

sides were missing "the number one enemy—it's a small group of corporations that have more information about us than the East German police ever had about the Germans."

He's horrified, for example, by recent news that both Microsoft Corp. and Intel Corp. have included identifier codes in their products that could be used to track people's online habits: "They not only track what we are doing," he says. "They track what we think."

His rethinking of privacy leads him to reject the notions that led to a constitutional right of privacy, best expressed in the landmark 1965 case *Griswold v. Connecticut*.

In that case, Justice William O. Douglas found a right of privacy in the "penumbra," or shadow border, of rights granted by other constitutional amendments—such as freedom of speech, freedom from unreasonable search and seizure, freedom from having troops billeted in our homes.

Etzioni scoffs at this "stretched interpretation of a curious amalgam of sundry pieces of various constitutional rights," and says we need only look to the simpler balancing act we've developed in Fourth Amendment cases governing search and seizure, which give us privacy protection by requiring proper warrants before government can tape a phone or search a home.

"We cannot say that we will not allow the FBI under any conditions, because of a cyberpunk dream of a world without government, to read any message." He finds such a view "so ideological, so extreme, that somebody has to talk for a sense of balance."

I was surprised to see, in the acknowledgements in his book, warm thanks to Marc Rotenberg, who heads the Electronic Privacy Information Center. Rotenberg is about as staunch a privacy advocate as I know, and I can't imagine him finding much common ground with Etzioni—but Etzioni told me that "Marc is among all the people in this area the most reasonable. One can talk to him."

So I called Rotenberg, too. He said he deeply respects Etzioni, but can't find much in the book to agree with. For all the talk of balance, he says, "we have invariably found that when the rights of the individual are balanced against the claims of the community, that the individual loses out."

We're in the midst of a "privacy crisis" in which "we have been unable to come up with solutions to the privacy challenges that new business practices and new technologies are creating," Rotenberg told me.

The way to reach answers, he suggested, is not to seek middle ground but to draw the lines more clearly, the way judges do in deciding cases. When a criminal defendant challenges a policeman's pat-down search in court, Rotenberg explained, "the guy with the small plastic bag of cocaine either gets to walk or he doesn't. . . . Making those lines fuzzier doesn't really take you any closer to finding answers."

As you can see, this is one argument that isn't settled. But I'm glad that Etzioni has joined the conversation—both for the trademark civility he brings to it, and for the dialogue he will spark.

Mr. TORRICELLI. Mr. President, I rise today to introduce the Privacy Protection Study Commission Act of 1999 with my colleague, Senator KOHL. This legislation creates a Commission to comprehensively examine privacy concerns. This Commission will provide Congress with information to facilitate our decision making regarding how to best address individual privacy protections.

The rise in the use of information technology—particularly the Internet,

has led to concerns regarding the security of personal information. As many as 40 million people around the world have the ability to access the Internet. The use of computers for personal and business transactions has resulted in the availability of vast amounts of financial, medical and other information in the public domain. Information about online users is also collected by Web sites through technology which tracks an individual's every interaction with the Internet.

Despite the ease of availability of personal information, the United States is one of the few countries in the world that does not have comprehensive legal protection for personal information. This is in part due to differences in opinion regarding the best way to address the problem. While some argue that the Internet's size and constantly changing technology demands government and industry self-regulation, others advocate for strong legislative and regulatory protections. And, still others note that such protections, although necessary, could lead to unconstitutional consequences if drafted without a comprehensive understanding of the issue. As a result, congressional efforts to address privacy concerns have been patchwork in nature.

This is why Senator KOHL and I are proposing the creation of a Commission with the purpose of thoughtfully considering the range of issues involved in the privacy debate and the implications of self-regulation, legislation, and federal regulation. The Commission will be comprised of experts in the fields of law, civil rights, business, and government. After 18 months, the Commission will deliver a report to Congress recommending the necessary legislative protections are needed. The Commission will have the authority to gather the necessary information to reach conclusions that are balanced and fair.

Americans are genuinely concerned about individual privacy. The Privacy Commission proposed by Senator KOHL and myself will enable Congress and the public to evaluate the extent to which we should be concerned and the proper way to address those concerns. The privacy debate is multifaceted and I encourage my colleagues to join Senator KOHL and myself in our efforts to gain a better understanding of it. Senator KOHL and I look forward to working with all those interested in furthering this debate and giving Americans a greater sense of confidence in the security of their personal information.

By Mrs. FEINSTEIN:

S. 1902. A bill to require disclosure under the Freedom of Information Act regarding certain persons and records of the Japanese Imperial Army in a manner that does not impair any investigation or prosecution conducted by the Department of Justice or certain intelligence matters, and for other pur-

poses; to the Committee on the Judiciary.

JAPANESE IMPERIAL ARMY DISCLOSURE ACT OF 1999

Mrs. FEINSTEIN. Mr. President, I rise today to introduce the Japanese Imperial Army Disclosure Act of 1999.

This legislation will require the disclosure under the Freedom of Information Act classified records and documents in the possession of the U.S. Government regarding chemical and biological experiments carried out by Japan during the course of the Second World War.

Let me preface my statement by making clear that none of the remarks that I will make in discussing this legislation should be considered anti-Japanese. I was proud to serve as the President of the Japan Society of Northern California, and I have done everything I can to foster, promote, and develop positive relations between Japan, the United States, China, and other states of the region. The legislation I introduce today is eagerly sought by a large number of Californians who believe that there is an effort to keep information about possible atrocities and experiments with poisonous gas and germ warfare from the public record.

One of my most important goals in the Senate is to see the development of a Pacific Rim community that is peaceful and stable. I have worked towards this end for over twenty years. I introduce this legislation to try to heal wounds that still remain, particularly in California's Chinese-American community.

This legislation is needed because although the Second World War ended over fifty years ago—and with it Japan's chemical and biological weapons experimentation programs—many of the records and documents regarding Japan's wartime activities remain classified and hidden in U.S. Government archives and repositories. Even worse, according to some scholars, some of these records are now being inadvertently destroyed.

For the many U.S. Army veteran's who were subject to these experiments in POW camps, as well as the many Chinese and other Asian civilians who were subjected to these experiments, the time has long since passed for the full truth to come out.

According to information which was revealed at the International Military Tribunal for the Far East, starting in 1931, when the so-called "Mukden incident" provided Japan the pretext for the occupation of Manchuria, the Japanese Imperial Army conducted numerous biological and chemical warfare tests on Chinese civilians, Allied POWs, and possibly Japanese civilians as well.

Perhaps the most notorious of these experiments were carried out under General Ishii Shiro, a Japanese Army surgeon, who, by the late 1930's had built a large installation in China with germ breeding facilities, testing

grounds, prisons to hold the human test subjects, facilities to make germ weapons, and a crematorium for the final disposal of the human test victims. General Ishii's main factory operated under the code name Unit 731.

Based on the evidence revealed at the War Crimes trials, as well as subsequent work by numerous scholars, there is little doubt that Japan conducted these chemical and biological warfare experiments, and that the Japanese Imperial Army attempted to use chemical and biological weapons during the course of the war, included reports of use of plague on the cities of Ningbo and Changde.

And, as a 1980 article by John Powell in the Bulletin of Concerned Asia Scholars found,

Once the fact had been established that Ishii had used Chinese and others as laboratory tests subjects, it seemed a fair assumption that he also might have used American prisoners, possibly British, and perhaps even Japanese.

Some of the records of these activities were revealed during the Tokyo War Crimes trials, and others have since come to light under Freedom of Information Act requests, but many other documents, which were transferred to the U.S. military during the occupation of Japan, have remained hidden for the past fifty years.

And it is precisely for this reason that this legislation is needed: The world is entitled to a full and compel record of what did transpire.

Sheldon Harris, Professor of History Emeritus at California State university Northridge wrote to me on October 7 of this year that:

In my capacity as an academic Historian, I can testify to the difficulty researchers have in unearthing documents and personal testimony concerning these war crimes * * *. Here in the United States, despite the Freedom of Information Act, some archives remain closed to investigators * * *. Moreover, "sensitive documents—as defined by archivists and FOIA officers—are at the moment being destroyed.

Professor Sheldon's letter goes on to discuss three examples of the destruction of documents relating to chemical and biological warfare experiments that he is aware of: At Dugway Proving Grounds in Utah, at Fort Detrick in Maryland, and at the Pentagon.

This legislation establishes, within 60 days after the enactment of the act, the Japanese Imperial Army Records Interagency Working Group, including representation by the Department of State and the Archivist of the United States, to locate, identify, and recommend for declassification all Japanese Imperial Army records of the United States.

This Interagency Work Group, which will remain in existence for three years, is to locate, identify, inventory, recommend for classification, and make available to the public all classified Imperial Army records of the United States. It is to do so in coordination with other agencies, and to submit a report to Congress describing its activities.

It is my belief that the establishment of such an Interagency Working Group is the best way to make sure that the documents which need to be declassified will be declassified, and that this process will occur in an orderly and expeditious manner.

This legislation also includes exceptions which would allow the Interagency Working Group to deny release of records on the basis of: 1. Records which may unfairly invade an individual's privacy; 2. Records which adversely affect the national security or intelligence capabilities of the United States; 3. Records which might "seriously or demonstrably impair relations between the United States and a foreign government"; and, 4. Records which might contribute to the development of chemical or biological capabilities.

My purpose in introducing this legislation is to help those who were victimized by these experiments and, with the adage "the truth shall set you free" in mind, help build a more peaceful Asian-Pacific community for the twenty-first century.

First, the declassification and release of this material will help the victims of chemical and biological warfare experimentation carried out by the Japanese Army during the Second World War, as well as their families and descendants, gain information about what occurred to them fifty years ago. If old wounds are to heal, there must be a full accounting of what happened.

Second, and perhaps just as importantly, this legislation is intended to create an environment of honest dialogue and discussion in the Asia-Pacific region, so that the countries and people of the region can move beyond the problems that have plagued us for the past century, and work together to build a peaceful and prosperous Asian-Pacific community in the next century.

If the countries of Asia are to build a peaceful community it is necessary that we deal fully, fairly, and honestly with the past. It is only by doing so that we can avoid repeating the mistakes of the past and build a more just world for the future.

Indeed, as Rabbi Abraham Cooper has remarked, "Since the end of World War II, professed neutral nations like Sweden and Switzerland have had the courage to take a painful look back at their World War II record; can Japan be allowed to do anything less?"

I hope that my colleagues will join me in support of this legislation.

Mr. President, I ask unanimous consent that the October 7 letter by Professor Harris and an article outlining some of the scholarly research on this issue: "Japan's Biological Weapons: 1930-1945," by Robert Gromer, John Powell, and Burt Roling be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GRANADA HILLS, CA,

October 7, 1999.

Hon. SENATOR DIANNE FEINSTEIN,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR FEINSTEIN: Several Asian American activists organizations in California, and organizations representing former Prisoners of War and Internees of the Japanese Imperial Army, have indicated to me that you are proposing to introduce legislation into the United States Senate that calls for full disclosure by the United States Government of records it possesses concerning war crimes committed by members of the Japanese Imperial Army. I endorse such legislation enthusiastically.

My support for the full disclosure of American held records relating to the Japanese Imperial Army's wartime crimes against humanity is both personal and professional. I am aware of the terrible suffering members of the Imperial Japanese Army imposed upon innocent Asians, prisoners of war of various nationalities and civilian internees of Allied nations. These inhumane acts were condoned, if not ordered, by the highest authorities in both the civilian and military branches of the Japanese government. As a consequence, millions of persons were killed, maimed, tortured, or experienced acts of violence that included human experiments relating to biological and chemical warfare research. Many of these actions meet the definition of "war crimes" under both the Potsdam Declaration and the various Nuremberg War Crimes trials held in the post-war period.

I am the author of "Factories of Death, Japanese Biological Warfare, 1932-45, and the American Cover-up" (Routledge: London and New York; hard cover edition 1994; paperback printings, 1995, 1997, 1998, 1999). I discovered in the course of my research for this book, and scholarly articles that I published on the subject of Japanese biological and chemical warfare preparations, that members of the Japanese Imperial Army Medical Corps committed heinous war crimes. These included involuntary laboratory tests of various pathogens on humans—Chinese, Korean, other Asian nationalities, and Allied prisoners of war, including Americans. Barbarous acts encompassed live vivisections, amputations of body parts (frequently without the use of anesthesia), frost bite exposure to temperatures of 40-50 degrees Fahrenheit below zero, injection of horse blood and other animal blood into humans, as well as other horrific experiments. When a test was completed, the human experimented was "sacrificed", the euphemism used by Japanese scientists as a substitute term for "killed."

In my capacity as an academic Historian, I can testify to the difficulty researchers have in unearthing documents and personal testimony concerning these war crimes. I, and other researchers, have been denied access to military archives in Japan. These archives cover activities by the Imperial Japanese Army that occurred more than 50 years ago. The documents in question cannot conceivably contain information that would be considered of importance to "National Security" today. The various governments in Japan for the past half century have kept these archives firmly closed. The fear is that the information contained in the archives will embarrass previous governments.

Here in the United States, despite the Freedom of Information Act, some archives remain closed to investigators. At best, the archivists in charge, or the Freedom of Information Officer at the archive in question, select what documents they will allow to become public. This is an unconscionable act of arrogance and a betrayal of the trust they have been given by the Congress and the

President of the United States. Moreover, "sensitive" documents—as defined by archivists and FOIA officers—are at the moment being destroyed. Thus, historians and concerned citizens are being denied factual evidence that can shed some light on the terrible atrocities committed by Japanese militarists in the past.

Three examples of this wanton destruction should be sufficiently illustrative of the dangers that exist, and should reinforce the obvious necessity for prompt passage of legislation you propose to introduce into the Congress:

1. In 1991, the Librarian at Dugway Proving Grounds, Dugway, Utah, denied me access to the archives at the facility. It was only through the intervention of then U.S. Representative Wayne Owens, Dem., Utah, that I was given permission to visit the facility. I was not shown all the holdings relating to Japanese medical experiments, but the little I was permitted to examine revealed a great deal of information about medical war crimes. Sometimes after my visit, a person with intimate knowledge of Dugway's operations, informed me that "sensitive" documents were destroyed there as a direct result of my research in their library.

2. I conducted much of my American research at Fort Detrick in Frederick, Md. The Public Information Officer there was extremely helpful to me. Two weeks ago I telephoned Detrick, was informed that the PIO had retired last May. I spoke with the new PIO, who told me that Detrick no longer would discuss past research activities, but would disclose information only on current projects. Later that day I telephoned the retired PIO at his home. He informed me that upon retiring he was told to "get rid of that stuff", meaning incriminating documents relating to Japanese medical war crimes. Detrick no longer is a viable research center for historians.

3. Within the past 2 weeks, I was informed that the Pentagon, for "space reasons", decided to rid itself of all biological warfare documents in its holdings prior to 1949. The date is important, because all war crimes trials against accused Japanese war criminals were terminated by 1949. Thus, current Pentagon materials could not implicate alleged Japanese war criminals. Fortunately, a private research facility in Washington volunteered to retrieve the documents in question. This research facility now holds the documents, is currently cataloguing them (estimated completion time, at least twelve months), and is guarding the documents under "tight security."

Your proposed legislation must be acted upon promptly. Many of the victims of Japanese war crimes are elderly. Some of the victims pass away daily. Their suffering should receive recognition and some compensation. Moreover, History is being cheated. As documents disappear, the story of war crimes committed in the War In The Pacific becomes increasingly difficult to describe. The end result will be a distorted picture of reality. As an Historian, I cannot accept this inevitability without vigorous protest.

Please excuse the length of this letter. However, I do hope that some of the arguments I made in comments above will be of some assistance to you as you press for passage of the proposed legislation. I will be happy to be of any additional assistance to you, should you wish to call upon me for further information or documentation.

Sincerely yours,

SHELDON H. HARRIS,
Professor of History emeritus,
California State University, Northridge.

[From the Bulletin of the Atomic Scientists, Oct., 1981]

JAPAN'S BIOLOGICAL WEAPONS: 1930-1945—A HIDDEN CHAPTER IN HISTORY

(By Robert Gomer, John W. Powell and Bert V.A. Röling)

When this story first reached the Bulletin, our reaction was horrified disbelief. I think all of us hoped that it was not true. Unfortunately, subsequent research shows that it is all too true. In order to verify the facts set forth here we enlisted the help of a number of distinguished scientists and historians, who are hereby thanked. It seems unnecessary to mention them by name; suffice it that the allegations set forth in this article seem to be true and there is a substantial file of documents in the Bulletin offices to back them up.

What other comment need one really make? Any reader with a sense of justice and decency will be nauseated, not only by these atrocities, but equally so by the reaction of the U.S. Departments of War and State.

The psychological climate engendered by war is horrible. The Japanese tortured and killed helpless prisoners in search of "a cheap and effective weapon." The Americans and British invented firestorms and the U.S. dropped two nuclear bombs on Hiroshima and Nagasaki. In such a climate it may have seemed reasonable not to bring the Japanese responsible for the biological "experiments" to justice, but it was and remains monstrous.

By acquiring "at a fraction of the original cost" the "invaluable" results of the Japanese experiments, have we not put ourselves on the same level as the Japanese experimenters? Some politicians and generals like to speak of the harsh realities of the world in order to act both bestially and stupidly. The world clearly does contain harsh realities but somehow there is a sort of potential divine justice basic decency generally would have been the smartest course in the long run. Unfortunately there are few instances where it was actually taken.

The spirit and psychological climate which made possible the horrors described in this article are not dead; in fact, they seem to be flourishing in the world. The torture chambers are busy in Latin America and elsewhere, and the United States provides economic and military aid to the torturers. The earth-and-people destroying was waged by the United States not long ago in Vietnam, the apparently similar war being waged by the Soviets in Afghanistan, the horrors of the Pol Pot regime in Cambodia, and the contemplation with some equanimity of "limited" nuclear war by strategists here and in the Soviet Union display the spirit of General Ishii. If we are to survive as human beings, or more accurately, if we are to become fully human, that spirit must have no place among men.—Robert Gomer (professor of chemistry at the University of Chicago, and member of the Board of Directors of the Bulletin.)

Long-secret documents, secured under the U.S. Freedom of Information Act, reveal details of one of the more gruesome chapters of the Pacific War; Japan's use of biological warfare against China and the Soviet Union. For years the Japanese and American governments succeeded in suppressing this story.

Japan's desire to hide its attempts at "public health in reverse" is understandable. The American government's participation in the cover-up, it is now disclosed, stemmed from Washington's desire to secure exclusive possession of Japan's expertise in using germs as lethal weapons. The United States granted immunity from war crimes prosecution to the Japanese participants, and they in turn handed over their laboratory records

to U.S. representatives from Camp Detrick (now Fort Detrick).

The record shows that by the late 1930s Japan's biological warfare (BW) program was ready for testing. It was used with moderate success against Chinese troops and civilians and with unknown results against the Russians. By 1945 Japan had a huge stockpile of germs, vectors and delivery equipment unmatched by any other nation.

Japan had gained this undisputed lead primarily because its scientists used humans as guinea pigs. It is estimated that at least 3,000 people were killed at the main biological warfare experimental station, code named Unit 731 and located a few miles from Harbin. They either succumbed during the experiments or were executed when they had become physical wrecks and were no longer fit for further germ tests [1, pp. 19-21]. There is no estimate of total casualties but it is known that at least two other Japanese biological warfare installations—Unit 100 near Changchun and the Tama Detachment in Nanjing—engaged in similar human experimentation.

(End Notes at end of articles)

This much of the story has been available for some years. What has not been known until very recently is that among the human guinea pigs were an undetermined number of American soldiers, captured during the early part of the war and confined in prisoner-of-war camps in Manchuria. Official U.S. reports reveal that Washington was aware of these facts when the decision was made to forego prosecution of the Japanese participants. These declassified "top secret" documents disclose the details and raise disturbing questions about the role of numerous highly placed American officials at the time.

The first public indications that American prisoners of war were among the human victims appeared in the published summary of the Khabarovsk trial. A witness stated that a researcher was sent to the camps where U.S. prisoners were held to "study the immunity of Anglo-Saxons to infectious diseases" [1, p. 268]. The summary noted: "As early as 1943, Minata, a researcher belonging to Detachment 731, was sent to prisoner of war camps to test the properties of the blood and immunity to contagious diseases of American soldiers" [1, p. 415].

On June 7, 1947, Colonel Alva C. Carpenter, chief of General Douglas MacArthur's legal staff, in a top secret cable to Washington, expressed doubt about the reliability of early reports of Japanese biological warfare, including an allegation by the Japanese Communist Party that experiments had been performed "on captured Americans in Mukden and that simultaneously research on similar lines was conducted in Tokyo and Kyoto." On June 27, Carpenter again cabled Washington, stating that further information strengthened the charges and "warrants conclusion" that the Ishii group had violated the "rules of land warfare." He warned that the Soviets might bring up evidence of Japanese use of biological warfare against China and "other evidence on this subject which may have resulted from their independent investigation in Manchuria and in Japan." He added that "this expression of opinion" was not a recommendation that Ishii's group be charged with war crimes.

Cecil F. Hubbert, a member of the State, War, Navy Coordinating Committee, in a July 15, 1947 memo, recommended that the story be covered up but warned that it might leak out if the Russian prosecutor brought the subject up during the Tokyo war crimes trials and added that the Soviets might have found out that "American prisoners of war were used for experimental purposes of a BW nature and that they lost their lives as a result of these experiments."

In his book, *The Pacific War* Professor Ienaga Saburo added a few new details about Unit 731 and described fatal vivisection experiments at Kyushu Imperial University on downed American fliers [2, pp. 188-90].

The biological warfare project began shortly after the Manchurian Incident in 1931, when Japan occupied China's Northeast provinces and when a Japanese Army surgeon, Ishii Shiro, persuaded his superiors that microbes could become an inexpensive weapon potentially capable of producing enormous casualties [1, pp. 105-107; 3]. Ishii, who finally rose to the rank of lieutenant-general, built a large, self-contained installation with sophisticated germ- and insect-breeding facilities, a prison for the human experimentees, testing grounds, an arsenal for making germ bombs, an airfield, its own special planes and a crematorium for the human victims.

When Soviet tanks crossed the Siberian-Manchurian border at midnight on August 8, 1945, Japan was less than a week away from unconditional surrender. In those few days of grace the Japanese destroyed their biological warfare installations in China, killed the remaining human experimentees ("It took 30 hours to lay them in ashes [4]") and ship out most of their personnel and some of the more valuable equipment to South Korea [1, pp. 43, 125, 130-31]. Reports that some equipment was slipped into Japan are confirmed by American documents which reveal that slides, laboratory records and case histories of experiments over many years were successfully transported to Japan [4].

A "top secret" cable from Tokyo to Washington on May 6, 1947, described some of the information being secured:

"Statements obtained from Japanese here confirm statements of USSR prisoners. . . Experiments on humans were . . . described by three Japanese and confirmed tacitly by Ishii; field trials against Chinese took place . . . scope of program indicated by report . . . that 400 kilograms [880 lbs.] of dried anthrax organisms destroyed in August 1945. . . Reluctant statements by Ishii indicate he had superiors (possibly general staff) who . . . authorized the program. Ishii states that if guaranteed immunity from "war crimes" in documentary form for himself, superiors and subordinates, he can describe program in detail. Ishii claims to have extensive theoretical high-level knowledge including strategic and tactical use of BW on defense and offense, backed by some research on best agents to employ by geographical areas of Far East, and the use of BW in cold climates" [5, 6].

A top secret Tokyo headquarters "memorandum for the record" (also dated May 6), gave more details: "USSR interest in Japanese BW personnel arises from interrogations of two captured Japanese formerly associated with BW. Copies of these interrogations were given to U.S. Preliminary investigation[s] confirm authenticity of USSR interrogations and indicate Japanese activity in:

- a. Human experiments
- b. Field trials against Chinese
- c. Large scale program
- d. Research on BW by crop destruction
- e. Possible that Japanese General Staff knew and authorized program
- f. Thought and research devoted to strategic and tactical use of BW.

Data . . . on above topics are of great intelligence value to U.S. Dr. Fell, War Department representative, states that this new evidence was not known by U.S. [6].

Certain low echelon Japanese are now working to assemble most of the necessary technical data. . . Information to the present have [sic] been obtained by persuasion, exploitation of Japanese fear of USSR

and Japanese desire to cooperate with U.S. Additional information . . . probably can be obtained by informing Japanese involved that information will be kept in intelligence channels and not employed for 'war crimes' evidence.

Documentary immunity from "war crimes" given to higher echelon personnel involved will result in exploiting twenty years experience of the director, former General Ishii, who can assure complete cooperation of his former subordinates, indicate the connection of the Japanese General Staff and provide the tactical and strategic information" [7].

A report on December 12, 1947, by Dr. Edwin V. Hill, chief, Basic Sciences, Camp Detrick, Maryland, described some of the technical data secured from the Japanese during an official visit to Tokyo by Hill and Dr. Joseph Victor [8]. Acknowledging the "wholehearted cooperation of Brig. Gen. Charles A. Willoughby," MacArthur's intelligence chief, Hill wrote that the objectives were to obtain additional material clarifying reports already submitted by the Japanese, "to examine human pathological material which had been transferred to Japan from BW installations," and "to obtain protocols necessary for understanding the significance of the pathological material."

Hill and Victor interviewed a number of Japanese experts who were already assembling biological warfare archival material and writing reports for the United States. They checked the results of experiments with various specific human, animal and plant diseases, and investigated Ishii's system for spreading disease via aerosol from planes. Dr. Ota Kiyoshi described his anthrax experiments, including the number of people infected and the number who died Ishii reported on his experiments with botulism and brucellosis. Drs. Hayakawa Kiyoshi and Yamanouchi Yujiro gave Hill and Victor the results of other brucellosis tests, including the number of human casualties.

Hill pointed out that the material was a financial bargain, was obtainable nowhere else, and concluded with a plea on behalf of Ishii and his colleagues:

"Specific protocols were obtained from individual investigators. Their descriptions of experiments are detailed in separate reports. These protocols . . . indicate the extent of experimentation with infectious diseases in human and plant species.

Evidence gathered . . . has greatly supplemented and amplified previous aspects of this field. It represents data which have been obtained by Japanese scientists at the expenditure of many millions of dollars and years of work. Information has accrued with respect to human susceptibility to those diseases as indicated by specific infectious doses of bacteria. Such information could not be obtained in our own laboratories because of scruples attached to human experimentation. These data were secured with a total outlay of Y [yen] 250,000 to date, a mere pittance by comparison with the actual cost of the studies.

Furthermore, the pathological material which has been collected constitutes the only material evidence of the nature of these experiments. It is hoped that individuals who voluntarily contributed this information will be spared embarrassment because of it and that every effort will be taken to prevent this information from falling into other hands."

A memo by Dr. Edward Wetter and Mr. H.I. Stubblefield, dated July 1, 1947, for restricted circulation to military and State Department officials also described the nature and quantity of material which Ishii was beginning to supply, and noted some of the political issues involved [9]. They reported that

Ishii and his colleagues were cooperating fully, were preparing voluminous reports, and had agreed to supply photographs of "selected examples of 8,000 slides of tissues from autopsies of humans and animals subjected to BW experiments." Human experiments, they pointed out, were better than animal experiments:

"This Japanese information is the only known source of data from scientifically controlled experiments showing the direct effect of BW agents on man. In the past it has been necessary to evaluate the effects of BW agents on man from data obtained through animal experimentation. Such evaluation is inconclusive and far less complete than results obtained from certain types of human experimentation."

Wetter and Stubblefield also stated that the Soviet Union was believed to be in possession of "only a small portion of this technical information" and that since "any 'war crimes' trial would completely reveal such data to all nations, it is felt that such publicity must be avoided in the interests of defense and national security of the U.S." They emphasized that the knowledge gained by the Japanese from their human experiments "will be of great value to the U.S. BW research program" and added: "The value to U.S. of Japanese BW data is of such importance to national security as to far outweigh the value accruing from war crimes prosecution."

A July 15 response to the Wetter-Stubblefield memo by Cecil F. Hubbert, a member of the State, War, Navy Coordinating Committee, agreed with its recommendations but warned of potential complications because "experiments on human beings . . . have been condemned as war crimes by the International Military Tribunal" in Germany and that the United States "is at present prosecuting leading German scientists and medical doctors at Nuremberg for offenses which included experiments on human beings which resulted in the suffering and death of most of those experimented upon" [10].

Hubbert raised the possibility that the whole thing might leak out if the Soviets were to bring it up in cross-examining major Japanese war criminals at the Tokyo trial and cautioned:

"It should be kept in mind that there is a remote possibility that independent investigation conducted by the Soviets in the Mukden area may have disclosed evidence that American prisoners-of-war were used for experimental purposes of a BW nature and that they lost their lives as a result of these experiments."

Despite these risks, Hubbert concurred with the Wetter-Stubblefield recommendation that the issue be kept secret and that the Japanese biological warfare personnel be given immunity in return for their cooperation. He suggested some changes for the final position paper, including the following causticity: "The data on hand . . . does not appear sufficient at this time to constitute a basis for sustaining a war crimes charge against Ishii and/or his associates."

Hubbert returned to the subject in a memorandum written jointly with E.F. Lyons, Jr., a member of the Plans and Policy Section of the War Crimes Branch. This top secret document stated, in part:

"The Japanese BW group is the only known source of data from scientifically controlled experiments showing direct effects of BW agents on humans. In addition, considerable valuable data can be obtained from this group regarding BW experiments on animals and food crops. . . .

Because of the vital importance of the Japanese BW information . . . the Working Group, State-War-Navy Coordinating Sub-

committee for the Far East, are in agreement that the Japanese BW group should be informed that this Government would retain in intelligence channels all information given by the group on the subject of BW. This decision was made with full consideration of and in spite of the following:

(a) That its practical effect is that this Government will not prosecute any members of the Japanese BW group for War Crimes of a BW nature.

(b) That the Soviets may be independent investigation disclose evidence tending to establish or connect Japanese BW activities with a war crime, which evidence the Soviets may attempt to introduce at the International Military Trial now pending at Tokyo.

(c) That there is a remote possibility that the evidence which may be disclosed by the Soviets would include evidence that American prisoners of war were used for experimental purposes by the Japanese BW group" [11].

In the intervening years the evidence that captured American soldiers were among the human guinea pigs used by Ishii in his lethal germ experiments remained "closely held" in the top echelons of the U.S. government. A "confidential" March 13, 1956, Federal Bureau of Investigation internal memorandum, addressed to the "Director, FBI (105-12804)" from "SAC, WFO (105-1532)" stated in part:

"Mr. James J. Kelleher, Jr., Office of Special Operations, DOD [Department of Defense], has volunteered further comments to the effect that American Military Forces after occupying Japan, determined that the Japanese actually did experiment with "BW" agents in Manchuria during 1943-44 using American prisoners as test victims. . . . Kelleher added that . . . information of the type in question is closely controlled and regarded as highly sensitive."

It is perhaps not surprising that it has taken so long for the full story to be revealed. Over the years fragments have occasionally leaked out, but each time were met with denials, initially by the Japanese and later by the United States. During the Korean War when China accused the United States of employing updated versions of Japan's earlier biological warfare tactics, not only were the charges denied, but it was also claimed that there was no proof of the earlier Japanese actions.

At the time of the Khabarovsk trial, the United States was pressing the Soviet Union to return thousands of Japanese prisoners held in Siberian labor camps since the end of World War II. When news of the trial reached Tokyo, it was dismissed as "propaganda." William J. Sebald, MacArthur's diplomatic chief, was quoted in a United Press story in the Nippon Times on December 29, 1949, as saying the story of the trial might just be fiction and that it obviously was a "smoke screen" to obscure the fact that the Soviets had refused to account for the missing Japanese prisoners.

It is possible that some of Ishii's attacks went undetected, either because they were failures or because the resulting outbreaks of disease were attributed to natural causes by the Chinese. However, some were recognized. Official archives of the People's Republic of China list 11 cities as subjected to biological warfare attacks, while the number of victims of artificially disseminated plague alone is placed at approximately 700 between 1940 and 1944 [12, p. 11].

A few of the Chinese allegations received international press coverage at the time. The Chinese Nationalists claimed that on October 27, 1940, plague was dropped on Ningbo, a city near Shanghai. The incident was not investigated in a scientific way, but the observed facts aroused suspicion. Some-

thing was seen to come out of a Japanese plane. Later, there was a heavy infestation of fleas and 99 people came down with bubonic plague, with all but one dying. Yet the rats in the city did not have plague, and traditionally, outbreaks of plague in the human population follow an epizootic in the rat population.

In the next few years a number of other Japanese biological warfare attacks were alleged by the Chinese. Generally, they were based on similar cause and effect observations. One incident, however, was investigated with more care.

On the morning of November 4, 1941, a Japanese plane circled low over Changde, a city in Hunan Province. Instead of the usual cargo of bombs, the plane dropped grains of wheat and rice, pieces of paper and cotton wadding, which fell in two streets in the city's East Gate District. During the next three weeks six people living on the two streets died, all with symptoms suggesting plague. Dr. Chen Wen-kwei, a former League of Nations plague expert in India, arrived with a medical team just as the last victim died. He performed the autopsy, found symptoms of plague which were confirmed by culture and animal tests. Again, there was no plague outbreak in the rat population [12, pp. 195-204].

On March 31, 1942, the Nationalist government stated that a follow-up investigation by Dr. Robert K.S. Lim, Director of the Chinese Red Cross, and Dr. R. Politzer, internationally known epidemiologist and former member of the League of Nations Anti-Epidemic Commission, who was then on a wartime assignment to the Chinese government, had confirmed Chen's findings.

Western reaction to the Chinese charges was mixed. Harrison Forman of the New York Times, and Dr. Thomas Parran, Jr., the U.S. Surgeon-General, thought the Chinese had made a case. But U.S. Ambassador Clarence E. Gauss was uncertain in an April 11, 1942, cable to the State Department, while Dr. Theodor Rosebury, the well-known American bacteriologist, felt that failure to produce plague bacilli from cultures of the material dropped at Changde weakened the Chinese claim [13, pp. 109-10]. Chen's full report, in which he suggested that it was fleas that were infected rather than the other material, was not made readily available by the Nationalist government.

Later disclosures of Japanese techniques would support Chen's reasoning: Fleas, after being fed on plague-infected rats, were swaddled in cotton and wrapped in paper, while grain was included in the mix in the hope that it would attract rats so that the fleas would find a new host to infect and thus start a "natural" epidemic.

At the December 1949 Soviet trial at Khabarovsk evidence was produced supporting the Nationalist Chinese biological warfare charges [14]. Witnesses testified that films had been made of some tests, including the 1940 attack on Ningbo. Japanese witnesses and defendants confirmed other biological warfare attacks, such as the 1941 Changde incident. Military orders, railroad waybills for shipment of biological warfare supplies, gendarmerie instructions for sending prisoners to the laboratories, and other incriminating Japanese documents were introduced in evidence [1, pp. 19-20, 23-24].

Describing the operation of Unit 731, the main biological warfare installation, located outside Harbin, the transcript summary stated: "Experts have calculated . . . that it was capable of breeding, in the course of one production cycle, lasting only a few days, no less than 30,000,000 billion microbes. . . . That explains why . . . bacteria quantities [are given] in kilograms, thus referring to the weight of the thick, creamy bacteria mass

skimmed directly from the surface of the culture medium [1, pp. 13-14].

Total bacteria production capacity at this one unit was eight tons per month [1, pp. 266-67].

Euphemistically called a "water purification unit," General Ishii's organization also worked on medical projects not directly related to biological warfare. In the Asian countries it overran, the Japanese Army conscripted local young women to entertain the troops. The medical difficulties resulting from this practice became acute. In an effort to solve the problem, Chinese women confined in the detachment's prison "were infected with syphilis with the object of investigating preventive means against this disease. [1, p. 357].

Another experiment disclosed at the Khabarovsk trial was the "freezing project." During extremely cold winter weather prisoners were led outdoors:

"Their arms were bared and made to freeze with the help of an artificial current of air. This was done until their frozen arms, when struck with a short stick, emitted a sound resembling that which a board gives out when it is struck" [1, pp. 289, 21-22, 357-58].

Once back inside, various procedures for thawing were tried. One account of Unit 731's prison, adjacent to the laboratories, described men and women with rotting hands from which the bones protruded—victims of the freezing tests. A documentary film was made of one of the experiments.

Simulated field tests were carried out at Unit 731's Anta Station Proving Ground. Witnesses described experiments in which various infecting agents were used. Nishi Toshihide, Chief of the Training Division, testified:

"In January 1945 . . . I saw experiments in inducing gas gangrene, conducted under the direction of the Chief of the 2nd Division, Col. Ikari, and researcher Futaki. Ten prisoners . . . were tied facing stakes, five to ten metres apart. . . . The prisoners' heads were covered with metal helmets, and their bodies with screens . . . only the naked buttocks being exposed. At about 100 metres away a fragmentation bomb was exploded by electricity. . . . All ten men were wounded . . . and sent back to the prison. . . . I later asked Ikari and research Futaki what the results had been. They told me that all ten men had . . . died of gas gangrene." [1, pp. 289-90].

Among the many wartime recollections published by Japanese exservicemen are a few by former members of Unit 731 [15]. Akiyama Hiroshi told his story in two magazine articles and Kimura Bumpei, a former captain, has published his memoirs [16]. Sakaki Ryohei, a former major, has described how plague was spread by air-dropping rats and voles and has given details of the flea "nurseries" developed by Ishii for rapid production of millions of fleas [17].

A more dramatic confirmation of Ishii's work was an hour-long Japanese television documentary produced by Yoshinaga Haruko and shown by the Tokyo Broadcasting System. A Washington Post dispatch on November 19, 1976, reported:

"In the little-publicized television documentary on the germ warfare unit, Yoshinaga laid bare secrets closely held in Japan during and since the war. . . . [She] traveled throughout Japan to trace down 20 former members of the wartime unit. . . . Four of the men finally agreed to help, and the reporter found their testimony dovetailed with reports of war crime trials held in the Soviet Union."

Some of those interviewed by Yoshinaga claimed that they had told their stories to American authorities. Eguchi said that he "was the second to be ordered to G.H.Q. [General Headquarters]" and "they took a

record" of his testimony. Takahashi, an ex-surgeon and Army major, stated: "I went to the G.H.Q. twice in 1947. Investigators made me write reports on the condition that they will protect me from the Soviets." Kumamoto, an ex-flight engineer, said that after the war General Ishii went to America and "took his research data and begged for remission for us all" [4].

Declassified position papers indicate a difference of opinion on how to deal with the question of immunity. The War Department favored acceding to Ishii's demands for immunity in documentary form. The State Department, however, cautioned against putting anything in writing which might later cause embarrassment, arguing that if the Japanese were told the information would be kept in classified intelligence channels that would be sufficient protection. In any event, a satisfactory arrangement apparently was worked out as none of the biological warfare personnel was subsequently charged with war crimes and the United States obtained full details of Japan's program.

The Japanese experts who, Dr. Hill hoped, would "be spared embarrassment," not only used their human guinea pigs in experiments to determine lethal dosages but on occasion—in their pursuit of exact scientific information—made certain that the experimentees did not survive. A group would be brought down with a disease and, as the infection developed, individuals would be selected out of the group and killed. Autopsies were then performed, so that the progress of the disease could be ascertained at various time-frames.

General Kitano Masaji and Dr. Kasahara Shiro revealed this practice in a report prepared for U.S. officials describing their work on hemorrhagic fever:

"Subsequent cases were produced either by blood or blood-free extracts of liver, spleen or kidney derived from individuals sacrificed at various times during the course of the disease. Morphine was employed for this purpose" [18].

Kitano and Dr. Kasahara Yukio described the "sacrificing" of a human experimentee when he apparently was recovering from an attack of tick encephalitis:

"Mouse brain suspension . . . was injected . . . and produced symptoms after an incubation period of 7 days. Highest temperature was 39.8° C. This subject was sacrificed when fever was subsiding, about the 12th day."

Clearly, U.S. biological warfare experts learned a lot from their Japanese counterparts. While we do not yet know exactly how much this information advanced the American program, we have the Fort Detrick doctors' testimony that it was "invaluable." And it is known that some of the biological weapons developed later were at least similar to ones that had been part of the Japanese project. Infecting feathers with spore diseases was one of Ishii's achievements and feather bombs later became a weapon in America's biological warfare arsenal [19].

Dr. Leroy D. Fothergill, long-time scientific advisor to the U.S. Army's Biological Laboratories at Fort Detrick, once speculated upon some of the possible spin-off effects of a biological warfare attack:

"Everything that breathes in the exposed area has an opportunity to be exposed to the agent. This will involve vast numbers of mammals, birds, reptiles, amphibians, and insects. . . . Surveys have indicated surprising numbers of wild life inhabiting each square mile of countryside. It is possible that many species would be exposed to an agent for the first time in their evolutionary history . . . Would it create the basis for possible genetic evolution of microorganisms in new directions with changes in virulence of some species? Would it establish public

health and environmental problems that are unique and beyond our present experience?" [20].

Perhaps President Richard Nixon had some of these things in mind when, on November 25, 1969, he renounced the use of biological warfare, declaring:

"Biological weapons have massive unpredictable and potentially uncontrollable consequences. They may produce global epidemics and impair the health of future generations. I have therefore decided that the U.S. shall renounce the use of lethal biological agents and weapons, and all other methods of biological warfare" [21].

Some research on defensive aspects was permitted by the ban. The line between defense and offense is admittedly a thin one. Nearly a year after the Nixon renunciation of biological warfare, Seymour Hersh wrote that the programs the Army wanted to continue "under defensive research included a significant effort to develop and produce virulent strains of new biological agents, then develop defenses against them. 'This sounds very much like what we were doing before,' one official noted caustically" [22].

There is a difference of opinion among observers as to whether the United States and other major powers have indeed given up on biological warfare. Some believe the issue is a matter of the past. However, its history has been so replete with deception that one cannot be sure. One thing seems certain: The story did not end with Japan's use of biological warfare against China; there are additional chapters to be written.

Available documents do not reveal whether anyone knows the names of any of the thousands of Chinese Mongolians, Russians, "half-breeds" and Americans whose lives were prematurely ended by massive doses of plague, typhus, dysenteries, gas gangrene, typhoid, hemorrhagic fever, cholera, anthrax, tularemia, smallpox, tsutsugamushi and glanders; or by such grotesqueries as being pumped full of horse blood; having their livers destroyed by prolonged exposure to X-rays or being subjected to vivisection.

It is known, however, that because of the "national security" interests of the United States, General Ishii and many of the top members of Unit 731 lived out their full lives, suffering only the natural afflictions of old age. A few, General Kitano among them, enjoyed exceptional good health and at the time of writing were living in quiet retirement.

GENERAL HEADQUARTERS, SUPREME
COMMANDER FOR THE ALLIED POW-
ERS,

Mar 27, 47.

BRIEF FOR THE CHIEF OF STAFF

1. This has to do with Russian requests for transfer of the former Japanese expert in Bacteriological Warfare.

2. The United States has primary interest, has already interrogated this man and his information is held by the U.S. Chemical Corps classified as TOP SECRET.

3. The Russian has made several attempts to get at this man. We have stalled. He now hopes to make his point by suddenly claiming the Japanese expert as a war criminal.

4. Joint Chiefs of Staff direct that this not be done but concur in a SCAP controlled interrogation requiring expert assistance not available in FEC.

5. This memorandum recommends:

a. Radio to WD for two experts.

b. Letter to USSR refusing to turn over Japanese expert.

c. Check Note to International Prosecution Section initiating action on the JCS approved interrogations.

WAR DEPARTMENT,

CLASSIFIED MESSAGE CENTER,

CFE Tokyo Japan (Carpenter Legal Section).

Reurad WAR 80671, 22nd June 47, held another conference with Tavenner of IPS who reports following.

One on 27th October 1940 Japanese planes scattered quantities of wheat grain over Ningpo. Epidemic of bubonic plague broke out 29th October 40. Karazawai affidavit in para 3 below confirms this as Ishii Detachment experiment. 97 plague fatalities.

2. Strong circumstantial evidence exists of use of bacteria warfare at Chuhsien, Kinghwa and Changteh. At Chuhsien Japanese planes scattered rice and wheat grains mixed with fleas on 4th October 1940. Bubonic plague appeared in same area on 12th November. Plague never occurred in Chuhsien before occurrence. Fleas were not properly examined to determine whether plague infected. At Kinghwa, located between Ningpo and Chupuai, 3 Japanese planes dropped a large quantity of small granules on 28th November 1940. Microscopic examination revealed presence of numerous gram-negative bacilli possessing * * *.

* * * * *

A JUDGE'S VIEW

(By Bert V.A. Röling)

As one of the judges in the International Military Tribunal for the Far East, it is a bitter experience for me to be informed now that centrally ordered Japanese war criminality of the most disgusting kind was kept secret from the Court by the U.S. government. This Japanese war criminality consisted, in part, of using human beings, prisoners of war, Chinese as well as American, as "guinea pigs" in an endeavor to test the impact of specific biological warfare weapons. Research on and production of these weapons was not forbidden at that time. The Protocol of Geneva, 1925, forbade their use only in battle. But to use human beings for biological experiments, causing the death of at least 3,000 prisoners of war, was among the gravest war crimes.

The first information about these Japanese atrocities became known through the trial at Khabarovsk, December 25 to 30, 1949. I remember reading about it [1], and not believing its contents. I could not imagine that these things had happened, without the Court in Tokyo being informed. According to the book about the trial all the facts were transmitted to the chief prosecutor, Joseph B. Keenan. But some of the information was incorrect. The book mentions that the Military Tribunal was informed of the wicked experiments done by the Tama division in Nanking, and that it requested the American prosecution to submit more detailed proof [1, p. 443]. Such Court procedures would not have been in conformity with Anglo-Saxon practice. It is more likely that the information was given to the chief prosecutor.

A further feature of the Khabarovsk book is the strange character of the confessions made by the accused. Some are quoted as saying that they acted upon the special secret orders of the Japanese emperor [1, pp. 10, 519]. This was bound to cause doubts about its credibility. The emperor does not give orders to perform specific military acts. Everything that is ordered by the government and its officials is "in the name of the emperor." But his role is remarkable in that he may not make decisions; he has only to confirm decisions of the government. The "imperial will is decisive, but it derives wholly from the government and the small circle around the throne. Titus stresses the

"ratification function" of the reached consensus [2, p. 321]. It is clear that this imperial confirmation gives a decision an exceptional authority: the command of the emperor is obeyed. In fact, however, the emperor has a kind of loud-speaker function. He is heard, and obeyed, but he speaks only on the recommendation of the government.

Very seldom does the emperor act in a personal manner. One such occasion was his criticism of the behavior of the Japanese army in Manchuria (the so-called Manchurian Incident). Another related to his role in connection with the capitulation at the end of World War II. Despite the atomic bombs and the entry of the Soviet Union into the war, the cabinet was divided and could not come to a decision because the military members refused to surrender. Their motivation: the existence of the imperial system was not sufficiently guaranteed. In a very exceptional move, the emperor was brought in to make the decision. He took the risk, and decided for immediate capitulation.

Thus the emphasis on the personal secret involvement of the emperor in the Khabarovsk trial account make it appear untrustworthy. The whole setup could be perceived as a source of arguments in favor of indicting the emperor. I remember at that time, writing to show the danger of national postwar judgments which could easily be misused for political purposes, and giving the Khabarovsk trial as an example. I must state now that the Japanese misbehavior as described in the judgment, has been confirmed by the recently disclosed American documents.

Immunity from prosecution was granted in exchange for Japanese scientific findings concerning biological weapons, based on disgusting criminal research on human beings. We learn from these documents that it was considered a bargain: almost for nothing, information was obtained that had cost millions of dollars and thousands of human lives. The American authorities were worrying only about the prospect of the human outcry in the United States, which surely would have taken place if the American people had been informed about this "deal."

The security that surrounds the military makes it possible for military behavior to deviate considerably from the prevailing public standard, but it is a danger to society when such deviation takes place. It leads gradually to contempt for the military, as witness the public attitude in connection with military behavior in the Vietnam war. The kind of military behavior that occurred in connection with the Japanese biological weapon atrocities can only contribute further to this attitude.

Respect for what the Nuremberg judgment called "the honorable profession of arms" is needed. Military power is still indispensable in our present world to provide for peace and security, so it is desirable for it to be held in high esteem. Power which is despised may become dangerous. Moreover, only if the military is regarded with respect, will it attract the personnel it should have.

The same is true of diplomatic service, which needs national and international respect. This respect will disappear if the service indulges in subversive activities, as the U.S. diplomatic mission did in Iran. That diplomatic misbehavior in Iran led to developments—the hostage crisis—which were disastrous for the whole world.

The documents which have come to light inform us also of the use of biological weapons in the war against the Chinese people. The criminal warfare was not mentioned in the Tokyo indictment, and not discussed before the Military Tribunal. It was kept secret from the world. The immunity granted to the Japanese war criminals covered not

only deadly research on living persons, but also the use of biological weapons against the Chinese. And all this so that the United States could obtain exclusive access to the information, gained at the cost of thousands of human lives.

Knowledge about what kind of bargain was being struck in the biological weapons area may strengthen the perception of the repulsiveness of war. It may also show the danger of moral depravity, in peacetime, within the circles that have the instruments of military power in their hands.

END NOTES

1. Materials on the Trial of Former Servicemen of the Japanese Army Charged with Manufacturing and Employing Bacteriological Weapons (Moscow: Foreign Languages Publishing House, 1950), pp. 19-21. This volume is a summary of the transcript of the Soviet trial in Khabarovsk, Siberia, Dec. 20-25, 1949, of 12 captured Japanese Army personnel charged with participation in the biological warfare program. For a later reference to the program see Outline History of Science and Technology in Japan, ("Nihon Kagaku Gijutsu-shi Taikei"), Vol. 25 (Medicine 2, 1967), pp. 309-10. This account states that the biological warfare program was organized in 1933 and that "for special research on bacteria, members of the epidemic-prevention section shall be sent to Manchuria." It also stated that little was known about the program after the war since all records were said to have been destroyed and that the only evidence was that produced at the Khabarovsk trial. It did add, however, that there were reports that General Ishii had avoided prosecution by turning over his materials to U.S. authorities. I have not seen this volume and am indebted to John Dower, of the University of Wisconsin, who supplied the citation.

2. Ienaga Saburo, *The Pacific War* (New York: Pantheon, 1978).

3. Although most U.S. documents and the Soviet trial summary give Ishii credit for originating the biological warfare program, it is possible that he was only the chosen instrument. There are references indicating interest in the program at higher levels. The "staff officer" of Ishii's Operations Division was Lieutenant Colonel Miyata, who in real life was Prince Takeda [1, p. 40]. Ishii's friend at court was Gen. Nagata Tetsuzan, long Japan's top military man [1, pp. 106, 295], while the orders establishing the two original units were reputedly issued by the Emperor [1, pp. 10, 104, 413].

4. "A Bruise—Terror of the 731 Corps," Tokyo Broadcasting System television documentary, produced by Yoshinaga Haruko, shown Nov. 2, 1976. It has also been screened in Europe but not in the United States. However, the Washington Post (Nov. 19, 1976) carried a lengthy news story describing the film. In an interview with Post reporter John Saar, Yoshinaga said five former members of the biological warfare unit told her they were promised complete protection in return for cooperation with U.S. authorities. "All the important documents were given to the United States," she said.

5. This "top secret" cable [C-52423] also reveals that the first of the biological warfare experts to be sent from Washington to Japan had already arrived, referring to "Dr. Norbert H. Fell's letters via air courier to General Alden C. Waite," who was then chief of the U.S. Army Chemical Corps.

6. Cable from Washington to Tokyo on April 2, 1947, stating that Fell would leave for Japan on April 5. A cable from Tokyo to the War Department on June 30, 1947, warns that an "aggressive prosecution will adversely affect U.S. interests" and urges that Fell (presumably now returned to Wash-

ington) be shown recent cables because he is an expert and can appreciate the value of the Japanese BW material.

7. Top secret Memorandum for the Record (May 6, 1947) indicated it was in response to "War Department Radio W-94446 & SWNCC 351/1 and was signed "RPM 26-6166".

8. "Summary Report on B.W. Investigations." Dated Dec. 12, 1947, and addressed to General Alden C. Waite.

9. Dated July 1, 1947, and titled, "Interrogation of Certain Japanese by Russian Prosecutor," this memo also lists some of the material already obtained, including a "60 page report" covering experiments on humans and notes that other data confirms, supplements and complements U.S. research and "may suggest new fields for future research." Record Group No. 153, National Archives.

10. This July 15, 1947, memo is addressed to Commander J.B. Cresap and signed "Cecil F. Hubbert, member working party (SWNCC 351/2/D)."

11. Undated and titled "SFE 182/2," it was part of National Archives Record Group No. 153.

12. "Report of the International Scientific Commission for the Investigation of the Facts Concerning Bacterial Warfare in Korea and China," Peking, 1952.

13. Theodor Rosebury, *Peace or Pestilence* (New York: McGraw-Hill, 1949).

14. In order to ascertain the Nationalist position on this issue after the passage of some 40 years, I checked with Taipei and am grateful to Lieutenant General Teng Shu-wei, of the Nationalist Defense Ministry's Medical Bureau, who searched the Taiwan archives. His report is in substantial agreement with the records of the People's Republic in Beijing, although less complete.

15. Bungei Shunju, Aug. 1955; Jimbutsu Ohrai (July 10, 1956).

16. "Terrible Modern Strategic War" by Kimura Bumei. I have not seen this book and am relying upon a brief description of it contained in a March 31, 1959, letter from Tokyo attorney Morikawa Kinju to A.L. Wirin, chief counsel of the American Civil Liberties Union in Los Angeles.

17. Sunday Mainichi, No. 1628 (Jan. 27, 1952).

18. "Songo-Epidemic Hemorrhagic Fever," report dated Nov. 13, 1947, based on interview with General Kitano Masaji and Dr. Kasahara Shiro.

19. "Feathers as Carriers of Biological Warfare Agents," Biological Department, Chemical Corps So and C Divisions (Dec. 15, 1950).

20. Leroy D. Fothergill, M.D., "Biological Warfare: Nature & Consequences," Texas State Journal of Medicine (Jan. 1964).

21. New York Times (Nov. 26, 1969).

22. Washington Post (Sept. 20, 1970).

This article is based, in part, on an article by the author in Bulletin of Concerned Asian Scholars (P.O. Box W, Charlemont, MA 01339), 12:4, pp. 2-15.

By Mr. SHELBY (for himself and Mr. BRYAN):

S. 1903. A bill to amend the privacy provisions of the Gramm-Leach-Bliley Act; to the Committee on Banking, Housing, and Urban Affairs.

CONSUMER'S RIGHT TO FINANCIAL PRIVACY ACT

Mr. SHELBY. Mr. President, I rise today to offer the "Consumer's Right to Financial Privacy Act" for myself and Senator BRYAN. This bill would address the significant deficiencies in the Financial Services Modernization Act passed by this very body last week.

Our bill would provide that consumers have (1) notice of the categories