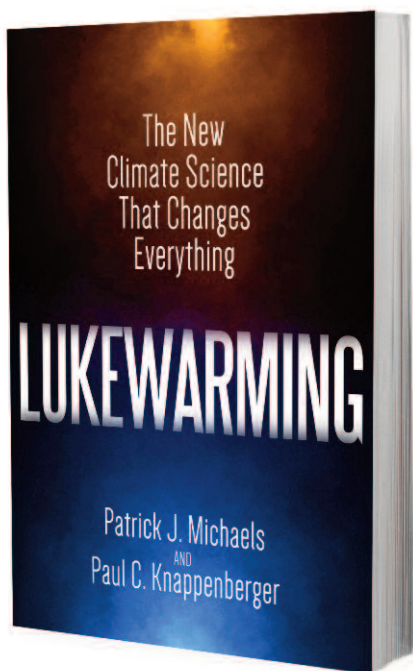
"I also learned a lot about how to conduct first-rate research." The Sponsor's commitment to supporting internships will have a tremendous impact by strengthening Cato's ability to identify, cultivate, and educate the next generation of sophisticated advocates for liberty.

Another area of success in Cato's quest for young hearts and minds is [Libertarianism.org](http://Libertarianism.org). Thanks to a major contribution to develop online content and libertarian-themed public, online courses for emerging leaders, [Libertarianism.org](http://Libertarianism.org) is now a top educational resource comprising videos, podcasts, and reading guides. During a recent 30-day period, [Libertarianism.org](http://Libertarianism.org) was accessed 160,914 times, the site's podcasts averaged 14,916 listeners, and its social media reach blossomed to roughly 4 million impressions. One student recently wrote Cato to celebrate the effectiveness of [Libertarianism.org](http://Libertarianism.org). He said that, "If ever a friend wants to know more about a policy area from a libertarian perspective, my recommendation without fail is to listen to whichever [Libertarianism.org](http://Libertarianism.org) podcast covered the topic they are interested in." And thanks to the commitment of Cato Legacy Society members, we'll continue pursuing the most effective outreach and persuasion programs to secure a love of liberty among future leaders.

Please let us know if you would like more information about potential legacy partnerships with Cato through your estate plan. Exploring opportunities to advance liberty is an exciting journey and we're honored that you've chosen to be our colleague in the battle for a better future. Thank you for supporting Cato! ■

**TO LEARN MORE ABOUT HOW YOU CAN ADVANCE THE WORK OF CATO, PLEASE CONTACT HARRISON MOAR, CATO'S DIRECTOR OF DEVELOPMENT, AT [HMOAR@CATO.ORG](mailto:hmoar@cato.org) OR 202-789-5259.**

# Global Warming: *A Matter of Degrees*



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