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## 'History by Lawsuit'

The scorecard on the great Westmoreland-CBS encounter seems a bit smudged. But one unmistakable loser is the impatient attempt to write history by lawsuit.

CBS said as much: "Complex and controversial issues of the Vietnam war," observed its post-settlement statement, are not suited to "judicial determination." If CBS had added, "or determination by television documentary," the point would be more rounded and less sanctimonious.

Though they differed about many things, Gen. William Westmoreland and CBS agreed in their search for quick, clear settlement of some very murky issues. The general, wounded in the newsroom, had been encouraged to think he would find healing in the courtroom. The insulting charge that he'd conspired, for political reasons, to undercount the enemy in Vietnam might be cleanly repudiated in a yes-and-no fashion by a libel jury. It was a sad delusion, for neither a trial nor an hour television documentary can offer that ultimate satisfaction.

The general's original mistake, entangling him in all that followed, was to work for a commander-in-chief, Lyndon B. Johnson, who tried to fight a big war without seeming to fight one at all. Johnson's fear, founded on years of shrewd observation, was that the Vietnam war might consume his domestic agenda. Conservatives who opposed him on civil rights, or Medicare, or

the war against poverty would, he believed, seize on any big mobilization for war to demand the suspension of domestic business. They always did. This, he believed, was a standard conservative tactic, as old as the earliest guns-vs.-butter contest. Military adventures had always been the nemesis of domestic reformers. This time, it would be different.

So Lyndon Johnson, for what he deemed good reason, dodged the usual burdens of war mobilization. He sought no price controls or new taxes (at least until the 1968 surtax, too little and too late). He asked for no reserve callups; and he and Congress tolerated damaging discriminations in the draft lest more fortunate, more vocal Americans notice that there was a war on. And all of this, apparently, for fear that those who opposed his "Great Society" would notice we were in a fight and demand that we concentrate on one thing at a time.

Whatever running debate there was among intelligence officials, in Washington or in Saigon,

about who might properly be designated a combatant was rooted in this wrongheaded design—in this foolish attempt to fight a war while pretending it was a small skirmish. If battle-order figures were cooked, or estimates of the enemy trimmed, this was the start of it.

CBS portrayed all this, darkly, as "a conspiracy at the highest levels" to deceive the president and others. Conspiracy theories are handy, and come easily, to journalists and lawyers, neat ways to make sense of a messy world. But historians, significantly, seldom find conspiracy a useful or accurate model of the way the world works. More often, good people persuade themselves to cut corners or make unsound judgments for reasons that seemed to them good in the heat of the day.

Besides, it would be hard to show that any president was ever "deceived" by subordinates about anything (as the CBS documentary implied Lyndon Johnson was deceived about enemy troop levels) unless he wished to be. Lyndon Johnson

had not put his highest premium on facing what he himself was trying hard to keep from upsetting the American public.

This, at a guess, is how history will ultimately deal with the difficult issues at the heart of the Westmoreland-CBS case. However guilt is apportioned, the dilemma facing U.S. intelligence and military officials in 1967 will be framed less simply and starkly than they must be for purposes of a television documentary or a libel trial.

The measured pace of historical judgment does, indeed, generate impatience; for as was said in another connection, "in the long run we are all dead." But for those who do not find conspiracy theories and other easy explanations satisfying, the winnowing of history is worth the wait.

Meanwhile, those who seek instant judgments risk the penalty foreseen by Sir Walter Raleigh: "Whosoever, in writing a modern history, shall follow truth too near the heels, it may haply strike out his teeth." Both Westmoreland and CBS are missing a few today.