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## A Grenville Clark Hypothetical

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## **Abstract**

In any discussion of Nuclear Weapons, Grenville Clark (1882-1967) is an important figure. He had a long, happy, and successful life. Born to wealth, power, and position, his historic achievements included distinction in two wars-launching the Plattsburg training camps which were the catalyst of the Preparedness Movement in World War I, and in World War II virtually single-handedly securing the enactment of the Selective Service and Training Act of 1940 which produced a minimally armed America on the eve of Pearl Harbor.

**KEYWORDS:** nuclear, weapons, training camps

## A Grenville Clark Hypothetical\*

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In any discussion of Nuclear Weapons, Grenville Clark (1882-1967) is an important figure. He had a long, happy, and successful life. Born to wealth, power, and position, his historic achievements included distinction in two wars—launching the Plattsburg training camps which were the catalyst of the Preparedness Movement in World War I, and in World War II virtually single-handedly securing the enactment of the Selective Service and Training Act of 1940 which produced a minimally armed America on the eve of Pearl Harbor. Peacetime attainments must include organization of a critical resistance to FDR's court-packing plan of 1937 and revitalization of the Federal Civil Rights Act. Most significant, however, was his response to Secretary Stimson's post-Hiroshima charge to "go home and stop World War III". Though racked with cancer, Clark gave the last full measure of devotion in attempting, through proposals for disarmament, world government, and world law, to forestall terminal nuclear holocaust. This surely will be his enduring achievement.

Grenville Clark went to his grave in early 1967, believing that his life and work, notwithstanding intermediate success had been an ultimate failure; his sunset efforts to alarm the human race to the mortal peril which beset it seemed to have availed nothing; if anything that peril had only proliferated and magnified during his effort to constrain it. Nonetheless he had striven mightily, expending personal fortune and dwindling physical resources in writing, speaking and traveling. A measure of his concern could be glimpsed in his approach to a public relations expert (a maneuver unthinkable otherwise) to promote sales of a landmark book, *World Peace Through World Law*. The expert, Edward Bernays, who had seen all manner of men in his time, expressed an expert probatory judgment: "His personality was most aristocratic,

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\* Adapted and revised from the forthcoming book, *GRENVILLE CLARK: PUBLIC LIFE, PRIVATE MAN*.

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and his behavior gentle and unassuming. I liked him.”<sup>1</sup>

Nonetheless, the impact of personality could go just so far, and in the scale of Grenville Clark’s grand design, it was not far enough. The nuclear danger impended and worsened with inertia, the strongest force in human affairs deployed on the side of confrontation and potential disaster. Then two things happened.

### The Diplomat

On May 19, 1981, George F. Kennan received the Einstein Award. In any case, an award to Kennan would have merely gilded the lily; Kennan had already left his mark on his times; his credentials ran from the first blueprint for Soviet containment, expressed in a famous “Mr. X” article in *Foreign Affairs* in 1947<sup>2</sup> to *persona non grata* expulsion from the USSR in 1953. Kennan’s laureate response was in a totally different idiom than his “X” article; it denounced:

the supreme sacrilege of putting an end to the civilization out of which we have grown, the civilization which made us what we are, the civilization, without which our children and grandchildren can have no chance of self-realization, possibly no chance for life itself.<sup>3</sup>

Kennan went on to stress “the admonition to neglect nothing — no effort, no unpleasantness, no controversy, no sacrifice — which could conceivably help preserve us from committing this fatal folly.”<sup>4</sup> He then reached the core of his argument against nuclear weaponry:

I question whether these devices are really weapons at all . . . . To my mind the nuclear bomb is the most useless weapon ever invented. It can be employed to no rational purpose. It is not even an effective defense against itself. It is only something with which, in a moment of petulance or panic, you commit such fearful acts of de-

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1. Letter from Edward Bernays to Gerald Dunne (May 19, 1981).
  2. Kennan, *The Sources of Soviet Conduct*, 25 FOREIGN AFF. 566 (1947).
  3. Address by George Kennan, Albert Einstein Peace Prize Foundation (May 19, 1981) (condensed in *The Illusion of Security*, St. Louis Post Dispatch, May 31, 1981, at E2, col. 4).
  4. *Id.*

struction as no sane person would ever wish to have on his conscience.<sup>5</sup>

Kennan admitted that his admonitions were not new but rather restatements of what “wise and far-seeing people” had been asserting for “over thirty years.” He named names, beginning with Albert Einstein and concluding with every president of the United States from Dwight Eisenhower to Jimmy Carter.<sup>6</sup>

He did not name Grenville Clark, whose book *World Peace Through World Law* expressed his thesis in extended and systematic form. Perhaps the omission was deliberate, for in 1948 (in Clark’s view at least) the laureate was an integral part of the “Truman-Leahy-Marshall-Levett (sic)-Kennan-Harriman combination” whose “fixed ideas” were frozen into an icy Cold War carapace.<sup>7</sup>

In a subsequent *New Yorker* article,<sup>8</sup> Kennan edged close to Clark in several planes of encounter. One was a plea for a less demonic perception of the Soviet adversary. A second insisted on the quantum difference separating nuclear arms from conventional ones. The third could have been vintage Clark, as far as it went:

there are many people who consider it useless, or even undesirable to try to get rid of these weapons entirely, and that a satisfactory solution can somehow be found . . . . I believe that until we consent to recognize that the nuclear weapons we hold in our own hands are as much a danger to us as those that repose in the hands of our supposed adversaries there will be no escape from the confusions and dilemmas to which such weapons have now brought us . . . .<sup>9</sup>

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5. *Id.*

6. *Id.*

7. Letter from Grenville Clark to Cord Meyer (Feb. 28, 1948), *quoted in* J. Bantell, *Perpetual Through World Law* 217 (1979) (unpublished doctoral dissertation, University of Connecticut).

8. Kennan, *Reflection on the Soviet Union*, *The New Yorker*, Nov. 2, 1981, at 54, 62; *cf.* 6 G. CLARK, *A PLAN FOR PEACE* 16-18 (1954 condensation).

9. Kennan, *supra* note 8, at 62.

## The President

In his article Kennan turned to the subject of nuclear weapons “with a sigh and a sinking of the heart.”<sup>10</sup> However, before type was set, Ronald Reagan, in a thoughtless and casual response at a mid-October 1981 press conference, asserted a belief that a tactical exchange of battlefield weapons could occur between NATO and Warsaw Pact forces “without bringing either one of the major powers to pushing the button.”<sup>11</sup>

The President hardly bargained for the reponse he got. The following weekend, hundreds of thousands of people, finally comprehending the possibilities of atomic war involving *them*, marched in protest through the streets of London, Paris, Brussels and Rome. Clark had indeed foreseen the possibility, and remarkably George Kennan, his old adversary, cited that prophetic vision accepting the Grenville Clark Prize at Dartmouth College on November 16, 1981:

if the various governments did not find a way to put a stop to this insanity, the awareness of the indescribable dangers it presented would some day, as [Clark] put it “penetrate the general masses of the people in all nations” with the result that these masses would begin to put increasing and indeed finally irresistible pressure on their governments to abandon the policies that were creating this danger.<sup>12</sup>

Kennan called the recent growth of the anti-nuclear war movement the most striking phenomenon of the early 1980s. Within twenty-four hours his appraisal was vindicated; President Reagan in a hastily arranged speech at the national Press Club, eschewed all talk of pushing buttons, but rather offered the Soviets a reciprocal pull-back of all tactical nuclear weapons from actual or proposed deployment.

It remained an open question whether the presidential proposal would be accepted at all, or if accepted would provide merely the continuation of an uneasy truce or offer an actual threshold to a genuine peace. Nonetheless, the mere fact of enunciation represented the tri-

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10. *Id.*

11. Wall St. J., Nov. 2, 1981, at A1, col. 1.

12. Address by George Kennan, Dartmouth College (Nov. 16, 1981).

umph of an idea as well as the extension of the moral and intellectual force of one man—a man dead now fourteen years and born almost a century earlier—whose life and achievement exemplified the reiterated assertion of a long time friend that the only certainty of history was that men would make it.

Men make history far more by ideas than by actions, and Arthur Selwynn Miller's four incisive constitutional propositions for planetary survival may be truly seminal. As a lifelong man of law, Grenville Clark would have been arrested by them.

Indeed to the Miller quadrilateral, Clark could well add three core propositions of his own. One would be a thesis from the preamble of his Declaration of the Second Dartmouth Conference on peace, disarmament, and world survival, which, *mutatis mutandis*, might itself serve as Miller's *leitmotif*:

The highest sovereignty on earth resides in the peoples who inhabit the planet. National sovereignty is justified only as it safeguards the basic sovereignty of the peoples themselves. Since in a nuclear age, national sovereignty alone cannot serve its highest obligation, it must be buttressed. . . .<sup>13</sup>

Second, and especially apposite here would be Clark's talent for persuasively extrapolating values implicit in the constitutional design to the necessities of the hour, a process involving a mutational change in the document itself. Here would stand his landmark Supreme Court briefs. The first, submitted in *Hague v. CIO*<sup>14</sup> was a critical component of the process which rescued the Federal Civil Rights Act from atrophy and made the statute a vital force in American life.<sup>15</sup> The other, in *Minersville School District v. Gobitis*,<sup>16</sup> drew on language, logic, and history for an eventually dominant constitutional constraint against collective ritualism violative of conscience. Such intrusions were to be subjected to the strictest of judicial scrutiny.

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13. Declaration of the Second Dartmouth Conference, Dublin, N.H. (Oct. 5, 1965).

14. 307 U.S. 496 (1939).

15. For a discussion of the case see Gibbons, *Hague v. CIO: A Retrospect*, 52 N.Y.U. L. REV. 738 (1977).

16. 310 U.S. 586 (1940).

In the third place, or perhaps in the first, would be Clark's hard-bitten realization that notwithstanding formularies and institutional arrangements, public opinion was the dominant force in bringing results to pass in the domain of policy. More than this, the existing procedures of the law could well afford the ideal vehicle for placing the Miller quadrilateral in appropriate posture for adversary scrutiny, public debate, and eventual judicial declaration. More than that, under the touchstone of declaratory judgment, it can go forward to eventual resolution galvanizing and shaping the sentiment which will in due course afford it vitality.