

On August 1, 2023, special counsel, Jack Smith, held a press conference explaining the charges on which former president, Donald Trump, was **indicted** by a **grand jury** in the **January 6** investigation. Under this indictment, former President Trump is **charged** with four **counts**:

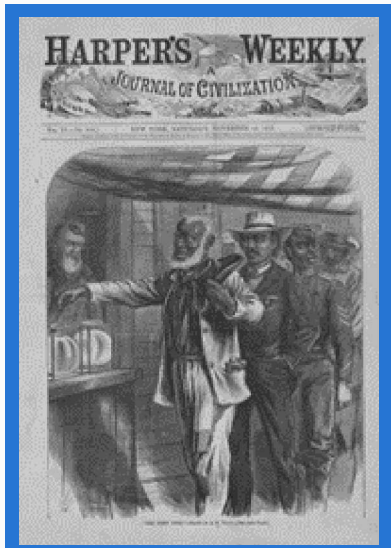
1. conspiring to defraud the United States
2. conspiring to obstruct an official proceeding
3. obstructing of and attempting to obstruct an official proceeding
4. conspiring against rights



Special Counsel Jack Smith

These counts are serious charges for the former president, and under our Constitution, he is guaranteed the right to defend himself in a court of law. However, count four is particularly interesting because its origins lie in two Civil War era laws, the **Enforcement Acts of 1870 and 1871**.

Passed during Reconstruction (1865-1877), the Enforcement Acts were designed to prevent groups and organizations from intimidating and perpetrating violence against African Americans when they exercised their right to vote and enabled the national government to prosecute any individual, group, or organization that tried (**Federal Prosecution of Election Offenses**). Many provisions of these Acts were largely repealed in the 1890s, but one that is still law is the "conspiracy against rights."



A charge of, "**conspiracy against rights**," occurs when two or more people intentionally deprive someone of their rights guaranteed by the U.S. Constitution or federal law.

Under this charge, it is alleged the former president "did knowingly combine, conspire, confederate, and agree with co-conspirators, known and unknown to the Grand Jury, to injure, oppress, threaten, and intimidate one or more persons in the free exercise and enjoyment of a right and privilege secured to them by the Constitution and laws of the United States—that is, the right to vote, and to have one's vote counted" (p.45).

Putting it simply, this charge means the former president, along with others, tried to stop citizens from exercising their right to vote and to have that vote counted. He has pleaded not guilty to all four charges. Supporters of the former president have expressed views that these charges are politically motivated. Former President Trump has said he is protected by the First Amendment. In the end, it will be up to a jury to decide.

Regardless of the legal complexities involved in this case, the approaches the two sides are taking in their legal arguments, or the personal convictions of the American people about this, the one thing that has remained constant since the Founding, is the nation's commitment to the **rule of law**, which is as important today as it was when the Enforcement Acts were passed.

**To Think and To Do:** In the case, **In re Coy** (1888), the U.S. Supreme Court held that under the Necessary and Proper Clause of the U.S. Constitution, Congress has the authority to regulate any mixed (when both federal and state offices are on the ballot) election activity that exposes the federal election to potential harm, whether that harm happens or not.

In your view, how do free and fair elections promote trust in democratic institutions and preserve the republic? Explain.

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