CLEMENTS CENTER FOR HISTORY, STRATEGY & STATECRAFT

Diplomacy, Alliances and War: Anglo-American Perspectives on History and Strategy in the September 11th Era

A Joint University of Texas-Austin and King's College London Conference

Panel 1: Historical Memories

Panelists:	Philip Bobbitt, Philip Zelikow
Discussants:	Colin Kahl, Timothy Lynch
Moderator:	Francis Gavin

November 1, 2013 | 8:15 AM – 10:15 AM
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[Note to Reader: When possible, speakers are identified by first name. If not, then Respondent is used for panelists and discussants, and Audience is used for attendees.]

[Begin File: Panel 1a.mp3]

William: All right. Good morning, everybody. [Inaudible 0:00:04] attention. Most of you know me. I'm Will Inboden, the executive director of the Clements Center. It is a pleasure to have all of you here for what is really our first big conference as the Clements Center for History, Strategy, & Statecraft. Just a couple of introductory words before we dive in — first, I want to give a strong thanks to our co-sponsor — actually, our true institutional partner, the War Studies Department of King's College London. You heard from Professor Mike Rainsborough last night. We hear from John Bew later today. But this conference that happened to be taking place physically here in Austin really is a truly collaborative effort of the University of Texas and King's College. Then, also this would not be possible without the generous support and co-sponsorship of our friends and sister institution here at UT, the Strauss Center of International Security and Law, currently capably headed up by [unintelligible 0:01:00] for the moment, the torch of the baton — the torch of succession soon to be passed to Bobby Chesney from here. So finally, many of you — particularly all of you who traveled and have had a chance to interact with our very delightful and capable staff at the Clements Center, but I especially want to thank Cathy Evans, Jacqueline Chandler, and Rachel Hoff who will be with us the whole weekend. So [unintelligible 0:01:24] have plenty of chances to thank them in person, but we really would not be here without [unintelligible 0:01:27].

So the theme of our conference is: How did history shape American and British responses to the September 11th attacks — and then really, the entire decade following September 11th and trying to [unintelligible 0:01:41] continue in different permutations today. We all know that silly cliché that the United States and Great Britain are two nations divided by common language, but here we're perhaps looking to inquire into: In that September 11th era with significant levels of cooperation between the two countries, were we two nations united by different histories — by which I mean even if there was a strong partnership between the Bush administration and the Blair government — albeit it with a number of divergences — were there different respective histories that each nation was drawing on and putting together in strategic responses to September 11th, then the Afghanistan intervention, and the Iraq intervention? So we want to look at that and have tried to assemble a pretty diverse array of viewpoints here, represented by all those in the room. We've got policymakers and scholars, some who wear both hats. We've got, of course, Brits and Americans. We've got diplomats and intelligence professionals. Even a couple of stray lawyers somehow sneaked in. Then we have viewpoints across the

political spectrum in both countries, from right to center to left. So I hope that'll make for some fruitful conversations. This, too, just comes to note. First, given the configuration of the room, I think it's very conducive for discussion, but it makes entry and egress a little more complicated. So please, don't use this door, because a lot of the speakers up here use that one for trips to the loo, and coffee breaks, and everything. Then finally, all of you should know about this — just remind that the session — all of the — both the speaker and panelists' and then the Q&A time is being audio recorded. Our idea is to produce an edited transcript in the months following the conference of the presentations and the discussion. But let me give you a strong assurance that nothing will appear in public. Nothing will go up online without your prior permission and approval. So please, speak freely here. Then once we produce an edited transcript, we'll send a copy to every person who made any comments, even a stray cough or guffaw, and you'll have a chance to revise extendedly, what-have-you. So we want to strike the balance between privacy and security of it, to use a cliché here in the United States. We wanted people to have a chance to speak candidly and yet later make sure that some of the insights from the conference are captured for the public record in ways our participants are comfortable with. So with that, please, join me in welcoming our first panel, which I'll turn over to Frank Gavin here.

Moderator: Great. Well, thank you, Will. Just sitting here reflecting and looking at what you've put together here, I was just remembering everything — all the effort that you and George Seay put together to put together such a remarkable group in such a quick amount of time. I think many of us here who are academics know that university life moves in kind of dinosaur time. It was only last year at this time that George, and you, and I went over to London and met up with John, and Mike, and Heather, and Sir Nigel, and at their wonderful hospitality this idea for this conference was born. So I think Will and George deserve an extraordinary amount of credit. We should give them a round of applause for putting this all together. [Inaudible 0:05:08], and he'll be with us most of the time, so get to know him.

Respondent: Yes.

Moderator: Yes, it really is remarkable. Not only have you put together something in such a quick amount of time, but something so incredibly important. I think as a historian and like others — the historians in here — there has always been a sense that history provides certain insights, something I like to call a historical sensibility that is often absent in many discussions in international relations and the strategy field. It's hard to capture. It's hard to put down on paper, but when you see the policymakers, they have an almost intuitive understanding that there is a closer match between what it is that historians are attempting to do, attempting to convey, attempting to explain, and the complex, difficult worlds that they face when they are making decisions under radical uncertainty. So not only is this an extraordinary effort, but I think this topic is both very important and really timed. I couldn't imagine a better first panel to start us off on this. Somehow we'll manage to find three of my closest friends, and a new friend, and three people who probably had as a big a role in shaping me from a mentorship and intellectual perspective as any three people out there. So I think we're in for a real treat. I'm not going to go into any great length about their biographies. You know these guys really well. Phil Bobbitt is one of the most distinguished scholars at the Nexus of National Security and International Law. In fact, this is a field he has pretty much created himself. This is a field that Bobby Chesney, the new Director of the Strauss Center, is one of the rising stars in. I think it's fair to say this is a field of inquiry that's extraordinarily important, everyone recognizes as being really important, and Phil more or less singlehandedly created it with books like *Shield of*

Achilles, and *War on Terror*, and his recent, terrific book — which I highly recommend to everyone here on Machiavelli. He will talk for ten to twelve minutes, and then he'll be followed by Phil Zelikow, someone who in the practice of national security and international law has probably done more [unintelligible 0:07:37]. Philip has had a distinguished career both in academics and in public service. He has been at the Miller Center where he ran it in the 90s. He's the dean of graduate studies at the University of Virginia and in between that, lots of very important public service, including being the head of the 9/11 commission and counselor to the Secretary of State — Secretary of State Condoleezza Rice. Philip has also been someone who I have learned just an extraordinary amount — he has been a real mentor to me. They will both speak for ten or twelve minutes. We'll have commentary from Colin Kahl, who is the associate professor at Georgetown. He has been a good friend since the late 90s. We were together at [unintelligible 0:08:29], and it has been a real delight to watch his career just take off in unbelievable ways. He was the Deputy Assistant Secretary of Defense for Middle East issues — a very easy portfolio, very little, if any, controversy of note that ever came up during his time there. Then a new friend who I've only had the pleasure of admiring from afar, but Dr. Timothy Lynch, who is the director of the graduate school of humanities and social sciences at the University of Melbourne and the author of many important works, including Turf War: The Clinton Administration and Northern Ireland. So the way this will go is our two main paper presenters will go for — what do you think, Will — ten to twelve minutes, and then —

William: Yeah, twelve-ish, maybe fifteen.

Moderator: Twelve-ish, and the commentators will go for about ten minutes, and then we will open it up to questions and discussion. So without further ado, Professor Bobbitt.

Philip B: What historical legacies were launched in the minds of the policymakers in the U.S. and the UK after 9/11? The first thing to note is how very different these historical legacies were for the two countries. The United States protected in our idle [unintelligible 0:10:01] most of the national liberation struggles that fueled terrorism other places. The dominant parallel was Pearl Harbor, and the same sense of astonishment accompanied by fear and loathing occurred to us the day after Pear Harbor as the day after 9/11. One can rightly speculate for at least this generation the day most likely to live in infamy would be September 11th. There was the same sense that the government had blundered, the same push for an independent commission to get the facts — a commission [unintelligible 0:10:35] such distinction; the same feeling that a surprise attack was both cowardly and dastardly and that it could come only from international, irrational fanatics whose convictions were beyond our understanding. For the British the store of experience on which they drew was the arms struggle by Irish Republicans who had committed a number of atrocities against civilians, mainly in Northern Ireland but also in England including an assassination attempt against the Prime Minister in 1984. In this respect, the UK drew on historical analogies that were shared with many European countries that had faced attacks on its citizens by nationalist terror groups. Indeed, it was a popular European retort after 9/11 that the only thing novel about the attacks on that day was that Americans were the victims. Countries that had endured assaults by the IRA, the [unintelligible 0:11:28], FLN, EKK were validly skeptical about American actions. It was only natural, the Europeans said, that the Americans, being unused to such incidents, should exaggerate their significance and their novelty. Older, wiser societies knew how to handle such matters, and it was not within Defense Departments. Panic and overreaction

are characteristic of failure to put events in perspective. In this respect, Tony Blair was almost unique in appreciating the radical novelty of the American situation.

Philip B: A less obvious precedent for the Americans was the launch of the satellite, Sputnik, in 1957. For the first time since its founding in the late 18th Century, the U.S. faced a foreign threat to its survival. Orbiting slowly, a satellite launched by a ballistic missile, plainly visible in the night sky — with it, the Soviet Union acquired the capability to deliver nuclear weapons to the American homeland by means as to which there was no defense — not in distance, not in time, not even in mitigation. As with Sputnik, the 9/11 attacks inaugurated a new era in strategy and shattered the complacent, confident self-image of an America that was not vulnerable to the mass violence of Europe and Asia. [Unintelligible 0:12:46] teaching ideas with weapons and tactics, new alliances would need to be forged. But at the outset, we were bewildered as to what these ideas, technologies, and relationships would be. Our fate suddenly appeared differently to us, and we were unsure what to expect. There was a similar buried memory in the consciousness of [unintelligible 0:13:07], but again, how very different its impact. This was the trauma of Suez, where the British, the French, and Israel attempted to act independently of even to some degree, deceiving the United States. The history of the Brits was to not let any distance come between Britain and her American ally. Standing shoulder to shoulder may not guarantee victory, but separation ensures defeat. Charles de Gaulle, the principal beneficiary of the turmoil that followed Suez, emboldened the uprisings in French-held Africa through the opposite. It's important to note some precedents that did not occur to the U.S. and UK leaderships.

Vietnam was not much on anyone's mind on September 12th. Although there was still some disagreement about what the U.S. had gotten wrong in Vietnam — was the problem that the U.S. had no legitimate interest in intervening a civil war whose people we [unintelligible 0:14:05] we fought to save them, or was it that we were insufficiently aggressive, as some claimed and hampered by micromanagement by the White House? By 2001, the lesson of Vietnam was: Don't get involved. This is a handy conclusion, because it elicits such broad consensus, but I doubt that it's really very helpful. If the lesson of Vietnam is that the U.S. had difficulty fighting an opponent that was hard to isolate in [unintelligible 0:14:33] population, difficult to target and track, whose shoestring logistics were hard to predict, whose [unintelligible 0:14:40] were disciplined by our own, and who drew strength from their commitment to a struggle and time scale that bore no relation to our expectations, then perhaps this lesson ought to have occurred to us when it did not.

Going to the Cold War paradigm, deterrence and détente presented itself. The idea that we should wait until Al Qaeda got its hands on weapons of mass destruction never suggested itself to any serious person and for good reason — that we might not be able to prevent such a catastrophe — and for some not so good reasons. Jihadists were irrational, suicidal — two qualities one does not want in [unintelligible 0:15:18]. For Britain too, there were potent historical analogies that do not [unintelligible 0:15:23] in the aftermath of the 9/11 attacks. One was the repulsed expulsion of British forces from Aden in 1967. Another was the massacre of British forces in the mountain [unintelligible 0:15:34] of Afghanistan in 1842. Both cases might have suggested that tribal societies make good hideouts for terrorists, but they are also extraordinarily hard to subdue. Perhaps it's just as well these precedents do not figure greatly in the post-9/11 debate, because their counsel is so [inaudible 0:15:52]. Did we really have a choice whether to go in search of bin Laden and his training camps? Is it conceivable that we could have been demurred

even if we had had better ideas of the difficult of the cost of intervention? As with the lessons of Vietnam, "Don't get involved," is not a very helpful way to prepare your forces or your public. It only covers over what has happened. There's always an option.

Philip B: It may be worth mentioning that the historical analogy of what most influenced bin Laden seems to have been the ill-fated U.S. mission to Lebanon in 1982. After breaking a rule articulated by Eisenhower that U.S. forces should not be introduced into the Middle East for any objective other than to repel a threat vital to U.S. interest — a rule announced after the previous American incursion into Lebanon in 1958 — the Reagan administration then panicked when terrorists killed 221 Americans in a massive bombing in Beirut. In this panic, U.S. forces were as hastily withdrawn as they had been carelessly deployed. Apparently, this abrupt withdrawal made an enormous impact on bin Laden, who often cited it as a precedent for the [unintelligible 0:17:03] U.S. disengagement we believe to precipitate Al Qaeda's attacks on the U.S. A far better precedent for bin Laden would have been the words — perhaps apocryphal — calmly attributed to Admiral Yamamoto after the successful Japanese attack on Pearl Harbor. Congratulated on the success of his daring plan, he said, "I fear all we have done is wake a sleeping giant and filled him with a terrible resolve." Other examples of Western resolution Islamists [unintelligible 0:17:34] should perhaps also trouble bin Laden and persuade him of the recklessness of his conspiracy. No one doubts this.

The lessons of history, if there are any such things — Paul Simon put it right when he wrote, "All lies and jest, a man hears what he wants to hear and disregards the rest." In fact, I'm inclined to believe that none of these historical antecedents is quite the right one. What followed the end of the long war of the 20th century — an ethical conflict to determine whether fascism, communism, or parliamentarianism succeed that has been sold in legitimate form by industrial nations today — was a break with the past. At the moment of its greatest triumph, the industrial parliamentary nation state began to decline, and the very innovations that brought it victory in the long struggle — the global system of trade and finance, an international system of law, culture, communications, and the development of the technologies of weapons of mass destruction — now these began to undermine its structure. The constitutional order out of which a stable international order was built began to erode in the face of new challenges — one of which was the development of a global network outsourcing, privatizing [unintelligible 0:18:51] terrorism, the first — but by no means the last — example of which was Al Qaeda. If there is a role for history, it's in reminding us that such rough breaks from the past — ruptures in which the very foundations of the state are put in play — have occurred before. The warfare of the First World War, the wars of the French Revolution, the wars of Louis XIV all caught the British by surprise. They were eventually won only by initiating an internal process of constitutional change that changed both warfare and the states waging it.

The model for this use of history is not the recipe book but a phenomenon I think of as Machiavelli's bicycle. Machiavelli was obsessed with the notion that history repeats itself. He spent many years trying to divine the lessons of classical Rome with neoclassical state [unintelligible 0:19:44]. In the end he concluded that Fortuna would always confound our predictions, giving us at most only temporary success. It is like the bicycle, not the cookie cutter. The bicycle wheel rotates, bringing any point on its tire to the original position. Though the wheel repeats this cyclical pattern, the bicycle itself is moved to a new place, a new context towards a hitherto unvisited destination in time and space. Machiavelli's friend, Leonardo, invented many technologies that only the future could bring into

being — tank, helicopter, machine gun. But it was Machiavelli who glimpsed the bicycle — a good image for those of us who seek lessons from the past. Analogies in the hands of able and far-sighted statesmen are like legal precedents in the hands of a gifted judge. They are not mechanically applied for their rules of the past — rather are suggestions for approaches to the future. To that extent, the present controls the past much more than the other way around. When we see the past, it lessens our current needs, our obsessions, and our regrets.

Philip Z: I'm grateful to the Clements Center for giving me the opportunity to address such an extraordinary group and in such a pleasant venue.

I'd like to start with a simple acknowledgement that in studying the history of the post-9/11 period, of course, the uses of history were pervasive. Yet I tried in my paper not to pull out some master historical belief to argue that it then became the master script for the administration. I thought that the attempt to do so — while eye-catching — would distort the story. If you read through the paper and then simply tried to pick out where historical beliefs are important, you could probably find at least ten or twelve examples. This is just covering, really, the six months between about 9/11 and the spring of 2002. So it's pervasive. Now, I say that because I actually want to get that out of the way. I don't think that the conference or the people here actually need to spend a whole lot of time persuading anyone that uses of history are pervasive in public affairs. Historical reasoning is the most common form of reasoning in public affairs. So therefore, it's interesting, to go to the next level and think about: Having noticed that, so what?

The next step, which historians usually follow, is to say, "We've observed your use of history, and we find it wanting." So a usual discourse among historians is, "We notice your use, and we comment on your misuse." That's facile and comfortable.

A more interesting approach beyond that would be to explore the uses of history in order to discover the origins of beliefs in the minds of the people who came to decisions. You examine the origins of beliefs less in order to sit in judgment on them, but more in a form of empathy in order to closely examine the character and quality of their thought. Now, having examined the character and quality of their thought — often requiring kind of a micro-approach, which really gets into the details of how choices were made — you get more historical understanding.

You also get more understanding of how to make policy. Because the only way to improve the character and quality of your own thought is through the vicarious practice of thought through those historical episodes that you can study with enough insight to obtain the experiential value. In other words, you learn nothing about the quality of thought that should instruct you by reading cartoons about the past, except to avoid acting like a cartoon character. When you're in government, you'll find that a maxim, "Do not act like a cartoon villain," is not a very useful guide. So to sum up my first point: the use of history is pervasive, and the interesting challenge then is to glean insights from that to inform either genuine historical understanding or provide vicarious experience that can improve the quality of your thought about policymaking itself.

The second idea I want to leave with you is that if you then wish to unpack the origins of beliefs and the way history plays into them, I find a very simple template hugely valuable, one that Ernest May and I developed in teaching at Harvard in the 1990s and which is

briefly explained in the paper. It is is to unpack, in the appreciation of any situation, three kinds of judgments that are always at work.

There are judgments about reality. That is, what's going on? History of course influences judgments about what's going on, because people often use historical experience to supply the missing inferences. For example, people might wonder: We don't see what's going on in Saddam Hussein's WMD program. There is much we do not know. How, then, should we supply the answers to our doubts? Well, we have had experience with Saddam Hussein's program. We've had experience with situations where we did not know much about it. That history, then, became a way of supplying a reality judgment faithfully.

Philip Z: There are also judgments about values. What do we care about? For instance, how much do you care that Saddam Hussein is the world's worst dictator? Are you making that judgment solely on that particular historical story of Saddam Hussein, which itself is a narrative. Or do you rely on your experience, which may have been formative, of how you learned to think about evil dictators and whether to care about them. Perhaps this was conditioned by reading about Hitler or Stalin and the attitudes of people at that time.

Then there are also action judgments — what can I do about this? Usually judgments about what you can do are formed by analogies to other historical experiences.

Now, the interesting thing about this seemingly simple template of three sorts of judgments is that these judgments constantly interact with each other in a way that is actually highly complex. So for example, people tend to pay more attention to things that they think they can do something about. They therefore tend to care more about those things too. There are other permutations.

I think this turns out to be a very important template for understanding the post-9/11 story, as for understanding almost any historical story. So my second point for you this morning is simply to offer you a seemingly simple template in order to use historical knowledge, and how history is used, to unpack the origins of beliefs in a slightly more sophisticated way.

The third thing I want to leave with you today is to give you a couple of illustrations of important historical beliefs that I don't think have received enough attention in the study of the post-9/11 period. The first of these is simply to note that the generation of leaders who shaped American policy and, actually, British policy in the early 2000s were people whose formative personal experiences were very much in the period at the end of the Cold War and the early post-Cold War era.

This was a very different set of personal experiences than, say, people of the Vietnam era. For people like Condi Rice, or myself, or many others I can think of, the experience at the end of the Cold War and the early post-Cold War period was an enormously positive experience. It did not induce a tragic view of human history. It did not induce a tragic view of national or country potential. It also induced deeply-held beliefs about the political and economic development of societies and the belief, for example — as Rice would often put it — that there is such a thing as a right path of development and a wrong path of development. You can differentiate between the two, and countries ought to be held accountable for the choices they make, because life will hold them accountable for them.

That turns out, for instance, to be enormously influential in an often overlooked grand strategy of the Bush administration, which was fully formulated by the spring of 2002 in the area of international development. Bush might call this strategy one of compassionate conservatism on a world stage. It is where he led the largest changes in U.S. development assistance since the era of the Marshall Plan, and with comparable investments of resources. This effort probably resulted in extending millions of lives through programs like the Global Fund, PEPFAR, the Millennium Challenge Initiative, and so on. The basket of beliefs underlying this have partly to do with the post-Cold War era and partly to do on a very specific reading of the history of development assistance throughout the 1970s, '80s, and '90s strongly influenced by historical narratives produced more popularly by people like Bill Easterly and more scientifically by institutions like the World Bank.

Philip Z: Another powerful example of historical beliefs that I think have not gotten enough attention is actually the sense of positive surprise over Afghanistan in the winter of 2001-2002. What happened then was the deflation of one historical belief, supplanted then by another historical experience. This story was extremely important in the foreground at the time and is now substantially lost.

For an intense period in the fall of 2001 there were very worried expectations about what could be achieved from an invasion of Afghanistan. As I point out in my paper, Johnny Apple — who was used to setting the tone for what people would say — uttered that fateful word, "quagmire." Boy, did people hear that word. All the historical associations it was deliberately meant to sum it up, not just about imperial ventures in Afghanistan but in Vietnam and all the rest. There was this huge historical shadow hanging over the Afghan enterprise, then being frantically improvised by the United States government — a government which was keenly conscious of the fact that it had no serious plan for what to do and was making it up on the fly.

The Afghan plan the U.S. government cobbled together so hectically actually succeeded, probably beyond the U.S. government's happiest expectations, or at least it appeared to have so succeeded by early 2002 at a seemingly negligible cost. This was a tremendous experience for leading officials at the time on a matter to which they had been paying maximum attention. A whole set of historical analogies, examples, and warnings that had been issued, deeply felt, had seemingly been refuted. Instead, supplanting that, arose another powerful and somewhat intoxicating historical experience at a time of enormous anxiety. And this happened just as planning was beginning to again take on the longstanding, vexing question of, "What can we now do about the Iraq problem?"

My last point, then — really, the fourth one I want to leave you with today — is to offer you a couple of contrasting examples of where the government appeared to suffer because it did not use history very much at all or was crippled by the seemingly ahistorical quality of what it was doing. The first example I want to offer here — and this leans ahead a little bit into the example of the intelligence issues we'll be discussing in the next section — are the issues of interrogation of terrorist captives. I couldn't pass over this. It's not in my paper, but I did want to briefly comment on it.

I think I'm the only person here so far who has really spent quite a lot of time in the still-classified Senate Intelligence Committee investigation of the interrogation practices and program of the CIA and has read that report in some detail — which as far as I know is the

only available serious historical work that has been done on the program based on contemporary documentary evidence. The issue was very close to my heart during this period of government service because I felt that I had been imbued with the history of these issues. I'd spent a fair chunk of my time at Harvard as a teacher in the early '90s writing case studies of British security policy in Northern Ireland — spending time in Belfast and in London — and knew a lot about how the British had tormented themselves over issues of interrogation and the conduct of the intelligence issues during the 1970s, '80s, and '90s, and all the experiences they had taken from that, and some work I had done on the Israeli case too.

What's striking if you get into the history of the interrogation issues — I hinted at some of this in some other published work I have, but at the time I wrote that work, I had not seen the work of the Senate Intelligence Committee — is that any decent historical analysis of past programs of this kind was utterly unavailable to the people who devised the American programs. They did no evident historical analysis of prior work by any country at all, including even the prior comparable interrogation practices of their own country, the US. Indeed, the people who devised the program did not even understand the personal histories of the particular CIA officials they appointed to run the program, which turned out to be fateful in ways that I think to this day people like Condi Rice and John Bellinger may not know. So this is a story in which there was quite a lot of historical evidence available, even about the origins of the SERE training program that inspired and informed the development of the CIA interrogation program. But that history was effectively unavailable and/or unused by the people who made all the key analytical judgments.

Philip Z: The second illustration that I think is worth noting about the challenge of ahistorical episodes is actually 9/11 itself. That's perhaps the best note on which to conclude. Yes, Bush noted in his diary that this is the Pearl Harbor of the 21st century and people did think of Pearl Harbor in all the ways Philip Bobbitt has mentioned.

But none of these people had experienced Pearl Harbor. They knew Pearl Harbor only as history. None of these people had experienced anything like what they experienced on and after 9/11. They had not been through something like this before. That meant they did not have an established repertory or kit of habits of thought on how to deal with situations like this.

There were a number of people in the government, including especially some of the lawyers John dealt with, who were unused to national security law issues in general. Some of them were — in my view — buffaloed by national security assertions, lacking the seasoning that people who've been in those trenches a long time have in order to sift such claims in times of stress and turmoil.

The challenge of dealing with something that to them seemed almost out of history — their own personal histories, their own experience -- meant there were no ready resorts to analogies or suggestive illustrations beyond a very superficial level. In some respects, that challenge was overcome with astonishing improvisatory skill. Yet in other cases, the process of making it up as they went along turned out to be quite tragic. It's important to notice what happens when people encounter those rare occasions where history is not able to be a useful guide.

Timothy: Good morning, ladies and gentlemen. My name is Tim Lynch. I'm going to speak at less length than the papers I've been advised to comment on. I'm delighted to be here and thank John and Will for the invitation. I've been invited to offer an Anglo/Australian approach to the papers by Professors Zelikow and Bobbitt. I'll do that in part. Let me, in brief, suggest what I think they've got right. I think on balance, I think they get far more right, and have seen these events, and have looked at the evidence, and know the participants far better than I. So I'm not going to be able to augment that hugely, but let me also suggest what I think they elide or what I think they overstate, because I think there's some elision in the overstatement in the accounts that they've offered. Let me take them in the order in which they were delivered. Professor Bobbitt presents a brilliant account of the twin analogies that condition an American and what we might call a Euro or UK by putting these responses together — which I know is a problem given the response to the attack. Professor Bobbitt contends that Pearl Harbor, for many obvious reasons, is the basic analogy which informs the American response. He is more cognizant of the diversity of response that the British see in the attack, and we've heard about the stoicism that the IRA and ETA enforced on British and European policymakers. This brings to mind the very famous LeMond editorial. I think it was LeMond — the "We're all Americans now," which is often interpreted as, "Finally, the French get it." In fact, if you read that editorial, its import is almost entirely the opposite. It's saying to the Americans, "Now you are just like us, not us like you. You must respond to terrorism through legal mechanism and policing, not through war." Of course, the American response was war, as it was not to the first attack on the World Trade Center in 1993. So I think that Professor Bobbitt provides a very helpful analogy, which could go further than it does.

Timothy: What does he get right? I think this may sound so obvious as not to be worth stating. I think the analogies are crucial in framing the American style of response. Where I think there's some overstatement is how far — and this may be, certainly — I can tell you this is true on the British side — this sense of historical analogy is overstated by Philip Bobbitt. I defy you to find a twenty-something Foreign and Commonwealth officer who can explain the basic dynamics of the Suez crises, let alone the Kabul massacre of 1842. They're far more involved in replacing high-carbon emitting light bulbs with low energy light bulbs than they are with the nuances of historical analogy, which is why I think the analogy that informs the British response is far more — Kosovo in '99 — not a war we've heard mentioned of this morning. I think in some way this has been missed in the accounting we've heard. It certainly informs the response of the Blair administration. Tony Blair sees himself as the hero. Indeed, he's lauded and treated as the great liberator of the Kosovo Muslims from their oppressor. That leads directly to his evangelism in Iraq. "I can do this again and free another Muslim people." So if we're looking for immediate analogies, Phil Zelikow gives us Afghanistan. Let me suggest in the British case it's not Afghanistan. It's Kosovo — the war that we have forgotten and written out of the script. In 1999 all international relations theorists and scholars were gearing up to study this war and what it told us about the way American power was tending. Then 9/11 intercedes and removes it from the agenda. I think we need to reinsert it. Both papers might — let me humbly suggest — want to factor that back in.

I think there is a — to go back to Professor Bobbitt — there is a tendency, which is not unique among academics, to assume a comparable level of historical literacy amongst the participants in the response and, perhaps more problematically, in the people they represent. I think we're living in an era of — despite some very brave efforts by an education minister called Michael Gove — to address this fundamental historical illiteracy

in the British sense. I just don't think the public reacts in the same way. If there is a broad narrative that the British public paints of 9/11, it's to the blitz — not to the IRA — it's to the far more deadly bombing by Germans in the early phase of the Second World War, which kills far more Londoners than 9/11 kills New Yorkers. But again, I don't want to overstress that this conditions the British style of response in contradistinction to the American.

When I teach 9/11 — and I do it through the lens provided by these two great scholars, I know that students are always very receptive to their approach. I asked them, "How could you conceive in a British context of an attack as dastardly, as brilliantly inspired and executed as 9/11, if you, of course, remove the immorality of it?" which, I caution you, is impossible to do. It's very difficult to come up with what the target would be — the House of Commons, Buckingham Palace. One smart-aleck student suggested it would be the explosion of a 'tea bomb' somewhere that would wound the British psyche in the same way that 9/11 attempted to wound the American. Quickly, before I move on to Philip Zelikow, the Australian case is, of course, elided — I don't want to claim Australia has a greater consequence simply because I live there at the moment. But in some ways, we need to observe the other element of the Anglo sphere, and their response to 9/11, and their own version of 9/11 thirteen months later, which happens on the island of Bali, killing 200 — almost — not quite, but almost an equivalent loss of life in terms of relative populations. What it does to the Australian public psychology is — certainly to that of the Prime Minister John Howard — is increase the resolve. In some ways we think about Tony Blair jumping on the plane and being America's first ally. That forgets how far John Howard, the Australian prime minister, synchronized with the Bush approach. There was a common — not identical, but a common set of responses from all the main Anglo-sphere nations, which I think could be factored into the accounts that we've heard this morning.

Timothy: Professor Zelikow offers a wonderful narrative, and those that have the paper, I can't recommend it highly enough, informed by access to the people that made the decisions as well as his own experience of the events themselves. I can't praise it highly enough. That said, I think there are some emendations that could improve its cogency. I won't dwell on what I think he has got right, because I think by and large he has much that's right. Where I think he might be wrong is — and this came through both in the paper and his presentation of it — is this insistence that the newness of the attack in terms of its style necessarily brought about a new style of response. I think that's to overstate the innovative capacities of the American government when faced with this terrorist attack. In some ways — I think, in crucial ways — it's not innovation, but it's reliance on tried and tested strategies which mark out the substance of the response, preemption —which he deals with well but I don't think entirely satisfactorily in the paper. Preemption as a doctrine of longstanding, I think, is the phrase from the National Security Strategy 2002. Presidential power comes to the fore, but presidential power has been a basic recourse in times of crisis. We see military dominance. We saw military dominance in the Second World War and in Vietnam. An insistence on democratization is the long-term cure. Well, democratization has been the background hum to much of American foreign policy since the inception of the nation itself. Contingent multilateralism — I mean, George Bush was not the first unilateralist. Of course, if you see the numbers of states in the coalition that are willing to go into Iraq it's hardly an instance of unilateralism. But again, I would take you back to Kosovo, which obeys many of the same diplomatic mechanisms — as insistent on contingent multilateralism as the later Afghanistan and Iran wars. Again, Kosovo doesn't receive a mention.

Let me very quickly conclude. I think much of Professor Zelikow's approach obliges us to accept 9/11 as conditioning something fundamentally new in the national psyche and in the response of the policymakers. I agree with much of this. I wasn't there first-hand, haven't worked with them closely to observe how this happened. I just wonder if that's also trying to overstate that in American history there are — American history is punctuated by the attacks by bad people, by foreigners seeking to kill Americans or retard their interests. If we think about the Cold War, in some ways the fear of the Cold War with the state ideologically opposed to American existence, armed with the capacity to destroy the United States several times over was a far more terrifying prospect than 19 crazy theocrats armed with nothing more than airplane tickets and box cutters. 'Stop, drop, and roll' has no equivalent in the modern post-9/11 context.

So my last comment — Professor Zelikow argues persuasively, though I'm not yet convinced — though I will be, I hope, in the published version — in the intoxicating sense of resolve that American policymakers feel in the wake of 9/11. Now, again, I'll concede much on this, except it doesn't square with the approach taken in the Iraq war. The Iraq war in some ways doesn't example this intoxicating sense of resolve. It actually reveals a far more hesitant belief in the efficacy of American military power. It's underwhelming in its use of American force, not overwhelming. This is a narrative that any number of students, both in Europe and in Australia and the UK — that they have that America is violent, was baying for blood. No, the response didn't rely on the American military enough. The original sin of the Iraq war was the failure to put sufficient troops on the ground. It was trusting to the latent democratic sentiments of the Iraqi people, something that the left — until they went all anti-American — insisted is what we should be doing. It was the reliance on that liberal conception which got America into trouble. So I think that may — let me suggest that's an argument that requires refutation in the approach that Professor Zelikow has made. These were terrific papers and brilliant presentations thereof, and I was delighted to be able to offer some very cursory responses to them. Thank you.

Moderator: Colin?

Colin: Great. Well, good morning, everybody. I want to join in the thanks to the organizers for inviting me and bringing so many terrific people together. It's my second visit to Austin in almost as many weeks for a conference, so pretty soon I'll feel like a member of the UT faculty [inaudible 0:51:12]. So these are very interesting papers, great presentations. I think, actually, my comments will pick up nicely after Tim's —in particular, trying to point at some places that the papers don't go as an interesting jumping off point for the conversation. These papers focus on the historical legacies that influenced civilian decision-makers in the U.S. and less in the UK after 9/11. They provide, I think, a number of great insights but, like I said, focus almost exclusively on how civilians saw things. Ultimately, I would argue this offers a very incomplete picture of the role historical legacies played in shaping U.S. foreign policy after 9/11 — in particular in shaping the U.S. military response to the threat that manifested on 9/11.

These military responses, in turn, fundamentally altered the trajectory of U.S. foreign policy in the decade after 9/11 in the two most important theaters where it actually happened — Iraq and Afghanistan. They shaped and put limits on what Zelikow calls the action judgments — the tools, the tactics, the strategies that were available to advance U.S.

interests. These weren't things that civilians in the White House or the Pentagon cooked up in the lab. These were tools that were either available or not that existed in the U.S. military, and how to apply those tools was not something that civilians alone decided. The military and how it understood the appropriate responses to the threats that happened after 9/11 fundamentally shaped what could be done in response to those threats after 9/11. Indeed, I would argue that the conduct and consequences of the Iraq and Afghanistan wars were as much, if not more, dictated by the historical lessons that the U.S. military brought to bear than the civilians brought to bear. So that's what I'm going to focus my brief remarks on. In part, it leverages my own experience, having spent much of the post-9/11 era as an embedded nerd with the U.S. military. Having taken 19 trips to Iraq during the war, I almost exclusively focused on what we were doing there, so I should just put those cards out on the table to begin with.

What is also interesting about taking the lens of how the U.S. military thought about the post-9/11 period is that organizations like the U.S. military are very different from individuals. I think Zelikow is right that actually, individuals tend to privilege those historical experiences that they lived through. They may use analogies like Munich or Pearl Harbor, but it's the ones that they live through that they tap into most intimately, that resonate the most, that give them the kind of schema, and the habits, and the standard operating procedures to which to approach new problems, and 9/11 created a conundrum, since nobody had experienced something like 9/11 who was in the White House on that day. But militaries aren't like that. Militaries have a much deeper history and a set of historical experiences that matter for the individuals in the military whether or not a single individual lived through them. The reason for that is that militaries train, educate, and indoctrinate individuals to have a collective corporate identity that embraces certain ideas, certain rules, certain norms, certain procedures that are independent from their individual views and are deeply informed by the past. So I want to focus a little bit on that, because I think it's a different way that history plays. It really is a way — well, the scientists would think about the role that history plays in informing organizational culture and then the way in which that organizational culture — in this case, military culture — shapes behavior.

Colin: For most of its history, the U.S. military has embraced what some scholars call an annihilationist approach to fighting enemy forces. Sometimes this is referred to as a Jominian tradition after Jomini, who was the most famous military scholar of the Napoleonic Wars, whose name wasn't Clausewitz. So the Jominian tradition that has long been central to what people call the American way of war holds that the application of direct and overwhelming conventional force is required to destroy the enemy and therefore achieve victory. This actually stands in sharp contrast to the more holistic strategically- and politically-oriented Clausewitzian view, which argues that more limited applications of force may sometimes be better suited to advancing one's own objectives. Moreover, unlike the Clausewitzian view, the Jominian view implies a certain separation of war and politics. War represents a failure of politics rather than politics by other means. War is, therefore, a series of battles to be won, and politics only resumes and reasserts itself after the battle is won. The U.S. military's way of war has, thus, long embraced an enemy-centered view as opposed to a population-centered or political-centered one; a hyper-scientific technology- and capital-intensive approach; a disdain for unconventional or irregular skills and tactics; a strong belief in American exceptionalism and the moral mission of the U.S. military; and a profound impatience; and an acute concern for protecting itself.

Moreover, an assumption deeply embedded within this tradition holds that the supremacy in conventional combat necessarily translates to supremacy in lesser forms of conflict. This mindset has been particularly pronounced in the U.S. Army since — well, for a long, long time — but it shapes, I would argue, the world view of the other military services as well. In his essay, Phil Bobbitt writes that, quote, "Vietnam," — and he said this in his remarks as well — "Vietnam was not much on anyone's mind on September 12th." But as the U.S. military prepared for war after September 11th, especially in Iraq, Vietnam did actually loom in the background, but not as a cautionary tale against getting involved in foreign quagmires. Rather, certain lessons of Vietnam had been internalized and others expunged by the U.S. military, and this directly affected their approach to post-9/11 wars, especially in Iraq. Indeed, contrary to how most of us think about Vietnam, a dominant historical lesson in the U.S. Army — which Phil Bobbitt alluded to briefly — a dominant historical lesson about Vietnam in the U.S. Army was that the United States lost in Vietnam, because civilian leaders had not allowed the United States military to use enough force and not allowed it to engage in an all-out conventional war against North Vietnam. That's what explained the defeat, not because the U.S. had used too much conventional force and wasn't good enough at counter-insurgency, especially at the beginning of the war — that is, the period prior to 1968.

The army does embrace the simple solution to its defeat in Vietnam — no more Vietnams. But this actually didn't mean, "No more wars." It means, "Don't make the same mistakes you made in Vietnam again." So after Vietnam, U.S. military — which at this point was transforming itself into a professional, all volunteer force — focused primarily on the prospect of a large-scale conventional war with the Soviet Union and in the 1980s committed itself to the Weinberger/Powell doctrine of overwhelming force. This was then put into place. This was actually put in place during the 1991 Gulf War, and the blitzkrieg victory in that 1991 war seemed to validate these moves.

Colin: After 9/11 this view of war was updated for the 21st century under pressure by senior civilian Pentagon officials, especially — but not exclusively — Donald Rumsfeld, who sought to leverage the revolution in information technology, networked operations, and long-range precision strike to make the U.S. fighting force leaner and meaner. As Zelikow knows, the apparent lightning victory in Afghanistan shortly after 9/11 seemed to confirm both the absence of the inevitability of Vietnam-like quagmires in modern interventions and also, more broadly, the possibility of leveraging U.S. military capabilities to win post-9/11 wars fast and at very low cost. But although Rumsfeld's mentality drove down the troop numbers ultimately involved in the Iraq invasion — and I would argue, therefore, made it much more difficult to effectively occupy Iraq after the invasion — it did nothing to remove the mentality within the U.S. military about the utility of overwhelming conventional force, nor did it do anything to remove the mentality that winning the battle and then handing the day after to others — was what the military did. The military was day-of thinking, not day-after thinking. Day-after thinking was what the civilians were for.

I would also argue that this Jominian mindset informed the initial approach to combating the Iraqi insurgency — which, as we all know, in Iraq emphasized large-unit, search-and-destroy missions for the first couple years of the war. There were exceptions in certain parts of the country, but overall, that's how I would describe the approach to counter-insurgency in the early part of the war — which, again, is a particular interpretation of Vietnam. Right? If the interpretation of Vietnam was that the United

States did poorly in the first part of Vietnam because it employed similar search-and-destroy tactics, the army would have learned that it shouldn't have done those things in Iraq. If the dominant mode was that we lost in Vietnam because we didn't apply enough force, then that helps us understand why the military took the approach that it did at the beginning of the Iraq conflict. I think it's that interpretation which wins out. But as we all know, as violence skyrocketed in 2005 and in 2006, the U.S. military began to search for alternative historical lessons, interpretations, and cases to inform what they did, and, in particular, their approach to counter-insurgency. This really took off in 2006 with the writing of the new Army Marine Corps counter-insurgency field manual led by David Petraeus and Jim Mattis, and then, of course, many of these ideas were executed during the 2007 surge in Iraq. It was really the ideas rather than the number of troops that were introduced that helped turn the tide in Iraq for the better. There was also a healthy dose of good luck, which I'm happy to talk to you about in whatever detail you'd like.

So I'm not going to go into great detail here, but it's worth noting that the writers of the Army Marine Corps counter-insurgency manual and the commanders designing the surge drew heavily on, not the first part of Vietnam, but the post-tech offensive part of Vietnam and the shift in tactics that could have won the war had we stuck with it. So it's a different narrative from the one that we lost in Vietnam because we didn't use enough force. It was that we were wrong in the beginning of Vietnam. We got it right toward the end, but by that point there was no political will to stick with the conflict. So they learned from the latter half of the Vietnam period when more population-centric approaches were taken. Of course, they also learned deeply from particular interpretations of the British colonial counter-insurgency experience — most notably in Malaya. They also took a lot of insight from the French practitioner of counter-insurgency, David Galula, and his experiences in Algeria and others.

Colin: Through these historical lessons, they embraced a particular theory of effective counter-insurgency, which we could call hearts and minds. You can call it clear, hold, and build. Whatever you want to call it, it basically focuses on securing the population rather than destroying the enemy as the fundamental focus for success and requirement for success in counter-insurgency, but also has a particular notion that force, when applied, needs to be applied in service of protecting the population and with sufficient restraint not to kill a bunch of innocent civilians. This, I would argue, was a very important turning point in the global war on terrorism — which was still called that at this point — affecting how the U.S. fought in Iraq and Afghanistan from 2007 onward and profoundly affecting the trajectories of those two conflicts. They're really not touched on in the paper at all, so I just think they are a set of historical experiences which are just absent. So there are these historical experiences that very much impacted the U.S. approach after 9/11 that are only touched on lightly in the papers, but I would also add that I think another challenge the papers face is that mostly they look at the historical analogies that were applied without spending much time on thinking through what historical analogies were not applied and asking the question, "Why were those not applied?"

Returning to the realm of counter-insurgency and counter-terrorism — at least as practiced in Iraq and Afghanistan, it's clear that certain apparently relevant historical lessons were actually sidelined completely or ignored. In particular, even as it struggled with the Iraqi and Afghan insurgencies, the U.S. military did not turn to numerous historical examples of brutally effective, coercive approaches to counter-insurgency —

approaches that, instead of protecting the population, would systematically target and victimize the population. As someone who thinks of himself as a moral human being, but the way, I'm glad that we didn't do this. I'm glad that military officials didn't think about this. I'm glad that civilian officials didn't think about this. But it is not immediately obvious why they wouldn't after all, coercive counter-insurgency campaigns proved brutally effective in such diverse conflicts as the second Anglo-Boer War, the Guatemalan civil war, Hafez al-Assad's campaign against the Muslim Brotherhood in Syria in the 1980s and — some would argue — his son's campaign in Syria today, Saddam Hussein's repression of the Shia uprisings following the 1991 Gulf War, and the contemporary Russian experience in Chechnya.

Indeed — and much more relevant, I think, for my discussion — the three most successful large-scale counter-insurgency campaigns fought in U.S. history are — what — against the Native Americans in the 19th century, against the South after the Civil War, and against the Filipino insurrection in the aftermath of the Spanish-American War. None of these were hearts and minds campaigns, unless you say, "Hey, look. There's a heart, and there's a mind." All right? These were extraordinarily brutal campaigns that systematically victimized the civilian population and proved brutally effective in doing so. Why weren't those historical lessons that we turned to? Why, when the going got tough, didn't the tough get more brutal? The argument I would make, again, returns to military culture. Although there has always been this annihilationist tradition within the U.S. military, it hasn't been about annihilating civilians. It has been about annihilating the enemy, and it has always sat uncomfortably next to another tradition — or, at least, since the Civil War — which I would call the Lieberian Tradition after the Lieber codes which were enacted in 1863. Here it argues that the overwhelming application of conventional firepower has to be done within a certain set of constraints that don't systematically victimize and target civilians.

Colin: Now, the balance between this annihilationist tradition and this restrained tradition has changed over time, and I would argue that through World War II the annihilationist tradition certainly won. But with the Geneva conventions after World War II and especially with the Vietnam experience where the My Lai Massacre was extraordinarily important for how the U.S. military thinks about the laws of armed conflict. The My Lai Massacre led to a peers' report, which then led to the establishment within the Department of Defense of the Law of War program, which fundamentally institutionalized many of these laws of war concepts within the culture of the U.S. military to a degree that never existed before. I think if you look at the post-Vietnam experience, you see a fundamental shift in the application of the laws of armed conflict within the U.S. military.

So why does any of this matter? It means that at the inflection point where it looked like we were going to lose in Iraq and the U.S. military had to choose between strategies that either got harder or softer. The harder options, and the historical lessons, and the historical precedents to include the U.S. Army's own experience fighting Native Americans, and fighting Southerners, and fighting in the Philippines were discounted out of hand, and instead a different set of historical experiences that more comfortably fit with the moral architecture of the contemporary U.S. military was adopted. We can have a debate about whether at the end of the day these approaches were more or less effective than their alternatives, but there's no doubt that certain historical experiences were emphasized at the exclusion of others. So it's interesting — and I'll conclude on this remark — that U.S. military, as it adapted to the post-9/11 age, adopted lessons that actually created more

and more restraints over time in the use of force. What is curious, I think, is that the just war tradition also mattered for Bush administration officials contemplating the appropriate actions after 9/11 but I think in a slightly different way.

I've talked mostly about the Jus In Bello tradition, the justice in war — how you should fight. There's also the question of when you should fight, and this goes back, I think, to Zelikow's brief discussion — which I don't fully agree with — in the paper about preemption. If you read the 2002 national security strategy, it is very self-consciously a conversation with history and the law. It makes an argument that certain types of force are okay, and legitimate, and legal, and certain types of force are not and that, historically, preventive wars are taboo, and preemptive forms of self-defense under a very limited set of circumstances are okay. It then redefines preemption to basically mean the exact same thing as prevention, arguing that all these historical antecedents are now irrelevant because of the changing conditions of 9/11. All right, there's that famous phrase, "History begins today." Right? In this sense, history was thrown overboard. There was the importance of referencing it, that historically these things have mattered but then conflating the concepts of preemption — which has historically been seen as legitimate — and prevention — which has historically not been seen as legitimate — in a way that didn't deepen the constraints on the use of force but fundamentally lessened the constraints on the use of force.

Now, I think where I disagree with Philip in his paper is, you know, he argues that this introduction of preemption actually raised the standard for imminent threat leading in the war in Iraq. I see no evidence for that. In fact, the Bush administration, although it tried to point an imminent threat, never got very close to the concept and usually fell back on the argument that this was a grave and gathering danger — which is a rhetoric of preventive war, not a rhetoric of preemptive war.

Colin: Philip also argues that it somehow changed the level of certainty and uncertainty that we would apply to these things but somehow raising the evidentiary for engaging in preemption. I also find that historically unpersuasive in the sense that one of the major arguments made by Condi Rice and others was that, in fact, we couldn't wait for smoking gun evidence that Saddam had WMD or intended to use it, because that evidence could come in the form of a mushroom cloud. So I find no evidence that the conflation between preemption and prevention in the national security strategy of 2002 created more constraints on the use of force. It had the complete opposite effect. What I find interesting was that while civilians were loosening the conditions under which war could be unleashed, the military was grappling with the restraints under which the force could be used. Thanks.

Moderator: Terrific. Lots to think about, great presentations, great comments — I think we should start a period of discussion, and even though we got a late start, maybe we could go — see how things go — maybe go a little later?

William: Frank, just one point of order — when people comment from the floor, please, state your name, even though we know who you are. It's for the recording when we [unintelligible 1:10:18] in transcripts, so we'll know who's talking.

Moderator: Yeah, I'm going to abuse my privilege here to ask a quick question of both Phils. It actually segues of off Colin's last comments. When I think of both your comments and also your

other written work on this preemption versus prevention question, I think to myself, oh, Phil Bobbitt and Phil Zelikow have four hats — policymakers and observers. They've been in action. They've seen how things work — very insightful on that question. They're strategists. Both have dealt with the question of strategy and thinking about these issues. They're historians. They understand context, analogy, historical reasoning. But you're both lawyers, and what's interesting is — and I don't want to put words in your mouth, into both — I have always gotten the sense from both of you that this point that Colin was talking about preemption versus prevention, you guys are actually both comfortable with prevention in a sense; that, Philip, as I read your paper, you were somewhat displeased with the confusion in the discussion between preemption and prevention; and that it was sort of this add-on. But in fact, in this — and you reference some of your discussion of your work in North Korea and some of the other things I've seen. Philip, you as well, I think in both *On Terror* and *Shield of Achilles* have talked about the new realities of the world we live in requiring thinking in preventative terms at times, yet you're both lawyers. You know the law really well. There's absolutely — as far as I know — no legal justification for this. I think on the first three — policymakers, historians, strategists — you make brilliant cases, but I find it interesting you're both lawyers. So could you help us — am I correct in my characterization of your views, and how do you think about that question from a law perspective, not strategy, policy or history?

Philip Z: I'm glad you asked the question, Frank. I don't think the [2002] national security strategy has the words in it, "History begins today."

Colin: No, no, no, I think that's attributed to Armitage. I was saying in the period that we're talking about there was this notion that history begins today.

Philip Z: This notion in the period?

Colin: Armitage had a conversation with the Pakistani ambassador in which the Pakistani's said, "You can't do X, Y, and Z, because we have this long legacy of this, that, and the other thing." Armitage said, "No, you don't understand. History begins today."

Philip Z: Frank's point is very good. As I point out in the paper and as those who review the underlying documents that are referred to in the paper can see for themselves, the original draft of the national security strategy very clearly delineated the difference between prevention and preemption. It defined them both and addressed them, in my view, accurately.

For reasons that the paper explains, the language on prevention was taken out. And the preemption term surfaced in the earlier draft was then used in a quite different context. I comment that this was done for reasons that are understandable, but this choice had various consequences.

My own view is, number one: If you're going to wage a preventive war, you should say so and then just deal with that honestly. For instance, lots of scholars since then immediately observed that the Iraq war looked a lot more like a preventive war than a case of preemption. They decried all the blurring and confusion. My view all along about these criticisms was, "Yes, you are right." So if this was a preventive war, we should have said so.

The United States has on a number of occasions — John Gaddis made this point; Mel Leffler has made this point — contemplated preventive wars in the past. It came very close to waging a preventive war in 1962 in the case of Cuba. The United States is contemplating a preventive war today against Iran, for example. President Obama stresses that that option as very much on the table. That would be a preventive war, not an act of preemption.

The legal basis for doing so actually varies from case to case. In the particular case of Iraq in 2002, if you had wished to make a legal argument in favor of waging such a war, if I had been asked to work that aspect of it, I would have used the same basic argument the Clinton administration used when it had waged a preventive war against Iraq in December 1998. That is what the 1998 operation was. It was a large-scale, limited war conducted at the end of 1998 to strike targets across the length and breadth of Iraq, doing so to prevent Iraq from acquiring weapons of mass destruction.

The legal basis for war against Iraq in 1998, the basis that could have been restated in 2002, actually arose out of the international legal instruments created at the time of the cease-fire in the first Gulf War in 1991. These UN resolutions and agreements in effect placed Iraq on a form of probation. There were conditions of probation. In other words, 1991 was a suspension of hostilities. It was not a peace treaty. Hostilities were suspended conditioned on various Iraqi behaviors. Iraq had essentially violated the conditions of its probation. Therefore, the conditions under which hostilities had been suspended were therefore null and you could run the legal international legal argument out of that.

By the way, these dangers from Iraq had already been declared perfectly clearly as threats to international peace and security under chapter VII of the UN Charter. Incidentally, the same is true for Iran today. The same is true for North Korea today. Folks actually worked very hard to get language in relevant UN resolutions that make it very clear that those particular problems are now regarded by the United Nations as threats to international peace and security under chapter VII. Then you begin to get into issues of, "Yes, and what further authority do you require from the Security Council to address those threats to international peace and security?" Everyone here knows nation states disagree on what kind of UN Security Council resolution you need — what you prefer to have and what you have to have. Indeed, this issue came up in Kosovo. It came up only two months ago in the conflicts with the Syrian episode. It will come up again.

So in answer to your question, Frank: Number one, yes, we should have called a spade a spade. Second, there were ample arguments available in order to justify military action against Iraq had one wished to do so under international law, putting aside the prudential question of whether it was, then, wise to go to war with Iraq.

Philip B: I agree with that. I think that we're moving away from the preemption/preventative war dichotomy towards something that I call a preclusion. But it's essentially right that preemption is a well-understood doctrine in international [unintelligible 1:18:22]. It is not illicit in international law. Perhaps the most famous paper on this is John Bellinger. I could probably quote from memory of Daniel Webster's paper — white paper. Preventative war, by contrast, is typically thought to be [unintelligible 1:18:41] to international law. But as Phil Zelikow just said, we have had preventative-like approaches to war in many occasions. My own thinking is that we're moving toward something like preclusion — trying to prevent a state of affairs from coming about, to [unintelligible

1:19:00] reverse that is a threat to — in most cases — regional security. The precedence for this may well be Kosovo. The point I want to answer, though, isn't exactly Frank's question. When I started college, we still graded on a 1 to 7 system. A 1 was an A+, 2 was an A. A 6 was an F, but 7 was called flagrant neglect. Apparently, a student turned in a paper in an exam that was articulate, and fluent, and witty, and penetrating. But he didn't actually address the question. The grader wrote, "7 — Princeton's loss is *The New Yorker*'s gain." So I think it's interesting that the center of gravity in this discussion has been pulled so irresistibly to Iraq. While it's true that President Bush quite skillfully used the emotions around 9/11 to address an unfinished item on the American's [unintelligible 1:20:14], it's not strictly true that the historical analogies that we were asked to address in the immediate aftermath of 9/11 were not Iraq. I think it's interesting that bin Laden and his dreams almost are recurrent in the discussion here.

I'm make one extra point. I very much enjoy the discussion of the American way of war, but it reminds me of some — I'm still not sure we have [it] exactly straight about this. There seems to be a view now that Shinseki, General Powell, and people who urged a much larger force in Iraq have been vindicated and that the American way of a traditional war still ought to be our model. It reminds me of a poem some of you may know by Kenneth Cole called *One Train Hides Another*. If you don't know it, you should read it. It's from a signpost in a community train stop where, apparently, trains block [unintelligible 1:21:32] on train, and it's clear. You step out. You get hit by a train going the [inaudible 1:21:36] direction. It seems to me that Secretary Rumsfeld was exactly right in a smaller footprint, a deceptive leader attack, and that the capture of Baghdad will rank as one of the most dazzling achievements in military history and that Shinseki and Powell were wrong. What happened instead, which was alluded to a few minutes ago, was that what we needed was, in fact, a much larger force — not to conquer Iraq, but a [unintelligible 1:22:16] force that could restore security and maintain security in the aftermath of the invasion. This would not be a large American force. It couldn't be. We didn't have native speakers. We didn't have cultural associations. So while the post administration was clearly wrong for what followed the invasion, and this was guided by — as you have said — our idea that you hand off to the civilian officials once you've ended the war. It's not true that Shinseki and Powell were right that what we needed from the outset was some huge invasion force. I wonder to this day if we've really taken this on board. I enjoyed both of the comments, but I thought it was so interesting that they would drag into Iraq [unintelligible 1:23:16] we just can't lead it.

Moderator: Is that [unintelligible 1:23:21]?

David: David — I'm with King's College. I very much enjoyed all of those contributions. I wanted to drag us back to 9/11 just for a second if I might and throw in two thoughts, comments. The first is whether we're underestimating the unconscious effect of transmitted popular culture. It's what I would call the American habit to externalize your persecutors. The enemy is over there. It's the frontier mentality that says it's the stranger dressed in black who rides into two that causes the trouble. Compare and contrast 9/11 with, say, France and the United Kingdom where we were already highly sensitized to issues of multiculturalism, and we knew that committed jihadists were living amongst us. So in a sense, what we were facing was a sickness of the body politic rather than external attack. That naturally changes, unconsciously, the way the problem gets framed. The second comment — well, thought — is really about if you apply what I used as my model of intelligence analysis — situational awareness, then explanatory hypothesis, then

predictive judgment — it's the explanatory hypothesis that seems to be the weakest in the period immediately after 9/11. I can remember calling together everyone I could find in Whitehall in the British government who is working on terrorism, studying terrorism, asking the question, "Who are these people, and why are they trying to kill us?" The answers that came back were [unintelligible 1:25:12], and it took a huge amount of scholarship, actually, to really begin to understand what Al Qaeda had come from and what its agenda actually was. It works like Fawaz Gerges' *The Far Enemy* to try and explain why have they suddenly switched to attacking the United States itself. But that came quite a lot later. So the early responses were very much framed by a series of explanatory hypotheses that I suspect with [unintelligible 1:25:49] hindsight were inevitable.

John B: John Bellinger, and I wanted to — I don't think we should spend the whole time on preemption, and I think there are some interesting points that were made about the use of history that I want to come back to particularly in our panel on intelligence and interrogation. Philip picked up some points. But since I was present at the time — I was the NSC legal advisor at the time the national security strategy was drafted. Since we have so many disorients in the room, I want to just get something down for the historical record here, because I agree, I think, with — I think I agree with what Philip is saying and disagree with some of the other points. On preemption I think the world overblew, really, what we were trying to say in national security strategy. I was not responsible for the precise words in the strategy, but I was responsible for trying to reel it back in after the rest of the world thought that we were saying something that we were not. There was a lot that was new in the strategy, and Philip alluded to one of them. For example, the statement about development assistance was an entirely new concept. The idea of preemption really was not intended to be a new concept. Here's my key point here for the historians in the room, because I expect a lot of people didn't see it. We tried to reel this back in when we saw this got out of control. You should look at, then, Dr. Rice's Wriston lecture at the Manhattan Institute in October 2002 in which we've tried to reframe — and I'm looking at now in which we sit — but she says, "Preemption is not a new concept." She then talks about the United States has long affirmed the right to anticipatory self-defense. So we're clearly putting a preemption in the history of anticipatory self-defense. Phil Bobbitt refers to the Carolina case, which is really what we were saying here. Really, the only thing that was new here was not launching preventive wars, but to say — as Dr. Rice said at the time — new technology requires new thinking about when a threat actually becomes imminent.

John B: So the real change here was really just in talking about imminence, which I would have to say anybody in this room would agree that when you're talking about nuclear weapons or terrorism, you know, you do not have to wait until four seconds before the terrorist pushes the button. That was really all we were saying. She, then, when on to be very clear so that the message wasn't missed. There's a whole paragraph in which she says, "This approach must be treated with great caution. You have to wait until the end of a long line of effort. There has to be exhaustion of other means, including diplomacy," et cetera, et cetera. So I think a lot of people missed this reframing of what we were actually saying here to this day 12 years later. Then even on the Iraq war — and I do want to keep us focused on 9/11 — in Europe a lot of people thought our legal justification for the Iraq war was this new concept of preemption. Our legal basis for the Iraq war — like the British legal basis, although, unpopularly — was the 678, 687 reliance on UN Security Council resolutions, which, of course, President Clinton had relied upon for 10 years to use force

against Iraq. So I've long thought this was sort of like the tree in the forest. If you're relying on a legal basis and nobody knows about it, is it really your legal basis? I think, clearly, we should have done a better job in trying to explain to the rest of the world that we were relying on a preexisting legal basis and not on something new and novel. But really, for the historical record, I just wanted to get this point out, because 12 years later it continues to rankle with me that this was an enormously new doctrine. In fact, last point — we'll probably talk about drones later, but those of you who have studied drones, look at the Obama administration's speeches on drones where they, in fact, have also redefined the concept of imminence in the John Brennan speeches talking about [that] in the terrorism age or the nuclear age, imminence really has got to mean something different than what it meant in the 19th or 18th centuries.

Philip Z: One quick point, and because I can see now a little bit of the reason why people like Colin are getting confused. John's view and my view are not the same.

My paper recounts, in effect, an internal argument inside the Bush White House in which I lost the argument and Rice ruled in John's favor. John is describing the winning argument. My paper reflects the fact that I'm still a sore loser.

Philip B: Well, I think John laid this out beautifully and very decently, but I would just draw this one. A preemption event is not just on imminence. The Carolina Doctrine is not just about the imminence of a threat but that it's a threat to us. That's when they say things are changing. John is exactly right. Secretary Rice is right. We're pointing out that imminence must change when those technologies change and information changes. That's actually right. But you can't really say that this is classic preemption if the threat, the imminent threat, is not to you. In Kosovo, in Libya, in Syria — these are examples of threats that are not directed to us, and I think that's why they preclude you — which is not preventative war, but it's not really quite classical [unintelligible 1:31:51] either. I take your point about how preemption has been picked up in the public domain, and it's not really understood. I think this is very helpful, but I don think we can stop there.

Colin: So there's a line in Philip's paper, and it reads, quote, "By introducing preemption in the Iraq context, the U.S., therefore, implicitly shouldered a new burden of proof." I now take it, a burden of proof you wish they had not shouldered and which I suspect you believe they did not meet. In that we are in violent agreement and very much in disagreement with the Bellinger comment. Look, I'm not saying that they shouldered no such burden. I'm saying that they defined preemption in a way that said that imminent threat as traditionally understood was no longer required. They used the word "imminent" and then defined it out of existence. I'm glad that Condi Rice gave a speech, but the last thing documented is the 2002 national securities [unintelligible 1:32:46]. I get that maybe you didn't like every word, but let me read you what it actually says. It says, quote, "For centuries international law recognized that nations need not suffer an attack before they can lawfully take action to defend themselves against forces that present an imminent danger of attack. Legal scholars and international jurists have conditioned the legitimacy of preemption on the existence of an imminent threat, most often visible mobilization of armies, navies, and air forces preparing to attack. We must adapt the concept of imminent threat to the capabilities and objectives of today's adversaries. The United States has long maintained the option of preemptive actions to counter a sufficient threat to our national security. The greater the threat, the greater is the risk of inaction, and the more compelling the case for taking anticipatory action to defend ourselves even if uncertainty

remains to the time and place of the enemy's attack. To forestall or prevent such hostile acts by our adversaries, the united states will, if necessary, act preemptively." The way in which these words are kluged together is to stretch in both the sense of timing and certainty to make imminence irrelevant and to make the difference between preemption and prevention irrelevant. I don't disagree with you that there is a whole host of post-9/11 security challenges that make the traditional understanding of preemption difficult to implement. I think the Obama administration as it thinks about Iran, as in conducts its drone campaign is wrestling with all these same things just as it did with the Syria Tomahawk missile conversation a couple of months ago. But to say that there is a need to stretch the notion of preemption to apply it to the post-9/11 world is different from saying that we should stretch it to the point that it no longer has any meaningful difference with the concept of prevention, which is seen as — internationally and historically — illegitimate. There is no interpretation of the War in Iraq which defines it as a legitimate preemption, even under a stretched concept. It might be legal. There could be an argument about it being legal or even the right thing to do under the UN Security Council resolutions or something else. There is no argument that it is preemptive. In fact, the argument wasn't even made. The argument was largely made that this was a grave and gathering danger and that we couldn't wait for it to metastasize, even though it was one or two years down the road. That's preventive war.

John B: Frank, could I just — I'd like to respond really quickly — [unintelligible 1:35:01].

Moderator: Yeah, you can give a quick response, and then we probably should — yeah.

John B: Colin, I'm not sure what you're disagreeing with, because you were saying you're disagreeing with me by, again, redefining as people have for 12 years what it was that you think we were saying.

Colin: I read what you were saying. That's the difference.

John B: Well, you know, Secretary Rice, then Dr. Rice, who restated because people had misunderstood, which was that she was the national security advisor at the time and was speaking on behalf of the President when she gave that speech, which made a much more restricted statement of what preemption was supposed to mean, which was simply to say anticipatory self-defense in the nuclear or terrorism age means that we have to look at imminence slightly differently. That's all that was being said. This is not intended as a defense of the Iraq war, so when you say that you're violently disagreeing with me, I'm not quite sure what you're violently disagreeing with.

Douglas: Douglas Feith — I think it's very valuable that Phil Bobbitt talks about new concepts like preclusion and that Colin called attention to the word "adapt" in the passage that he read. One of the main thoughts at the fore of the minds, certainly, of people in the Pentagon — I think, throughout the administration — was a problem that lots of other administrations had dealt with, and that is standard concepts of international law turn out not to be all that well-suited to the dilemmas that national security officials actually face. I think one of the problems that we have in talking about this, and especially after the fact, is the term "law" in the phrase — the word "law" in the phrase "international law." I worked for a guy who was an absolute stickler about the law. Don Rumsfeld was law-minded in the sense that if you ever said to him there's something that you want to do and U.S. law prohibits it, that was the end of the discussion as far as whether you could do it right then. Now, he would

often think, well, let's change the law. But in other words, he wasn't willing to just submit, but he was a real stickler for law. But when it came to international law, there was a recognition — talk about the uses of history — there was a recognition that when John Kennedy had this problem with Cuba, he didn't start with the idea of, "What does the law allow me to do?" He started with, "What do we need to do?" Then he told the lawyers, "Figure out a way to talk about it." When Bill Clinton wanted to go into Kosovo, he didn't start with the questions of, "Tell me what the UN charter says is okay." He said, "What do we need to do?" and then he told the lawyers to figure out how to talk about it.

The reason for that is it's not that international law is nothing. But international law is not law the way domestic law is law. Any discussion of these matters that assumes that people like John Kennedy, or Bill Clinton, or George W. Bush, or Donald Rumsfeld when they are faced with what they sincerely believe are serious national security threats or serious humanitarian challenges as in Kosovo, that they look at these discussions among law professors — which is largely what international law is — that they look at what's in the *Stanford Law Review* the way they look at what's in the U.S. code is just a big mistake. They way Syria's national security officials have approached these problems all along is there are real stakes. People are going to die if you make the wrong decisions. When you look at the — and this was one of the major thoughts we had after 9/11 — when you look at the architecture of international law for dealing with the kinds of problems we were facing, there was a very strong sense — and this was a very big challenge for people like John Bellinger — there was an extremely strong sense that established categories of thought for dealing with the kinds of problems that we were dealing with, with non-state actors like Al Qaeda and all the rest of it — the established categories of thought were not neatly fitting the circumstances in which we found ourselves and that new thinking — adaptations — were going to be required.

One of the main — and the final point I'll make on this is one of the main thoughts I remember that Rumsfeld had — and I worked with him on this. Talking about speeches, I mean, I gave a speech or two to the Council on Foreign Relations where I tried to kind of raise this point. On this whole issues of preemption and prevention, the point that Rumsfeld always had at the fore of his mind was as strong as the United States interest is in sovereignty — and we believed that protecting the principle of sovereignty in international affairs was enormously important. It was in some ways one of the fundamental national security obligations of American officials, was protecting the idea that the American people can govern themselves as a sovereign entity under our Constitution.

Douglas: So we were very pro-sovereignty. At the same time we understood that we were saying things like [that] certain governments, because of their background, and history, and our general judgment of them, were so irresponsible and so dangerous that we were not going to allow them to hide behind traditional concepts of sovereignty to develop these enormously dangerous capabilities that would put them into position where they could do much more harm than they could ever pay for after the fact. So the concept of sovereignty was going to have to be somehow adjusted. Even though we were not anti-sovereignty, the concept of sovereignty was going to have to be adjusted to take into account that governments like North Korea, or Iran, or Iraq could develop biological weapons or nuclear weapons, and we could not wait around in the old-fashioned sense of waiting for an overt aggression to deal with that problem. The way we looked at it and the way I remember presenting it when I talked to the Council on Foreign Relations is this is a

challenge to international lawyers. They have to figure out a way to think about this, because from a national security point of view, you cannot tie the hands of the President and tell him he can't do anything, because when we happened to draft the UN charter, it didn't quite take this into account.

Moderator: Okay. Why don't we try to get — if there are two fingers on this, because this is very — I'm sure there are a lot of people who want to jump in. Why don't we — if you guys are okay with this — maybe get two or three, two fingers on it, maybe give you a chance to respond. I actually think it would be interesting to hear from our British friends if Mr. Feith's description of how international law is thought of in British national security-making is the same [unintelligible 1:43:10] would be very interesting.

Will: Uh — and then we've got Lord Reed.

Theo: I've just got a quick comment to say —

Moderator: Identify yourself.

Theo: Oh, I'm so sorry — Theo Farrell, Department of War Studies at King's. Just a couple of comments — firstly, on this issue of these new challenges [unintelligible 1:43:26] be an interesting discussion. [Unintelligible 1:43:28] the challenges aren't totally new. I mean, the issue of imminent threats and preemptive use of force — those have just come forward in a new direction. Although the ICJ don't actually discuss this in their legal opinion on nuclear weapons' use, if you look at Justice Rosalyn Higgins, ICJ justice — she talks about this in her work. So the issues aren't actually that new. They just come [unintelligible 1:43:55] the minds of policymakers post-9/11 that we discussed. I think on the British side what Dough Feith is discussing makes perfect sense to me. I can see that entirely. But I think the consequences, though, of not articulating the legal case for use of force are different in different domains. I think in the British case it's profoundly important, actually. So there's a lot of focus on: Was there a legal case for use of force against Iraq? I think ultimately the public were not persuaded that there was a case, and I think it's very damaging for the prior administration in a way that perhaps it would not have been. So there's the issue of, obviously, getting the lawyers to come up with the language that can explain what you're doing, but it actually has different implications in different political domains.

John R: Yeah, John Reid, former Defense Secretary — just a point of fact — actually, over 60 percent of the British population supported the intervention in Iraq when we were in. Where the actual decline in support comes is on the failure to discover precursor chemicals. But contemporaneously, it was roughly two-thirds of the people supported it. I kind of thought that we were getting — I put my hand up, because I thought we were getting involved in — to use the current word — a quagmire, this. Let's separate two things — first of all, Iraq, and then we can talk in general. On Iraq, the legal grounds for intervention are quite clear. They may be controversial, but they're quite clear. That is that resolution 1441 set out what would constitute a material breach if it was not complied with. That material breach would resurrect 678 and 687 — 678 being the original authority for the use of force, and 687 the one that didn't get rid of it but suspended it unless and until there was a further material breach. So the legal case for the intervention in Iraq — I'm talking from memory here; it was ten years ago now — is quite separate from the prevention argument.

To go to the general case, then, I believe one should leave it — you know, the international lawyers have really got to at long last do something on this. Yes, this is an issue that has been around for a while. In that sense, as you said, it's not a new issue. But it's a new world. That's the point. The issue isn't new, but the circumstances into which the issue is to be addressed on a whole range of international legal issues is now in disjunction with the reality of the world as it is and conflict as it has emerged. It's not just in preemption where there has been such an accelerated potential for action because of new technology that it's obviously a different dimension. The whole time scale of preemption, which is essential to the concept of imminence — by the way, I'm not a lawyer; I'm just trying to struggle with getting some of these terms — so that is something that has been needing to be addressed for a long, long time. But incidentally, so is the Geneva Convention, and so is the European Convention in Human Rights, because the Geneva Convention is based on certain assumptions about a defined war between defined parties for a defined period usually for a defined objective — normally territory — after which there will be defined armistice and defined arrangements for everyone to go home. It bears no relationship to the conflicts in which we are now engaged.

The European Convention in Human Rights, which is an eminently good, moral document is based on the assumption arising out of the experiences of the fascist regimes in particular in Europe that the state is always wrong and only has the — only does the state have the intention and capability for mass destruction, and the individual is always right. Well, what happens when 60 years later the individual has the capacity through biological, bacteriological, weapons of mass destruction to do as much damage as the state did 70 or 80 years ago? Those are the real challenges facing political leaders. There is an [unintelligible 1:48:47] inherent in disjunction between the inherited legal frameworks, the assumptions on which they are based — whether it be the degree of accelerated imminence or the nature of the relationship between the state and the individual, or the changing nature of conflict which is at discord with the presumptions of the Geneva Convention — and for 50 years lawyers have not been able to solve those problems. Therefore, when something like this comes up, exceptional means are used as an emergency. The classic case of that is, of course, Guantanamo. But we shouldn't be self-righteous in Britain, because Guantanamo is just several hundred control orders. It is an exceptional step outside the normal rule of law. Basically, unless there is a more accelerated attitudinal focus by international lawyers on some of these, politicians and political leaders will continue to be in the position that we're in. What I take the strategy to be saying is this is a problem.

Moderator: Okay. Let's take one more comment, and [unintelligible 1:50:05] chance to respond. I will point out, Phil Bobbitt has written a brilliant book that wrestles with these questions and, to his great credit, wrote this book before 9/11 — *Shield of Achilles* — which many of the issues that you talk about — he's alone in wrestling with.

John R: Many of my comments were derived from an early reading of that book.

[Multiple Speakers]

Audience: My comment is not specifically on this.

Moderator: Oh, well, let's keep on more on this, and then we'll give them a chance.

David: David Omand — I just wanted to point out the difference across the Atlantic. In British judges and our Supreme Court has to take into account judgments by the International Court of Justice, and the European Court of Human Rights, and other international courts. The view seems to be on the Supreme Court that there is no higher legal authority than the U.S. Constitution, because you have a written Constitution. That creates a very different kind of dynamic. Second point just to throw in very, very briefly is that when you're talking about rights of self-defense and preemption, don't forget the common law doctrine of it's not just defense of yourself, but those whom you have a duty to protect. Therefore, that brings in alliances and treaties as well.

Moderator: You guys want quick responses?

Philip: No.

Moderator: Should we keep heading forward? Okay. Do we want to stay on this topic or move to a different one? Anyone more on preemption? Okay. Then Kori, then Josh — identify yourself.

Kori: I'm Kori Schake from the Hoover Institution. I wanted to emphasize the very good point that I think Timothy Lynch made, which is that we do often overstate the role that historical analogies play and that it's very easy in retrospect to impose grand thinking on what we're in real time — people scrambling to do the best they could as fast as they could. That brings me to Colin's point about the American military, because I do think that as they teach it and talk about it, you very much do accurately reflect in particular the army's institutional culture. But my experience as the director for defense strategy and requirements on the NSC during this time was that was nowhere in evidence in how the military was making its plans or coming up with things. With all due respect, Tom Franks is not one of the great historians of the modern age. The discussion that was going on in the military at that time was a discussion led by the civilian leadership in the Pentagon, which the President was strongly, stridently in support of that both the nature of the enemy and air evolving military capabilities gave us new and better ways to do this. The Afghanistan model was the only historical conversation we were having about the war plan about Iraq. It was, "Does what [unintelligible 1:53:09] and the Secretary of Defense envisioned as the war plan for Afghanistan — is that the nature of all future American wars?" Nobody was talking about Vietnam. Nobody was talking about anything else. It was, "To what extent do our military capabilities give us the ability to do this in radically new ways?"

Moderator: Colin, do you —?

Colin: So I don't disagree with that. Actually, I think it's a little bit sideways from my point. I would argue that what differentiates individuals from organizations is that organizations carry with them historical legacies whether any given individual in that organization recognizes it or not. So there was a huge fight — or I shouldn't say — a huge disagreement within the military between a very large approach, which was seen as a legacy of the Cold War and a legacy of the Gulf War experience where we took six months to build up 500,000 forces and did the war that we did and this Afghanistan model. I get the tug. In my remarks, I recognize the give and — the back and forth between civilians leaders and the military. What you got was kind of a dysfunctional middle ground, which was a larger

force probably than Don Rumsfeld would have preferred, but not a large enough force to actually occupy the country if you'd wanted to do that. Maybe it was impossible to begin with, but it makes the point that we take it for granted that a larger force would have been — but the bigger point, I think, is rather in the actual conduct of the war itself, what historical experience shaped the way in which the military actually fought the war. We were talking about policy and strategy, which I think is actually extraordinarily relevant, having served in the Pentagon the way that I do. Once we unleash the military to do something, the way the military actually conducts its operations is oftentimes set by its own logic, not the logic of —

[End File. Recorded Time = 1:54:59 = 115 minutes] [Begin File: Panel 1b.mp3]

Colin: — of, you know, whoever unleashed the dogs of war to begin with.

Philip Z: I actually agreed with Colin's presentation on the issues of military culture and how important it is to take that into account entirely. I didn't actually think those arguments cut very much in the limited period my paper focused on, up to about the spring of '02.

Colin: That's fair.

Philip Z: I think those arguments get more and more important, actually, as you get to the end of '02. Then the explanatory power of those arguments and those traditions are very important later in the decade. As Colin knows, I was involved in a lot of that too.

Here's, though, the point I wanted to stress. The U.S. military actually entered the post-9/11 period really quite profoundly maladapted to the world it was living in. In another paper I've written, I comment on the 1990s as the years that the "locusts hath eaten," that these were lost, in part, precisely because the '91 war had gone so well. I make an argument about the 1990s as a kind of lost decade in which the armed forces continued to reinforce those behaviors that were increasingly unrelated to the emerging problems. Study the history of the late '90s and you look at it the way the military is coming up with options for Al Qaeda in '98, the story the 9/11 Commission report tells, Iraq, the Balkans, including all the weird stuff surrounding the Balkan Wars in '95 and '99. Then look at the Afghanistan issue, and after 9/11 the armed forces begin with this military plan that was almost worthless. I refer to its blustery code name, Infinite Resolve.

Moderator: Because Infinite Brilliance was already taken.

Philip Z: Yeah.

Kori: Nicely planned.

Philip Z: So really, this is a bad period for the American military. It was sort of operating on some strange autopilot that was just going towards destinations and building capabilities that it tried to connect to new problems in ways that were artificial. So in a way, its culture and traditions are almost oblique to a lot of these issues. Then, by late 2002, there were some really interesting discussions having to do with the immediate run-up to the Iraq war and then all the things in the aftermath. The military was almost forcing itself to confront internally realities it simply did not want to understand or face. That, then, begins a

chapter of another and tragic story — really, quite a tragic story. But that story was beyond the scope of my paper.

Moderator: Identify yourself.

Josh: Yeah, [unintelligible 03:25] for SMU. I want to turn it back to 9/11 — the immediate response that historical memory may be the aftermath of the attack. One thing that I recall the President coming out and saying almost immediately was, "We're not going to know when this thing ends. We're not going to know how it ends. There's not going to be a Battleship Missouri moment. This isn't that kind of war." I might be wrong, and you can correct me if I am, but I sort of remember universal nodding of heads. I don't remember this being controversial in any way. Everybody sort of agreed with this idea. I did at the time. I agreed with it. I didn't think twice, but maybe I should have thought twice. I wonder if this was a moment in which we all sort of preemptively abandoned history and assumed that this war was so different that we couldn't conceive of what war termination would look like. I have a sense that that led to a great deal of strategic incoherence later, because if you don't know what victory looks like, you don't know if you're making progress in the war.

Moderator: Hal, you have two fingers on this.

Hal: Well, it pertains to Josh's point. I think it also ties into a point that Colin was making.

Moderator: This is Hal Brands.

Hal: Hal Brands, Duke University — sorry. So it also pertains to a point that Colin was making, which is that there's a really interesting dichotomy in the way the Bush administration deals with the relevance of history after 9/11. It's absolutely true and totally persuasive that the perceived — the residue of history or the lessons of history are pervasive during this period. Some of the arguments about preemption are situation in a historical context, but on the other hand, it's also an administration that goes out of its way at time to say that history or that particular historical lessons are not relevant to the issues we're facing. Right? So if you look at the West Point speech of 2002 or the NSS 2002, right, it's a very explicit attempt to say that these perceived lessons of the past from the Cold War, for instance, are no longer relevant to the threats we face. Right? These things don't apply anymore. There's no Missouri moment, as Josh pointed out. These two tendencies, they're not necessarily incompatible. Right. They may make eminently good sense, but it's a very interesting dichotomy, especially at a conference like this where we're trying to grapple explicitly with the relationship between history and policy.

Philip Z: It was and is a new kind of war. You could make an argument that it inflicted in some ways more damage than Pearl Harbor and actually created more immediate threats literally to the lives of key decision-makers in their homes than the Japanese ever did. It was hard to comprehend that this could be done by less than a platoon of people in a country that didn't have electricity or running water — from within a movement that we then, as David Omand pointed out earlier, only dimly understood. That's one of the reasons the 9/11 Commission or Board spent some time on the ending trying to move that a little bit.

But there's a much deeper analytic point underneath that. If you'll accept the premise that at least there were some aspects of great novelty about this, then you actually come to a much deeper point that's absolutely profound. Rice and I held a deep belief, and I believe the President did as well — about the blurring between what we imagine as traditional foreign policy issues in international conflicts, and domestic issues, and internal conflicts. We were entering the phase in world history in which the dominant template of international conflict was actually profoundly shifting into a dominant template of intra-state transnational conflict for which the old paradigms were not well-suited.

That meant we actually had to think a lot about issues and problems that we tend to think of as domestic and social, in the context of waging globalized conflicts of this kind. One example is the notion that Afghanistan is a failed state, as is also evident with the problems in Yemen or in Somalia.

These are conceptually and strategically very difficult challenges. I don't think we've fully adapted or made the adjustments yet. That's a way of giving some analytical cut to my point about novelty. If you accept that this phenomenon is transnational, that you have to operate very much at the domestic levels or those local social levels. You really have to conceive of strategy in ways for which the strategic literature from E.H. Carr forward or even going back to Clausewitz, or Jomini, does not take you very far.

Moderator: Phil Bobbitt, I don't mean to put you on the spot, but I really — it does strike me that *Shield of Achilles* did anticipate much of this. That's kind of one point. I'd be interested in your reactions and how you've thought about it since. Also, the fact that our British friends seem to have digested these lessons from your book, whereas your American friend — I wonder if we could maybe — given that we're running out of time — give you sort of the last word on all of this.

Philip B: Well, I think that throughout the 20th century, the Western democracies very studiedly separated law and strategy. This was important to our success. We did not militarize the domestic environment. We won a very long, very perilous war, and it's a great achievement. [Unintelligible 09:52] successes, it leads to failure, because the very nature of having succeeded tends to lock us into old approaches. I think through the 21st century we will have to unify law and strategy. When our strategy is out of sync both with our legal values but also with the law as written and enforced by courts, we have the consequence of loss is as important to our overall strategy as loss [unintelligible 10:26]. But John Reed's point is also well-taken — that that also puts a lot of stress on legal reform. Then the laws — so many domestic laws [unintelligible 10:44]. But a lot of international law also has to change to reflect these new strategic contexts. I agree with a remark made earlier about victory, and you've got to know where you're going, sort of any road appears to take you there. I think that there is a way to state victory, that victory amounts to the protection of our civilians. It will not be celebrated with [unintelligible 11:17], and kissing pretty girls, and bands playing. It will be sort of steady, year-by-year victories that, in fact, classical wars were quite accustomed to experiencing and for which the wars of the 20th century required an anomaly. Thank you for drawing attention to my work. I appreciate that. Thank you, John, for mentioning it. If there's just one lesson, it is that though the strategy must change and the law must change, they must change in the direction of being in sync. Thank you

Moderator: Please, join me in thanking our panelists and commentators.

Will: Yeah mindful of the time, and we still have a full day of discussions ahead, let's just take about a ten-minute coffee and comfort break. There will be a longer break this afternoon, so bear with us. We want to give ample time for our next panel, which will start in ten minutes.

[End File. Recorded Time = 12:19 = 13 minutes] [Total Time Transcribed = 128 minutes]