

Laurence Tribe on Ted Cruz, Constitution, citizenship with Canada

<https://youtu.be/tLe9Apcho7Q>

If Donald Trump wins the Iowa caucuses, his prospects of winning the presidential nomination go from good to maybe unstoppable. And if Donald Trump does win the Iowa caucuses by beating the current frontrunner there Ted Cruz, it will be because of something Donald Trump saw on this program. Harvard Law Professor Laurence Tribe discussed the meaning of the phrase natural born citizen as it appears in the Constitution for the qualification for the Presidency.

Laurence Tribe:

Without amending the Constitution, or getting a definitive ruling from the U.S. Supreme Court, it's just wrong to say, as Senator Cruz has tried to say, that it's a settled matter. It isn't settled.

And, as I said earlier in the program, we learned today that Donald Trump takes notes when he watches this program.

Donald Trump:

Laurence Tribe at Harvard is a Constitutional expert, one of the best in the country, said, and I wrote it down, "This is not a settled matter. It's wrong to say it is a settled matter," because it's absolutely not, it's not a settled matter. That means, you know a lot of people think you have to be born here. You have to be born on this land.

Joining us now once again, Laurence Tribe, Professor of Constitutional Law at Harvard Law School. Thank you for joining us again tonight professor, I really appreciate it.

Laurence Tribe:

My pleasure, Laurence.

How uncomfortable are you to hear that Donald Trump is taking notes while you're speaking, and then using them in his stump speeches now.

Laurence Tribe:

Well, it's certainly not the way I had expected the year to unfold, but I'm comfortable with anyone taking notes, I'm just not partisan about these issues. I call it the way I see it. And I think that this is about a lot more than whether Donald Trump will succeed in encouraging somebody to sue Ted Cruz, or whether anybody will yank Ted Cruz off the stage, that's not what I think is going to happen. What this does is give us a window into the character of Ted Cruz, the sort of person he is with respect to the American Constitution. What's intriguing—it was true even when he was my student years ago. He used to believe in originalism. That is the constitution always means what it meant when it was adopted, except when it's not convenient for him to mean that. I mean, this is a perfect example.

If the Constitution always meant what he claims, namely, that if you've got an American mother, it doesn't matter where in the world you were born, you become a natural born citizen at birth, well then why in the world did Congress need to pass a law dealing with naturalization and immigration in 1934, saying 'from now on, although it wasn't true before, if you have a mother who is an American citizen, that's good enough, so you don't need to get naturalized. Of course they weren't talking about legitimacy to run for president. But what's intriguing is the way that Ted Cruz tries to prove that it's sort of an open and shut case, not by looking at the original meaning of the Constitution was, he looks at all these events in the 1930s, and the 60s and 70s, and what happened when John McCain tried to run for president, and so on.

That means that when the people who get hurt by an adequarian historically rigid view of the Constitution: gays, women, minorities; when the people who get hurt are those guys, he's an originalist, but he's a fair weather originalist because when the people who get hurt are Ted Cruz, by that philosophy, he's kind of a weather vane on the subject. He's a fair weather originalist, and I think that what makes this really important..the reason why I got into it wasn't that I got an axe to grind about Ted Cruz, or that I was looking forward to having Donald Trump quote me, it was because I care about the Constitution. Ted Cruz claims to care about the Constitution. When he studied it at Harvard he was at least consistent about it. But now, he picks and chooses an approach to the fundamental important American document that suits his purposes. And I don't think that we can afford to have the Constitution in the hands of someone who plays fast and loose with that fundamental law. That's why I care so much about this.

And you've been on this particular subject long before Ted Cruz was ever a United States Senator. You co-wrote a legal memo on behalf of John McCain when this question came up in his case since