Twitter Thread by Seth Abramson



Seth Abramson
@SethAbramson

Question for you: On Monday, Congress announces it's going to vote to impeach a federal judge on Wednesday. The president of the United States decides to issue a preemptive pardon of the judge on Tuesday. According to you, there's no problem, right, as there was no impeachment?

@LambeJerry My thinking on this is identical to that of a law professor at Northwestern University who published his opinion in the NYT. But that wasn't mentioned in your piece. It's also odd that you believe the impeachment exception has nothing *really* to do with separation of powers.

@LambeJerry You couldn't possibly think the impeachment exception has anything to do with separation of powers, as according to you and the small number of attorneys you cited, the impeachment exception isn't *actually* about keeping the president from interfering in the impeachment process.

@LambeJerry Per you, the impeachment exception to the Pardon Clause of the United States Constitution is just a *narrow administrative cutout* to make sure that a President doesn't cause the Congress to have...what, have wasted their time? I'd love to see an argument for that interpretation.

@LambeJerry I've read the documents surrounding the creation of both the Pardon Clause and the impeachment exception. The framers were explicitly concerned about the sort of situation we have encountered now—which is entirely unlike the situation in Garland. Your legal analysis is facile.

@LambeJerry You had an opportunity to present your story as a disagreement of law between attorneys. Instead, it became a tsunami of envy/bitterness with nothing to do with the law and everything to do with Twitter and false claims about people's motivations. You also flattened my argument.

@LambeJerry My thread offered six different approaches to think about thinking about the situation and explicitly said that Supreme Court litigators would have to take up the conversation. You didn't address the ongoing crime issue, the justiciability issue, or any of the others I mentioned.

@LambeJerry I have read all of the attorneys you cited, and none has explained how impeachment could be the remedy for a pardon that is an abuse of power and issued so late in a presidential term that impeachment *cannot be used as a remedy*. Every one of them ignores that issue completely.

@LambeJerry Your article also doesn't address how a pardon would remain operative if it were part of a bribery scheme that continued beyond the issuance of the pardon—thus placing the actus reus outside the scope of the pardon. I made that argument very clearly. Why wasn't it in the article?

@LambeJerry Don't think that you've done anything here but attempt to write a hitpiece about an attorney you feel is getting too much attention. And the fact is, I agree that Twitter accounts having an outsized impact can be problematic. But I was writing what I wrote in good faith here.

@LambeJerry If your focus was not on my identity and the size of my Twitter following but on the substance of my argument, it's a mystery to me why your piece covered only the narrowest part of my argument and didn't mention other attorneys who take my same view of the impeachment exception.

@LambeJerry Ask yourself why you and Jan didn't simply say "I disagree with this analysis"—and lay out exactly how you'd refute each of my 6 briefable (which is not to say impenetrable) arguments. But I think we understand why. This is about Twitter culture for you—not about a legal dispute.

@LambeJerry I've watched for years as this president has trampled every norm in this country—and after each one, people like you told us nothing could be done and that our system permits this. I'm *so terribly sorry* to you and Jan that I refuse to accept that we have to let democracy die.

@LambeJerry If you believed we're in a national emergency the way that I do, you wouldn't have written a snarky hitpiece aimed at a Twitter personality. You would've written a comprehensive analysis of every possible novel argument for contesting a pardon that is part of a criminal scheme.

@LambeJerry Instead, faced with a fact pattern no attorney in America has seen in 225 years, you blithely summarized 4 attorneys telling us within 24 hours that they've spent *no* time thinking about novel responses to the situation because the *usual responses are just fine*.

Jesus Christ.

@LambeJerry Here's what a journalist might have done: ask those attorneys how *they* would contest these pardons, if not by the means I laid out. And if they tell you *no means on Earth can be found*, ask them why it only took them 24 hours to respond to a historic situation with this reply.

@LambeJerry In my legal career I regularly faced bizarre fact-patterns with 1/1000th the imminent consequences that this situation has. It would've been *unthinkable* to me to start tweeting out within 2 hours of the pardons that nothing could be done. But to you it's something to celebrate.

@LambeJerry Maybe you think the pardons are dandy and therefore have little interest in any effort to contest them. If that's the case, you might consider I wrote 3 600-page books on the Trump-Russia and Trump-Ukraine cases that give me a better understanding of why the pardons are criminal.

@LambeJerry Given that one of the theories advanced by Brad Moss mirrors my own—that in certain situations an ongoing high crime could cause a pardon to be effectively inoperative—maybe the fact that I wrote three national bestsellers on that

crime would be worth mentioning in your article?

@LambeJerry Indeed, it's remarkable that you quote Brad Moss *agreeing* with one of the six arguments that I made—but failed to note that agreement because you had decided to focus on just one of the six arguments as a means of embarrassing me rather than being generative or productive here.

@LambeJerry Trump is beating this country to a pulp because of thinking like yours. Because you encounter a novel threat to our rule of law and democracy and your first, devastatingly *small* inclination is to write a hitpiece focused on your own Twitter envy, not the health of the Republic.