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J. Reuben Clark, Jr., and the United Nations

Stan A. Taylor*

J. Reuben Clark’s brief written statements about the United Nations have helped to set the attitudes of many members of the Mormon Church toward the U.N. and have been widely used by some groups to influence others against the United Nations. However natural it is for the political attitudes of a single Mormon leader to influence the attitudes of so many of the Church’s members, it is highly unusual that President Clark’s attitudes toward the United Nations should have been so pervasive, especially in light of the facts: (1) President Clark himself said very little about the U. N., and prefaced what he did say with a fairly broad and restrictive caveat; (2) the Church has taken no “official” position with respect to the United Nations, and (3) a president of the Church remarked that there was “enough good” in it to justify its existence.¹

President Clark’s criticism of the United Nations is philosophical, procedural, and substantive. The philosophical objection which he levels against the United Nations is a very general one, based on his assumption that any alliance-creating treaty impairs the sovereignty of the signatory states. Clark’s assertion is a very difficult one to prove or disprove, but it can be evaluated both theoretically and empirically.

One can find theorists of international law on both sides of this question and it would be of little value to recite the

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¹ See statement by David O. McKay in Deseret News, 5 December 1963.
evidences here. While each treaty must be looked at independently, it is generally accepted that there is a difference between the self-limitation of sovereignty between equals through the medium of a treaty and the alienation of sovereignty or the transfer of actual decision-making authority to a third party. A trade agreement between states to limit the importation of a specific good is a limitation of sovereignty but not an alienation of it. To transfer to a third party the power to set and enforce import limits is an alienation of sovereignty.

Moreover, one acceptable approach to international law suggests that a treaty is not a diminishment of sovereignty but rather an exercise of it. This, of course, is not the case with respect to imposed treaties such as those which frequently mark the ending of a war. But President Clark is not talking about imposed treaties, he is talking about treaties such as the United Nations Charter and the NATO Treaty. In both of these cases it is possible to view the obligations created by the treaties as voluntary self-limitations of sovereignty and not as diminishments of sovereignty. It is theoretically and logically impossible for any self-limitation to diminish sovereignty.

Mormons ought not to find this notion a difficult one to accept since so many Church discussions on the apparent contradiction between free agency and obedience are quite correctly resolved by resorting to the same principle. That is, one who voluntarily opts to be guided in all spiritual and moral matters by Divine Will revealed through the Church has not given up his free agency nor diminished it in any way. He has merely made a far-reaching and proper exercise of that free agency.

Moving from the theoretical to the empirical, it is also possible to question President Clark's feeling that alliance treaties such as the U.N. Charter and the NATO Treaty diminish sovereignty. It is difficult, if not impossible, to cite a case wherein any member of either organization has been forced, by dint of legal obligation, to do anything of a substantive nature against its will. This flows from the fundamental aspect of international life that no state will voluntarily enter into a treaty, the obligations of which would run counter to its perceived national interests.²

²This, of course, does not hold for internal or organizational matters in the United Nations. These, however, are not critical since they are usually of a procedural nature and any state may resign its membership at any time.
On the other hand, it is possible that President Clark may have been sensitive to a development which occurred later in the life of the U.N. which did give the organization some influence upon the decisions of certain nations. This development is known as "collective legitimization" and refers to the process whereby nations may take or not take certain actions because of their perception of what other significant members of the international community may think about that action, the U.N. becoming a focal point for the manifestation of those attitudes.

In effect, some nations have done certain things and others have not done certain things because of collective legitimization. For example, India invaded Goa knowing that "anti-colonialism" was so prevalent in 1961 that it could count on no serious criticism from U.N. members, or at least on a favorable vote from the General Assembly. Contrarily, the rapid dismantling of some parts of both the French and British colonial empires in the 1960s was hastened, in part, by the rather extensive anti-colonial sentiments manifest in the U.N.

President Clark's concern about loss of sovereignty may be read today with greater sympathy if one is aware of the informal, extralegal, but nevertheless, real "sanctions" of this sort. Whether or not this is a strength or a weakness of the U.N. depends upon certain other assumptions one makes. At any rate, however, it is most likely that "collective legitimization" would be in effect whether or not the U.N. existed. That is, this development, though facilitated through the U.N., is more a function of an increased sense of international community and greatly heightened international communication than it is a result of U.N. action.

Clark's second criticism of the United Nations has to do with the process by which the Charter was adopted in the United States. It was, he claims, neither explained to the public nor discussed by public officials, but was almost "secretly" pushed upon the American people. The Senate, he feels, gave insufficient attention to the Charter thus resulting in a document, the effects of which were "ill-considered." On this point, there are alternative views.

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3J. Reuben Clark, Jr., Stand Fast By Our Constitution (Salt Lake City: Deseret Book Co., 1962).
4Ibid., p. 126.
One view considers the gestation period for the United Nations to have been between the San Francisco organizing conference of June 1945 and the Senate approval taken in July 1945. This is insufficient time for careful consideration of such an important document. Another view, however, suggests that the considerations of the American government and people of the United Nations actually go back to the demise of the League of Nations. While the commitment to the abstract idea of a new international organization was present in the Atlantic Charter (an agreement between the United States and Great Britain signed in 1941), the first official commitment to a postwar international organization was made between the United States, Great Britain, Russia, and China in the Moscow Agreement of 1943. At Teheran this agreement was reinforced by Roosevelt, Churchill, and Stalin; at Bretton Woods, in 1944, the International Monetary Fund and the World Bank were established; at Dumbarton Oaks, from August to October 1944, detailed agreements were made and the actual working draft of the Charter was completed. At Yalta, in 1945, some final agreements were reached and the entire process begun at least two years earlier was finally consummated at the San Francisco Conference in June 1945. It is quite accurate to say that the United Nations was not born at San Francisco in June 1945—it was merely christened. Seldom in the history of multilateral agreements between nations have any citizens been as well informed as were Americans through their elected officials, about the United Nations Charter.

This was not the case with the League of Nations, contrary to Clark’s assertions that the League was “fully explained” to the American people. The negotiations leading up to the League were brief, secluded, and carried on largely without the awareness of Congress or the American public. It was not until Wilson signed the Covenant of the League, and then sought the necessary advice and consent of the Senate, that wide-spread public discussion about the League was carried on.

The brevity of the Senate consideration of the United Nations Charter was not the result of a desire for secrecy but

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5See Dean Acheson, Present at the Creation (New York: W. W. Norton, 1969), for his role in congressional liaison.

6Clark, Stand Fast, p. 119.
of several years of Congressional involvement in the process leading up to the Charter of the United Nations. Several senators and congressmen were actually involved in the early American thinking and some even played a major role as delegates at San Francisco.  

For his next three objections to the United Nations, President Clark turns to some of the substantive aspects of the Charter itself which he finds objectionable; each of which he feels impairs U.S. sovereignty. Under the Charter, he says, “we have lost the right to make the treaties we may wish.” Clark undoubtedly has reference to Articles 102 and 103 of the Charter. Article 102 merely requires that all subsequent treaties be registered with the Secretariat of the United Nations and be published by him.

Article 103 is interpreted by President Clark as creating a hierarchy of international obligations and as giving paramountcy to those obligations incurred under the Charter. Furthermore, he suggests that the U.S. can no longer “make the treaties we wish” because “all treaties must conform to the provisions of the Charter.” Had President Clark been discussing the Covenant of the League of Nations, his criticism would have been more accurate since the Covenant forbade League members from making treaties inconsistent with Covenant obligations. The Charter of the U.N. does not do this, however. Article 103 is usually interpreted to mean that Charter obligations shall have priority over obligations made under another treaty, but that the existence of the former does not abrogate the latter, nor excuse a state from the penalties associated with violating any treaty. Moreover, it is difficult to conceive of the U.S. entering into a treaty the obligations of which would be contrary to the terms of the Charter which are broad, general, and by and large pertain to U.N. procedures.

2Clark, Stand Fast, p. 122.
3Ibid.
Clark's next substantive disagreement with the Charter is perhaps, to him, the single most telling fault he finds with the United Nations. He says that under the Charter "we have lost the sovereign power to adjust our own international difficulties..."\(^{11}\) that "the Security Council, not the State Department, becomes... the agency to direct our foreign relations."\(^{12}\) and that "... The conduct of our foreign affairs no longer rests... with us."\(^{13}\) On this critical point, President Clark may have misinterpreted the Charter in two areas. He reads the Peaceful Settlement section of the Charter (Chapter 6) as authorizing the Security Council to require the United States to settle disputes peacefully and as bestowing upon the Security Council the right to "command" penalties if we fail to "heed the call." If we fail to respond to either the "call" or the penalties, then Clark reads the Charter as authorizing the Security Council to direct the use of force against us. Again, were his interpretations of the Charter correct, there would exist a serious impairment of our sovereignty. However, they are incorrect both in theory and practice.

Chapter 6 of the Charter does require members to settle disputes peacefully and authorizes the Security Council to call upon states to so comply. It also authorizes the Security Council to investigate whether or not a dispute is "serious," i.e., one, the continuance of which might endanger international peace. It further authorizes the Security Council, should they determine a dispute to be "serious," to recommend appropriate settlement procedures. Under these types of disputes, the Security Council can never do more than recommend settlement, and in international politics a recommendation is a far cry from a command.

Moreover, there is no provision in the Charter which would permit the organization to use force against the United States, any other of the "permanent members" (China, Russia, Great Britain, France), or against any other state contrary to the wishes of a friendly permanent member. The Korean case is completely unique in many ways, including the fortuitous situation of North Korea's only "permanent member" ally, the Soviet Union, being absent when a decision to use force was reached by the Security Council after President Tru-

\(^{11}\)Clark, *Stand Fast*, p. 123.
\(^{12}\)Ibid., p. 124.
\(^{13}\)Ibid., p. 125.
man had already committed American troops in Korea.\textsuperscript{14} It is illustrative of United Nations development that even the Korean action—the only enforcement action ever undertaken by the United Nations—was merely a recommendation adhered to only by those members who so desired.

President Clark does raise an interesting question, however, \textit{if} he has reference to the sovereignty of a small, non-permanent member of the United Nations. The Charter would allow U.N. enforcement action to be taken against a non-permanent Security Council state \textit{if} all five permanent members, plus four non-permanent members, agreed. The possibility of an impingement on sovereignty which this would create, however, is lessened when one considers that for such a circumstance to occur, there would in all likelihood be a clear Charter violation involved.

In summary, the United Nations Charter obligates the United States to attempt to settle its disputes peacefully. Further, it obligates the organization to recommend settlement in disputes over which it determines it has jurisdiction. Finally, it never permits the organization to call for collective enforcement action against the United States contrary to the will of the United States government. In other words, it is legally and practically impossible for the United Nations to use force against the United States under any circumstances treated by the Charter.

In practice, the U.N. has never "commanded" force to be used against any nation. Against North Korea the Security Council \textit{recommended} that states volunteer troops; in Palestine, the Congo, and in Cyprus, the legally recognized government or governments involved \textit{requested} U.N. action which, again, was voluntary.

President Clark's final substantive objection is that the Charter requires a surrender of "the power to declare war" and the right to conduct war.\textsuperscript{15} In regards to the power to declare war, the Charter does require that members abstain from the use of force. However, Article 51 makes it quite clear that nothing in the Charter "impairs the inherent right of \textit{individual or collective self-defense}" in the case of armed attack. Article 52 authorizes regional collective security agree-


\textsuperscript{15}Clark, \textit{Stand Fast}, p. 125.
ments and Article 106 states that until the United Nations has established its military collective security system (which it has never established nor in all likelihood ever will), international peace and security shall be maintained by the five permanent members of the Security Council.

In effect,

the United Nations has sought to make war 'illegal'; [yet] despite learned and ingenious interpretations of the Charter, the 'principle of sovereign equality' upon which the organization is founded remains unimpaired. What the sovereign gives, the sovereign can take away; no other interpretation squares with the facts. As long as international law remains what it is, a body of rules governing the relations of sovereign states, no legal system can abolish the right of a state to go to war if its national interest so demands.\(^{16}\)

In regards to the right to conduct war, President Clark may be wrong in both theory and practice. The Charter never removes the Military Staff Committee and its right to direct United Nations military forces from under the direct supervision of the Security Council where no important decisions can be reached without the concurrence of the United States. In practice, the collective security military forces have never been created and the organization has no forces with which to conduct a war.\(^{17}\) The dismal facts of international politics speak for themselves. There have been over fifty uses of force between nations since the United Nations was organized in 1945. The United States has used force at least five times. It is clear that the Charter renunciation of the use of force is liable to many interpretations, all of which give more flexibility than the framers desired. It is ironic that the fears of many, such as J. Reuben Clark, that the United Nations would too severely limit sovereign rights to resort to war were fears in the wrong direction. Better placed would have been fears that the United Nations would not be able to prevent the unilateral use of force.

It is at this point, however, that President Clark makes his most significant criticism. He identifies a problem which, at


\(^{17}\)The Korean case has already been mentioned as not contravening this statement. It should also be re-emphasized that United Nations Peacekeeping Forces in Palestine, in the Congo, and in Cyprus were present in each case only at the request of one or more of the disputing parties.
the time of his writing (1952), was potentially serious, yet which was recognized by few Americans. He noted that in spite of all the Charter provisions meant to prevent the organization from taking actions against the interests of a permanent member, the United Nations was doing precisely that against the Soviet Union. For its first two decades, the United Nations repeatedly took actions against the wishes of the Soviet Union. Clark was very perceptive to recognize that such precedents boded ill for the United Nations if and when the American control over the United Nations was lessened. That, in fact, has happened, however, no significant adverse effects have occurred and the U.S. influence is still quite pervasive. Moreover, the strength of the U.N. was seriously sapped, partially as a result of its procedural circumventions of the Soviet veto, and it is difficult to imagine that sort of behavior happening again against any major power.

President Clark's final objection is somewhat obscure. He complains that the organization is "aimed and framed with one power in mind and with a view to exercising a definite control thereover, to the point of its humiliation, if not extermination." There are three possible interpretations of this statement: (1) that the United Nations was created to maintain an anti-Axis status quo; (2) that it was created to prevent Soviet expansion; or (3) that it was created to "humiliate" the United States.

It is impossible to ascertain which one of these President Clark had in mind. Much of the conservative literature suggests that the United Nations is an anti-American institution. It is not likely that Clark would agree with this since he acknowledged the predominantly pro-American and anti-Soviet policies of the organization, at least up to the time he wrote. The inverse of this logic might suggest that Clark was being critical of the anti-Soviet stance of the United Nations during its early days. Throughout his life, President Clark maintained an admirably consistent and objective sense of justice. It is entirely possible that, in spite of his obvious dislike of Communism, it bothered him to see the U.N. take actions against Soviet interests, contrary to the intentions of

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38Clark, Stand Fast, pp. 127-128.
the Charter, through various types of procedural maneuvering.\textsuperscript{20}

That leaves the first possibility, i.e., that Clark was being critical of the United Nations because of its anti-Axis origins. There are certain historical reasons for Clark's perspicacity on this point. He was better aware than most that one of the problems of the League of Nations was the vindictive, Carthaginian peace associated with it. On the other hand, the framers of the United Nations were also aware of this and took great pains to see that the organization would be open to all, even former enemy states.

J. Reuben Clark was a great spiritual leader and a perceptive critic of social and political events. His comments on the League of Nations were particularly interesting since, as a leading international lawyer, he had met at times with some of the early private planning efforts of a group of American advocates. His acceptance of a higher calling, however, caused him to absent himself from involvement in international affairs in 1934, fully ten years before serious U.S. planning for the United Nations began. His comments on the U.N. in 1952 were removed eight more years from that activity. Given that distance, one must respect and admire his ability to discuss the U.N. Charter with some familiarity.

It is also important to note that he only claimed his criticism to be "reasonably accurate."\textsuperscript{21} There is even some evidence that he was not against international organization in principle, nor even irreconcilably against the United Nations. He had certain technical objections to the Charter, but at one point wrote that he hoped (even prayed) that further international deliberations would amend the Charter so that it "might be helpful."\textsuperscript{22}

The United Nations has changed over the past twenty-seven years to such an extent that it is doubtful its framers would recognize it. Whether any of these changes would have made it more palatable to President Clark is difficult to determine. It is obvious that some of his specific fears have not materialized. The United Nations, like any international organization, is by and large merely a reflection of the international circumstances


\textsuperscript{21}Clark, Stand Fast, p. 122.

\textsuperscript{22}Ibid., p. 132.
which gave rise to its existence. Thus, a changing world requires a changing United Nations. The United Nations is an instrument and like any other instrument it can be used for good or ill. Today, perhaps we ought to stop asking whether the United Nations is good or bad and ask what can be done to make the United Nations more responsive to what Americans have traditionally desired—international peace with justice.

He possessed the brightest mind ever to leave Utah.

Dr. James E. Talmage

Brother Clark has been and is a profound student of both the history and doctrines of the Church and he is justly recognized as one of our able theologians. Among his distinguishing characteristics are an unusual capacity and an indomitable desire for work . . . .

Dr. James E. Talmage