

FOREWORD

BY COL. GEORGE “BUD” DAY

Writing this foreword was a most difficult task, which took several attempts.

I was a POW in Hanoi when Jane Fonda was working against us, and for our enemy, the Vietnamese Communists. As a result, my emotions still run high.

I was also the first repatriated prisoner with a lot of torture injuries to be interviewed after the last group of prisoners had been flown out of Vietnam. I was informed that all the POWs were out, and that I could discuss our treatment freely, which I did.

My arms and hands were damaged from being hung, there were scars on my knees and Achilles tendons from torture, and my buttocks were raw from several hundred strokes of a fan belt. Some of my injuries were shown to the press. Jane immediately insisted that any POW who claimed torture was a liar.

These words are being written by a pilot and lawyer of some 50 years, with service in WWII, Korea and Vietnam. I was the camp commander of several camps and have first-hand knowledge of many, many abuses of prisoners, to include the ultimate abuse, death.

I was in Washington, D.C., shortly after our release in 1973, attending a war correspondents' function at the same time that Jane Fonda was attending a similar meeting in the same building. I agreed to publicly debate her claim that POWs were liars. She refused to debate. It was not surprising that she did not want to be confronted by facts.

This fascinating and highly readable book documents the real Hanoi Jane that the Hanoi POWs are familiar with. This book will stand for decades as the legal textbook on the ultimate infamy, aid and comfort to the enemy. Using Jane's own speeches, many of which were written by the Communists, Professor and Mrs. Holzer cleverly connect her eagerly delivered statements to the law of treason, and lead you through the thicket of law and evidence with incontrovertible logic. Follow them through this remarkable book as they prove that there was enough evidence to indict and convict Hanoi Jane of the grandfather of all crimes. Review that evidence and then cast a “guilty” ballot.

Colonel Day, USAF Ret., holds the Congressional Medal of Honor and the Air Force Cross.

INTRODUCTION: IN PURSUIT OF JUSTICE

We decided to compile a list of the hundred most important women of the twentieth century... (Ladies' Home Journal)

When I began this book, I did not have an opinion about whether Jane Fonda had committed treason when she went to Hanoi, North Vietnam, in July 1972. However, my research into her pro-Communist, anti-American propaganda broadcasts and other conduct there, and into the American law of treason, have convinced me that an indictment could have been obtained in the immediate postwar years, that there would have been enough evidence to submit to a jury, that the jury could have convicted her, and that a conviction probably would have been upheld on appeal. Yet Fonda has never been charged by the United States legal system. Instead, she has made millions, been the recipient of countless awards, and has become a venerated American icon.

Many will doubtless ask: Why reopen yet another wound of the Vietnam War era some three decades after Fonda's pilgrimage to North Vietnam? It's a legitimate question, deserving of an answer. That answer has its roots in events that took place nearly a half-century ago. Let me explain.

In 1954, together with much of the world, I watched as the French poured seemingly endless numbers of soldiers into a godforsaken fortification (named Dien Bien Phu) in the northern part of Vietnam, not far south of the Chinese border. I remember vividly the nightly TV news programs showing combat-ready French paratroopers kissing their loved ones goodbye and boarding air transports in Paris, bound for drop zones in the beleaguered Indochinese fortress. The story of the fall of Dien Bien Phu is well known to those of my generation. No matter how many French troops were fed into the battle, General Vo Nyugen Giap threw more and more Vietnamese conscripts at them, until the defenders were finally overwhelmed. Thousands of prisoners were taken in this final chapter of the Franco-Viet Minh War, many of whom did not survive the Bataan Death March-like trek through hundreds of miles of dense jungle to Vietnamese prison camps, or to promised repatriation centers in

coastal areas.* To this day, the French cannot report within 10,000 how many of its sons were missing in action (as opposed to killed in action) in Indochina in the 1950s.

In the summer of 1954, Vietnam was partitioned, and early the next year the United States sent a small number of advisors to train the fledgling South Vietnamese army. It wasn't long before Americans began to read about the deteriorating political and military situation in what was then being called South Vietnam: increased Communist guerrilla activity in the South; support from the North for the Viet Minh (the "Viet Cong"); increased numbers of American "advisors"; Kennedy's escalation; (alleged) attacks on U.S. destroyers in the Gulf of Tonkin; Congressional passage of the now-infamous Gulf of Tonkin Resolution; retaliatory bombing; eventual commitment of American ground forces; then more men, more bombing — and more and more American prisoners taken by the Pathet Lao in Laos, by the Viet Cong in the South, and by the North Vietnamese in their territory. Then, as Rochester and Kiley noted in *Honor Bound*, "[I]n 1970 and 1971, the Nixon administration expanded the war to Cambodia and Laos. Intended to disrupt Communist supply lines and staging areas and to underscore U.S. determination to prevent a Communist takeover of Indochina, the Cambodian and Laotian campaigns wreaked enormous destruction and dislocation without appreciably advancing American goals."² I watched these events with deep concern, because during my own lifetime I had seen how Asian regular soldiers, let alone guerrillas, treated subjugated civilian populations and captured military personnel.

After World War II, we learned of the Japanese Rape of Nanking, and of Nippon's attempt to build the Thailand-Burma railway (Hollywood's *Bridge on the River Kwai*) that cost tens of thousands of allied POW lives. "During World War II the Japanese handled Americans and Britons in the same brutal fashion with which they treated their own miscreants and other Asians. Thousands of Americans and English died or went mad in the POW camps. Almost all the lives of the men in the bamboo camps were shortened, even if they survived."³

The treatment of American and United Nations troops in Korea was no different. As Korean War historian T.R. Fehrenbach summarized it:

[T]he average Army POW would be treated much like an average Chinese felon or class enemy. No great pressures would be put on him, other than those of starvation, lack of medical care, and a certain amount of indoctrination. This was the Lenient Policy. All American POWs, however, were not subject to it. Airmen, in particular, who were bombing North Korea to rubble, rousing the hatred of both Chinese and Koreans, were criminals from the start. Later, when the typhus carried across the Yalu [River] by the CCF [Chinese Communist Forces] hordes spread to the civilian population, airmen would be accused of germ warfare, giving the CCF both an out and a chance at a propaganda coup. Airmen, and some others, would be put under acute stress to confess alleged war crimes. Some were put in solitary. Some were physically tortured. All were starved and interrogated until their nerves shrieked. They were treated in almost the identical way that political prisoners had been treated by Communists for a generation."⁴

*References are to notes at the ends of chapters.

The harshness of these conditions is eloquently revealed by cold statistics: “[O]f 75,000 South Korean and United Nations prisoners taken by the North Koreans and Chinese, 60,000 never returned; and the early evidence indicated that several thousand Americans may have died or been executed in Korean PW camps.”⁵

Beginning in 1945, French prisoners had fared no better (and perhaps even worse) at the hands of the Viet Minh, predecessors to those who would later be called the Viet Cong and North Vietnamese. It has been estimated that during the Franco-Viet Minh war, approximately 40,000 French and French-allied soldiers were taken prisoner. They experienced, in Rochester and Kiley’s words, an “abominable captivity”⁶: forced marches through nearly impenetrable jungle; inadequate shelter; no medical attention; little food; manual labor worse than that performed by beasts of burden; exposure to poisonous insects and animals; beatings and sadistic torture.

In one of the most dreaded forms of punishment, known as the “buffalo treatment,” captors confined prisoners in the manure and sewage below a hut floor with dangerous buffalos, foraging pigs, and other animals.... [G]uards routinely jammed newly arrived prisoners, already sick, starving, and exhausted, under the floors of the huts to wallow in offal, denying them medicine, soap, and adequate food for weeks.... [The guards] threw the prisoners bits of rice, often putrid and contaminated by rodent feces, and ladled out small cups of thin pumpkin broth — a meager and usually temporary relief before resumption of the abuses.⁷

Rochester and Kiley observed, “In so many ways, Viet Minh treatment of these French PWs now seems like a rehearsal for the American experience that followed.”⁸

Indeed it was. As stories began to filter out of Laos and Vietnam in the early 1960s, it became apparent that the French POW experience was being visited on American prisoners, civilians and military alike. As the war intensified, with heavy bombing of the North and more and more combat and support troops committed in South Vietnam to fight the Viet Cong and North Vietnamese regulars, the number of American prisoners swelled. True to form, and just as the Chinese and North Korean Communists had done in Korea, the Vietnamese Communists embarked on a program to exploit those prisoners for propaganda purposes. However, because of the post-Korean War Code of Conduct⁹—governing the behavior of American POWs in captivity—prisoners faced a cruel dilemma: cooperate, and, depending on the circumstances, violate the Code and thus perhaps commit treason, or suffer torture and deprivation at the hands of the North Vietnamese Communists.¹⁰

Endeavoring to survive in Communist captivity and at the same time to maintain their mental sanity, physical health, personal integrity and unyielding loyalty to their country, the last thing the POWs needed was to be undermined by their own countrymen. Yet during the 1960s and 1970s there was a pilgrimage to North Vietnam by American anti-war activists; for example, Herbert Aptheker, historian and left-wing theoretician; Staughton Lynd, Yale history professor; author and Soviet apologist Mary McCarthy; “peace activist” Cora Weiss; son of a former attorney general of the United States and justice of the Supreme Court, and himself a former U.S.

attorney general, Ramsey Clark; Daniel Berrigan, a Jesuit priest; Howard Zinn, a Boston University professor; war protestor David Dellinger; Reverend William Sloane Coffin, pastor of Riverside Church in New York City; and still others—including Tom Hayden, perhaps the most notorious of the anti-war activists.

And, of course, Hayden's future wife, the subject of this book, Jane Fonda.

As a Korean veteran (Eighth Army military intelligence, 1955–56), I watched with anguish, along with many other Americans, while politicians threw more and more soldiers, sailors, marines and airmen into the quagmire of Vietnam, hobbling them in pursuit of unclear, unobtainable and contradictory goals, while our military forces continued selflessly to do their duty. I watched with contempt the anti-war pilgrimages just mentioned, even though the obeisant pilgrims' visits had resulted in comparatively little publicity—until actress-activist Jane Fonda went to Hanoi in 1972.

Then I was outraged, knowing that Fonda's international recognition as an actress and the daughter of actor Henry Fonda guaranteed worldwide publicity, and that her support of the Communist Vietnamese regime would, at the least, undermine our government's and military's efforts. Had I known the impact her presence in Hanoi—the bosom of our enemy—would have on our prisoners, especially those held in Hanoi, I would have been even more outraged, were that possible. At the time, all I could do was sign petitions, express my anger on radio talk shows, and support the protests of veterans' groups. Later, I boycotted Fonda's movies, took every opportunity to denounce her actions, and waited to see how the government would respond to the many patriotic cries that Fonda be indicted for treason. Nothing happened.

The war ended the next year. Hundreds of our prisoners were repatriated, and with them came stories about the impact of Fonda's trip to Hanoi. There was agitation anew that she be punished. Once again, nothing happened.

Fonda went on with her life—garnering more adulation as an actress; becoming a fitness guru; providing untold millions to her office-seeking politician husband Tom Hayden in support of an assortment of far-left causes; marrying media billionaire Ted Turner; establishing herself as a Hollywood icon; piling up award upon award; and recently pursuing other causes. But she has never been made to account for her wartime trip to North Vietnam.

Fonda's seeming apology on Barbara Walters' TV show *20/20* in 1988 was hollow and insincere—not to mention incomplete. Her pose, she told Walters, on a North Vietnamese anti-aircraft gun used to shoot down American planes was “a thoughtless and cruel thing to have done.” She was sorry she had hurt the prisoners in the Hanoi Hilton. She had been “thoughtless and careless.”¹¹ What makes Fonda's regret ring so hollow and self-serving are her revealing words in a 1989 interview, in which she stated categorically: “I did not, have not, and will not say that going to North Vietnam was a mistake ... I have apologized only for some of the things that I did there, but *I am proud that I went.*”¹² Even genuine repentance on Fonda's part would not have erased from my mind what she had done in Hanoi. But, like many Americans, including many of those who had served in Vietnam, I put the issue aside.

In 1995, I retired from teaching law. In 1999, after 42 years, I retired from the practice of law. Over those years I had represented, among others, dissidents fleeing Communism for freedom in the west; physicians choking on government regulation who couldn't well serve their patients; young men resisting conscription and the hell of Vietnam; "gold bugs" seeking to protect their assets from inflation; women trying to avoid abuse by their men and the bureaucracy; political candidates struggling against First Amendment-violating campaign finance restriction; publishers opposing censorship; refugees battling the INS; homeowners fighting destruction of their neighborhoods; students suffering from affirmative action. I represented the Ayn Rand disciples known as Objectivists, and Rand herself. I represented defendants appealing unjust verdicts. I represented "constitutionalists" who stood up to government's attempt to trash the Bill of Rights. In short, I'd spent decades fighting for rights and justice. I had started writing my memoirs when, in mid-1999, ABC-TV ran a Barbara Walters special, based on the earlier *Ladies' Home Journal* coffee-table book *100 Most Important Women of the Century*. There, profiled in the book and on Walters' TV special, was Jane Fonda. Unable to countenance this accolade, especially in the face of the unseemly soft-pedaling that Walters and the *Ladies' Home Journal* had indulged in, I made a decision. The time had come for me to investigate "Hanoi Jane." Was there a case to be made against her?

I undertook that investigation, and once I had finished, I recruited my wife, novelist Erika Holzer, as co-author. The result is this book. Its subject is Fonda's broadcasts and other conduct in Hanoi. Its argument is that she could have been indicted for the crime of treason, that there would have been enough evidence to go to a jury, that she could have been convicted, and that a conviction probably would have been upheld on appeal. I reached this conclusion based on some 40 years of practicing and some 20 years of teaching constitutional law and related courses, from a thorough examination of Fonda's propaganda broadcasts and other conduct in wartime North Vietnam, and from considerable research into the American law of treason.

It is my hope — no, my purpose — that, if the conclusion I've reached is accepted, then, in the court of public opinion, moral justice will finally be done. Benedict Arnold and Aaron Burr provide us with an historical precedent: In a *legal* sense, they were never punished as Fonda never was.

Equally important, it is my intention that this book provide closure for those American prisoners of war who suffered so much from Jane Fonda's actions in North Vietnam.—Henry Mark Holzer, November 2001

1. For this fact, and many more to be cited in this book, we are immeasurably indebted to Stuart I. Rochester and Frederick Kiley, whose book—*Honor Bound: American Prisoners of War in Southeast Asia, 1961–1973*—with its comprehensive sourcing, is not only the definitive study of the American Prisoner of War experience in Southeast Asia, but also a towering and quintes-

sential scholarly achievement. (Throughout *Honor Bound* the authors use the abbreviation "PW," which is commonly used by the military services, rather than "POW," which tends to be used by civilians. Accordingly, when in this book *Honor Bound* is quoted, "PW" will be used, but otherwise we shall use the abbreviation "POW.")

2. Rochester and Kiley, *Honor Bound*, 9–10.

3. T.R. Fehrenbach, *This Kind Of War: The Classic Korean War History*, 316. This invaluable one-volume work exposes the global politics of the Korean War, examines the war at all levels from squad to theater, and manages at the same time to get inside the heads of individual riflemen and other combatants. As brilliantly described in *Ghost Soldiers* by Hampton Sides, the barbarity perpetrated on American, Filipino and Allied prisoners of war by the Japanese in the Philippines during World War II defies belief. The atrocities began with the Bataan Death March in early 1942, during which, in addition to countless other bestial acts of savagery, “350 members of the Philippine 91st Army Division were herded up, tied with telephone wire, and systematically beheaded by sword” (Sides, *Ghost Soldiers*, 90). Japanese atrocities persisted during the entire Philippine campaign, right to the end. For example, in December 1944 at the Puerto Princesa prison camp in Palawa, Philippines, the Japanese burned alive nearly 150 American POWs who were being worked to death as slaves. Early in 1945, when in a daring raid American Rangers liberated hundreds of POWs from the Cabanatuan prison camp, “[e]ven though they had prepared themselves for the worst, the Rangers were truly appalled at the grotesque condition of many of the prisoners.... It was a ghastly parade — amputees, consumptives, men with peg legs, men without hair or teeth, men with the elephantine appendages and scrotums indicative of wet beriberi.... The half-naked prisoners were dull-eyed and louse-infected, and they seemed old beyond their years. Most were barefoot, or they hobbled around on homemade sandals fashioned from string and slats of cardboard. Their hair was greasy and raggedly shorn close to the scalp with blunt knives. Lesions and battle scars marred their skin, and many had tropical ulcers as big as dinner plates.... Some of the Rangers welled with tears at the hideous procession and tried to offer comfort” (Sides, *Ghost Soldiers*, 280–81). In view of the treatment that turned POWs into the walking dead, it is not surprising that while the Allied POW death rate in Germany and Italy was four percent, 27 percent of the internees died, one out of every four in Japanese prison camps.

4. Fehrenbach, *This Kind of War*, 317–318. As to Communist captors who were not Asiatic, “More than one million World War II Soviet-held PWs were never accounted for; thousands of those who were accounted for died from inhumane treatment in captivity. In one tragic episode in the Katyn Forest in 1941, the Russians were believed to have slaughtered between 5,000 and 16,000 Polish PWs, mostly officers...” (Rochester and Kiley, *Honor Bound*, 21).

5. Rochester and Kiley, *Honor Bound*, 21.

6. Rochester and Kiley, *Honor Bound*, 15. Our summary description of what the French prisoners of the Viet Minh experienced is taken from *Honor Bound* at pages 14–25.

7. Rochester and Kiley, *Honor Bound*, 15.

8. Rochester and Kiley, *Honor Bound*, 14.

9. Promulgated as a result of what was deemed inadequate resistance by some during the Korean War, the Code required a prisoner to furnish only his name, rank, serial number, and date of birth — the so-called “big four.” POW Col. Larry Guarino set forth the Code’s six articles applicable to him as follows: “I. I am an American fighting man. I serve in the forces which guard my country and our way of life. I am prepared to give my life in their defense. II. I will never surrender of my own free will. If in command, I will never surrender my men while they still have the means to resist. III. If I am captured I will continue to resist by all means available. I will make every effort to escape and aid others to escape. I will accept neither parole nor special favors from the enemy. IV. If I become a prisoner of war, I will keep faith with my fellow prisoners. I will give no information or take part in any action which might be harmful to my comrades. If I am senior, I will take command. If not, I will obey the lawful orders of those appointed over me and will back them up in every way. V. When questioned, should I become a prisoner of war, I am bound to give only name, rank, service number, and date of birth. I will evade answering further questions to the utmost of my ability. I will make no oral or written statements disloyal to my country and its allies or harmful to their cause. VI. I will never forget that I am an American fighting man, responsible for my actions, and dedicated to the principles which made my country free. I will trust in my God and in the United States of America” (Larry Guarino, *A P.O.W.’s Story: 2801 Days in Hanoi*, 164–65). Since 1973, the Code has undergone minor changes. In Article I, “man. I serve” has been deleted. In Article II, “men” has been changed to “the members of my command.” In Article VI, “man” has been removed and “for freedom,” has been added.

The literature on Vietnam POW resistance is virtually unanimous that almost to a man, the prisoners acquitted themselves honorably and in a way consistent with the Code’s requirements, while many suffered indescribably brutal treatment by their North Vietnamese guards (and sometimes interrogators from other Communist countries, like Cuba). In this regard, see Chapter 3.

10. Many of the early POWs in Hanoi thought the Code carried *legal* force. It did not. It was an

ethical guide, not a regulation. Under ranking POWs Jim Stockdale and Robbie Risner, the issue was clarified — which actually helped strengthen resistance and put it on a more rational basis than were the Code an *absolute* stricture.

11. *The Los Angeles Times*, June 17, 1988. During an interview in 2000, Fonda told Oprah Winfrey, “I will go to my grave regretting the photograph of me in an antiaircraft carrier [*sic*] which looks like I was trying to shoot at American planes. That had nothing to do with the context that photograph was taken in. But it hurt so many soldiers. It galvanized such hostility. It was the most horrible thing I could possibly have done. It was just thoughtless. I wasn’t thinking; I was just so bowled over by the whole experience that I didn’t realize what it would look like” (*The Washington Times*, July 7, 2000; commentary by Bruce Herschensohn). Fonda’s limiting her “apology” to the antiaircraft gun incident is yet another example of her attempt to minimize her activities in North Vietnam. On February 9, 2001, Fonda was at it again on Walters’ *20/20* show. Walters said Fonda had been “against the war,” and the actress agreed, leaving the implication that being against the war justified her propagandizing for the enemy from its own soil. Yet millions of loyal Americans, who also opposed the war — including some much more prominent than Fonda — never traveled to the capital of a country that was killing our troops and torturing our prisoners. Fonda said, “It just kills me that I did things that hurt those men,” apparently referring to our POWs. It’s obvious she never bothered to find out how she hurt “those men” — men who were injured,

sick, debilitated and treated by their captors in a manner that in Chapter 3 of this book we could hardly bring ourselves to describe. She made no effort to learn the toll her activities took on the morale of our prisoners and men still in the field, nor the punishment some received for upholding their honor and refusing to meet with her. Worse, as we shall see in Chapter 4, after repatriation was concluded on April 1, 1973, and the details of our POWs’ ordeal were revealed, Fonda called the returned POWs “liars and hypocrites” for reporting that they had been brutally tortured. Finally, Fonda told Walters and her viewers that hurting the prisoners was “not my intent.” In chapters 6, 7 and 8, we spend dozens of pages discussing Fonda’s intent. One wonders what Fonda’s answer would have been if Walters had asked Fonda what her intent *was*. So, once more, the Jane and Barbara show allowed Fonda to offer yet another glib, superficial “apology,” just like her earlier ones, aimed at convincing the gullible that Hanoi Jane is truly sorry for what she did in North Vietnam. She is not. She never was. Once the full truth is known, even the gullible will not take seriously any more Fonda “apologies.”

12. April 9, 1989, interview with Daniel B. Wood, *Sun Herald*. Even Fonda’s second husband, radical Tom Hayden (about whom more in later chapters), claimed to have second thoughts about his pro-Hanoi attitude and conduct: “Time has proved me overly romantic about the Vietnamese revolution” (Tom Hayden, *Reunion*, Collier Books, 243). Perhaps Hayden’s awakening had something to do with his political aspirations.