Q What about the discussions whether anybody was libeled? Do you remember anything that he said?
A I believe his position was very clear. He doesn't think anybody was libeled.
Q Did he explain why or say why?
A Yes. I asked him.
Q What did he say?
A Well, he said that the documentary focused upon General Westmoreland's role and suggested that there had been a conspiracy in military intelligence circles and, you know, Westmoreland denied it all.
Q Did Mr. Adams tell you whether he believed General Westmoreland?
A I believe he said he didn't think Westmoreland had been wholly candid.
Q Did he explain anything more than that?
A Not in words I recall. I mean Sam is inclined to be sympathetic to General Westmoreland, as I am, as a man who was caught in the middle and, you know, I have asked him, "What do you think of Westmoreland? What was he doing and thinking? What do you think in his heart of hearts he believed?"
We debated back and forth.
Q Do you remember anything that Mr. Adams
told you in those debates back and forth?

MR. MASTRO: Objection. Asked and answered. He answered what he discussed with Adams already.

A I think I have a pretty good idea of Sam's view of the General. Again, I don't carry a portable tape recorder around and study transcripts of casual conversations or even less than casual. I wasn't interrogating him or took no notes or anything. I believe he has pretty much the same opinion as I do.

Q Which is what?

A Well, you know, honestly speaking, my first view of General Westmoreland is of a straight shooter, a man on horseback who got involved in a tragic failure and in his heart of hearts doesn't seem to have accepted it yet.

Q What is the tragic failure you are referring to?

A I think that General Westmoreland by imposing the arbitrary 300,000 ceiling on the enemy troop count deceived the public and helped the communists achieve their psychological victory.

I don't believe he intended to do it. I don't believe he sat around and said, "Let's embark on an evil conspiracy." I believe he saw his duty as a soldier
to do these things and I feel a little sorry that it happened.

On the other hand, sometimes I am not as inclined to be as kind to him when I see some of his ideas as tactical nuclear weapons in South Vietnam and his views on the press seem to be a classic misunderstanding of the role of the press. After all, people were dying in Vietnam. He had some obligation to them too.

I don't know. I would just like to have asked him and still like to have asked him how he feels about these things.

Q I believe one question I did not fully get an answer from you, Mr. Rushford, is this. We were discussing a little while ago about the document, the Special National Intelligence Estimate that emerged from the summer and early fall conferences involving the CIA, MACV, DIA and others.

The question I ask you is, do you know whether the numbers that appeared as estimates of enemy strength in that document were accurate?

A MR. MASTRO: We are talking about the National Intelligence Estimate?

MR. DORSEY: Yes.

A Excuse me. You said "Special." That is a whole
different bureaucratic term. This was a National Intelligence Estimate. "Special" is sort of spot reports.

Q Without getting into the question of what it was, as long as we are clear it is a document that was published in November 1967, among other things contained estimates of the size of the enemy strength.

Do you have any question in your mind that we are referring to the same thing?

A No.

Q Do you know whether the numbers of estimates of enemy strength that appeared in that document were accurate?

A Do I have an opinion as to whether they were accurate?

Q Well, first, do you know whether they were accurate?

MR. MASTRO: Objection as to form.

A I have reason to believe that there were -- again, you know, is the glass of water half full or half empty. To me it is a misleading document. Nothing was "suppressed if you count prose. But numbers were turned into words. The press briefings given as a result of that were misleading because the number was 240 something thousand on all enemy strength. Some
of the guerrillas and self-defense forces who were dropped contributed to American casualties. It is hard for me to overlook that and I think it was just -- George Carver seems to have acquiesced in General Westmoreland's turning him into a flack.

Q: What makes you say that General Westmoreland turned Mr. Carver into a flack?

A: Well, he shouldn't talk about intelligence people about what the enemy Order of Battle was. He should talk to his press people about that. George Carver just helped the General with his public relation problem and, you know, in bureaucratic parlance, caved. There was no way I can get around that as hard as I try.

Look at the New York Times story you gave me. Now, there was a nice dispassionate laying out of numbers. I had said, again, you know, by Hedrick Smith, who is a fairly distinguished reporter, a very distinguished reporter, who laid out what the Order of Battle was much more clearly than the NIE.

I would have hoped that President Johnson would have read the New York Times rather than his own intelligence estimate because the New York Times got it straighter and was easier to understand.

Q: Why don't you pull that story out.
MR. DORSEY: Off the record.

(Discussion off the record.)

MR. DORSEY: We have marked as Plaintiff's Exhibit 124 a section excerpt from the New York Times dated December 20, 1967, which includes an article by Hedrick Smith.

(Excerpt from New York Times dated December 20, 1967, was marked Plaintiff's Exhibit 124 for identification, as of this date.)

BY MR. DORSEY:

Q    Mr. Rushford, I show you what has just been marked as Plaintiff's Exhibit 124. I ask you if this is a copy of the article by Hedrick Smith to which you were referring in your testimony.

A    Yes.

MR. DORSEY: I would like to have marked as Exhibit 125 a copy of an article by Andrew Hamilton entitled "Westmoreland's Progress Report," which appears to be an excerpt from the December 8, 1967 New Republic Magazine.

(Copy of article entitled "Westmoreland's Progress Report," by Andrew Hamilton, appearing in December 8, 1967 issue of the New Republic.)
Magazine, was marked Plaintiff's Exhibit 125 for identification, as of this date.)

BY MR. DORSEY:

Q I show you what has been marked as Plaintiff's Exhibit 125, and ask you whether that is the article in the New Republic by Mr. Hamilton to which you just referred?

A Yes.

Q What were you saying about that? I don't believe you finished your answer.

A Well, the two articles are on the same subject and I just suggested you consider them together at one point in the record for convenience. I was really referring to the case to me as a lay reader and as I assume President Johnson was of seeing the Order of Battle in the New York Times. I think it is a more honest way to lay it out.

You had a headline from the so-called higher strength, but it certainly doesn't seem to be blown out of proportion. It didn't do anything. It just seems to me that the whole public relations exercise was overblown.

If I look at the NIE, I have to read it carefully to really understand what is going on. Here I can go

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down. Category is excluded. Why did you exclude it?

As a policy official, it would be easier for me to make sense out of this.

Q You are referring to Exhibit 124?

A Referring to the Smith story.

Q Mr. Rushford, have you done any work for CBS in the last couple of years?

A Yes. Yes, I have. I am glad you asked.

Q Could you tell us when that came about and how it came about?

A Yes. I have been in, you know, journalism since, now, leaving the Pike Committee, more or less, and rather -- free-lanced. Rather than list exhaustively all the many organizations I have written with, in the last year I have been associated with the Jack Anderson confidential syndicated television show. I have written articles in the Boston Herald, the Federal Times, Barron's Magazine, the Readers Digest, and through a CBS producer for the evening news named Bill Willson--that is W-i-l-l-s-o-n -- I have worked up a, now, what might be a series or a story or two for the evening news. It has no connection with testimony here, Bill Willson, that I was called to offer testimony. I had mentioned it to him.
The reason CBS hired me wasn't because of the intelligence stuff at all. In fact, I am doing domestic issues.

Does that help?

Q When were you hired?

A Well, I started working on the story in, I guess September or October, and I pretty well finished the reporting, but the visual part hasn't been done by the producer and I may be called in to help on that, and I would feel free to do other stories for CBS if they will take them. After all, I do this for a living, it is one of many news organizations.

Q You said you would like to do more stuff for CBS?

MR. MASTRO: Objection as to form.

A I may present them with other ideas. If they don't take them, somebody else will. It is up to them.

I went in to Jack Smith, the bureau chief of CBS in Washington. I introduced myself. I said that I had been working for Bill Willson on a story, and by coincidence I had been called up in this lawsuit and I just said, "There may be very good reasons for you not to have me around."
And he said, "Let the chips fall where they may, and CBS people might even testify for Westmoreland, don't worry about it."

Then I asked you to ask me, I want it all laid out on the record so nobody misunderstands my position.

MR. DORSEN: I have no further questions.

MR. MASTRO: Let us take a short recess.

(REcess taken.)

EXAMINATION BY

MR. MASTRO:

Q. Mr. Rushford, since your time as an investigator for the Pike Committee, but prior to the airing of the CBS broadcast, The Uncounted Enemy: A Vietnam Deception, did you ever discuss with George Crile your impressions about intelligence estimates during the period 1967-1968 of total enemy strength in Vietnam?

A. Yes.

Q. Did you tell Mr. Crile in those discussions substantially what you have said in your testimony in these depositions?

MR. DORSEN: I object to the form of the question.
A  Yes.

Q  What did you tell Mr. Crile in those discussions?

A  Well, I believe the first time I met him is when I went down to his office in Harper's and introduced myself. Although I may have met him in the committee hearing room when Sam testified, if he came up that day, but in our first substantive conversation was when I visited him in his Harper's office. I believe we went out one day and had breakfast one day after that. I thanked him for editing the Harper's story and said we were able to build a pretty good case out of it and pretty much confirmed as much as we could. That would have been the gist of it.

Q  Did you tell Mr. Crile in subsequent conversations with him substantially what you testified in these depositions?

MR. DORSEN: I object to the form of the question.

A  Well, sure. I have been on the public record since '75, not only with the Pike Committee, but when I wrote articles for National Observer and Washington Monthly. I may have showed those to George and said, "You know, here is my Washington Monthly story,
what do you think?"

I certainly have been very consistent.

Q In your conversations with Sam Adams, did you tell him substantially what you testified to in these depositions?

MR. DORSEN: I object to the form of the question.

A Yes.

Q Did the Pike Committee investigate the question of whether there had been an arbitrary ceiling placed on total enemy strength figure by MACV?

A Yes.

Q What did the Pike Committee conclude in that regard?

A Well, I best let the committee's words speak for themselves. I believe I said there had been an arbitrary ceiling of enemy troop strength.

Q Was this subject covered in the CBS broadcast, The Uncounted Enemy: A Vietnam Deception, the subject of an arbitrary ceiling on the Order of Battle?

A I believe you know that the CBS broadcast built upon our central premise and the only differences that the CBS documentary produced more evidence and
Rushford

interviewed more people and went further than we had the time to do. We started from the same point and from the same core of facts.


A Right.

Q Did you have a copy of this article prior to your deposition?

A Mr. Dorsen sent me a package of materials and it was in there.

MR. MASTRO: I would like to read into the record the first paragraph of that article which says, "Government officials say privately that they now estimate enemy military and political manpower in South Vietnam at 416 to 433,000, much higher than the figure of less than 300,000 reported in 1966."

I also would like to read into the record the third paragraph of that article which reads, and I quote, "During his recent visit to Washington, General William C.
Westmoreland, the American Commander in Saigon, reported 'remarkable progress.' He presented charts showing a decline in enemy armed strength from 285,000 in late 1966 to 242,000."

Q: Can you give me your impressions of this article?

MR. DORSEY: I object to the form of the question.

A: Well, I believe my prior testimony, you know, speaks for itself.

I would also point you to the last couple of paragraphs where Mr. Smith points out the Administration has put a generally optimistic assessment on intelligence estimates, but other officials are wary of putting so much emphasis on those statistics.

Q: Does the article indicate who the source of this information is?

A: No. Other than government officials.

Q: Government officials say privately?

A: Well, it is a leak, a leak from the intelligence estimate. Being a resident of Washington, D.C., I can't help but speculate upon the source, but I don't know.

Q: Does it appear from this article that...
General Westmoreland was using these higher figures in his public presentations on enemy strength?

MR. DORSEN: I object to the form of the question.

A It appears General Westmoreland was using lower figures.

Q Mr. Rushford, in your earlier deposition testimony, Tuesday, November 15, 1983, you testified that, and I now quote from your transcript:

"Question: --

MR. DORSEN: Could we have the page?

MR. MASTRO: I am sorry. Let me begin again.

Q In an earlier deposition testimony on November 15, 1983, you gave the following testimony on Pages 159 and 160:

"Question: Do you believe the military disseminated phony intelligence?

"Answer: Absolutely.

"Question: During what period do you believe the military disseminated phony intelligence?

"Answer: I am speaking generally of a year prior to the January 1968 Tet attack and the
months that followed Tet.

"Question: Do you believe that General
Westmoreland participated in this dissemination
of phony intelligence by the military during
the year prior to the January 1968 Tet offensive?

"Answer: I believe he did."

Would you give the same answers to those
questions today?

A: Yes.

Q: In your testimony on November 14, 1983,
you testified on Page 70, "I think that it is reasonable
to conclude there was a conspiracy."

And at Page 72 --

MR. DORSEN: I am going to object
to reading selectively like you are doing, but

Q: When asked, "Who do you believe was part
of a conspiracy to distort intelligence information
regarding total enemy strength in Vietnam in 1967 and
1968?"

You answered, "I believe that General
Danny Graham, who was then a Lieutenant Colonel;
General Westmoreland, who certain supervised and should
have known about it, and all the CIA people from
George Carver to Bill Hyland, to Helms, if he knew about it, who acquiesced."

Do you still believe those answers are accurate today?

MR. DORSEN: I object to the form of the question.

Q Would you give the same answer today that you gave on November 14th?

MR. DORSEN: I object to the form of the question.

A Yes.

MR. MASTRO: No further questions.

MR. DORSEN: I have no further questions.

MR. MASTRO: I know you have a lot of materials here, Mr. Rushford. I would appreciate having the opportunity to review the materials which Mr. Dorsen sent you. So if I could look at those after the deposition, I would appreciate it.

THE WITNESS: If that's all right with Mr. Dorsen.

MR. DORSEN: They are yours.

MR. MASTRO: I would like to review them.

They are considerable in volume and I would like
Rushford

to look them over.

(Time noted: 12:20 p.m.)

GREGORY G. RUSHFORD

Subscribed and sworn to before me

this day of 1984.
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**WITNESS**

Gregory G. Rushford (resumed)  

**PLAINTIFF'S FOR IDENTIFICATION**

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CERTIFICATE

STATE OF NEW YORK  }  SS:
COUNTY OF NEW YORK  }

I, Harold Melman, Certified Shorthand Reporter, and a Notary Public within and for the State of New York, do hereby certify:

That GREGORY G. RUSHFORD, the witness whose continued deposition is hereinbefore set forth, was previously sworn, and that such deposition is a true record of the testimony given by said witness.

I further certify that I am not related to any of the parties to this action by blood or marriage; and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of January 1984.

HAROLD MELMAN, CSR

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