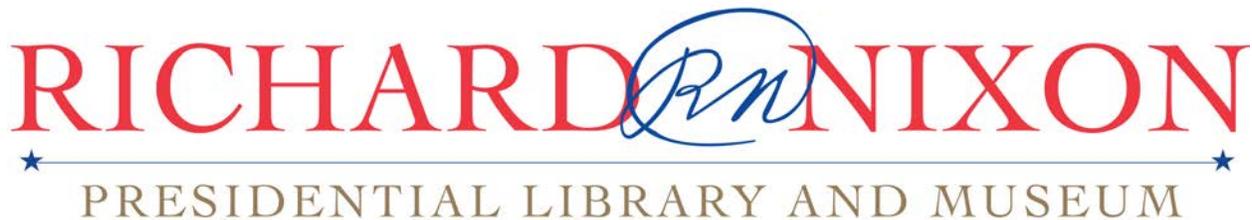


Part of the Richard Nixon Oral History Project

An Oral History Interview with ROBERT SHELTON

Interview by Timothy Naftali
August 30, 2018
New York, NY



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The following is a transcript of an Oral History Interview conducted by Timothy Naftali with Robert Shelton on August 30, 2018, in New York, NY.

Naftali: Hi, I'm Timothy Naftali. I'm a Clinical Associate Professor of History and Public Service at NYU. Today, August 30, 2018, we're in New York and I have been honored and privileged to be interviewing Bob Shelton for the Richard Nixon Library's Video Oral History Program. Bob, it's finally a pleasure to be able to do this.

Shelton: Pleasure for me as well.

Naftali: Bob, tell us what you were doing just before you joined the Impeachment Inquiry Staff?

Shelton: I had clerked for a federal judge in Baltimore, very eminent federal judge, Judge Harvey, District Judge; I grew up in the Washington area. But I wanted to be what I thought to be a real lawyer, which I considered be involved in solving problems and working for clients, not the usual administrative work that maybe a Washington lawyer does, it's good work, but it just wasn't for me. So I clerked for Judge Harvey. And then went into the military briefly in the army reserves, did basic training at Fort Leonard Wood. Not one of the most pleasant experiences of my life. And I came back to work for the Venable law firm, which is one of the premier law firms in Baltimore. And I had started there in October of 1967, and had fortunately fallen under the tutelage and mentorship of a great lawyer and human being Dick Emery. And in those days the way law practice in big firms went is you had a mentor or a rabbi you might say that you work for and normally you would rotate it around, but I stayed with Dick my entire period of time and became a partner at January 1, 1973, which in the scale of things in this firm was a rather rapid promotion. And I had been doing my best to establish myself with various clients of the firm for the prior year and that's when I was doing in January 1974.

Naftali: Did Mr. Doar call you to ask you to join the staff?

Shelton: I got a call very early in the morning, January 1, I believe 1974. I believe it was New Year's Day, I believe it could have been 7:00 in the morning. And my phone rang – actually it wasn't my residence, it was a companion of mine and the phone rang about 7:00 or thereabouts. And it was my sister Dorothy, and I knew she had been asked to work for John. I'd been very close to John in the Civil Rights Division. And she simply said, "Bob, Mr. Doar would like you to come to work for him at the Impeachment Inquiry in effect as the Director of Operations or the Administrative part of it." So I was somewhat annoyed having been awakened that hour on New Year's Day. So I said, "Dorothy, I'll think

about it.” So I slammed the phone down and the phone rang again in about three or four minutes, maybe five, very soon she says, “Bob, this is Dorothy again, Mr. Doar insists–.” So I thought for a moment, I wasn't very happy about leaving my position at Venable, because I had been working hard to get myself established as a young partner. But I said, “Fine, I'll do it.”

Naftali: So and – by Dorothy **were pretty much** [Indiscernible] [0:05:04]?

Shelton: Correct.

Naftali: So you accept this and then you are among the very first members of his team?

Shelton: I would say that's correct. I think David Haines was there and I don't think much of anybody else was there. Dick Katz was there, but he'd come before John.

Naftali: Tell us what your duties were in that first month or so?

Shelton: Well, let me set a little background for you – as to my background that equipped me for this job. I had actually began in my college years had been working for a non-profit called the Institute for Defense Analyses, which had Defense Department contracts, one of which was the Advanced Research Project Agency in the Pentagon. And IDA it was – it was called the division that I was working for it was a summer job, I was having a summer study in Newport, Rhode Island at the Naval War College. And although it was a bit unusual, I was asked to be the Administrative Officer on site for the summer study. And the study was basically the participants were very highly regarded academics, various institutions, who would collect in a period of time for a month to do a study for ARPA. And one of the appeals was that they will bring their families. So the procedure was – is that a couple of dozen of these academics and their families would be together for a month at the Naval War College. And I was selected to be the administrator on site to run this study, and that involved very stringent security procedures. I had a top secret clearance, all the rest of them did. And we really adhered to the protocols of an intelligence agency in terms of security and operations.

And I was also very familiar with the structure of running a study or a project. I worked for a very interesting man he was a Navy Mustang, which was he was came up from the ranks, but he was commander, a retired commander, a very talented administrator. He had everything set up for me in terms of personnel and processes, but I had in effect a document control clerk, we had secretaries. I had a lead secretary. So I was quite familiar with the kind of structure that would be needed to run it

administratively, a project. And I think that's what Dorothy had told John that not many lawyers had had that experience and I did three or four of those in my law school years in Newport and a couple actually in San Diego, California.

So when I showed up, my understanding was is that I would do whatever was required to run a project. And so I immediately discovered that there was some existing talent. First of all, there were about a dozen clerks that were on hand, not clear what they were meant to be doing. Jeff Banchemo was one of them, who you've talked to, who'd been hired for various purposes, I think they were all political patronage, but they were bright attractive, young people, all college graduates. So there were about a dozen of those on hand. But also there was a very remarkable woman by the name of Janet Howard, who I'd like to emphasize because she is somebody who's existed in complete anonymity, and she's very important in terms of how this project worked. She was a friend of Lois de Andrés, who was Rodino's kind of protégé and assistant. And I think it initially been thought that Lois would be the administrative head, but I think she saw that I replaced her.

So in any event, Janet was on hand, and she was a woman of great talent, knowledge of the Hill, she had been around for a while. And also real administrative abilities and she – later life became Pamela Herrmann's political – she devised the pack the Pamela Herrmann ran and she ultimately ended up as a Senior Vice President for International Relations of Coca-Cola Company. And she was a remarkable force and undertake in terms of the processes of running this project.

But in any event, John started about the processes of hiring lawyers and took him about two months to hire what turned out to be approximately 40 of them, drove the committee I think crazy in a way because they couldn't see much was happening and I said about organizing the staff. And to a certain extent it could have been and was chaotic when all of a sudden 40 lawyers descend on a – in a project, essentially with nothing to do for a period of time, need to get organized. And my responsibilities was to set up an administrative apparatus, which included secretarial help, clerical help and office details such as telephones, desks, etcetera. So I set about doing that with Janet's able assistance.

And then I basically replicated the structure that I was familiar with it running projects for IDA, and that meant first of all that I wanted somebody in charge of security. Now that I use as a euphemism, because what I really had in mind although would be a somewhat grander title with somebody who would function as a document control clerk in an intelligence setting.

So I set about hiring, what I called a Director of Security, and we put out an RFP, whatever you call it in the government, and we ended up with roughly a dozen applicants. All of whom were very qualified for major sorts of jobs, because the title was Security Officer and of course, it was a job that had a lot of sex appeal at that point in time. So there are about a dozen of them and I interviewed all of them. One of them whom turned out is – when I finished with him, he flashed a badge; he was formerly with the CIA, and why he thought I would hire somebody with that sort of credential eludes me. But any event I made a real 10 strike in terms of our Security Director, a fellow named Ben Marshall, who was a retired Air Force Colonel, unmarried important in terms of time and required for the job. Since he was retired military, we had to get a sign off from the Speaker of the House to let him be in effect, double dipping in terms of a federal salary, but that was effectuated rather promptly.

And Ben joined us, and hired somebody to work with him. And he understood exactly what I was looking for in terms of document control. And of course fit in exactly what John had in mind, because he was always – very almost, I mean, obsessed with confidentiality and security, particularly working in that type of arena. But Ben was somebody who could work as I said with our youngsters most of whom were in their late 20s, early 30s at most, some maybe in their middle 20s, perhaps. And also he was able to be there essentially night and day. When he was there in terms of controlling documents and we established a procedure of signing documents in and out with the library, so that there would be a – they were numbered and the normal chronology – the sort of thing that's done in terms of an intelligence operation, which I think comforted John a lot.

And we also decided that the library where all of our documents were stored needed some enhanced security. So we got somebody, a contracting company to come in and reinforce the library, put screening on it, so in effect it was burglar proof. And after all this was over, John who's always, one, he's always got a friend that's an expert in something that he can put a finger on. And he likes to put a finger on somebody to make sure that his mind somebody he trusts. So he got somebody by the name of Arnold Sagner, who I had never heard of, apparently was somewhat in the security business. So Sagner came in and looked over all our processes, our procedures, the reinforcement of the library. And he told me, he was there for a day that he was satisfied with what we had set up in terms of security. So in any event, we ultimately ended up with a staff including the lawyers of about 100. And it was my job to handle everything that was required in terms of the administration of a group of people.

Naftali:

When John Doar was able to get the materials from the Senate Select Committee.

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- Shelton: Right, that was Tom Bill.
- Naftali: Did that collection of materials, which I understand was about 18 boxes or so, did that include classified materials?
- Shelton: I doubt it. It doesn't make any difference, we treated it all the same. Our protocols would have been what you would use for classified materials. I don't recall that I had that conversation with Tom. Tom was the liaison, as you may recall, who facilitated the transportation of that material over to the library. I should also say in a part of this, because Jeff of course had some piece of that. We established the procedure of disposal of confidential waste once or twice a day, Jeff with this – this is one of our clerical people with Ben Marshall and his assistant would take the waste that we consider to be confidential over to wherever the incinerator is and go through the guards and actually see the fires consume our materials and then report that had been duly destroyed. So an answer to your question that's a little bit of a digression, but it led me to another point, I don't recall any of that was classified.
- Naftali: And when in March of 1974, when you received divulging briefings –
- Shelton: Right.
- Naftali: With the tapes and the roadmap, you had already set up this document control system. So, I guess that's –?
- Shelton: The document control system had been totally set up and the processes of that Maureen Barden, who was the Head of our Research Library Group, extremely talented focused, young woman. She had a group of, I guess, ended up to be 10 or 12. And she would have catalogued everything and numbered them and whatever. And so, documents would be checked in and out from the library as needed by lawyers as they wanted to work on it. So that material from Tom Bill got from the Senate Select Committee would – had simply been integrated into a lot of other documents that were already in the library.
- Naftali: Was there a need to know system?
- Shelton: I think initially John was very fussy about that in terms of when the materials came over in the briefcase from the judge, the records chambers, and I think I went with John over to get those materials and we brought them back. He was very particular initially about who could listen to the tapes. There were just a few people permitted. I think that the need to know became – the group became very bonded and cohesive in a very short order, because it was like very intense and together, and I don't think there was any need to have a need to know. I think there was total
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confidence. Even – and I hesitate to say this because you've gotten from others about the integrated staff with a minority and the majority. And the way it worked is that they were, I really didn't even know who had picked, which members of the group they worked and on particular projects. There were a couple of big ones and then subsets and I didn't even know which minority had picked except for Garrison who of course was the more partisan and became the counsel in due course.

So I don't think there was ever any hesitation about leaks after a relatively short period of time, although we did follow those processes very carefully. And then we did have all of this received over time, letters from Jack Anderson and various and wanted to know if we wanted to talk to him. So I would say though on a need to know basis except at the beginning, I don't think so. But I really don't know totally because that was up to Maureen and Ben Marshall.

Naftali: Tell us how the administration of materials changed when you got tapes? What would you play on equipment?

Shelton: Well, the tapes are a long story. And I'll start at the beginning. We initially got transcripts over seven of the eight tapes. There were eight tapes that were subpoenaed and we got transcripts for seven of them early in March. Transcripts for all, but the April the 16th tape and those were the same ones that the Senate Select Committee had received also.

So, we had transcripts for a short period of time before I went over with John to get the briefcase, which was March 27th. And John had told them, I think it'd been my sister's suggestion, John was with the view that he would kind of ruminate with his thoughts with some people that he trusted and knew well, and I had been – I believe he'd been talking to Dorothy, about when we got the tapes, we're going to need to know how to play them. So somehow I got that information from Doar, I very rarely spoke to him, had much to do with him actually that we needed to have the capacity to listen to these tapes when we got them. So I am far from being a techie, I know it and I knew it was going to be a significant project.

So I was able to hire somebody who became very, very significant by the name of John Halverson – Bob Halverson, who had been the Tapes Consultant for many years for the Library of Congress. He was a man in his 50s. So when I got the word that this would be my responsibility, I checked around and through a friend of mine, I went on to Bob. So I talked to him and satisfied myself that he was eminently qualified and interested. So I hired him as a consultant. And I said, “Bob, what you need to do is when these tapes arrived in this office, you need to have machinery available that these eager beavers can jump on instantly to start listening to them.” So when the tapes came over, he had, I don't know,

several machines, four or five, small machines available for listening. So they immediately started listening, again on with John's direction, limited number of people who were permitted to listen to them initially.

Naftali: So, you're beginning, you were building this capability in anticipation that you would get from the grand jury these tapes?

Shelton: I knew we would get the tapes, and I hadn't been told to be prepared to listen to them. So I had not just a tech, I had somebody who had real capacity.

Naftali: You developed a system not only for listening, but also for duplicating?

Shelton: Well this is a sequence. The tapes were of two types and two different qualities. The tapes which had been taken in the Oval Office, of which there were five. I think there's a mistake in the materials of the inquiry, but I'll come back to that. Five of the tapes had been recorded in the Oval Office. And these tapes were relatively – and I stress relatively clear. The tapes that came from the EOB was voice activated and the President would go over there on occasion to talk to various people and the tape recorder would run just when he spoke were very, very unclear.

Even so the transcripts that came over, even of the Oval Office tapes were very sketchy and didn't really tell a narrative. The EOB tapes were totally unintelligible; the transcripts had wide sections of unintelligible and blank spaces. So I was aware that the transcripts were considered inadequate by essentially everybody. And it wasn't too long that Bob came to me and he said, "Bob, the tapes that we've received from the special prosecutor were copied mike to mike." He said, "You can't make much more out of them than a Special Counsel has done or the White House." Because the audio is so garbled, he said, "What we need to do is to get access to the originals. And if we do that, we can make tapes such that we can make clear transcripts of these meetings."

So I very rarely went in to see Doar, but before – and so I went to Bernie Nussbaum, who was the Head of our Factual Investigation. And I described the situation and I said, "Bernie, I'm told that these tapes can be improved considerably, if we can get access to the originals and make our own copies." I said, "You need to go to John and tell him we have to have access to make adequate recordings." And whenever I tell this story, I always have to have a caveat because Bernie Nussbaum is a man of more than adequate ego. But he said to me, he said, "Bob, you have more influence over Doar than I have." I said – he said, "You go."

So I made an appointment to see him and I went in and described the situation. I told him about the recording was done mike to mike and we

needed to get recording wire to wire, this was a subject he knew nothing about, nor had I. I don't know if he had ever listened to any of the tapes, I doubt it. So he thought about it, always cautious. And so I emphasized it was really critical in order to prepare adequate transcripts. Tapes without transcripts that are accurate are not tapes. So he finally – he said, “I'll do it.” So in any event, I went back to my business and several days elapsed and Bernie came back to me and he said, “Bob, what happened about the tapes?” He said, “You need to go see John again.” So I went to see him again. And I said, “We've really got to get access, if you want to have good transcripts to deal with.” And I told him about Bob Halverson and you know, he knew about all the unintelligible and he also knew from his own conversations with Ruth that there was lots of unintelligible and that you meant to have people with good hearing. So he knew that the tapes were a mess. So in any event, I think I went two times, maybe three. And the third time he said, “I've talked to Mr. St. Clair. And he said, “You can go over, call him to make copies of the February 28 tape.” So I had no idea of where the idea of the February 28 tape came into view. First of all, it's an early on tape, it's only John Dean. It's not an important tape. It's an Oval Office tape, which means it was relatively easy to get a transcript. But I said, “Fine.”

So Bob Halverson and I got our stuff, as I call it, in those days recording equipment was stuff. And I called St. Clair and we went over and get into the EOB, and we were shown to a small, little office in the Executive Office Building. And after a while, I was summonsed into Mr. St. Clair's office. And as I previously described it, it was baronial, the word I like to roam because our offices in the Congressional Office Building were not baronial. Far from it, a couple of couches, a couple of fireplaces. He is seated behind his desk, short man and got up, came towards me. I'm not sure that even shook my hand. I mean, there's clearly no small talk at all. And he said simply, “Mr. Shelton, Mr. Shelton, I understand you're here to copy the February 28 tape.” And I said, “No, sir. I'm here to copy all of them.” So in those moments, of course time stands still. He looked at me, paused, I could see him thinking. It wasn't a long time, but it wasn't a short time. But he finally he nodded. He said, “Very well, Mr. Shelton.” He went back to his desk. And I went back to our little office. And the first day we got one recording, there all day long.

The issue in part is I'm not sure that St. Clair ever listened to the tapes. Later on in June, he hadn't listened to any of them. Buzhardt was in charge of the tapes, they were in a safe. He had sole dominion over them. So Buzhardt had to get the tape, get the amount that we would have and have it brought to us. So we had one tape the first day. So I said to Bob at the end of the day, I said, “We're going to leave our equipment here, so they'll have to let us back in when we come tomorrow.” So we were there for an

entire week, I think like Monday through Friday in which we got eight of the tapes recorded.

Naftali: For those who don't know what follows getting better copies of the tapes would have dramatic consequences.

Shelton: Well, let me finish up with one little anecdote. Because at the end of our time, we got all of our, as I say stuff, and we got out I think it's the sort of corner of Pennsylvania Avenue, it may be 17th Street where the EOB is. And it was rush hour like on a Friday afternoon. And I was hell bent that we were going to get back to the offices that evening. So at that point in time, they have what they call the shared ride in the District of Columbia with taxis. So I went out in the middle of Pennsylvania Avenue and stopped a taxi, taxi stopped. And in the seat is Dan Rather, I recognized him. So I didn't say, I said, I didn't address him by name, I just said, "If you would be kind enough to move up into the front seat, my friend and I can be in the backseat. And if you'll hold on for just a moment, we have some stuff that we'd like to put in the trunk." So he went into the front seat, he was just going to the front door and I think to the White House just a short way, and somebody asked me one time was he rude? He wasn't rude. He was annoyed. But he had no idea that we were traveling tapes back to the Congressional Office Building.

Naftali: Did you have to report this as an interaction with a journalist?

Shelton: I'm not sure they had reporting requirements in '74.

Naftali: So you're bringing back the tapes in a briefcase or what have you?

Shelton: We would bring them back in a briefcase, right. We brought them back every evening what we had. We had a chess set. What would we do all day long, Halverson bought us a little chess set. And I still have it, a little box, a little portable step chess set. And we would sit there and wonder what was going to happen next or play a game in chess and wait for something to happen.

Naftali: It took this long, because it was real time the tape to –

Shelton: Well, no, real time and also Buzhardt had to personally get every tape. We probably would only get one a day, sometimes maybe two, there were eight of them.

Naftali: Did you interact personally with Fred Buzhardt?

Shelton: Never saw him ever. Some secretary would bring the recording back to us, when we were finished, we give it up, wait again.

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- Naftali: And they gave you a small office in the EOB –?
- Shelton: Tiny little office. Tiny little office and we would go there and take up our post every morning 8:00 or 8:30 and wait for something to happen.
- Naftali: I know it's been a long time, but are we talking about the first couple of weeks of April?
- Shelton: I would say that probably we got the tapes March 27. I think probably early April is when Halverson would have said to me, “We need to get the originals.” So it happened rather quickly. I'd say it probably took about 10 days or two weeks for John to get in touch with.
- Now my own view, I don't know if you had seen the statement of information that I wrote. If you haven't I can, it was to be sent down to the Nixon Library, I'm not sure it was. But in any event, John said to me – sent me a note later on, note of appreciation and he said, “When I think how you,” he had these words “Urged me to get the original tape and to get them transcribed, I'll be forever,” or “you urged me to get in touch with Judge Sirica.”
- Now that I think is interesting and material, because he didn't tell me he'd been in touch with Judge Sirica. He told me he'd been in touch with Mr. St. Clair. In my own view knowing the dynamics of it, I think the fact that St. Clair agreed with a totality of it, meant that it's been on the order of the judge. And I think the fact I'm going to come back and ramp and give my own kind of impressionistic of how this has happened. My own view is that it was a little unusual. It was an ex parte communication with a judge, what a lawyer would say that for John to be in touch with or indirectly with a judge, it could have been with his good friend Henry Ruth in the special office. But I do think that his note to me was accurate that he had been in touch with Judge Sirica and thereafter it had happened with Mr. St. Clair.
- Naftali: And as a result of all these efforts, you had, I believe some transcripts available to compare against the Nixon transcripts that came out on April 30.
- Shelton: Well, let me, this is another part of it is what did we do with the tapes once we had them? We set about doing our own transcripts. And I picked somebody named David Haines, who was one of John's special assistants, good Republican, Haines Mills; his brother had been in the Eisenhower administration, he had formerly been a clerk for a Supreme Court Chief Justice. He's a friend of mine, also in my judgment very anal personality. You wants somebody to listen to tapes all day long, struggling for words,
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it requires real perseverance and he was interested in the job. So I asked David to do a whole revision of the transcripts we'd gotten from the White House from the Special Prosecutor.

Special Prosecutors' transcripts weren't any better than the White House transcripts, essentially the same. So David spent an entire week, 8 or 10 hours a day listening to tapes and revising the transcripts. And we had transcripts that were materially different, I saw the narrative, there weren't just little sketches of this and that. John was aware of that. I think he'd seen them, very happy about it. So I think he was going to show off a little bit and it was decided we were going to play the tapes with the new transcripts to the committee. By the time that it happened, I discovered because of Halverson that even Haines' tapes weren't the final word.

So Haines and Halverson and I have prepared another set of transcripts, which I call the Haines' revised transcripts. John being John wasn't confident in those, because he thought that Halverson and I had been meddling with it, whatever. He was confident in the Haines' tapes. So we had a hearing with all the committee, each had a recorder, each had transcripts and we played over one of the tapes for them. It was interesting, because right away various members were raising their hands saying I can hear additional words.

So I discovered what I call the first of three principles for transcribing these things. Number one is the more you listen to these things with a transcript in front of you, is the more words you're going to hear. The second principle that I discovered and I'll recover that is people with ordinary hearing that varies in terms of their hearing acuity. Before I got into the next section of it though, we hired somebody that Halverson knew who had been a NSA consultant for digging tape recordings from the Kremlin or whatever or what they call the mud. This is – he was a consultant for the NSA. He was a blind man that you may have heard other people mention. And he showed up and he was there for a day, spent the whole day, got a few more words out of the EOB tapes, not many, very labor intensive. So he was the one that suggested we buy all this high powered equipment to listen to these things, it wasn't much better than just an ordinary recorder.

So in any event, once I discovered that people have difference in their hearing, I don't have particularly good hearing, I'm normal hearing but not ultra the way. Halverson did have unusually good hearing. We decided to have somebody else take a run at these transcripts. So we had an audition which was run by Halverson and we took volunteers. And we tested on a group of the – one of the segments of the tape, what words they got out of it, testing their hearing, and we also made a judgment decision about whether we thought they would be interested in doing this type of work.

So Halverson and I evaluated, we had 15 or 20 people. I think Hillary might have taken a crack at a listener or not, I'm not sure about that because I didn't run the 15 or 20, Bob did. And we picked up one of the clerks whose name was Jeff Banchemo, and Jeff had three of the characteristics that David Haines had. One he had very good ears. But two, he was clearly very persistent, I mean, you could tell that in terms of the test we gave, we had him write something up with the semicolons were right, the comments right. He was an anal personality. He was very interested in doing the work, much better work than taking the trash out to the incinerator once a day. So we picked him to try another run at our transcripts, so we're getting better and better by the way if you've looked at the comparison, there's no difference, I mean, huge difference.

I discovered a third principle, the one is that the more you listen and you get different words, which is the more you listen, you start hearing words that other people aren't going to hear. So we established a basis that before we would change anything in our base transcripts, we would have to have a panel of three people who could hear those words. And I think that the reliability and Jeff spent hundreds of hours by the way, I think he said that in his interview and the rest of us. Halverson was full-time at this point in time.

The Members of Congress came over up on the committee, a lot of them to listen, and there was never one person to my knowledge that quibbled saying that our transcript was inaccurate in any way at the end of all this process. And Bill Weld says on his talk with you, grand jury transcripts, I mean, you can get into big arguments of whether transcripts are accurate or whatever. The members came in and many of them listened to our tapes and transcripts and there was never any question about the reliability of what we had in those transcripts.

Naftali: After this challenge, what role did you play in helping the library prepare the Statements of Information?

Shelton: Well, let me make a comment here if I could in terms of this whole process. I think in terms of history and I think this is what is startling at least in my course I'm so close to it. Nixon fought tooth and nail to keep the tapes away from everybody. There is an episode called the Stennis Compromise, his first proposal when the tapes were subpoenaed by the Special Prosecutor, were to have summaries of the tapes authenticated by the probably someone senile and at least somewhat, he was quite aged at the time, Stennis, not to send the tapes but to send transcripts of the summaries of them. And Ervin bought off on this, but Cox did not. And that's what led to the Saturday Night Massacre.

So I think what history, you know, historians that come after you and me when they really – when they get up into the sort of, how shall I put it, a context of this whole process is Nixon actually didn't send the tapes. It appears what he sent were defective tapes. And he sent them to the Special Prosecutor, and the Special Prosecutor sent them to us. So it's not just the fact that the transcripts were inadequate or inaccurate, he sent defective tapes. And I think that's a fact that's startling in terms of the way historians have written up this episode. So I'll leave that with you, you're a presidential historian, maybe Woodward and Bernstein would like to have a crack at that some point in time.

Naftali: Well, the implication of course is this was a knowing obstruction by lawyers?

Shelton: I think that it's – when you put the pieces all together, one how he fought tooth and nail not to hand over the tapes, he fired Cox rather than do that, that's how much he cared about not sending over the tapes.

Naftali: And we saw – and what's interesting also is with the April 30 transcripts when he responded, the President responded to the subpoena from the House, from the Judiciary Committee. His response was again a transcript compromise?

Shelton: Exactly.

Naftali: Which you were able to show the obstruction behind that because of the comparison issue?

Shelton: Well, let me comment. My sister – this was Renata Adler's suggestion as I understand it, who was sort of a consultant to Doar. She thought that there clearly had been some changes in the transcripts, the way they were sent over. And Dorothy did a comparison which I think you've seen and it's not only they're great big unintelligible blanks that are put in; there was clearly some intentional changes in the wording. So I think that it stands to reason that if he just sent the transcripts and wasn't had the tapes, who would know. So I think this – I mean to me and I've never – if it was a part of the routine and I don't think this has been something.

When people talk about the tape switching of – Alexander Butterfield said the tapes and everything, the sun shone, the fact of the matter is, is that I think there is one, as the lawyers would say, one chain missing in the sequence, is did we get the originals that came from the Special Prosecutor or did he make bad copies. And my own view is that we either got the originals that the White House sent over or he made copies of bad copies.

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- Naftali: When – on the 29th of April, word came to the inquiry staff to John Doar that that night the President would be announcing that he was not turning over the tapes but he's turning over transcripts –
- Shelton: Right.
- Naftali: But he would be permitting Rodino and Hutchinson, Hutchinson was the ranking member of the minority, to come over and listen to the originals.
- Shelton: Same idea.
- Naftali: As same as the Stennis –
- Shelton: Same idea. Same idea.
- Naftali: Do you recall being brought it in all on, because the subpoena doesn't go out, the rejection doesn't go out until May 1. If were you – had you talk to either Rodino or –
- Shelton: No. No. No. But well known among everybody and the staff by April 29, that the transcripts that the White House sent over were not only inadequate, but inaccurate.
- Naftali: Just to clarify this for those watching. You have received White House transcripts already, is the famous Blue Book that doesn't come out until 30th of April?
- Shelton: That's correct. But we got transcripts early in March. Now there's one footnote that I want to put in here which is –
- Naftali: I should clarify before we get into it, those transcripts that came over with the bulging briefcase –
- Shelton: Correct.
- Naftali: Had been made by whom?
- Shelton: Those transcripts were made by the White House. There were two sets of transcripts that came over, one were the White House transcripts, but then the Special Prosecutor had tried to do their own, which I've said were not materially any better.
- Naftali: Did those came over with the bulging briefcase?
- Shelton: That's correct.
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Naftali: That's the fact. So, you had already the White House's first crack at transcripts for these tapes, which were already bad?

Shelton: Right.

Naftali: So you already knew that whatever they gave you on April 30, it's not likely much better?

Shelton: We had already done by mid-April. I'm thinking in terms of chronology, we had already gotten the tapes and done our first crack at showing that they were inaccurate by that point in time. One little footnote here is not going to interest your audience at all, the first group that came over were not eight, they were seven. And the April the 16th tape was not included in that first batch that we got, but it was included in the April 30 batch. There's one other point that I want to mention just in terms of a footnote. We got more of the March 22 tape than we were entitled to.

If you look at the comparison of the transcripts, there is a whole section where there's no comparison. And one piece of that is very material because it's that one part where the President says, "Don't let it hang out, do what's required to bury this thing" in effect. That part was never in the transcript, and that we obtained actually by accident. And it was really part of the – it was a very important piece of the material that we got. So I'm only making that point in terms of historians, is when they see the comparison of the transcripts, you're going to see this part sticking out on March 22, and that's the part that we got that was inadvertently given to us by Buzhardt and turned out to be quite material.

Naftali: And they did not include that in the Blue Book?

Shelton: Correct, correct. One other final footnote, I think that – not only for your viewers but also historians and I happen to have a unique. I think there's an error in the material that came over, this – in the work that the Impeachment Inquiry Staff did. They labeled the April the 16th as being an Oval Office tape. I think it was an EOB tape, one is totally unintelligible, two was done in the afternoon, and three, I'd always heard that there were five and three. And so that matches up the numbers of five and three, but I do think that April the 16th tape is an EOB tape for those reasons. Here again just for some historian that comes after you and –

Naftali: Did you ever interact with Chairman Rodino?

Shelton: Never, never.

Naftali: Did you had the chance to interact with Mr. Jenner?

Shelton: Actually, I interacted with Mr. Jenner a fair amount. I think this is an interesting point. Mr. Jenner was never an employee of the Inquiry Staff. He always was a consultant. He didn't give up his partnership at Jenner & Block. And he would come to town periodically, and very convivial gentleman. I had lunch with him a couple of times in the Metropolitan Club. Good lawyer. Not deeply involved in the work of the Inquiry Staff. And not a partisan. He bought into the part that it was a fact finding expedition, and not a – up to him to be a partisan. Garrison did of course of later on, but he supported John which was crucial.

Mr. Jenner – Hutchinson later described him to his group as somewhat of a dilettante and I think that's not totally inaccurate with respect to the work that he did. But his job was to be supportive, which he was 100%, not of John but of the process, the process of looking at the material, analyzing and presenting it. So I have the utmost respect for Mr. Jenner and I think the part that he did was invaluable.

Naftali: Did you interact with any of the elected members of the Congress?

Shelton: I know a Congressman named Sarbanes somewhat, but I never said anything to him at that period – during that period of time.

Naftali: Do you remember concerns—segue way—do you remember concerns about leaks because they're – the press was writing about [unintelligible].

Shelton: I don't believe there were any leaks that came from the Inquiry Staff for the reasons I stated in detail. Let me also make another point here in terms of the process as a document control. We got piles of resumes of people that wanted to work for the Inquiry Staff, pile of them made on to my desk which I paid absolutely no attention to, because if you look at the staff, there is a one lawyer who is a Congressional staffer or involved in the political world. They were all selected by good friends of Doar like Judge Johnson or Burke Marshall, as people who would be reliable, conscientious, performers. So I think a part of it – I think the processes and the emphasis on confidentiality is important, but the real key to it is the sort of people that were involved in the undertaking.

Naftali: What role did you play in piecing together the Statements of Information?

Shelton: Well, let me back up a little bit. I told Doar that I would sign on for four months and I started essentially January 3, and so my four months were up in end of April. And I meant it because I was, you might say a reluctant warrior as I've described. But I stayed on until I was satisfied that everything was in order, that the transcripts were completed, that the administrative apparatus was functioning smoothly. And once I was satisfied that that was the case, I went in and I said to him that I thought it

was time for me to go. And he wasn't happy about it, but he agreed. He asked if I would come back if I was needed, and I said of course, and I did come back when we prepared to make a presentation to the entire Congress.

Bob Halverson – we produced about a hundred listening machines that we had in a great big auditorium somewhere, all ready for the Congressmen all to come in and listen to them. They never did, but we were ready for that. And I did come back for a couple of days, and I might have had some fine tuning to the apparatus that needed taking care of. Let me also – the presentation went on for some time and I think it drove the members crazy, but there you have it. The process of getting those 47 volumes together with 38 copies by the old fashioned Xeroxing that we had, and putting them in volumes and to get them, it was every night to do that so they would be available the next morning.

And here again it was Janet Howard and Maureen Barten that did that really herculean task and it's barely administrative but it was crucial. And I remember, I think Maureen said that in her note that on the first day went off without a hitch and there were 40 volumes and there wasn't a page out of place. Well, that was Maureen's doing and Janet's doing, not mine.

Naftali: Okay. Let me go back to something you just mentioned. You said you came back briefly to set up the listening arrangements for the entire House. I assume we're talking about that very brief period from the passage of the three articles through the President's resignation when it appeared at that point that the three articles of impeachment would go into the entire house.

Shelton: Probably, probably.

Naftali: And since we've been enjoying time, but footnotes which matter to historians and others perhaps. You received tapes other than the eight, you also received the tape of tapes, I believe, there were other tapes that you received eventually?

Shelton: Right.

Naftali: Those came in – do you remember when they came in? They didn't come on March 27?

Shelton: I don't know when that came in and I'm not sure I was still there when it came in. And I assume we did our own transcript of that.

Naftali: So that's the tape from June of –?

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- Shelton: Correct, June 4, right. It came in after the court decision.
- Naftali: Not sure, well it was I think it was a tape offered – the White House did offer some tapes that were not subpoenaed. Tapes that were helpful for the President.
- Shelton: Yeah and I've – well, I guess we didn't part – we didn't pay as much attention to getting every word correct on those.
- Naftali: Are there any anecdotes or stories that we have not touched upon that you'd like to –?
- Shelton: You know I kind of – I don't know this is an anecdote or a story, but it was material. Early on you noticed – you say in terms of my work, I would say I did this or I did that, did it occur to you whether I was – anybody was paying any attention to what I was doing? In any event, early on, John and I – John is a control guy and I think that's – I can't tell you what he did in terms of this process, was a tour de force, he and Rodino. I think the fact of the matter is that they were somehow able to set the table, so that the people who were not partisan could come to a decision of what the right thing to do. And to do that was a combination of very subtle, some not so subtle factors, and they were continuous. And I think his ability and his – fact that he was able to do that with Rodino was ultimately responsible for the outcome.
- But he was a mother, may I kind of control guy. And very early on and I don't want to over emphasize this, but I think I made it very clear that I would run the administration and I did and he came to be very happy with that. And he had plenty to do in his part of the world. And I think that made for a very harmonious relationship in terms of the outcome.
- Naftali: When you left, what surprises had you had in this process besides learning all about tech things that you didn't know about?
- Shelton: Surprises that I, you know, it's my reactions, you've talked to dozen, may be dozen and a half people who were involved, who I –
- Naftali: Over 20.
- Shelton: 20.
- Naftali: Over 20.
- Shelton: Who were much more excited about this than I was, I was – to me what I did, I was asked to do a job and I did it. And it was tough work, it was seven days a week, I didn't do the – you know, the wee hours in the
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morning but rarely, but it was an undertaking. But to me it was something that I needed to do, I was happy to do and I did it. I didn't really have the excitement that I think maybe some of the people that you've talked to had

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Naftali: You did have a Eureka moment, weren't you when you saw the differences?

Shelton: Well, you know, to me the Eureka moment was when I said to Mr. St. Clair, I want to copy all of them and then I knew that from then it was all downhill.

Naftali: Well, that's – we should quibble but that was also, that was – that was a bit of self-possession because you did was a good thing that you were doing – you went beyond your briefing?

Shelton: Well, you know, you haven't asked something which I think is interesting, is did I intend to do that? And maybe subliminally I intended to do that because I was very unhappy about it. And you see here again it indicates the desire to keep control of the tapes and not the transcripts. You see this was to be a test case, and it's not a good test case, it's an inconsequential tape and it's an Oval Office tape.

So I thought it was kind of a set up and it didn't make any sense to me. And so, John said to me, "You can have the February 28 tape," I didn't say that makes no sense at all, I just said. "All right." So, in any event I was not happy about it. And I didn't think it was going to get us anywhere and I didn't know, you know, I mean the President had a history of diddling, and how long does that go. So I hadn't decided to do anything because I was not going to be insubordinate. I didn't plan to be insubordinate, you might put that way. But when he came out here and he said, "Mr. Shelton, you have come here," and I said it just popped into my head, and I said firmly, "No, sir." And that was really the only, you know – to me the rest of it was, you know, having – I mean the press is around the whole time going over. When I went over to – actually it was interesting that we haven't focused on that is, I went over with John and Joe Woods to pick up the briefcase from Sirica, which John was in with the judge and I guess Joe Woods was too, and the clerk and I inventoried everything, wasn't that much really. And then as I say, he in his inimitable style, put it in a old brown government briefcase and slouched back on to the taxi, but for me that was – that was pretty exciting, there were hundreds of reporters and in front page of the *New York Times* the next day.

Naftali: So the briefcase came from John Doar?

Shelton: Oh, that was John's briefcase, it was an old probably an old civil rights briefcase. I mean it's a crummy old thing. I mean, you've seen pictures, you know, on the – it was on the front page of everything probably *Time Magazine*. And there he is, sort of a John Wayne figure, you know, always a little slouched and he's got the briefcase. He had come in the Congressional Office Building, then Joe was just right behind him, and then right behind him was me. And hundreds of reporters snapping away and, you know, getting the briefcase was, you know, that was a smoking gun in a way that the way the world looked at it.

Naftali: And how long did it take for you to realize that you might have received more of the March 22 tape than you were supposed to?

Shelton: Well Joe – actually I interacted, as I indicated, I very rarely ever talked to Doar. You know, there was always a big queue out there and what not. And I think that Joe Woods kind of – I was friendly with Joe and I was friendly with Nussbaum in terms of the daily interaction. Joe was the head of the batch of the legal group, and he had a unique relationship with Doar because they've been schoolmates together in law school. So he had really a personal relationship and dealt with him in a completely different way than maybe some of the rest of us did. And Joe kept track of what I was doing, and I think probably would tell Doar about it.

So when I came back with a March 22 tape, he said to me, “You've got more than you were entitled to from the tapes.” And then he said something I remember very clearly. He says it just shows with all of these recordings, no matter where you dip into, you know, we had certain little focus, but wherever you dip into that you're going to find something. I don't think you're going to find something like you found the tail end of the March 22 tape. But in any event, Joe said to me and I didn't – you know, I treated my job kind of as a journeyman. My job was to get the tapes, get the transcripts, and make sure they were right. And I didn't really get involved in the politics or the policy there.

Naftali: One other question about the tape. More famous tape is the March 21, 1973 tape.

Shelton: In the morning.

Naftali: John Doar knew something about that tape before you received. Did you know when you were anticipating that the tapes will come and you were preparing for the tapes to come, did you know that people were anticipating hearing the March 21 “cancer on the presidency” tape? Had you heard about it?

Shelton: I had not. We got the transcripts, you know, there's also a piece of it, John was in touch, he had a good friend in the Special Prosecutor's office, Henry Ruth who you've mentioned and know. And I think John and Ruth were in contact from time-to-time. The interesting thing about the March 21 tape, of course is after that the 75 – that afternoon the \$75,000 is handed over to Hunt. So that ties things together in a way that's very material. I knew nothing about what was on that tape or ahead of time, and then also John – he didn't want a lot of discussion in the hallways about those tapes initially. He was very circumspect about what he knew and what was on those recordings.

Naftali: What did you take away from this process in terms of your understanding of impeachment?

Shelton: You know, there's of course – I think the commentators and I listen to them who doesn't in terms of the current situation? I think many of them and there are loads of them are somewhat informed. First of all, you have the issue of whether it has anything to do with a crime per se. And the issue is not so much John's view, I think the better view is here's why I again the Clinton situation was totally different. It has impeachment for high crimes and misdemeanors has to do with something that's – involves the state, you know, it's a crime against the state, is not something that's personal. I mean it's not, you know, a perjury sort of thing.

So I think that the commentators are getting it wrong in a way. Actually, the committee could never get together in terms of – they had a memorandum on what constitutes–. They never came up with a real definition. They left it up to the committee members to decide in their own minds, give it context, and I think the reason for that is it really is ultimately a political decision in some way. It's a hybrid.

So what I find in terms of what I see and then the current context is you don't find the commentators of course putting that context around. The other thing that I think that they get completely wrong is they think that if the Republicans in the House of Representatives, they'll vote one way, and there's a Democratic house they'll vote another way. What I learned in terms of the way the process works, and here I think it was part of the brilliance of John and Rodino and to some extent Bert Jenner of course, is that they slow the process down, and made the committee and the country look at it for months and months.

And so, the curve of change, you know, the mathematicians have what they call the curvature, the curve of change goes like this and then they start bending upwards. So when you have a period of time where people are looking at a problem and analyzing it, and thinking about it, it gets a certain momentum to it. And what I found that was very interesting that I

thought that Doar counted on and ultimately proved to be the case is when these lawyers who are sworn to uphold the law and the constitution is when it was put to them, such a large percentage of what would have been the minority party, voted for three articles of impeachment. And Dick Gill tells a story, which I think is a great story about the minority, he said, he happened to be involved with Mr. Fish, whose family goes back to— Representative Fish, upper New York state—goes back to Abraham Lincoln in terms of his Republican credentials. And he was being lectured by one of the minority members of the house as to what he should do as a Republican.

And Dick says he rose to his 6'4" and he said, "Don't presume to tell me what it means to be a Republican." And I do think that what you saw at the end of the day by seven, six Republicans is over time there was some partisans that remained, but at the end of it the middle held. And I think that in terms of our times, some of the commentators really missed that point.

Naftali: Bob, thank you very much for your time today.

Shelton: My pleasure.

Naftali: I'm very happy that your recollections are now part of the collection.

Shelton: Well, I hope that'll be helpful.

Naftali: I'm sure they will be.

Shelton: Thank you.

Naftali: Thank you.