

February 23, 1971

Mr. Malvin Laird
Secretary of Defense
Department of Defense
Washington, D.C.

Dear Mr. Secretary:

RE: Viet Nam herbicide crops
destruction program

I congratulate you on the announcement by General Abrams and Ambassador Bunker, reported in Sunday's Wisconsin State Journal, that the herbicide crop destruction program in Viet Nam has come to an end. From past experience, I assume that the Department of Defense approved this announcement and that you yourself were personally involved as you were in earlier announced restrictions on chemical and biological warfare.

I have been concerned whether the crop destruction program violates standards of international law, particularly those which the Army has said were applicable in its manual "The Law of Land Warfare", (FM 27-10, 1956). The attached statement expresses my point of view. I did not know whether JAG, Army or OSD lawyers had approved the program, at least with any knowledge of the tremendous difficulty in Viet Nam of determining at the time of destruction whether a particular crop is intended for civilian use or not. The Army's Manual seems to me to put the burden of proof that the crops are intended "solely for consumption by the [enemy] armed forces" on the side proposing to destroy them. (See Para. 37, p. 18).

Could you advise me whether the crop destruction program (as distinct from general authorization for the use of certain defoliants) was approved by JAG, Army or OSD international law experts before it was initiated?

Again, my congratulations on ending the program.

Sincerely,

George Bunn
Professor of Law

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