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J. Reuben Clark, Jr.: Under Secretary of State

Lee H. Burke*

Serving as Under Secretary of State for only ten months, from August 1928 to June 1929, J. Reuben Clark, Jr., made his mark as a statesman, diplomat, and scholar of international affairs. To this date, he remains the highest ranking diplomat to come from the state of Utah.¹

The office of Under Secretary of State was provided for by law in 1919.² It was hoped that since the Secretary of State was a political appointee, the Under Secretary would be chosen from the career service or from the experienced personnel in the Department in order to give a greater degree of continuity to the Department's work.

When J. Reuben Clark, Jr., was appointed Under Secretary of State in 1928,³ he was already the seventh Under Secretary to serve in less than ten years. Only three, including Clark, had not been from the career service.

Though he was not a career man, Clark's experience was impressive. He had served as Department of State Assistant So-

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¹David M. Kennedy, originally from Utah, has also served in high-ranking diplomatic posts, including Ambassador at Large, and U.S. Ambassador to NATO. For a discussion of Kennedy as Ambassador at Large see Lee H. Burke, *Ambassador at Large: Diplomat Extraordinary* (The Hague: Martinus Nijhoff, 1972), pp. 94ff.

²*United States Statutes at Large*, 40:1224.

³Clark received a recess commission on 17 August (Records of the Department of State Presidential Commission Staff, hereafter cited as PCS); he entered duty on 31 August (PCS, *Department of State Register*, [1934], p. 298); he was nominated 4 December (*Executive Journal*, 67:54); and he was confirmed on 23 January 1929 (*Ibid.*, p. 327).

licitor from 1906 to 1910, and as Solicitor from 1910 to 1913. He had counseled the Department on various matters previous to becoming Under Secretary, including the Third Hague Conference, the American-British Claims Commission, the Conference on Limitation of Armaments, the American-British Arbitration Commission, and the American-Mexican Claims Commission. In 1927 he went with Ambassador Dwight Morrow to Mexico where, as principal aide, he assisted the ambassador in bringing about a settlement of the oil land controversy.⁴

Secretary of State Frank B. Kellogg had sought Clark's services when Under Secretary Robert E. Olds had resigned early in 1928, but at that time, Clark wanted to try for the Republican Senatorial nomination from Utah. Kellogg kept the office open, offering the position to Clark when he was defeated for the Senatorial nomination.⁵

Clark's appointment was interpreted as a further attempt by President Coolidge toward improving United States-Mexican relations. Verification of this fact came swiftly when the United States Consul at Chihuahua, Mexico, indicated that when Clark's appointment was announced, it was received favorably in the Mexican newspapers because Clark was known in Mexico as having assisted Ambassador Morrow in the recent satisfactory settlement of the petroleum question.⁶

Initially, it was thought that Clark would deal almost exclusively with Mexican affairs as Under Secretary.⁷ Though it is true that he was substantially concerned with Mexican problems specifically, and with Latin American affairs in general, his services were required in virtually all areas of American foreign relations. In the short time he was Under Secretary,⁸ his primary role was as a counselor to the Secretary and the Department on various matters, particularly as they required clarification in Clark's specialty of international law.

Actually, the Under Secretary at this time served as the Counselor for the State Department. Ten years before the advent of the office of Under Secretary, a position known as

⁴Department of State *Register* (1931), p. 123.

⁵*The New York Times*, 8 August 1928, p. 8.

⁶Letter from David J. D. Myers to the Secretary of State, 5 September 1928 (111.16/94).

⁷*The New York Times*, 8 August 1928, p. 8.

⁸Clark resigned 19 June 1929 (PCS, Department of State *Register*, 1934, p. 298).

Counselor for the Department of State had existed, but was dropped when the Under Secretary's position was created in 1919. In 1923 the situation was regularized by the following provision in the annual appropriations act: "Undersecretary of State and the counselor for the department shall hereafter be designated 'Undersecretary of State' to be appointed by the President by and with the advice and consent of the Senate" ⁹

As Under Secretary of State, Clark was the principal assistant to two Secretaries of State, Frank B. Kellogg and Henry L. Stimson. He assisted them in the discharge of their various functions, such as formulating and executing the government's foreign policies and in the reception of the representatives of foreign governments. He had general direction over the work of the Department, and the heads of the geographical divisions often conferred with him. This was particularly true with regard to the Latin American divisions which occasionally reported directly to him.

Clark was the second-ranking officer of the Department, and frequently acted for the Secretary in matters which did not require his personal attention. In fact, in the absence of the Secretary, he became Acting Secretary of State.¹⁰ The subjects he dealt with virtually covered the gamut of problems the United States was having at the time in its relations with other countries. A few are discussed by way of illustration.

CLARK MEMORANDUM ON THE MONROE DOCTRINE

Probably the best-known counsel written by Clark while he was Under Secretary was in the fall of 1928 during the Coolidge administration. In answer to a request by Secretary Kellogg, Clark prepared a memorandum on the Monroe Doc-

⁹*United States Statutes at Large*, 42:1068.

¹⁰Initially, Clark's salary was \$8,000 which, because of a technicality in the law, was \$1,000 less than those of the Assistant Secretaries. Secretary Kellogg immediately corrected this "anomalous condition" by requesting the Congress to raise Clark's salary—commensurate with his important position, to \$12,000, or at least to \$10,000 (the amount paid to the Under Secretary of the Treasury and the Solicitor General), because, Kellogg said, "I think there is general recognition that the office of the Under Secretary of State is at least as important as the other two offices." (Letter from Secretary Kellogg to Milton W. Shreve, Chairman of the Subcommittee on the Departments of State . . . Committee on Appropriations, House of Representatives, 8 December 1928 [112/925f]).

trine which became one of the important documents in United States foreign relations.¹¹

Kellogg instructed Clark "to give me everything that had ever been said on the Monroe Doctrine by presidents, secretaries of state and other officials, so that I could have before me a complete compilation of all the expressions about the Monroe Doctrine."¹² Kellogg intended to use the study as the basis for an official declaration which would correct any misunderstanding among the Latin American Republics that the Monroe Doctrine furnished a justification for intervention by the United States in the internal affairs of those countries. Kellogg was concerned about the future of the peace pact, which he had negotiated in Paris, and he wanted support for his position in hearings before the Senate Foreign Relations Committee (in December 1928) that the Monroe Doctrine did not contradict in any way the principles of the Kellogg-Briand Pact to renounce war as an instrument of policy. As if to forestall any embarrassing questions during the hearings, Secretary Kellogg had asked Clark to prepare the study.

In his letter covering transmittal of the document, Clark indicated that in the two months' time he took to write the document, his work had been conducted under pressure and during such periods as he could find from other official duties. He said that its views were "merely personal expressions of the writer," and that the whole was "a mere collection of documents, or glossed authoritative statements and discussions, accompanied by such slight, running comments only as are necessary to identify the incident or situation with which the documents are connected."¹³

Clark's Memorandum repudiated the Roosevelt Corollary to the Monroe Doctrine, and stated that the Monroe Doctrine was relevant only to relations between the European and American continents, and did not apply to "purely inter-American relations." Clark further stated that: (1) the Monroe Doctrine is purely unilateral; (2) it is based on the right of self-defense; (3) all actions of self-defense taken by the United States in regard to Latin America are not

¹¹Memorandum on the Monroe Doctrine prepared by J. Reuben Clark Jr., 17 December 1928 (710.11/129 1/2), also published by the Department of State, 1930, Publication No. 37; hereafter cited as Clark Memorandum.

¹²Ethan Ellis, *Frank B. Kellogg and American Foreign Relations, 1925-1929* (New Jersey: Rutgers University Press, 1961), p. 102.

¹³Clark Memorandum, p. ix.

by that fact implementations of the Monroe Doctrine, but only such actions as are directed against European countries; and (4) the United States cannot justify actions against American nations under the Monroe Doctrine, however much such actions may be justified on the grounds of self-defense. He concluded his memorandum to Kellogg with the sentence that the Monroe Doctrine ". . . is now . . . an unbought, freely bestowed, and wholly effective guaranty of their [the Latin Americans'] freedom, independence and territorial integrity against the imperialistic designs of Europe."

Kellogg used the Memorandum as the basis for a note he later drafted for communication to the Latin American nations to reassure them regarding the intent of the Monroe Doctrine.¹⁴ The note was sent out by Secretary Stimson in March 1929 to the Latin American missions, but was never delivered to the Latin American governments because, while President Hoover and Secretary Stimson agreed with its principles, they felt it was not yet an appropriate time for its publication.¹⁵ The note was finally published in 1943 in the *Foreign Relations of the United States*.¹⁶

The Clark Memorandum was published by the Department of State in March 1930. Although Clark stated that it expressed only his personal views, it was accepted both by the American public and by foreign governments as an official interpretation of the Monroe Doctrine, and has since become one of the landmark documents of American foreign relations.

"EXCELLENCY" QUESTION

In May of 1929 a problem was brought to Clark's attention which was relatively insignificant; however, it illustrates the breadth of the kind of things on which he was consulted. It involved a protocol matter regarding the rank of the Minister of Egypt, Mahmoud Samy Pasha. Although in formal communications with foreign officials it was the practice of the United States government to refer to ambassadors as "Ex-

¹⁴Ellis, *Frank B. Kellogg and American Foreign Relations*, p. 102.

¹⁵On 25 June 1930, Kellogg wrote to Stimson, his successor, suggesting that the note should be delivered and published (710.11/1449); however, after submitting it to President Hoover, Stimson replied that the note was an excellent statement of the history and scope of the Monroe Doctrine, but the President had asked him "to hold it for a while, thinking that at the present moment it might cause embarrassment in other matters." (710.11/145).

¹⁶*Foreign Relations of the United States*, 1:698; hereafter cited as *Foreign Relations*.

cellency," and ministers as "Sir," the Egyptian Minister contended that because he held the personal rank of "Pasha," which according to Egyptian law gave him the personal title of "Excellency," he should not be referred to as "Sir," as was the custom.

The issue created extended debate among various people in the Department, particularly in Protocol; and notably between Assistant Secretary William R. Castle, Jr., who favored the traditional existing position, and the Division of Near Eastern Affairs, which wanted to placate the Egyptian Minister.¹⁷ Finally, when it appeared that there was an impasse, the matter was given to Clark to decide.

Clark's memorandum on the problem left no room for misunderstanding: "In no case give to a diplomatic representative a formal salutation of courtesy which exceeds that to which he is entitled under his diplomatic rank." According to Clark, this principle holds "irrespective of the fact that under the provisions of his own domestic law he may be entitled to a superior title." In other words, Clark continued, "'Excellency' would be reserved for ambassadors, and 'Sir' for ministers." He further suggested that the salutation of "Honorable" might be a compromise solution.¹⁸

Following Clark's clarification, it was decided to inform the Egyptian Minister personally that because of the custom in the United States, it would not be possible to grant him the use of "Excellency" before his name.¹⁹ However, since the Egyptian Minister never brought the subject up again, Assistant Secretary Castle thought it best not to say anything about it.²⁰ The matter was settled when Samy Pasha was recalled a few months later without ever hearing the Department's answer.²¹

THE MEXICAN REVOLUTION OF 1929

The day before Herbert Hoover was inaugurated in January 1929, a formidable military revolt was launched in Mexico

¹⁷See memoranda from the Division of Near Eastern Affairs, 15 and 26 April.

¹⁸Memorandum from J. Reuben Clark, Jr., to Assistant Secretary William R. Castle, Jr., 21 May 1929 (701.8311/71).

¹⁹Memorandum from James C. Dunn of the Division of Protocol to Assistant Secretary William R. Castle, Jr., 3 June 1929 (701.8311/72).

²⁰Memorandum by Assistant Secretary William R. Castle, Jr., 12 October 1929 (701.8311/75).

²¹Telegram 71 from Cairo, 27 November (701.8311/77).

against the government of President Emilio Portes Gil.²² Initially the revolutionary group made considerable headway, particularly in the northern area of the country. Soon, however, the battle shifted, and the government forces were able to break the revolt.

From the outset, the Hoover administration had decided to side with the government forces because, among others reasons, the existing regime had been more friendly toward the United States than had any government since Porfirio Diaz.²³ The United States government maintained that this revolt was merely an armed uprising against the regularly constituted government of Mexico, and consequently the rebels had no international legal status. This revolt created a number of diplomatic problems with which Clark became very much involved. One was the treatment accorded fleeing rebels who came into the United States.

In discussing with Clark on March 16 the disposition of Mexican refugee troops detained in the United States, the Mexican Ambassador, Manuel C. Téllez, indicated that some were volunteer troops who had fought for the rebels only to protect their own towns. He requested that the troops be released in the custody of the Mexican government so they could return to their families. Clark said he would recommend that the Secretary take the matter up with the President.²⁴

Actually, Clark had already written two memoranda to President Hoover on March 11 and 14, which covered precedents in American foreign relations concerning this problem, and explained that since the present Mexican rebellion was not war, the laws applied as in peacetime. He suggested to the President, therefore, that on the basis of international law and precedent the troops should be turned over to the Mexican government.²⁵ When Clark met with the Mexican Ambassador, he was awaiting the President's decision, which finally came on April 2 and which agreed with Clark's conclusions.²⁶

²²See *Foreign Relations* 3:338ff (1929).

²³Alexander DeConde, *Herbert Hoover's Latin-America Policy* (Stanford, California: Stanford University Press, 1951), p. 94.

²⁴See Memorandum by J. Reuben Clark, Jr., of a conversation with the Mexican Ambassador, *Foreign Relations*, 3:369 (16 March 1929).

²⁵See Department of State files (812.00 Detention/86).

²⁶Telegram 229 to Mexico, 2 April (812.0 Detention/26); and Letter from the Secretary of State to the Secretary of War (Good), *Foreign Relations*, 3:379 (2 April 1929).

There were other diplomatic problems, which arose from the revolt, such as the control of imports and exports from rebel territory, the protection of American life and property jeopardized by the insurrection, and the status of Americans enlisting with the contending forces, among others. Clark was consulted on most, and all were amicably settled.

Of special note, was the matter of Americans enlisting with the contending forces. Clark had written a memorandum to the Secretary on March 23 that on the basis of precedent and international law, these citizens would be subject to Mexican laws. Therefore, he recommended that the Secretary make a statement to that effect before any American was condemned to die by the Mexican government for participating in the rebellion, creating adverse reactions from the American public.²⁷ Not long after Clark had sent his memorandum to the Secretary, Stimson made the requested statement that American citizens who took up arms in the conflict could in no wise obtain protection from Washington against the legal consequences of their acts.²⁸ This announcement, along with the other actions the United States government took upon Clark's advice, regarding the rebellion, received loud approval in Latin America, and helped to improve inter-American relations. The Mexican newspapers, Secretary Stimson declared in retrospect, stated, "that their national relations with us have never been on a sounder basis."²⁹

OTHER QUESTIONS

Clark was consulted on a host of additional and varied questions: he worked with the Secretary in procuring ratification of the fifteen signatories to the Kellogg-Briand Pact, and the international legal questions related thereto;³⁰ he instructed the United States Delegation to the Conference for the Revision of the Geneva Convention of 1906 and for Framing a Code for Prisoners of War;³¹ he was consulted on the question of the illegal importation of liquor by foreign ves-

²⁷Department of State files (812.00 Sonora/388 1/2).

²⁸*Foreign Relations*, 3:383 (1929).

²⁹*The New York Times*, 10 May 1931.

³⁰See Memoranda by Clark dated 4 September, 23 October, and 13 December 1928; also 7 February 1929 (711.7112 Anti-War/9, 711.5912 Anti-War/12, 711.6112 Anti-War/75, 711.6412 Anti-War/28, 711.60c12 Anti-War/58, 711.8312 Anti-War/20, and 711.6212 Anti-War/84).

³¹See *Foreign Relations*, 1:318 (1929).

sels;³² he was consulted on negotiations with certain European countries regarding naturalization, dual nationality, military service, and questions of aerial navigation;³³ he worked in behalf of American interests desiring to establish air lines in Latin America;³⁴ he worked with the Secretary and German Ambassador concerning claims against Germany which grew out of World War I;³⁵ he was consulted on tariff problems, particularly with regard to tariff legislation which was inconsistent with certain treaty obligations of the United States;³⁶ and he even received complaints from the Italian Ambassador about a Senator's speech in which the Senator called Mussolini a number of uncomplimentary names.³⁷ The above are only a few examples of the numerous kinds of problems and questions Clark dealt with as Under Secretary, and illustrate the vastness of his knowledge and experience.

On 12 March 1929, Clark tendered his resignation as Under Secretary of State in order to resume the practice of law in Utah. At the request of President Hoover, however, he continued in the office until after Secretary Stimson had arrived in Washington and a suitable successor to Clark could be selected.³⁸ His resignation became effective on June 19,³⁹ when he was succeeded by Joseph P. Cotton, a lawyer from New York, whom Secretary Stimson asked be appointed by President Hoover to help reorganize the State Department.⁴⁰

Clark did not remain in private life long, however, because in the fall of 1930, President Hoover appointed him Ambassador to Mexico to succeed his friend Dwight Morrow. As ambassador, Clark carried on the tradition and fruitful work started by Morrow.

³²See Memorandum by J. Reuben Clark, Jr., 10 September 1928 (811.114 Ilede France/2).

³³See *Foreign Relations*, 1:445, 448, 456, 527, and 532 (1929).

³⁴*Ibid.*, pp. 557, and 560-564.

³⁵See Memoranda by Clark dated 15, 22 and 29 December 1928, and 14 March 1929 (462.11W892/1132, 1137, 1138 and 1232); and 22 and 24 December 1928 (462.00 R296/2588, and 2578).

³⁶See Memoranda by Clark dated 6 and 12 June 1929 (611.003/1741, and 611.0031/3171).

³⁷Memorandum by J. Reuben Clark, Jr., 21 February 1929 (865.002/128).

³⁸*The New York Times*, 12 March 1929, p. 3.

³⁹PCS, and Department of State Register, (1934), p. 298.

⁴⁰Graham H. Stuart, *Diplomatic and Consular Practice* (New York: D. Appleton-Century Co., 1936), p. 82.