

SAM ALITO SAYS THAT DONALD TRUMP IS A MALIGNED HAM SANDWICH

I'm not, now, as full of despair as I was at one point in the SCOTUS hearing on Presidential immunity. (Here's my live thread.) I believe that a majority of the court will rule that for private conduct – adopting the Blessingame rule that a President acting as candidate acts in a private role – a former President can be prosecuted.

But whooboy, Sam Alito really really believes everything Trump has said about this being a witch hunt. He repeatedly said that the protections that we assume ensure rule of law in the US – DOJ guidelines on prosecutions, the role of a grand jury, the role of a judge – are not enough in the case of Donald Trump. Sam Alito believes that Donald Trump should not have to be inconvenienced by a trial while he could be doing something else. Sam Alito also believes that January 6 was a mostly peaceful protest.

Alito even suggested that a President would be *more likely* to engage in violence after a closely contested election if he knew he might be prosecuted for it than not.

It was fairly insane.

Meanwhile, while I *think* there's a majority (though Steve Vladeck is not as convinced) – with at least all the women in a majority – to let this case proceed at least on the private acts alleged in the indictment (with the huge caveat that Trump's demands of Pence would not be considered a private act!), it's clear that Neil Gorsuch doesn't see how 18 USC 1512(c)(2) could be applied to Trump because we don't know what corrupt purpose is, even though, of all the January 6 defendants, his corrupt purpose – his effort to obtain a improper private benefit – is

most clearcut.

But there's a whole lot of garbage that will come out of this decision, including immunity for core actions, like pardons and appointments, that could clearly be part of a bribe.

Notably, both Clarence Thomas and Brett Kavanaugh appear to be gunning for Special Counsels (though possibly only with respect to Presidents, not the sons of Presidents).

Michael Dreeben backtracked and backtracked far enough to preserve a case. But it's not sure what else there will be.