

THE WHITE HOUSE

WASHINGTON

August 18, 1970

MEMORANDUM FOR RECORD

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THE PRESIDENT'S FILE

From: Ken BeLieu *Ken BeLieu*
Subject: Bipartisan Senate Leadership Breakfast on Tuesday,
August 18 at 8:00 a. m. in the Residence

Yesterday, the President met with Select Senate Bipartisan Leaders, members of the White House Staff and Cabinet Members to discuss submission of the Geneva Protocol to the Senate. The following were present in addition to the President:

Secretary Rogers - State
Secretary Laird - Defense
Senators Mansfield, Aiken, Fulbright, Scott and Stennis
Messrs. Harlow, Kissinger and BeLieu of the White House Staff
(Senator Margaret Chase Smith was invited, but could not attend.)

The President opened the discussion following breakfast stating that he had invited the Senate Leadership to meet with him in order to discuss his plans to submit the Geneva Protocol to the Senate on August 19. He said that he would ask Mr. Kissinger to outline the salient features of the proposal and then would be ready to answer any questions.

Mr. Kissinger then briefed the group on the background of the Geneva Protocol and of the format and content of the President's decision.

Mr. Kissinger followed almost verbatim the confidential/sensitive memorandum he had prepared for the President in anticipation of the meeting. After a brief description and definitions, those present were reminded that the United States had signed the Protocol in 1925; that it was submitted to the Senate in 1926, but never brought to a vote; and, again, returned to the Executive in 1947 along with several old treaties.

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Henry Kissinger pointed out that the Administration's position did not include the use of tear gas or herbicides in the request to the Senate for its advice and consent to the ratification of the 1925 Geneva Protocol. The Protocol basically prohibits the use in war of "asphyxiating, poisonous or other gases in the use of bacteriological methods of warfare." This, the President pointed out, was consistent with his statement earlier this year. The United States renounced the use of bacteriological warfare and toxins. Even if attacked, would not use them for defensive purposes, but, rather, would limit our activities to antidotes and protective serums.

Because there seemed to be some confusion on definitions, the President asked that a brief talking paper be prepared which could be forwarded to the Hill in order to make it easier for us to answer questions on the Geneva Protocol when it was discussed in the Senate. (This action was given to Henry Kissinger. These fact sheets have been prepared and distributed to the Hill. Copies of the two basic sheets are attached.)

Senator Fulbright again questioned saying, "Do I understand correctly, that you are excluding tear gas and herbicides? In other words, is U.S. position that the Protocol does not prohibit the use of tear gas and herbicides?"

Henry Kissinger answered yes and then there was a discussion as to why this was so.

Fulbright said that while he could understand that he would, however, like the President to actively take the position that the United States would pursue the question of proper use of herbicides and tear gas -- the point being that we would be better off on the positive side rather than the negative.

Secretary Laird pointed out that herbicides have an unfortunate name. In actuality there are many good uses. He specifically emphasized the fact that herbicides are used to increase the potato yield in Maine.

The President commented that there was pending before the Senate now an amendment to the military procurement authorization bill by Senator Nelson prohibiting the use of anti-plant chemicals or the stockpiling of anti-plant chemical weapons. It was agreed that it would probably be desirable to utilize our Geneva Protocol position as a background for discussion of the Nelson Amendment when voted on.

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Senator Fulbright said that he could understand that peaceful uses of herbicides were o.k. He agrees that we should not open the subject of tear gas or herbicides in connection with our ratification of the Geneva Protocol. Then again he reemphasized the needs for positive statement. Perhaps we could have a study he said.

Secretary Rogers spoke up, said this is understandable but let's not fog-up the Protocol question. We need to get it ratified and we don't want the ratification to be side-tracked by rather extraneous arguments to which we do not now know the answer.

The President said it would be appropriate for the environmental people to study the use of herbicides in non-defense areas.

Senator Stennis remarked that we would need an answer to the Nelson Amendment. The President said that the Protocol Message would be sent up tomorrow (that is today, August 19). Stennis agreed that this would help in the discussion.

Senator Mansfield who had been listening to the discussion to this point spoke up and said, "I'll support the agreement as you are sending it up. It goes further than any other country just about. I think the subject of herbicides is extraneous to the Protocol question at this time, but maybe it would be a good idea for this government to raise the question of herbicides in Geneva now -- outside of the Protocol question -- as an earnest of our good faith."

The President suggested that we develop a letter, or set of instructions, to communicate to Geneva on this subject and raise the question. Secretary Rogers said we could do that. The President then said that in this manner we could answer any floor arguments that pertain to the Nelson amendment by showing we are taking positive action to answer the question.

Senator Stennis said that that was a very good idea. The President then wound up the meeting by asking if there were any further questions. Apparently, there were none. The President said, "Alright, let's have a talking paper. Henry, you prepare this." (This is the one previously referred to and attached.) "Then, for State to get up a letter or paper to Geneva on the herbicide question."

The President said that we would send the Protocol Statement up tomorrow and that has been done. Meeting adjourned sharply at 9:05 a. m.

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FACT SHEET ON THE GENEVA PROTOCOL OF 1925

- The Protocol prohibits (1) the use in war of asphyxiating, poisonous or other gases, and of all analogous liquids, materials or devices, and (2) the use of bacteriological methods of warfare.
- The Protocol does not prohibit research and development, testing, stockpiling and defensive measures. Smoke, flame and napalm are not covered by the Protocol.
- The Protocol incorporates Article V of the Washington Treaty of 1922 with regard to the prohibition of the use in war of "asphyxiating, poisonous or other gases. . ." The United States Senate gave its consent to the Washington Treaty of 1922 without a dissenting vote. The Treaty failed to come into effect because of French objections to a provision on submarines.
- In 1925, at the Conference on the International Arms Trade, the United States first proposed a prohibition on the export of chemical armaments and then proposed a separate Protocol prohibiting the use in war of chemical weapons. The Conference agreed with the Polish delegation's suggestion to include a prohibition on the use of bacteriological methods of warfare.
- On June 17, 1925, the Protocol was approved by the Conference and signed by 30 countries, including the United States.
- The Protocol was submitted to the United States Senate in 1926, but was never brought to a vote and returned to committee. (In 1947, the Protocol was returned to the Executive along with other treaties which had not been acted upon.)
- In 1930, the United Kingdom attempted to get agreement that the Protocol prohibits the use of tear gas in war. Although several States agreed, there was no unanimity and many delegations were silent. The issue was not resolved.
- In 1966, 1968 and 1969, the United States voted for resolutions in the United Nations affirming its adherence to the principles and objectives of the Protocol.
- The principles of the Protocol have been observed in almost all armed conflicts since 1925 by Parties and non-Parties alike.
- Today, there are 85 Parties, including every other major power, to this basic international agreement in the field of chemical and biological warfare. (Japan became a Party on May 21, 1970.)
- While the Protocol speaks in terms of flat prohibitions on the use of these weapons, thirty-eight Parties (including France, the United Kingdom and the Union of Soviet Socialist Republics) have ratified or acceded with reservations on the right to retaliate with chemical and bacteriological weapons.
- The Netherlands has reserved the right to retaliate with chemical weapons only.
- No Party to the Protocol has taken a reservation with respect to the scope of the operative language of the Protocol.