

Addendum IV: What Did Laurence Tribe and Antonin Scalia *Really* Say about an Article V Convention?

Professor Tribe

It has been claimed that Professor Laurence Tribe, perhaps the most highly respected constitutional law professor of our time, is opposed to the use of an amendment-proposing Article V convention. *This is not true*, and he has said so very clearly.

In a discussion moderated by Prof. Lawrence Lessig in 2011, Prof. Tribe was discussing the pros and cons of an Article V amendment-proposing convention:



"[T]here may be certain kinds of systemic breakdowns where a large majority of the people of the United States want something to happen. For example (and I take this just as an example), they want to limit the ability of amassed corporate wealth to dominate American politics. Now, I count myself as part of

that group. [...] But it may be the case that the very things that make us want to change the influence of corporate money on politics will make it essentially inconceivable that Congress would propose that amendment to the states. Now, if we get that kind of lock down, [...] then I think we're at least in the territory where I think there's perhaps a plausible systemic case for a limited purpose convention [...]"



And to remove any lingering doubt, later in that same discussion Professor Tribe made it abundantly clear that he is not opposed to the use of Article V conventions:

"I would also object very much to someone who says that because I don't know the answers to all of the questions about an Article

V convention, I would be opposed to ever having one, and that's why I've made very clear that I don't take that view."

Justice Scalia



The late Justice Antonin Scalia has also been misquoted as being opposed to the use of Article V conventions. This is untrue.

During a debate in 1979 Justice Scalia was very much in favor of using an Article V Convention: *"I really want to see the process used responsibly on a serious issue so*

that...we can learn how to use the process responsibly in the future." He also said this:

"The Congress is simply unwilling to give attention to many issues which it knows the people are concerned with," Scalia explains. *"Which issues involve restrictions upon the federal government's own power. I think the founders foresaw that, and they provided this method in order to enable a convention to remedy that."*

"If the only way to get that convention is to take this minimal risk then I think it is a reasonable risk to be undergone."

Justice Scalia clearly understood the difference between a Constitutional Convention, to which he was very much opposed, and an amendment-proposing Article V Convention, which he supported.