

May 17, 74

Dear Matt,

As it turned out there was no mystery over the National Archives files. They were checked out by a State Department official the day the Protocol was sent to the Senate but returned a few days later. I spent all day yesterday looking through them and, I believe, I was able to establish beyond any reasonable doubt that Hugh Gibson was not speaking under instructions when he expressed his opinions on the "Memorandum by the British Delegation." There is no indication that the State Department ever communicated a policy to Gibson on the subject of the Protocol during the Preparatory Commission meetings. The British surfaced their memorandum on November 13, 1930 and Gibson forwarded it to the Department of State by pouch on November 19 with several other conference documents. He made no comment and more importantly he did not use a reference line (Had he received previous instructions on the subject he probably would have done so.) The pouch did not arrive in the Department of State until December 2 and no particular note seems to have been made of the British memorandum. Gibson expressed his views on the British Memorandum at the Preparatory Commission meeting of December 2. He reported, rather selective portions of his remarks to the Department by telegram (No. 50 of December 2, 1930). A copy of the State Department yellow (action copy) of this telegram is enclosed.

There are a couple of points worth noting on the Gibson telegram. Once again it contains no reference line, thereby implying that there had been no previous exchange of views on the matter. The cable itself is written as though Gibson is bringing the matter to the attention of the Department for the first time. There apparently was no response from the Department to this telegram as it was then, and still is, normal Department of State procedure to indicate any action taken on the yellow action copy of the telegram. When no action is required the yellow action copies are marked "file" as was done in this case.

In his report to the Department, Gibson is careful to point out that his objection to the British memorandum was procedural rather than substantive i.e. his objection was based on the competence of the Commission to embark on an interpretation rather than on any substantive objection to the British interpretation. The motivation for Gibson's cable seems clearly set out in the final paragraph. Gibson was afraid his remarks could be misinterpreted. How right he was.

I have looked through all of Gibson's cables and all available Department of State cables and have found no other reference to this subject. Not all Department of State cables found their way to the Archives files (they are not recorded in the original entry books) and it is therefore not possible to make a categorical statement that there was no other exchange of views on the matter.

Feel free to use this for any purpose you deem useful.

*Craig*

To War (General) and Navy  
KLP (Farmers) by wireless

GREEN 12/2/30

Geneva WS - Evers

TELEGRAM RECEIVED

Dated December 2, 1930

- Rec'd. 11:50 a.m.

DEC 2 1930

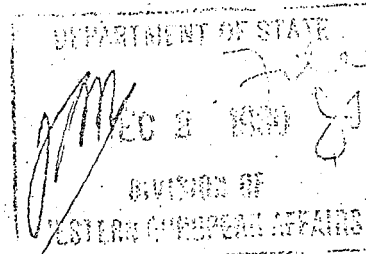
FROM

Dept. of State

Secretary of State,  
Washington, D. C.

RUSH

50, December 2, 3 p.m.



The British delegation this morning invited an expression of opinion from the Commission as to its contention that the text of chapter four of the convention (chemical warfare) should be construed as prohibiting the use in war of lachrymatory gases.

Inasmuch as several delegations expressed concurrence in the views of the British Delegation and as the Chairman was about to declare the adoption of this interpretation without a vote, I felt obliged to express the view that the Commission was not competent to embark on an intepretation of this nature, both because it involved a series of highly technical problems not covered by this one specific interpretation, and because it in turn implied an interpretation of the Geneva protocol of 1925; that the Commission should recommend in its report that the governments give this matter careful study; and that they instruct their representatives to the Gene

Disarmament

500.A 15/1158

#50 from Geneva - page 50

Disarmament Conference as to their beliefs in order that if possible a uniform interpretation be agreed upon by a competent body.

No one objecting, my suggestion was unanimously carried. I send you this brief statement at once as I am under the impression that certain American correspondents paid undue attention to some of the technical examples I cited by way of illustration without considering their place in the context of my speech.

.. December 2, 4 p.m.

GIBSON

WSB

Copy to War (Heweller) and to  
Navy (Lammers) by messenger

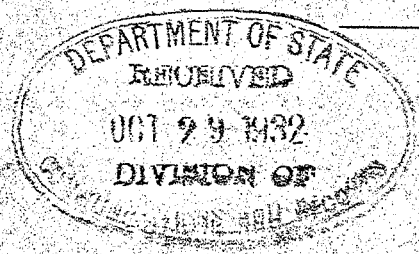
W/E

TELEGRAM RECEIVED 10/29/32

WP

GREEN

WE Eves



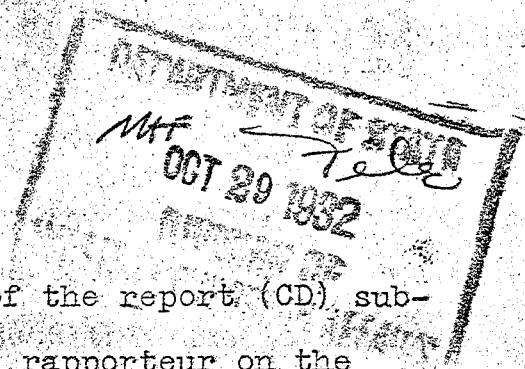
Geneva

FROM Dated October 28, 1932

Rec'd 6:15 p. m.

Secretary of State,  
Washington.

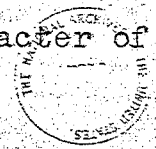
424, October 28, 7 p. m.



The following is a summary of the report (CD) submitted to the Bureau by the special rapporteur on the subject of chemical, et cetera warfare and violations of the provisions thereof. The report reviews the consideration of this subject by the Preparatory Commission, the General Commission and the Bureau, covers in general,

670 A-15  
Military Com.

One, a consideration of the character of the prohibition,



Two, provisions for prohibition of preparations both of manufacture and possession of appliances and also training, and

Three, the subject of supervision and sanctions.

It then draws the following conclusions which in some respects are badly correlated with the body of the report, therefrom in certain instances.

The conclusions in regard to prohibition of the use of such warfare provides for the renunciation, by the contracting parties, as against any state whether or not

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1932

JA 500. A 15 A 4 STEERING COMMITTEE/107

a party to the convention, and in any war, however unlawful such war may be on the part of their adversaries, of the use of various methods and means of chemical, et cetera warfare irrespective of method of employment. Exception is made for explosives as such and for the use of chemicals for screening purposes and for pyrotechnics.

Provisions for prohibition of preparations are applicable both in time of peace and time of war, exception being made for preparations to protect individuals only or for training for this purpose. It is expressly prohibited

One, to manufacture, import, export or be in possession of appliances and substances exclusively suited for such warfare, and of such substances suitable for both peaceful and military purposes with intent to use them in warfare should occasion require

Two, to instruct and train armed forces in such warfare; and,

Three, to permit such instructions and training within the territory of the signatories.

It should be noted that this section of the conclusions does not embody the general distinction between offensive and defensive measures which is recognized in the body of the report.

The conclusions further provide for setting up a special section of the permanent disarmament commission

for

- 4 - No. 424 from Geneva

be made outside the fighting area. (The Department will note, however, that the possession of this means of warfare, as well as the preparation thereof, have previously been expressly prohibited).

The foregoing brief summary is an effort to convey to the Department the salient features of a ten page printed report which is being forwarded by mail.

WILSON

OX

(\*) omission

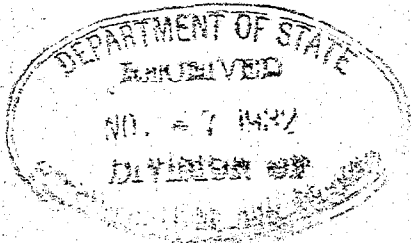
Copy sent to War (Muelles)  
and the Navy (Lawrence) by  
TELEGRAM RECEIVED 11/7/32  
Wesley

~~WE~~

WE Sweet

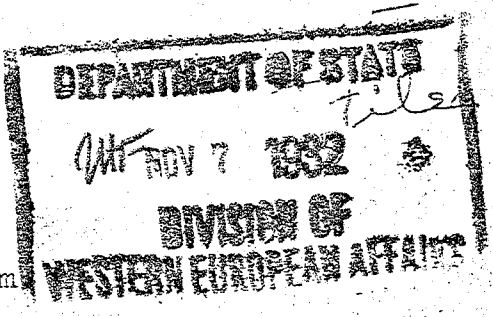
WP

GRAY  
FROM  
Geneva



Dated November 7, 1932  
Rec'd 6:43 a. m.

Secretary of State,  
Washington.



URGENT.

437, November 7, 11 a. m.

My 429, <sup>1119</sup> November 3, 11 a. m.

The report on chemical warfare will come up for consideration in the Bureau approximately Wednesday. I should greatly appreciate prior thereto instructions responsive to my telegram above mentioned.

WILSON



CIB WP

*copy sent to  
Steering Com.*

JA 500. A15 A 4 STEERING COMMITTEE/127

NOV 8 1932

part. memo

## TEAR GAS IN WAR: THE HISTORICAL RECORD OF U.S. OPPOSITION

Opposition to use of tear gas in war has been the consistent policy of the Government of the United States from the end of World War I well into the Vietnam War. Here is the record.

1922. The complete prohibition of "chemical warfare, including the use of gases, whether toxic or non-toxic," was called for by the Advisory Committee to the American Delegation to the Washington Conference on the Limitation of Armament. Members of the Committee included Herbert Hoover, Admiral Rodgers and General John J. Pershing, who was the chairman. (Conference on the Limitation of Armament, Government Printing Office, 1922; pages 385-386)

1922. The General Board of the U.S. Navy, also called on to advise the U.S. Delegation to the Washington Conference, resolved that "there will be great difficulty in a clear and definite demarcation between the lethal gases and those which produce unnecessary suffering, as distinguished from those gases which simply disable temporarily." The Board held it to be "sound policy to prohibit gas warfare in every form and against every objective." (op. cit.; page 387)

1930. The U.K. submitted a memorandum to the Preparatory Commission for the League of Nations Disarmament Conference, asking for opinions on whether tear gas was covered by the Geneva Protocol and stating that "His Majesty's Government have taken the view that the use in war of 'other' gases, including lachrymatory gases, was prohibited." Delegates of France, Roumania, Yugoslavia, Czechoslovakia, Japan, China, Spain, the U.S.S.R., Italy, Canada and Turkey agreed with the British position. The U.S. delegate, at that time Hugh Gibson, expressed hesitation about restricting the use in war of civil riot control agents. However, it appears that Gibson was not speaking under instructions from Washington. Gibson began his remarks by saying, "I had hoped that it would not be necessary to make a statement on this subject, as I confess that I am not in a position to offer a sound and valuable opinion on the problem...." He proposed not a strict construction of the Protocol but "careful study and consideration." (Minutes of the Sixth Session (Second Part), Dec. 2, 1930, p. 312)

1930. The Preparatory Commission found itself unable to give a definite opinion on the coverage of the Protocol, but in their report they also noted that "very many delegations stated that they were prepared to approve" the U.K. interpretation, and called for study "so that the problem may be settled in all its respects by the Conference." (Report of the Preparatory Commission: Annex to the Minutes of the Sixth Session, Second Part... page 585)

1932. When the Disarmament Conference itself got underway in 1932, its General Commission set up a special committee to consider CBW. The U.S. delegates were Brigadier-General George S. Simonds and Major B. Ord. The report of the committee was unanimous. It recommended that "there should be included in qualitative disarmament the use, for the purpose of injuring an adversary, of all natural or synthetic noxious substances, whatever their state, whether solid, liquid or gaseous, whether toxic, asphyxiating, lachrymatory, irritant, vesicant..." (Conference Document, Vol. I, May 31, 1932, page 5)

1932. Reviewing the report of the special committee, the General Commission in a resolution adopted July 23, 1932, decided that chemical warfare should be prohibited under the conditions unanimously recommended by the special committee. This vote was 41 to 2, with 8 abstentions. The United States voted affirmatively. (Minutes of the General Commission, Vol. I, July 23, 1932, see page 205)

1932. The Bureau of the Conference, an executive organ, discussed the report of the special committee on November 8, 1932, when the U.S. representative, Hugh Wilson, said about tear gas that "there was no question of its use in time of war, but the United States Delegation would have difficulty in undertaking to give up the preparation and employment of this gas for local police purposes." (Minutes of the Bureau, Series C, Vol. I, page 57)

1932. Accordingly, the Drafting Committee of the Conference wrote its Article 2, prohibiting use in war of "any natural or synthetic substance harmful to the human or animal organism, whether solid, liquid or gaseous, such as toxic, asphyxiating, lachrymatory, irritant or vesicant substances." The Drafting Committee was made up of the United States, France, Germany and Greece. (League of Nations: Conference Documents, Vol. II, page 734)

1933. The wording of draft Article 2, without change, was incorporated as Article 48 of the draft disarmament convention, which was submitted by the U.K. on March 16, 1933. (op. cit., page 488) Secretary of State Cordell Hull cabled the official U.S. position on each section of the treaty. His cable made the

same distinction earlier made by Hugh Wilson: "Articles 48 to 51 inclusive are acceptable, provided it is understood that article 48 does not prohibit the use of lachrymatory gases for domestic police purposes." (Foreign Relations, 1933, Vol. I, page 75)

1933. The British Draft Convention was read before the General Commission on May 30. No delegation objected to the inclusion of tear gas in the ban. The Conference adjourned in June; consideration of the Draft Convention was never completed. (Preliminary Report on the Work of the Conference, July 1936)

World War II. The Chemical Warfare Service procured 1,281,560 pounds of tear gas. This included 785,383 tear gas pots, 689,610 grenades, 54,310 mortar shells, and other forms. According to the official history of the Chemical Warfare Service, in such cases as "attacks upon Japanese caves and bunkers, or upon isolated positions, in the Pacific Islands, the gases might have brought about surrender or have driven the enemy into the open." Nonetheless, these weapons were never used in combat. (The Chemical Warfare Service: from Laboratory to Field, Chapter 3, "Toxic Agents")

Korean War. Large stores of tear gas weapons were available. None was ever used in combat. (loc. cit.)

Vietnam, 1965. When the U.S. use of CS gas in Vietnam was first reported in the press, Secretary of State Dean Rusk said that "The anticipation is, of course, that these weapons will be used only in those situations involving riot control or situations analogous to riot control," and further that "We do not expect that gas will be used in ordinary military operations."

Compiled by

Christopher Leman and  
Matthew Meselson  
Harvard University  
Cambridge, Massachusetts  
March 1971