

Extracted from

A British Academy Occasional Paper

HUTTON AND BUTLER

*Lifting the Lid on
the Workings of Power*

EDITED BY

W. G. RUNCIMAN

Published for THE BRITISH ACADEMY

by OXFORD UNIVERSITY PRESS

2004

ISBN 978-0-19-726329-7

The Lightning Flash on
the Road to Baghdad:
Issues of Evidence

PETER HENNESSY

It was Oliver Franks who likened the Suez affair to ‘a flash of lightning on a dark night’, illuminating a landscape long in the making but not fully appreciated until the limits of British power were cruelly exposed when the UK went to war with France and Israel against Egypt in 1956.¹ Franks himself was quite an illuminator when he led *his* team of privy counsellors in its inquiry into the origins of the Falklands War in 1982.² But his report fell far short, in terms of light shed on the processes of government, when one compares it to the combined beams of Lords Hutton³ and Butler.⁴

From the Prime Minister’s Office and the Cabinet Room to the cells inside the Secret Intelligence Service (SIS) building where the incoming agents’ reports are tested and validated; from the real-time dealings of No. 10 Downing Street and the media and the way some journalists operate *sub rosa* with private Whitehall contacts to the Wednesday-afternoon tweakings of the Joint Intelligence Committee (JIC) – ‘the highest drafting committee in the land’, as one of its members described it recently⁵ – the Hutton hearings’ transcripts and the Butler report are *sans pareil*. Taken together, they represent a lightning flash of a kind that no historians of government or historians of intelligence have seen before in the UK.

¹ Peter Hennessy and Caroline Anstey, *Moneybags and Brains: The Anglo-American ‘Special Relationship’ since 1945*, Strathclyde/Analysis Paper, No.1, (Department of Government, University of Strathclyde, 1990), p. 10.

² *Falkland Islands Review. Report of a Committee of Privy Counsellors*, Cmnd 8787, (HMSO, 1983).

³ Lord Hutton, *Report of the Inquiry into the Circumstances Surrounding the Death of Dr David Kelly C.M.G.*, HC 247 (Stationery Office, 28 January 2004) (hereafter Hutton).

⁴ *Review of Intelligence on Weapons of Mass Destruction. Report of a Committee of Privy Counsellors*, HC 898 (Stationery Office, 14 July 2004) (hereafter Butler).

⁵ Private information.

ISSUES OF EVIDENCE

If, somehow, Kipling were with us to read and sift the two reports, he would describe them – as he did the impact of the Boer War on the British Empire – as ‘no end of a lesson’⁶ for everyone involved at all levels from the Prime Minister down. And these reports were not the results of any voluntary exercise in openness on the part of the Blair Government. Just think what it took to stimulate those crackles of electricity which produced the lightning flash – two unforeseen events: the suicide of a weapons expert in July 2003; and President George W. Bush’s decision in January 2004 to commission an inquiry into Iraq-related intelligence on weapons of mass destruction.

The two British reports which resulted dovetail quite well. Lord Hutton worked as judges do by assessing the evidence in terms of charges made, leading to ‘acquittals’, ‘convictions’, and, in one case a ‘non-proven’ (in the sense that he thought the Chairman of the JIC, John Scarlett, may have been ‘subconsciously influenced’⁷ by the Prime Minister’s press and presentation people in No. 10 making suggestions on the wording and shaping of the September 2002 dossier on Iraq’s weapons of mass destruction⁸). Robin Butler and his colleagues worked more like contemporary historians reconstructing reality as best they could from documents and oral evidence, recreating mood and context – if not motivation – as they went.

As any historian of intelligence knows, it is a peculiarly vexing sub-branch of the craft especially in the United Kingdom with its rich fictional literature supplemented by a fuzzy but quite powerful collective memory which tends to believe, thanks to the ‘Ultra’ story and the signals intelligence (SIGINT) triumphs of the

⁶ Rudyard Kipling, *The Complete Verse* (Kyle Cathie, 1996), pp. 242-3. The poem in which the line is embedded is called ‘The Lesson’ (1899-1902).

⁷ Hutton p. 320.

⁸ *Iraq’s Weapons of Mass Destruction: The Assessment of the British Government* (Stationery Office, 24 September 2002).

ISSUES OF EVIDENCE

Second World War which have emerged, bit by bit, over the past 30 years, that unless the UK and its intelligence allies have every tyrant wired for sound 24 hours a day, the resulting surprise when such figures do something nasty and unexpected amounts to an 'intelligence failure'. Media news rooms are particularly prone to this delusion which, among several other distortions, exaggerates hugely the penetration and/or duration of British cryptanalytical successes against the Germans. A former Chief of the Secret Intelligence Service could wax almost lyrical on the benefits and costs of this image, including the myths of relative ubiquity and omniscience that often surround his old agency thanks to the books and films, especially the Bond ones. (It has been estimated 'that half the world's population has seen a Bond film.'⁹) Largely because of the myth associated with British intelligence, the retired 'C' put it, 'When we make the final approach and ask someone to help the British as an agent, as often as not they almost stand to attention.' But, he went on, our reach is exaggerated. 'All we can do is provide cats-eyes in the dark' on a very difficult road through dangerous countryside.¹⁰

Historians, like their fellow hunter-gatherers in the intelligence world, have to draw out from imperfect and incomplete strands what Fernand Braudel called 'that thin wisp of tomorrow which can be guessed at and very nearly grasped'.¹¹ Did we succeed to any degree in anticipating that mixture of problems, processes, and human fallibilities which produced the difficulties which Butler and Hutton between them had to judge? Up to a point we did.

⁹ Jeremy Black, *The Politics of James Bond: From Fleming's Novels to the Big Screen* (Praeger, 2001), p. xiii.

¹⁰ Private information.

¹¹ Fernand Braudel, *A History of Civilisations* (Penguin edn, 1993), p. xxxviii.

ISSUES OF EVIDENCE

For example, a Ditchley Foundation Conference on 'The Future of Intelligence in Democracies' held in October 1997, at which both breeds of hunter-gatherer were well represented (including some British officials whose input was later central to both inquiries), produced a list of five 'consensual givens' of relevance to the Iraq problem as it manifested itself in the longer run-up to war (three and five could have been written with Saddam and 9/11 respectively in mind):

- 1: That special intelligence capabilities would be necessary to reduce the number of secrets possessed by potential threateners of national security.
- 2: That the acquisition of such 'secrets' would diminish thereby the opacity and danger of the 'mysteries' that would remain.
- 3: That the value-added material which only secret sources and methods could provide would enable customers to check the public positions of potential adversaries against reality and to calibrate more effectively the indications of risk and menace which could be gleaned from open sources.
- 4: That certain aspects of 'peacekeeping', not least the maintenance of the nuclear taboo that had held since August 1945, depended to a large degree on secret capacities.
- 5: That successful counter-terrorism depended upon top-flight intelligence frequently pooled with other members of a constellation of intelligence 'clubs'.¹²

A little later, this was converted into a menu depicting how these 'givens' might appear in a list of British intelligence priorities in the late 1990s, the first two of which read:

¹² Peter Hennessy, 'The Future of Intelligence in Democracies: Scope, Justification and Control', Ditchley Conference Report No. D97/12 (Ditchley Foundation, 1997), p. 1.

ISSUES OF EVIDENCE

- Weapons-of-mass-destruction (WMD). There are sufficient states with sufficient reach to bring nuclear, chemical or biological destruction to the UK home base for this to be of primary concern for the foreseeable future.
- Terrorism
 - (a) State-sponsored (which could be linked to WMD capabilities).
 - (b) Non-state-sponsored e.g. Middle Eastern or North African Groups ...¹³

The Ditchley conference, including the past and present CIA officers in attendance, discussed the most important human requirement of senior intelligence figures when dealing with their ministerial customers – that of keeping them illusion-free.

This has never been better put than by Sir Maurice Oldfield when, as 'C' in March 1974, he was summoned by the new Foreign Secretary, Jim Callaghan, who asked him what his job was for. 'My job, Secretary of State,' Oldfield replied, 'is to bring you unwelcome news.'¹⁴ (A story, incidentally, which Tony Blair said he 'liked' when the Father of the House of Commons, Tam Dalyell, drew it to his attention in the summer of 2003).¹⁵ The Oldfield criterion was quoted at the Ditchley conference and it was subscribed to personally by two intelligence figures (who were not at Ditchley) upon whom the Butler spotlight fell most intensely, Sir

¹³ Peter Hennessy, 'The Itch After the Amputation? The Purposes of British Intelligence as the Century Turns: An Historical Perspective and a Forward Look', in K. G. Robertson (ed.), *War, Resistance and Intelligence: Essays in Honour of M. R. D. Foot* (Leo Cooper/Pen and Sword, 1999), p. 236.

¹⁴ Ibid. p. 239.

¹⁵ House of Commons, *Official Report*, 3 July 2003, col. 601; Tam Dalyell to Tony Blair, 5 July 2003; Tony Blair to Tam Dalyell, 16 July 2003. I am grateful to Mr Dalyell for sending me copies of this correspondence.

ISSUES OF EVIDENCE

Richard Dearlove when Chief of SIS, and John Scarlett, when Chairman of the Joint Intelligence Committee, the JIC.¹⁶

Around the time Dearlove was appointed 'C' in 1999, a Braudelian 'thin wisp' of tomorrow and a hint of the problem to come when JIC material became used for political advocacy as well as intelligence analysis with the publication of the Government's September 2002 dossier on *Iraq's Weapons of Mass Destruction* (a fusion of purposes strongly criticised by Butler¹⁷) was just discernible to the intelligence historian. For example, in my study of *The Prime Minister: The Office and Its Holders since 1945*, published by Penguin Press in September 2000, I was able to write that at

the end of 1999 there were signs that Mr Blair was toying with the idea of ending the traditional (and much-prized) distinction between intelligence analysis and policy advice, the absence of which the British intelligence community has long believed weakened the business (for different reasons) in both the United States and the USSR (and its successor states). It was consistent with the Blair style for him to want material which presented a point of view, but there were distinct signs in early 2000 that the foreign, defence and intelligence communities were determined to resist this.¹⁸

And so they did – up to a point and with a certain finesse. Henceforth, about a third of JIC assessments carried a new 'implications' section of consequences that might flow if their

¹⁶ Private information.

¹⁷ Butler p. 87.

¹⁸ Peter Hennessy, *The Prime Minister: The Office and Its Holders since 1945* (Penguin, 2000), p. 502.

ISSUES OF EVIDENCE

analysis was right. Occasionally, a further 'if we are wrong' passage was added.¹⁹

So these matters rested when John Scarlett, the first MI6 officer to be so appointed to the post, became Chairman of the JIC but one week before the atrocity of 11 September 2001. Both Dearlove and Scarlett had been influenced by British intelligence history, especially that written by a former chairman of the JIC, Sir Percy Cradock. His study, *Know Your Enemy*,²⁰ of the performance of that committee and its staffs during the Cold War based on JIC files declassified at the Public Record Office left a strong impression on the two most influential intelligence figures in Mr Blair's decision-making circle in the run-up to the Iraq War – especially Cradock's section dealing with the Suez affair of 1956.²¹ For the JIC, in the very first days of that crisis, warned its readers, including the Prime Minister, Sir Anthony Eden, of the 'international consequences' of a failure to achieve a swift, military victory over Colonel Nasser and Egypt 'both in the Arab states and elsewhere [which] might give rise to extreme embarrassment and cannot be forecast.'²²

Scarlett and Dearlove were aware that the JIC had had a 'good Suez' but had not been heeded by their key reader in 10 Downing Street. They believed that all too often in the recent past, too, the intelligence product (costing about a billion pounds a year in 2000–1) had had an insufficient place in the Whitehall decision-making

¹⁹ Peter Hennessy, 'Letter from Whitehall: Spooks mustn't be spinners', *The Tablet*, 6 September 2003.

²⁰ Percy Cradock, *Know Your Enemy: How the Joint Intelligence Committee Saw The World* (John Murray, 2002).

²¹ Private information. For Cradock on Suez, see *Know Your Enemy*, pp. 109–34.

²² National Archives, Public Record Office, CAB 158/25, JIC (56) 80 (Final) (Revise), 'Egyptian Nationalisation of the Suez Canal Company', 3 August 1956.

ISSUES OF EVIDENCE

sun. Wherever the inner loops were, the two men were determined that they and their material would be within them. They were. It was quickly appreciated in post-9/11 Whitehall that thanks to Scarlett's and Dearlove's access to the Prime Minister, British intelligence had secured a more central place at the top decision-making tables to a degree unseen since the most perilous moments of the Cold War.

This aroused anxieties amongst other officials involved in the politico-military-intelligence world. One very experienced Cabinet Office figure, sensitive to accusations of a wider, creeping politicization of the crown services during the Blair premierships, called it the 'moth-and-the-flame' syndrome.²³ Such doubters felt vindicated when Butler reported and reinforced Lord Hutton's anxieties about such 'subconscious' factors by delineating plainly the degree to which SIS's validation procedures, the JIC's readiness to place excessive weight on one particular agent report out of Iraq on '45 minutes' readiness to deploy WMD and the manner in which such material was given to the Prime Minister in its raw state and unseen by the best experts in the Defence Intelligence Staff had amounted to a systems failure at the heart of British Intelligence.²⁴ As a result the September 2002 dossier, in Butler's unambiguous words, was flawed because 'more weight was placed on the intelligence than it could bear'²⁵ and that the pivotal '45 minute' claim should not have been included 'without stating what it was believed to refer to' (battlefield weapons – artillery rather than missiles) leading 'to suspicions that it had been included because of its eye-catching character.'²⁶

²³ Private information.

²⁴ Butler pp. 99-102, 125, 137-8.

²⁵ Butler p. 154.

²⁶ Butler pp. 156-7.

ISSUES OF EVIDENCE

Beyond their detailed revelations and judgements, there is a wider democratic point that emerges from both the Hutton and Butler reports. What in combination did they tell their readers that, but for the events which caused their inquiries to be commissioned, the public would not have been in a position to know or assess for themselves? The House of Commons itself was very vexed by this question after the Hutton Inquiry's witness roster, and the skill with which those witnesses were examined by professional lawyers before Lord Hutton, exposed a yawning gap between the Hutton hearings and both the reach and the forensic powers of the Commons Foreign Affairs Select Committee in June 2003 when it examined *The Decision to go to War in Iraq*.²⁷ Such was its sense of grievance that the Committee returned to this theme in March 2004.²⁸ The Liaison Committee, comprising all select committee chairmen, began its own inquiry into 'Select Committees after Hutton' in October 2003, including the possibility of helping MPs improve their questioning techniques through 'guidance or forensic training ... [or] ... [u]se of counsel for part of the questioning'.²⁹ The Liaison Committee pressed the Prime Minister strongly on this 'inquiry gap' when he appeared before them in July 2004, the week before Butler reported.³⁰

²⁷ House of Commons Foreign Affairs Select Committee, *The Decision to go to War in Iraq*, HC 813-I, II and III (Stationery Office, 7 July 2003).

²⁸ House of Commons Foreign Affairs Select Committee, *Implications for the Work of the House and its Committees of the Government's Lack of Co-operation with the Foreign Affairs Committee's Inquiry into The Decision to go to War in Iraq*, HC 440 (Stationery Office, 18 March 2004).

²⁹ House of Commons Liaison Committee, *Scrutiny of Government: Select Committees after Hutton*, Note by the Clerks (undated). See also House of Commons Liaison Committee, *Annual Report for 2003*, HC 446 (Stationery Office, 11 March 2004), pp. 41-3.

³⁰ House of Commons Liaison Committee, *The Prime Minister*, Minutes of Evidence, 6 July 2004.

ISSUES OF EVIDENCE

The Intelligence and Security Committee, which consists of parliamentarians drawn from both Houses but is *not* a select committee and operates within a ring of intelligence secrecy, fared much better than the Foreign Affairs Committee in terms of both witnesses and scope. Its September 2003 report on *Iraqi Weapons of Mass Destruction – Intelligence and Assessment* disclosed JIC anxieties in early 2003 that the chaos following a war in Iraq might trigger the nightmare of Al Qa'ida getting its hands on what WMD stocks might remain in that country.³¹ Nonetheless, it later complained that 'eight relevant JIC papers' had not been made available to its members before drafting that report.³²

But, taken together, even the most careful reading of these parliamentary reports by the concerned citizen would have left him or her incapable of reaching an informed judgement on the use of evidence inside Whitehall on the path to war. Thanks to Hutton and Butler we can go to the very heart of the matter of the use, or *non-use*, of evidence by our several governing tribes in Whitehall whether they be ministers, special advisers, permanent officials, or officers of the secret services. For myself, the amount of chaos that can sometimes surround real-time decision-taking was striking, as was the absence of the traditional, char-lady function by which I mean the careful taking of notes and writing of minutes which mop up after such discussions so that a proper record exists and subsequent, agreed actions are delineated.

It was the *degree* to which this had fallen into abeyance that surprised me. It was revealed most vividly when Jonathan Powell, the Prime Minister's Chief-of-Staff, gave evidence to Lord Hutton. At the time when No. 10 was concerned about both Dr Kelly and

³¹ Intelligence and Security Committee, *Iraqi Weapons of Mass Destruction – Intelligence and Assessments*, Cm 5972 (Stationery Office, September 2003), p. 34.

³² Intelligence and Security Committee, *Annual Report 2003–2004*, Cm 6240 (Stationery Office, June 2004), p. 25.

ISSUES OF EVIDENCE

the press discovering that he was Andrew Gilligan's source, Mr Powell disclosed that of an average of 17 meetings a day in Downing Street, only three were minuted.³³ Lord Hutton's report stimulated action here. The Cabinet Secretary, Sir Andrew Turnbull, instructed that there should be a return to a very old technology. Minutes are back.³⁴

Let us linger awhile in No. 10. In two key paragraphs (609 and 610³⁵), the Butler Report hurls a bolt of lightning at the Blair style of government. Or, to be precise, at the difficulty the Prime Minister's very personal way of doing business caused the full Cabinet when it was required to exercise its collective responsibility on what Butler called 'the vital matter of war and peace.'³⁶ In careful language – and the paragraphs are all the more powerful because of it – the Butler Report suggests that the reliance on 'unscripted'³⁷ oral presentations from Mr Blair and the ministers in his inner group on Iraq, without supporting papers ('[e]xcellent quality papers were written by officials, but these were not discussed in Cabinet or Cabinet committee'³⁸) meant that it was 'possible but ... obviously much more difficult'³⁹ for Cabinet ministers on the outer rim to test out the evidence and arguments of the inner circle even though discussion ranged over 24 meetings of the full Cabinet.⁴⁰

Paradoxically, the impression within Whitehall was that when it came to diplomacy, war and Iraq, Tony Blair had been at his

³³ Hutton Inquiry transcripts for 18 August 2003.

³⁴ Peter Hennessy, *Rulers and Servants of the State: The Blair Style of Government 1997–2004*, (Office of Public Management, June 2004), p. 8.

³⁵ Butler pp. 147–8.

³⁶ Butler p. 148.

³⁷ Butler p. 147.

³⁸ Butler p. 147.

³⁹ Butler p. 147.

⁴⁰ Butler pp. 147–8.

ISSUES OF EVIDENCE

most collegial, certainly more so than when dealing with domestic or economic affairs.⁴¹ Here is a very well placed Downing Street insider in April 2003 on what he called 'The Prime Minister's Morning Meeting on Iraq.' Was it a proper Cabinet committee, I had asked.

It's pretty damn close to it. It met pretty well daily at 8:30 with a fixed membership and prepared papers. If it had been called a Cabinet committee it would not have been any different.⁴²

Dearlove and Scarlett met with the Prime Minister for 30 minutes before each meeting of what inevitably became known as the 'War Cabinet', fuelling still further the belief in Whitehall that the moth-and-the-flame syndrome was in operation.⁴³ Along with the Foreign Secretary, Jack Straw, the Defence Secretary, Geoff Hoon, the Chief of the Defence Staff, Sir Michael Boyce, and the Prime Minister's Foreign Affairs adviser, Sir David Manning, Dearlove and Scarlett were regular attenders at the 'War Cabinet'.⁴⁴

Plainly Lord Butler and his Privy Counsellors did not believe that this inner group was as near as made no difference to a proper Cabinet committee. The Prime Minister was contrite on this criticism when he announced the four changes he would be making in response to Butler during the House of Commons debate about the report on 20 July 2004. Mr Blair accepted that it had been 'an informal group', and pledged that in future 'such a group, which brought together the key players required to work on operational military planning and developing the diplomatic

⁴¹ Hennessy, *Rulers and Servants of the State*, p. 10.

⁴² Private information.

⁴³ Hennessy, 'Spooks mustn't be spinners'.

⁴⁴ House of Commons, *Official Report*, 20 July 2004, col. 195.

ISSUES OF EVIDENCE

strategy, will operate formally as an ad hoc Cabinet committee.⁴⁵ (The three other changes Mr Blair promised involve, from 2005, the chairmanship of the JIC going to an official without expectation of a subsequent appointment in the crown service; the separation of analysis and advocacy in any future intelligence presentations to the public; and a review of SIS agent-report validation procedures and the place of the experts of the Defence Intelligence Staff in the overall internal hierarchy of esteem within the Whitehall intelligence community.⁴⁶)

In terms of proper collective responsibility, I think, the Labour Cabinet of 2002–3 was as much at fault as the Conservative Cabinet in late October 1956 when the Prime Minister, Sir Anthony Eden, told them that ‘from secret conversations which had been held in Paris with representatives of the Israeli Government, it now appeared that the Israelis would not alone launch a full-scale attack against Egypt.’⁴⁷ You did not have to have had a career at the Government Communications Headquarters to decode that one. Eden’s Cabinet did not press him on it as they should have done. And the consequences meant that for Whitehall, *not* ‘doing an Anthony’ was a kind of governing norm for a generation after.

In the long-term memory, the equivalent of the 1956 ‘collusion’ is likely to be the ‘45 minutes’ WMD readiness report. I never thought I would live to see the day when the public was told how many human agents SIS was running in a hard target country at a tricky time.⁴⁸ In the old days of ‘need-to-know’, very few were privy to such knowledge, and those who were had to sign several

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ National Archives, Public Record Office, CAB 128/30, CM (56) 72, Confidential Annex, 23 October 1956. See also Peter Hennessy, *The Prime Minister: The Office and Its Holders since 1945* (Penguin, 2000), pp. 218–47.

⁴⁸ Butler pp. 100–4.

ISSUES OF EVIDENCE

bits of paper before being told and were instructed to take such secrets with them to the grave.⁴⁹

Thanks to Butler, we now know that it was the most alarmist *and* unproven of the handful of human sources in Iraq who supplied the '45 minute' material and that this provider was subsequently deemed unreliable.⁵⁰ As Sir Michael Quinlan's review of the purposes of British intelligence organizations for the Major Government stressed in 1994, such capabilities are vital for securing the last, opaque five to ten per cent of carefully guarded information from a target country.⁵¹ Here human intelligence can range from pure gold to misleading dross and the toughest standards of validation must be applied to it. People who live in press offices or who work as special advisers are not normally faced with such stretching criteria as they fashion a press release about public service delivery or brief on a wheeze that might be used during Prime Minister's Questions in the House of Commons.

In the context of evidence-driven policy, the reason the United Kingdom sustains its 150-year tradition of permanent, politically neutral crown service is that the system needs such 'congenital snaghunters', as Hugh Dalton called his Treasury officials at particularly irritating moments in the early post-war years,⁵² to work alongside ministers and politically-appointed special advisers whose driving purpose, as Enoch Powell liked to put it, is

⁴⁹ Private information.

⁵⁰ Butler pp. 101-2.

⁵¹ This report has not been declassified but its essence can be savoured in Sir Michael Quinlan, 'The Future of Covert Intelligence', in Harold Shukman (ed.), *Agents for Change: Intelligence Services in the 21st Century* (St Ermin's Press/Little Brown, 2000), pp. 61-70.

⁵² Peter Hennessy, *Whitehall* (Pimlico, 2001), p. 124.

ISSUES OF EVIDENCE

'to give the people a tune to whistle'.⁵³ The Hutton Report was eloquent, as we have seen, about the possibility of 'subconscious' blowbacks from those whose skills lie in presentation affecting crown servants whose overriding duty is to speak truth unto power however inconvenient this, on occasion, might be.

But the biggest revelation from the combined Hutton/Butler lightning flash about the use of evidence in government is that the road to Baghdad was *not* paved with the intelligence product. The Butler Report shows that in the spring of 2002, when the Blair Government switched from containing Saddam to a policy designed 'to enforce disarmament [it] was not based on any new development in the current intelligence picture on Iraq.'⁵⁴ And, in the run-up to the war, the Attorney General, Lord Goldsmith (who eventually judged it legal without a further, specific United Nations' resolution authorizing the use of force⁵⁵), warned his ministerial colleagues that 'there would be no justification for the use of force against Iraq on grounds of self-defence against an imminent threat.'⁵⁶

Is there much left to learn about the twists and turns on the road to Baghdad post-Hutton and post-Butler? I think there *is* something concealed somewhere of particular relevance by which I mean the role of the UK's special forces in the months before the war for the purposes, in the jargon of the military, of 'shaping the battlefield'. If the Special Air Service or Special Boat Service teams found any Al-Hussein Missiles in the remote desert, (a) they would not have left them as they found them, and, (b) ministers on

⁵³ He used this metaphor on more than one occasion in conversation with the author. He had in mind, he explained, the Protestants 'whistling' the Catholic Stuarts off the throne in 1688 to the tune of *Lilibulero*.

⁵⁴ Butler p. 105.

⁵⁵ Butler Annex D, pp. 181-7.

⁵⁶ Butler p. 94.

ISSUES OF EVIDENCE

the Prime Minister's inner group on Iraq would have known about it.

It is most unlikely that Iraq 2003 was the first recent conflict involving British troops which did not involve such prior precautions and preparations. There is not a whisper of this in Butler. But there was in the House of Lords almost exactly a year earlier in the reply from Lord Bach, Minister for Defence Procurement, to a carefully framed question from Lord Judd of Portsea, himself a former minister in both the Foreign and Commonwealth Office and the Ministry of Defence.

LORD JUDD asked Her Majesty's Government:

- (a) what action they or their allies took in Iraq before the outbreak of the war to incapacitate all known scud missiles, similar weapons or other weapons of mass destruction;
- (b) how successful this action proved to be;
- (c) how many such weapons were incapacitated;
- (d) how many such weapons remained operational; and
- (e) by what date such action was completed.

LORD BACH: As an integral part of the wider combat operation against Iraq, the Coalition undertook a variety of operations in order to neutralise the threats posed by the Iraqi Regime. I am withholding further details under Exemption 1 of the Code of Practice on Access to Government Information, which covers Defence, Security and International Relations.⁵⁷

But the biggest gap (which, perhaps, should not be called that as it was beyond Lord Butler's remit if not Lord Hutton's) is motivation. If intelligence was not the driver on the road to Baghdad, what was? Seeking, in the title of Peter Riddell's fine

⁵⁷ House of Lords, *Official Report*, 17 July 2003, PQ Ref No. 4189N.

ISSUES OF EVIDENCE

study,⁵⁸ to hug the Americans close whatever the evidence indicated? Not for Butler or Hutton to judge that one. I think the Prime Minister himself revealed the clue when he searched his conscience (his own phrase⁵⁹) before the House of Commons on 14 July 2004, the day the Butler Report was published. Saddam, Mr Blair said,

had no intention of ever co-operating fully with the [weapons] inspectors, and he was going to start up again ... I say further that if we had backed down in respect of Saddam, we would never have taken the stand that we needed to take on weapons of mass destruction, we would never have got the progress on Libya, for example, that we achieved and we would have left Saddam in charge of Iraq, with every malign intent and capability still in place, and with every dictator with the same intent everywhere immeasurably emboldened.⁶⁰

This passage in Hansard made me go back to a note I took in the weeks after the war following a conversation with a specially central figure to whom I had put the question – what *was* that war for when one strips away all the inessentials? The answer?

Iraq was the place where, if you were ever going to do anything about WMD that was it, because you *could* do something.⁶¹

Now back to Robin Butler's paragraph 427. In the spring of 2002, when containment of Saddam ceased to be the policy,

⁵⁸ Peter Riddell, *Hug Them Close: Blair, Clinton, Bush and the 'Special Relationship'* (Politicos, 2003; updated paperback edition 2004).

⁵⁹ House of Commons, *Official Report*, 14 July 2004, col. 1432.

⁶⁰ *Ibid.*

⁶¹ Private information.

ISSUES OF EVIDENCE

there was no recent intelligence that would itself have given rise to a conclusion that Iraq was of more immediate concern than the activities of some other countries,⁶²

countries such as North Korea and Iran whose WMD capabilities Lord Butler helpfully analysed in chapter 2 of his report.⁶³

Historians are not supposed to speculate. Nonetheless I shall finish by breaking this golden rule of my trade. Thanks to Hutton and Butler, as a well-placed UK intelligence officer put it in the days following Butler's publication, 'the doctrine of pre-emption has taken more than a kicking.'⁶⁴ I would agree with that while phrasing my conclusion slightly differently. No future Prime Minister and Cabinet will be able to take Britain into anything that is not a war of retaliation without being much more careful of both evidence and procedure. I also suspect that the day of the public intelligence dossier is done. *Not* 'doing a Tony' could prove just as powerful an impulse for tomorrow's Whitehall generations as 'not doing an Anthony' was for yesterday's. And, in that sense, the accumulation of the Hutton and Butler reports in the compost of collective memory will become a special kind of evidence in its own right.

The lightning flash may also inspire some cross-party parliamentary action. For example, the House of Commons could pass a resolution requiring the advice of the Attorney General on the legality of serious military action to be published in full before a Prime Minister and Cabinet took such a decision. The Commons Public Administration Select Committee, which in recent years has been very active on constitutional matters, including the use of

⁶² Butler p. 105.

⁶³ Butler pp. 17-28.

⁶⁴ Private information.

ISSUES OF EVIDENCE

prerogative powers,⁶⁵ might consider drafting a War Powers Bill which, if enacted, would require a Prime Minister always to make 'the vital matter of war and peace' subject to a specific House of Commons vote. Nor will it have escaped the notice of that all-party committee, whose watching brief includes open government, that at least three-quarters of the material Hutton and Butler placed in the public domain fall into those intelligence-related areas that are exempt from disclosure under the terms of the Freedom of Information Act 2000 which comes into force on 1 January 2005.⁶⁶ There is at least a chance that Hutton and Butler together could lead to a significant and enduring shift in the balance of power between the Executive and the Legislature. Should this happen, the road to Baghdad really will have provided no end of a lesson learnt.

⁶⁵ *Taming the Prerogative: Strengthening Ministerial Accountability to Parliament*, HC 422, (Stationery Office, 2004).

⁶⁶ Peter Hennessy, 'The constitutional failure that has now been laid bare', *Guardian*, 24 July 2004.