

## **Lessons from History**

by

Lee Hornberger

### **Introduction**

*The Destruction of the Bismarck*,<sup>1</sup> *Hell in a Very Small Place: The Siege of Dien Bien Phu*,<sup>2</sup> and *Vietnam: A History*<sup>3</sup> are three books that I read yearly. *Bismarck* explains how Great Britain, with some confidential background American assistance, sank the German battleship *Bismarck* during World War II. *Hell in a Very Small Place* describes the fall of Điện Biên Phủ in 1954 during the First Indochina War, and *Vietnam* primarily focuses on the French and American wars in Vietnam.

These books have much in common; each discusses war and combat which, according to some people, are much like litigation. Each book teaches us important lessons about interacting and dealing with diverse people and illustrates the importance of adaptability.

#### ***The Destruction of the Bismarck***

*The Destruction of the Bismarck* teaches us about the critical need to prepare and listen carefully. Admiral Günther Lütjens, the German Fleet Admiral on the *Bismarck*, failed to top off the *Bismarck*'s fuel tanks before it left its final port. Further, he ignored the radio messages from German Naval Headquarters in Paris, which indicated that the British had lost contact with the *Bismarck*. Headquarters told him to stop sending radio messages of every movement the *Bismarck* made even though the messages were in code. Not understanding that the British had truly lost contact with the *Bismarck* but the British knew how to triangulate, he ignored the notifications from Headquarters. He was not listening. These factors precipitated the sinking of the *Bismarck*, the death of over 2,000 *Kriegsmarine* sailors, and the failure of his mission. The Admiral's impatience and false assumptions kept him from appropriate planning and listening. Proactive planning and careful listening can be extremely useful not only in war but also in negotiations.

### ***Hell in a Very Small Place: The Siege of Dien Bien Phu***

*Hell in a Very Small Place* teaches us to treat the other side with courtesy and respect. The French, exercising their implicit bias, underestimated the enemy forces. Because of this, the French failed to develop realistic options and strategies. They parachuted their military forces into a valley surrounded by mountains that were ultimately occupied by enemy artillery and infantry. The French exposed their artillery crews at Điện Biên Phủ to enemy fire without providing the crews, who were in open artillery pits, with flak jackets to protect them. Their infantry and airborne troops were fighting from trenches without trench periscopes. The U.S. Secretary of State, John Foster Dulles, failed during the negotiations at the 1954 Geneva Conference to practice common courtesy when he declined to shake the premier of the People's Republic of China Zhou Enlai's hand. It took almost twenty years to correct this mistake when President Richard M. Nixon shook Zhou Enlai's hand during a visit to the People's Republic of China in 1972. In negotiations, not underestimating the other side, preparation, and courtesy and respect are of paramount importance to avoid.

### ***Vietnam: A History***

In *Vietnam: A History*, the Americans, like their French predecessors, following their implicit bias, underestimated the other side and did not develop credible options and strategies. The Americans did not understand that bombing the North Vietnamese would unite them, rather than discourage them. The Americans did not understand the North Vietnamese viewpoint that the war might last “five, ten, or twenty years.” The American “war of attrition, calculated to grind down the North Vietnamese . . . , instead wore out [America’s] own forces and . . . gradually exhausted the patience of the American public.”<sup>4</sup> After more than a decade of war, the Americans realized their Best Alternative to a Negotiated Agreement was simply to come home. As indicated by Aaron Burr,

How does a ragtag volunteer army

In need of a shower

Somehow defeat a global superpower?<sup>5</sup>

Realizing and overcoming one's implicit bias, understanding the interests of the other side, and being on the right side of the arc of history are important.

### ***Conclusion***

These three books contain many examples in which the turning points are not recognized when they occur. History and literature teach us that treating people with dignity and respect, careful preparation, and carefully listening to and understanding the other side is virtuous and wise. We are not, individually or as a nation, the source of all knowledge. Today's adversary might be tomorrow's collaborator.

The individuals and parties in these three books did not communicate with each other to try to find a mutually agreeable resolution of their disputes. A middle ground could not be found. Brainstorming occurred on battlefields, the ultimate courtroom, with tragic results.

### ***About the Author***

Lee Hornberger was Chair of the State Bar of Michigan's Alternative Dispute Resolution Section, Editor of *The Michigan Dispute Resolution Journal*, a member of the State Bar's Representative Assembly, President of the Grand-Traverse-Leelanau-Antrim Bar Association, and Chair of the Traverse City Human Rights Commission. He is a member of the Professional Resolution Experts of Michigan and a Diplomate Member of The National Academy of Distinguished Neutrals. He is a Fellow of the American Bar Foundation. He has received the ADR Section's George N. Bashara, Jr. Award for exemplary service.

He is in *The Best Lawyers of America* 2018 and 2019 for arbitration, and 2020 and 2021 for arbitration and mediation. He is on the 2016, 2017, 2018, 2019, and 2020 Michigan Super Lawyers lists for alternative dispute resolution. He received a Second Tier ranking in Northern Michigan for Arbitration by *U.S. News – Best Lawyers®* Best Law Firms in 2021. He received a First Tier ranking in Northern Michigan for Arbitration by *U.S. News – Best Lawyers®* Best Law Firms in 2019 and 2020.

While serving with the U.S. Army in Vietnam, he was awarded the Bronze Star Medal and Army Commendation Medals. The unit he was in was awarded the Meritorious Unit Commendation and the Republic of Vietnam Gallantry Cross Unit Citation with Palm.

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<sup>1</sup> Paul J. Bercuson and Holger H. Herwig, *The Destruction of the Bismarck* (Overlook Press, 2001).

<sup>2</sup> Bernard B. Fall, *Hell in a Very Small Place: The Siege of Dien Bien Phu* (Da Capo Press, 1966).

<sup>3</sup> Stanley Karnow, *Vietnam: A History* (Penguin Books, 1997).

<sup>4</sup> *Id.* at 478.

<sup>5</sup> Lin-Manuel Miranda and Jeremy McCarter, *Hamilton: The Revolution* (Hachette Book Group, 2016), p. 118.