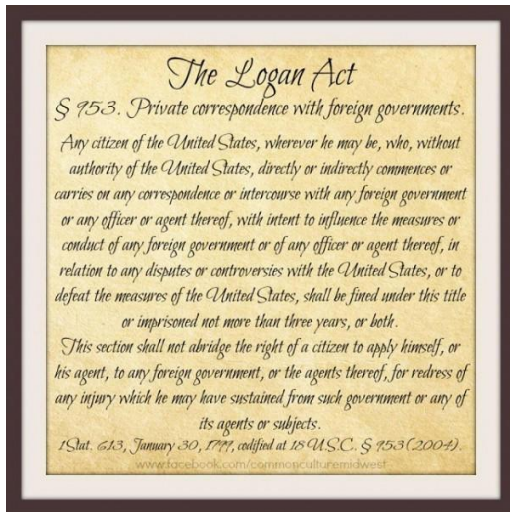
 **THE LOGAN ACT (1799)**
and the
47 SENATORS:
Well known legislation,
but how much “OOMPH”
does it have?

By Stephen L. Bakke  April 7, 2015



TEXT:

The Logan Act

§ 953. Private correspondence with foreign governments.

Any citizen of the United States, wherever he may be, who, without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States, shall be fined under this title or imprisoned not more than three years, or both.

This section shall not abridge the right of a citizen to apply himself, or his agent, to any foreign government, or the agents thereof, for redress of any injury which he may have sustained from such government or any of its agents or subjects.

1 Stat. 613, January 30, 1799, codified at 18 U.S.C. § 953 (2004).

We've been hearing a lot about the 47 Senators sending a letter to Iran while President Obama was conducting negotiations for an agreement regarding Iran's nuclear capabilities. There have been passionate claims of "**TREASON**" and screaming that reminds me of the impetuous Queen of Hearts in "Alice in Wonderland," or the rumored antics of Marie Antoinette during the French Revolution – "**OFF WITH THEIR HEADS!**"

Facts about "Logan"

The Logan Act was signed into law by John Adams on January 30, 1799. It was in response to a fairly innocent, well intended, and ultimately somewhat helpful "negotiations" (mostly listening and reporting back) with France in 1798. The "perpetrator" was Dr. George Logan of Pennsylvania, a state legislator and pacifist. He was acting as a private citizen. The law was intended to prevent the undermining of the government's position in an international dispute. Violation if the Act is a felony, punishable by up to three years in prison.

Logan was later elected to the U.S. Senate and served from 1801 until 1807. While in office he tried unsuccessfully to get the law repealed. That was the first of several unsuccessful attempts to repeal the law. In 1810 Logan once again went on a mission of peace in an unsuccessful attempt to avert what ended up being the War of 1812. There was never any legal action taken against him under provisions of the "Logan Act."

Any “OOMPH”?

There have been **no convictions** under the Act and in fact the only indictment under the Act occurred in 1803 regarding a Kentucky farmer, Francis Flournoy, who had written an article advocating a separate nation in the western U.S. This “imagined” independent country would align with France against the U.S. in the dispute.

The First Amendment’s “Freedom of Speech” seems to trump alleged violations of Logan. Additionally, and perhaps more importantly, I found this characterization by Professor Stephen Vladeck, of American University: “..... the Logan Act is a relic of an era in which Congress routinely **criminalized political differences.**” (And we think our politics are dirty!)

In the case of an unknown private citizen trying to negotiate with a foreign government, most cases have been so obscure that the old adage applies: “the egg ain’t worth the wear and tear on the chicken. There have been numerous times over the years when prominent citizens have been accused of violating “Logan.” Most of these allegations involved federal officials and past presidents.

Considering these numerous allegations, and in direct response to the “Sparkman/McGovern” actions (refer to the next section), the U.S. Department of State issued a statement in 1975. The official conclusion was: “Nothing in [the Logan Act], however, would appear to restrict members of Congress from engaging in discussions with foreign officials in pursuance of their legislative duties under the Constitution.”

So you see, “Logan” has **very little “giddy-up in its git-along”!**

Events that have conjured up “mention” of the Logan Act violations

I have put together a list of Logan “mentions.” Therefore each of these events brought mention of a Logan Act violation after it occurred, or allegedly occurred. **Inclusion here merely means that someone of consequence mentioned the event and the Act in the same “breath.”** I am not attesting to the accuracy of the charge or the applicability of “Logan.” This is not a complete list.

- **Herbert Hoover** – in 1941, the former president held negotiations with European nations over sending food relief.
- **Anna Chennault** – during the 1968 presidential election, this Nixon supporter told the South Vietnamese government that Nixon would give them a better deal if they waited for him to be president.
- **John Sparkman and George McGovern** – were accused, in 1975, of violating the Logan Act when they traveled to Cuba and met with officials there.
- **Ted Kennedy** – many believe that Teddy had “discussions” with the Soviets during the attempt to defeat Reagan when running for his second term.
- **Jesse Jackson** – traveled to Cuba and Nicaragua in 1984 and returned with several Cuban political prisoners seeking asylum.
- **Speaker Jim Wright** – infuriated President Reagan for “intruding” into the negotiations between Nicaragua’s Sandinista government and the Contras for a cease-fire in the civil war.
- **Speaker Nancy Pelosi** – in 2007 Representative Steven King introduced legislation what would prohibit Speaker Pelosi from drawing on Federal funds to travel to foreign states which the U.S. deems to sponsor terrorism.
- **Speaker Nancy Pelosi** – met with Syria’s Assad against the expressed objection of President Bush.

- **Jimmy Carter** – the former president had an unauthorized meeting with Hamas leaders to independently negotiate a settlement with Israel.
- **Barack Obama** – while still a “wanna be” presidential candidate, he sent an emissary to Iran to assure the Ayatollah of his “friendship.”
- **The 47 Senators** – sent a letter, in early 2015, to Iran pointing out that in order for any agreement negotiated by Obama requires Senate debate and ratification for it to be enforceable as a treaty. This followed disclosure of the apparent intention of Obama to bypass Congress and present any agreement to the United Nations.

I’ve suffered repeated scoldings!

My recent experience with the Logan Act started a few weeks ago when it was announced that 47 U.S. Senators sent a letter to Iran reminding them of the constitutional responsibility of the Senate to debate and ratify any agreement negotiated with Iran for it to have the full weight of being considered a treaty. This prompted many articles and letters to the editor which shouted “treason” and “jail” for the senators.

Of course I thought that kind of foolish and had a letter published which stated: **“Meddling is nothing new for either party The senate letter and these events are foolish and unhelpful, but certainly not treason.”** In other words, I didn’t approve of this meddling, but didn’t thing “jail time” was the answer.

My letters prompted a couple letters in response that scolded me for justifying the senators’ action by dredging up past examples. And there were more arguments and objections to my conservative opinion, which was just about the same as theirs i.e. disapproval, but I don’t think they could believe their own eyes when reading something from a conservative that they might agree with. So they ignored my words.

If they’d listen, I’m sure most liberals would agree with me! But they just won’t listen!

Do any liberals agree with me?

According to the Huffington Post, Hillary Clinton considered the senators’ action merely a stupid counter-productive political stunt. That’s fairly close to my characterization.

According to liberal political science professor Monica Bauer, there are important debates to be had about the ill-advised letter, “but none of those debates have anything to do with treason, or the so called Logan Act ... Laws are much more than the words on a page; there is precedent, and context, which can make the difference between a law with teeth and a meaningless piece of claptrap.”

And of course there are more, but you get the picture.

There you have, in less than 1500 words, a basic “primer” on the Logan Act of 1799, and it’s importance (or lack thereof) in today’s world. I learned something – hope you did too.