

January 5, 1970

Mr. Anthony A. D'Amato
Northwestern University Law School
357 East Chicago Avenue
Chicago, Illinois 60611

Dear Tony,

Thanks for sending me a copy of your forthcoming article on "War Crimes and Viet Nam". Since you may be going to press quite soon, I am sending a rather untidy collection of comments rather than a properly organized discussion. Some of the following comments may be helpful.

- 1) Reference 14 (the page is not numbered). The correct title of the Geneva Protocol is "Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases and of Bacteriological Methods of Warfare." I suggest that you not use the word "poisonous" without the words "asphyxiating" and "other".
- 2) Page 52 - A great deal of tear gas and other harassing gases was used in World War I. The total was slightly more than ~~the~~ amount of mustard gas used. Therefore, it cannot be argued that tear and harassing gases were not considered by the signatories of the Geneva Protocol. Indeed, they were specifically discussed during the discussions of the "Mixed Temporary Commission in 1924 leading up to the Geneva discussions the following year.
- 3) CS is the only gas now being used in Viet Nam and ~~is~~ the only gas which has been used in large quantities there. The discussion of DM and CN is therefore not very relevant any longer.
- 4) Page 54 - The death of the Australian soldier has ~~been~~ attributed not to the presence of CS but to carbon monoxide and lack of oxygen. A reference to numerous deaths caused by CS may be found in the Mennonite Central Committee News Service Bulletin

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published November 10 in Akron, Pa. A copy is enclosed. I suspect there are many deaths due to CS but that they aren't being reported.

- 5) Page 55 - and reference 254 0 I am not aware that the United States is employing compounds containing cyanide or cyanamid in Viet Nam. Furthermore, the arsenic containing cacodylic acid that is used mainly for destroying rice crops cannot properly be described as a "virulent" poison. It is only mildly poisonous. The arsenic is in a rather non-poisonous form. Although it could be converted to a more poisonous form in the soil, I do not know if this has created a real hazard.

For your interest, I enclose a paper by Julian Robinson and myself on the "Escalation of Chemical Warfare", a copy of the speech I recently gave in London, and a paper prepared by Joseph Goldblat for the Stockholm Institute for Peace and Conflict Research.

With warm regards,

Sincerely yours,

Matthew Meselson

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