

Brian Nichols Interviewing Justin Amash

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Announcer 1 [00:00:43] Brian Nichols you're a great man with great ideas and great podcasts.

Announcer 2 [00:00:46] Do you see why he's my favorite will return.

Announcer 3 [00:00:49] Yes.

Announcer 2 [00:00:50] He's full of common sense and wisdom.

Brian Nichols [00:00:52] Brian Nichols here on the Brian Nichols show.

Announcer 4 [00:00:54] Welcome to the Brian Nichols show. Your source for common sense politics on the We Are Libertarians Network.

[00:01:01] Today I'm joined by easily one of the best of the best. Matt Taibbi welcome to the Brian Nichols show.

Matt Taibbi [00:01:06] Hey Brian it's good to be with you. By the way let me take a step back and say I love what you're doing. I love the conversational style and it's a combination of good fun and serious ideas. I love the fact that your show's doing what it does and this is how we win the future.

Announcer 4 [00:01:20] The Brian Nichols show is the fastest growing liberty podcast that brings together people from all means a political force as we seek to have meaningful conversations about the issues you care about.

unknown male 1 [00:01:32] There's so many things that we can do to make America freer and of the world better and safer and more peaceful. Everybody has the responsibility of trying to help to do that. You know what you're doing with your podcast is a perfect example of, you know, you're doing this as a labor of love and for the cause and that is exactly what we have to have.

Announcer 4 [00:01:49] At the Brian Nichols show. Our goal is to leave the audience educated enlightened and informed. And now your host Brian Nichols.

Brian Nichols [00:01:59] Hey what's up folks it's Brian Nichols here on the Brian Nichols show. Welcome. Yes, to another fun filled episode of the Brian Nichols show. If you are a first time listener to the Brian Nichols show, well first and foremost welcome. Thank you for joining us today. I am your humble host Brian Nichols we do this type of show once a week, usually come out here on Friday mornings and this week is no exception. And I am joined by, easily one of my favorite guests, and that is Congressman Justin Amash. Now Justin Amash really needs no introduction. He has been all over the headlines as of late with him being the first sitting member of Congress as a Republican to openly question whether or not President Donald Trump indeed committed obstruction of justice and should be considered for impeachment. So I don't want to spoil too much of the interview but we have a lot of fun we talk about, yes, Congressman Amash's stance on Donald Trump's potential obstruction of justice, kind of discuss what happened to the GOP in terms of leaving this free market, kind of you know constitutional approach that they seem to have back in 2010 more towards this populist and nationalist approach here in 2019. We also discuss Congressman Amash's recent stance to help end the surveillance state - talking about reining in the Patriot Act as well as FISA and particularly section

702 of FISA that just happened here in the past week. And then we of course have to address the elephant in the room, or should I say porcupine in the room. Would Congressman Amash consider running for president as a Republican and primary President Trump or would he consider maybe running as a libertarian? I know the answer but you'd listen to find out. So with that on the show, Congressman Justin Amash here on the Brian Nichols show.

Justin Amash [00:03:33] Hey Brian thanks for having me on.

Brian Nichols [00:03:35] Absolutely well listen sir, I know we've been working on this interview for quite a bit and I know back in the middle of May we originally had it set up that you were going to be on my show and then something happened where maybe you sent out a few tweets, the president got mad, and then we had to reschedule because you were a little busy. So how about this, let's do a quick intro for the folks at my show who maybe don't know who you are. Explain who you are as a congressman here representing the third district in Michigan, but also maybe we can start out discussing those tweets that start off a really rise in stardom from your perspective. But also really showing that you're holding the feet to the fire too, regardless of who's in power, Party be damned. So with that Congressman Amash the floor is yours.

Justin Amash [00:04:16] All right well thanks again for having me on. For those who don't know, I'm from Grand Rapids Michigan. I represent the 3rd district and have represented that district in Congress for more than eight years now. So I'm in my fifth term and I've been consistently an independent minded congressman from the day I got here. I've always been independent minded since I was a kid but it really obviously shows in my vote. There was maybe other, only one other member of Congress who had a record as independent as mine on the Republican side and that was Walter Jones, my good friend who passed away earlier this year. So I'm a big believer that you need to come here and uphold your oath to the constitution and try to advance principles of liberty. And I've done that. In my district, when they vote for me, they know they're voting for someone who is going to go and follow his principles and not go there just to go with the flow, or you know pay attention to the polls on a particular issue. I've got to do what's right according to the Constitution and the rule of law and protecting the liberty of everyone in my district. So, That's what I do. I'm a libertarian. I've always described myself that way. Libertarian constitutional conservative. Some people might call me a classical liberal. That might be actually a closer description to what I am. Which is for those who don't know very different from a modern progressive liberal. So I think those are ways to describe me. Some people think of me as moderate, others think of me as extremely conservative. So, it depends on it depends on how you're looking at it. I'm pretty moderate in my demeanor. I think we don't do enough to work together. But I'm also a person who believes people should come to Washington and stick to their principles. If you ran on a very progressive platform and you said that's what you're going to do, then you should come here and do that. And if you ran like I did on a very libertarian platform, then that's that's what you should come here and fight for. And it should play out in the House of Representatives through a deliberative process. And we should all be able to go to the House floor and make our case, and then we have a democratic system where we take votes and the majority wins, and that's how it should work. And if you didn't win this time, well you can win next time. And you've got to try to persuade people to your position. I prefer people who come here with strong principles rather than a bunch of people who come in here with no principles, or if their principles are, well, I'll just do whatever the leadership on my side tells me. So I respect those on either side of the aisle who come here and stick to their guns and stand by what they believe in. And you're also willing to go and debate those ideas on the House floor and and accept the outcome regardless of what it is.

brian [00:07:43] So let's talk about one of these instances where you really stuck to your guns and you've gotten a ton of pressure. Surprisingly, by some respects, those people on your side of the aisle, being those in the GOP. And that was your your tweets back in May, where you said after reading the Mueller Report, you started to say well maybe there's a little bit here that we need to look into more in terms of obstruction of justice. And I've heard some folks even the Libertarian Party or just libertarian camp who said well how can a president be committing obstruction of justice when there was no underlying crime that they committed in the first place? So I guess, maybe if you could, maybe answer those questions to people who, they just don't get it, they're like how can somebody be charged for a crime they didn't commit, by the obstruction of justice

for something, again, they didn't actually do? So I guess, if you could, kinda lay out what's your thought process to this, and maybe help clarify things for people who are asking that question.

Justin Amash [00:08:36] Yeah. So, on this question, the law doesn't require an underlying crime for there to be the crime of obstruction of justice. They are separate crimes. The reason you have the crime of obstruction of justice is to prevent someone from hampering the prosecutorial process, so that they might not be able to be charged with the other crime. The so-called underlying crime. If you had a system where you couldn't charge someone with obstruction of justice if there are no underlying crime, then it wouldn't even make sense. They would only be charged with obstruction of justice if they were unable to completely obstruct justice. So it's not even logical to have a system like that. So you want to have something to protect the integrity of the prosecutorial system. And that's why you have this crime. Because you don't want people interfering with the lawful investigation of potential criminal activity. So they are separate things. Obstruction of justice has never required an underlying crime in the law. And if you told the prosecutor that obstruction of justice requires an underlying crime they'd laugh at you, because that's not how the law works for other people. And it would be wrong to have a system where the president has one set of rules and everyone else has another set of rules. Why should the president get a special advantage because he is the president, where he doesn't face obstruction of justice, when everyday Americans can be charged with obstruction of justice for doing exactly the same thing?

Brian Nichols [00:10:23] So then I guess, the the greater libertarian question comes out, right saying, well what if the law let's say isn't just? So I guess, you know, is the law, the fact that you could be charged with obstruction of justice, a good in moral law from a libertarian perspective? Now you being in Congress, do you kind of have an issue in grappling that that kind of principled approach to you know, is a law moral because it's a law, or you know, are we going to hold everybody to the same standard, despite the fact that the law maybe is questionable in its morality?

Justin Amash [00:10:55] Yeah, well first of all, the executive branch has to uphold the law, regardless of whether it agrees with the law. So, there's that first and foremost. And members of Congress have to change laws if they don't like what the law is. That's how our system works. We don't just get to decide we don't like certain laws. I do think that the executive branch has some prerogative when they think a law is unconstitutional. I don't think the administration is making that argument here with respect to obstruction of justice. I don't think anyone's argued that obstruction of justice laws are unconstitutional. If I were in charge and could write the law myself? Would I maybe change some of the penalties for obstruction of justice so that it is not criminalized this severely? I might do that. But I do think that there is a place for things like obstruction of justice in law, because we don't want a system where people can try to evade the law by hampering investigations and making it impossible for crimes to be prosecuted. We want an orderly system. Just because we don't like underlying crime, doesn't mean that we should allow people to just evade them by hampering or interfering with an investigation.

Brian Nichols [00:12:23] Makes sense. So I guess let's, I want to give you an open platform to maybe correct some of the misconceptions that are being levied against you by those in the more, we'll say MAGA camp, of the GOP. What is the message that you want to get to those folks who maybe are looking at your stance against President Trump right now, in the call for you know, looking into the obstruction of justice? What's the message that you want to give to them?

Justin Amash [00:12:49] Well I don't know what will be precisely persuasive to a lot of them, because I think there are a lot of them who have made up their minds about things based on a loyalty to the president. And what I would say is, the, the president is a person who does good things and does bad things. And when I look at the president's policies, sometimes I agree with them and sometimes I don't. When I look at the Mueller report, I read the report, and I analyze it based on what I have in front of me. There are people who have said, well they think the FISA process was bad. And I say maybe it was bad. I mean I'm the one who's been fighting against FISA more than anyone else in Congress. I've been wanting to eliminate FISA for a long time. I don't support the FISA court. I just had an amendment this week, that maybe we'll talk about to try to rein in FISA. And I've been pushing against FISA, and the Patriot Act, and all of these surveillance authorities for a long time. So, there are a lot of supporters of the president, who say well part of the investigation was conducted with a bad FISA. In other words, they allege at least,

that there was not enough evidence to obtain the warrant. And yet the warrant was obtained and so therefore that taints the whole investigation. What I would point out is if they have studied the investigation, they'd find that actually, that would not taint the whole investigation, and nor would it end the obstruction of justice charges. The obstruction of justice charges are a separate thing altogether. Someone could have part of the investigation where the government did something problematic, for example obtained a warrant improperly, and they can still obstruct justice and be charged with that crime. And in my opinion, that's what happened here, where regardless of what happened in part of the investigation, as I said even if it were true that the FISA warrant was obtained improperly it would not undermine the investigation overall. It would just hurt part of the investigation, a small part relatively speaking. And you'd still have the overall investigation, and you had a president who tried to undermine the entire investigation by obstructing justice. So, I have to look at the entire picture, not just part of it. And I can't let the president have a pass any more than I would let Barack Obama have a pass, or any other president have a pass. I don't think it's right for a president to evade the law this way and to be above the law, to think that he should get a special treatment under the law compared to any other citizen. If nothing else, libertarians should believe in equality under the law. And right now we have a lot of people calling for inequality under the law. They want the president to get special treatment under the law because he's the president, and everyone else, we have to follow the law. We can't obstruct justice the way the president did. We can do all these other things. So, I would say everyone's got to be treated the same, and that's how I'm treating the president.

Brian Nichols [00:16:26] It's sad because I think if you were to look back just a short three four years ago, when you were talking about the tail end of the President Obama presidency, the same people who are now fiercely defending President Trump would be the first in line to scream impeachment over Barack Obama. So, I think there definitely is some cognitive dissonance in terms of just the fact that we've gotten so tribal in our politics nowadays, which actually leads to the next point I want to bring up. And that was, you being quote unquote the loneliest man in Congress in Washington. And that was back in an article from CNN back in March which ironically was before you actually took a stand as the first Republican to start questioning the results of the Mueller Report and the obstruction of justice. And you know, I'm sure you came into Congress with the Tea Party wave in 2010, and people were looking at you, along with the incoming group like Thomas Massie, and Rand Paul, Mike Lee, as really these Tea Party warriors. And you started the House Freedom Caucus and here you are just a short nine years later, and it you know, the House Freedom Caucus, you've mentioned the past week or so that you've resigned from there. So I guess, what's kind of happened over the past decade or so since you joined Congress, that has caused you to essentially become quote unquote the loneliest Republican the loneliest man in Congress?

Justin Amash [00:17:43] Well it's been a gradual move in that direction. I mean I don't I don't think of myself as lonely. I've got lots of friends here. And in fact the House Freedom Caucus are many of my friends. So, I have good and close relationships with, with most of them. And of course, Thomas Massie's a great friend, great friend here, so I don't feel lonely at all. But what I would say has happened is a lot of nationalism and populism within the Republican Party has sprung to the surface. When I started out, a lot of conservatives were very focused on limited government, and free markets, and protecting people's rights. It was about, really I guess, classical liberal ideas, constitutional conservatism, the kind of things that, you know, the founders talked about, many of the founders and many famed conservative and libertarian scholars. So, like it was it was very much aligned with sort of traditional conservative philosophy. And in the past decade, gradually we've seen people move more toward nationalism and populism and actually bigger government. I think of a lot of the Trump movement for example, as being a big government movement. It's a movement toward using the power of the state in a different way. A lot of the things that are talked about are really about increasing the state's power. Even the way the president declares emergencies for things that he thinks Congress is not handling properly. That's an increase in the power of the state. That's the the president saying, I know better than the American people, to the representatives - I'm going to assume more control. I'm going to grow government in different ways. Spending is skyrocketing and people are OK with it. So I think that gradually you've seen a lot of the sort of big government movement within the Republican Party spring up, and it's very much a nationalist populist movement and it is now a dominant force at least on the political side. I still think it's the minority of the Republican Party, but it is large enough of a bloc that it is maybe like a plurality by itself. It's dominating a lot of the other blocs.

Brian Nichols [00:20:29] Yes, it seems to come out of nowhere too. Out of 2015. I mean I know, the Rand Paul moment if you will, where it was the libertarian moment. Rand Paul was leading in the polls and he was going to be this first real face of libertarianism. You know, taking over the party mantle and actually being a presidential candidate with a libertarian ideology. And then Donald Trump happened. And like you said the populism, the nationalism it, it basically just completely pushed away all the free market principles that, you know, I myself really was excited about back in the early 2010s. And it took over this entire movement with this again, nationalist populist mentality. And you mentioned you think it's kind of in that plurality now of the GOP. Do you see the GOP being saved? Do you see us kind of going back maybe, after Donald Trump, towards this free market approach, this classically liberal approach to politics?

Justin Amash [00:21:20] Well it's certainly possible, but what I expect is probably the GOP will revert back to more of a neo-conservative stance. More of an establishment neo-conservative approach. Maybe represented more by people like Marco Rubio and some of these others. Where it's big government in a different way. So like you've got the you know, you've got the big government nationalist populist thing going on right now with President Trump. And I think you might move back toward a big government militaristic surveillance state sort of thing under, you know, under a Marco Rubio or someone like that. Not that the president frankly has reduced our involvement overseas or, or limited the surveillance state. Those are as strong as ever under President Trump. But they're they've been deemphasized in many ways versus what a lot of the neo-conservatives would do. So, I'm not sure, I think it moves back more in that direction. I think that, like I said, there are more people within the party who are not nationalists or populists, and more people in the party who are not neo-conservatives. I don't think those are the majority of the party. But those tend to be blocs that are maybe more organized than some of the other blocs. And so, when they get rolling like you have with Trump right now on the national populist stuff, they have a lot of momentum and it's hard for the other parts of the party to overcome them. But you know, you never know, like over a long period of time thinking things can change. And I just don't see it. I don't see it changing dramatically in the near future other than maybe reverting a little bit back more to the neoconservative side.

Brian Nichols [00:23:31] So speaking of those neoconservatives, let's kind of circle back to FISA and then the Patriot Act. So you've been one of the leading voices trying to really curtail the surveillance state, and I think that's easily one of the top issues that I've had. Now you know, the whole Stand with Rand. That was kind one of the entire purposes of Stand With Rand was standing up against the surveillance state standing against, you know the War Powers State. So talk if you would, about the work you've been doing in trying to repeal the FISA 702, but also your at, your focus on trying to dismantle the Patriot Act.

Justin Amash [00:24:05] Yeah. So we've been working on that for years, and of course I'm all for repealing the Patriot Act repealing FISA 702, usually when we are working on legislation because we have to make incremental changes, we have to move people in the right direction, we can't offer things as dramatic as repeal the Patriot Act or repeal 702. I'm all for doing that, but you're not going to get enough people to move in that direction. So what we try to do is strongly limit those things. So I've offered amendments in the past to Section 215 of the Patriot Act and very recently to 702 to really limit what the government can do to try to put the sections of law back in line with how the Fourth Amendment is supposed to protect us. And I think most of the reforms are not perfect. They're not the kind of things that are ideal from my perspective, but they would dramatically protect people's rights compared to what we have now. So, for example, my amendment, recently this was this week, would limit 702 collection. So the way I think, for those who are not very familiar with surveillance laws, by the 702 involves at least two Fourth Amendment violations. Two pretty clear ones. So on the front end they are collecting a whole bunch of data on Americans. Communications, full communications, e-mails etc. On the back end they are then searching those communications without a warrant. So they, on the front end they're collecting them without a warrant, on the back end they're searching them without a warrant. Last year when there was a FISA 702 reauthorization, what we tried to do was limit the back end searching of the communication. So we said, OK, you've collected them without a warrant but we're not going to let you search of them without a warrant. So if you want to search for information on an American in your database of information that you've collected; you can't search that information without obtaining a warrant for that person's information. When we did

that, we got push back and they fought against us and ultimately the people who want the surveillance state prevailed. And President Trump himself opposed my amendment and signed FISA 702 reauthorization into law to expand the surveillance state. So the president himself has voted to expand the surveillance state. And right now if he wanted to, he could say he's not going to use these authorities. He can take executive action right now, to say I think these authorities are unconstitutional and I'm not going to use them. But he hasn't said that because he's fully supportive of the surveillance state despite what, despite his deemphasizing it publicly, or his claims of FISA abuse all the time. He can't stand FISA. FISA abuses going on everywhere. He right now could say, I'm not going to use these unconstitutional surveillance authorities. But he doesn't do that because that's not what he really believes. He actually does support them. So last year that's what happened. We tried to stop the back end searching of American communications on a warrant. The president opposed us. He issued a veto threat against my amendment. And then he signed the bill into law to allow the surveillance state expand. This year with this amendment this week, we tried to stop the front end collection of Americans information without a warrant. So we're trying to say, hey if you're not going to require a warrant on the back end to search these, this information then we're going to require you to limit your collection on the front end so that you're not collecting Americans information without a warrant. And we brought this to the floor, and on the Republican side we did OK, about one out of three Republicans voted for it. Now that's not great. I'd love to have more Republicans. But Republicans have not been fantastic on this issue since 9/11. So it's not been a great issue for Republicans in Congress. So I was happy to get one out of three Republicans. Where I was disappointed was on the Democratic side. Democrats have typically said they're opposed to the surveillance state. They voted with us in the past on these issues to protect people's rights. And I can usually expect about 75-80 percent of the Democrats to be with us on an issue like this. Unfortunately this week, more than half of the Democrats voted against my amendment. Which shows how much politics comes into play. I think what's happening is, there's all this talk by the president about FISA abuse, and the Democrats, now they want to look strong on FISA like they support FISA. Because the president's complaining about FISA and now the Democrats look like they want to, they want to look like they're supporting FISA. Which is unfortunate because politics shouldn't come into play in this thing. It's about principles. It's about protecting the rights of all Americans. And whatever your feelings about the president, we need to fight to protect the rights of Americans so that their communications aren't being searched without a warrant. And when I said to Democrats on the floor was, you complain about this president abusing power, and you want to keep the executive branch in check, and you want to keep this president specifically in check. And yet, if you don't support this amendment you're handing him more power. You're saying, go ahead, you're allowed to search and collect the communications of all sorts of Americans, that we don't know the exact number, but it's a large number of Americans without a warrant. And that's totally unacceptable.

Brian Nichols [00:30:15] All right. So final question, because we are unfortunately getting towards the end of the interview and that is, a being a libertarian show, I have to ask the libertarian question, slash, I think a lot of people are asking this question, is, Justin Amash 2020 - Will it happen? And if it does, would it happen as a libertarian or would you consider primarying President Trump?

Justin Amash [00:30:37] Well, that depends if you'll support me or not.

Brian Nichols [00:30:39] Oh 100 percent. I think, I think every libertarian would raise their hands in support of a president Justin Amash.

Justin Amash [00:30:45] So, Look I've I said that I don't want to rule anything out. That's not how I live my life. So I'm not speaking specifically about this, when I've been asked over the years would you run for governor or would you run for U.S. Senate, I always say I wouldn't rule it out. The only thing I'd rule out is State Attorney General I'm not interested in that at all. I've been I've been asked about that one, I'm like, No I don't want to do that one. So I don't want to rule that kind of stuff out. My goal is to do what I can to defend the Constitution in the best way I can. And if that means running for something else, then that's something I would do. So, I keep those options on the table. I think about where I can be most effective, and I do have a position of influence. I have more of a national profile, and I want to use that to help set things back on course for our country. So to help restore our faith in the Constitution, and our system of government, and protect people's rights from an abusive government. So I want to do those

things and I'll think about the best way to do that. And I've been very grateful, very honored to represent my district. It's really one of the greatest honors of my life, and I wake up every morning so thankful to the people of my district for giving me the chance to represent them in Congress. So it's something that I hold dear and enjoy doing. And I will keep all things on the table. But I really do like the work that I'm doing and I feel like I'm making a difference.

Brian Nichols [00:32:44] In the words of Jim Carrey. "So you're telling me there's a chance" it's all I got to hear. Well listen Congressman Amash, I really appreciate your time today, especially being so busy in Congress. So with that I want to see where can folks go ahead and find you over on social media if they want to stay more up to date with all the happenings and all the tweet storms. And I'm you know obviously getting a little leeway here where they can find you over on Twitter where you definitely relay a lot of your thoughts and your voting and really explain things in detail.

Justin Amash [00:33:15] Yes. So the best place to go to hear from me these days is my Twitter handle @justinamash. You know, I try to keep people apprised of what's going on here in Congress. And you know just my thoughts generally about important things in the news. So go to @justinamash and check it out and thanks again for having me on the show. I really appreciate it.

Brian Nichols [00:33:40] For sure well listen. Congressman Amash, anything we can do in the future to help you continue fighting for liberty, please let me know, please let my network We Are Libertarians know. You know, we're all in for for anything we can do to help advance liberty. So thank you for all you're doing over in Congress. And we really do again appreciate your time. Thanks so much.

Justin Amash [00:33:57] Thanks so much Brian, appreciate it.

Brian Nichols [00:33:58] Absolutely. Well listen folks if you enjoyed today's episode please take a second and swing over to Congressman Amash's Twitter. Again, it's @justinamash, and I will include that link in the show notes. But also find me over on social media @BNicholsLiberty both on Twitter and on Facebook. Also you can go ahead and subscribe to us over on iTunes please leave a rate and review, that's how we move up the rankings. And as always folks, I really appreciate you taking time out of your busy schedules to join us here on the Brian Nichols show. So, signing off for Congressman Justin Amash. We'll see you next week.

Announcer 3 [00:34:27] Thanks for listening to the Brian Nichols show. Find more episodes at Brian Nichols show dot com.