

Did Gen. Michael Flynn's discussion with the Russian ambassador violate the Logan Act?

The constitutionality of the law is debated

Logan Act facts

- Enacted in 1799 after Pennsylvanian George Logan, in an unofficial capacity, had discussions with French officials amid a conflict between the US and France
- Formally 18 U.S. Code § 953: prohibits any unauthorized citizen from communicating with foreign governments in an attempt to alter their policy regarding any disputes with the United States
- Never successfully used in a court, and never contested in the Supreme Court
- Debated whether the 1st and 5th amendments to the Constitution protect private individuals from prosecution under the Logan Act



Background

- Gen. Flynn was appointed by President-elect Trump to be National Security Advisor Nov. 18, 2016
- Pres. Obama announced sanctions on Russia on Dec. 29, 2016; he also deported 35 Russian diplomats
- Russia did not retaliate and instead announced that they will wait until after Trump's inauguration to react
- It is revealed that Flynn spoke with the Russian ambassador frequently during the transition, even on the day Obama enacted sanctions
- VP Mike Pence said on national television that Flynn told him that he did not discuss sanctions with the Russian ambassador
- It was revealed that Flynn did in fact discuss sanctions with Russian ambassador Kislyak and Flynn resigned

Analysis

- If transcripts show that Flynn recommended policy actions to Russia, he could be prosecuted
- Prosecution is unlikely due to unwillingness by the Attorney General and the lack of strong legal precedents
- If Flynn lied to the FBI about his conversations, he would face much more serious charges

Sources: National Journal Research, 2017. Clare Foran "What Is the Logan Act and What Does It Have to Do With Flynn?" TheAtlantic.com, February 15, 2017.