

INTERVIEW XXXVII

DATE: November 14, 1988

INTERVIEWEE: JOSEPH A. CALIFANO, JR.

INTERVIEWER: Michael L. Gillette

PLACE: Mr. Califano's office, Washington, D.C.

Tape 1 of 1, Side 1

G: Well why don't you start with a general introduction of how this particular merger reflected the administration's attitude toward big business.

C: Well, I did not get into the Penn-Central merger issue until sometime in late 1966, I believe, mid-1966. Stuart Saunders who ran the Penn-Central was a friend and supporter of Lyndon Johnson. He also was a very savvy, street-smart businessman in terms of Washington. Obviously he--he'd been after this merger, he asked the ICC [Interstate Commerce Commission] to approve it in 1962 in October and that was in March of 1962. In October of 1963, the administration opposed the Penn-Central merger. (Long pause) In 1964 it would appear that the President had a meeting--this would be July of 1964--with Saunders and [Alfred E.] Perlman who was the other major businessman involved in this.

G: President of the New York Central [Railroad].

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C: President of the New York Central. To urge Johnson to support the merger. Saunders also went to Robert Kennedy, who was the attorney general, in July of 1964 as well, talking to him about the merger. At some point in 1964 Robert Kennedy-- On August 1, 1964, according to a memo for the record of Robert Kennedy of September 3, 1964, he met with Saunders and Perlman, and told them that if the ICC approved the Penn-Central merger he would recommend to a successor that the Justice Department drop its opposition to the merger. August 1 was a month before Bobby Kennedy won the New York Democratic Senate nomination. You know, he probably won that Senate nomination at the convention, not in a primary, in which case he might not have resigned. That would explain why he did not resign as attorney general until after. That memo on Saunders was written the same day that Kennedy resigned as attorney general, September 3.

In March of 1965, the ICC examiners recommended approval of the Penn-Central merger. With some conditions about taking care of smaller railroads, the Penn-Central lawyers agreed to those conditions, but in October of 1965 the Justice Department still recommended that the merger not be approved. In April of 1966 the ICC unanimously approved the merger. They postponed the effective date to give the Justice Department time to appeal and to give the federal court time to hear the case. Nine of the smaller railroads wanted to delay the merger. The federal court on October 4, a three-judge federal court, by a two-to-one vote approved the merger and rejected the arguments for delay.

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On October 11, Stuart Saunders, I guess, called me. Well, he's not listed--is it 1966?--he's not listed but my steno notes show that Stuart Saunders called me, to--are my steno pads here in this? [In] any case, promptly after the federal court rejected the railroad's bid, Stuart Saunders was back on the White House phones. The appeal to Justice [John Marshall II] Harlan to stay the order of the three-judge federal court Harlan bucked the entire court on October 11, 1966. And at this point, I'm sure because the President asked me to, I became involved in what the position of the government would be. In the first instance, obviously at some point I think Saunders at one of these events must have talked to the President, because we start with pieces of paper coming over to the President through Marvin Watson about the Penn-Central merger and the position of the Justice Department. Ramsey Clark was a strong-willed attorney general with strong views, and. . . . At some point Ramsey sent by special messenger to Marvin and on October 12, 1966, a summary [of] active cases before the Justice Department which includes the Penn-Central merger, which indicates that the antitrust division wanted to block the merger, was supporting a request for a preliminary injunction and supporting the request that the commission (inaudible) sent this back to the commission. The three-judge court denied these requests and Harlan gave it to the court.

In the middle of all of this incidentally, the Transportation Department bill was passed by the Congress and the President prepared to sign it into law and the President has me looking for a man to chair the Department--secretary to head the Department--of Transportation and reviewing people. One of the candidates was Alan Boyd who was the undersecretary of commerce for transportation, and other candidates, at least in the

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President's mind, included Ben Heineman, the head of the Northwest industries, which included Northwest Railroads, and some others. As I'm calling around checking on people, the *New York Times* writes a story that I'm going to be the secretary of transportation.

G: What, were you checking on the availability of it, or--?

C: I was checking on the qualifications, availability, trying to put a little, you know. Some the President suggested to me. Maybe they're in my notes somewhere.

G: Was he looking for specific experiences or attributes?

C: I don't think so. I think we probably were looking for someone that was very tough because this was going to be a tough department to get off the ground. And indeed, ultimately I took somebody from my own staff, John Robson, and sent him over to be the general counsel.

G: Anyway, you were going to--I'm sorry I interrupted you.

C: Let me just do one thing. Hold on one second. Go ahead.

G: You were talking about the story that appeared while you were working on this that you were going to be named the new . . .

C: Well, Stuart appeared in the *New York Times*. We should get that story. I came into a meeting in the White House that morning and I had not read the *Times*, or at least I hadn't read that story, and walked into this meeting the President was having with a group of mayors in the Cabinet Room, and the President said, "I'd like you to meet the *New York Times* selection"--and designate or nominee or whatever--"for secretary of transportation," which I didn't really understand. Then I finally, when I saw it--as I recall,

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it was a big front-page story. I called Max Frankel, who was the White House correspondent for the *Times*. I was mightily annoyed. "Frankel," I said, "why the hell didn't you call me?" and Frankel's answer was that they had gotten it from a railroad president who had it on very good authority from a railroad president close to President Johnson that I was going to be the secretary of transportation, and there was no point in calling me because if they'd called me I would have had to deny it. They assumed I would have denied it, but they thought they had it on such good authority they should go with it.

G: Was LBJ irritated about it, do you think?

C: He wasn't mightily irritated. I mean, I was probably more irritated than he was. The problem was, for me, that I was the White House aide charged with looking around for the new secretary and everyone knew I was talking to the President about that and working on it, including Alan Boyd, who came the day of that story for the signing of the Department of Transportation bill, and Boyd was very pissed because he thought here was a guy who was judging him but also wanted the job. As a matter of fact, I didn't want the job. If it had been offered to me I think I would have tried to talk the President out of giving it to me. Because of that, that was October--when was that story, the fifteenth?

G: The story was the fifteenth [1966].

C: Fifteenth. God, who was in the car? Who would take notes like this? [Reading the President's Daily Diary] "[To] the University of Maryland [with] Joe Califano. *En route*, the President discussed programs with J.C. re[garding] crime, nursing home program, social security and variety of matters along those lines."

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G: But do you remember that drive up to Maryland?

C: No. I have absolutely no recollection of it. There was so many. Most people stop working at least (inaudible) I'm coming back with him. At ten-twenty-five we're back in the Oval Office. Eleven-forty-five he goes in the Mansion; I go home. In any case, the President signs the Department of Transportation bill, and then, I noticed from my diary, and I do remember Alan Boyd was a little chilly at that signing ceremony. Then we take [Mike] Mansfield and we went over to the East Room and I don't know whether that was a ceremony. I can't figure it out from these diaries. Twelve-eighteen, yes. We signed the Department of Transportation bill in the East Room and after the signing ceremony we grabbed Mansfield and [John] McCormack. He and Mansfield and McCormack talked generally about the achievements of the great 89th Congress. Then he went into an NSC [National Security Council] meeting, I guess preparing for his trip to Asia according to these notes. And at some point, we talk about the Department of Transportation, secretary, because I remember saying to him that I'm now in an impossible position because of the *New York Times* story, and if we're going to go with Boyd we ought to just get it done and not have a guy sit around [and] fester, angry and annoyed. And I noticed several calls, I mean, a call from me to him and a couple of calls from him back to me and a call or two here to and from John Macy.

G: Would Heineman have taken the Transportation post?

C: No, I don't think so, but he never got offered [it]. The only thing I ever offered, I offered Ben Heineman the job of undersecretary of commerce with the commitment that he'd become secretary, and he turned that down on the ground he didn't want to take a number-

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two job with the hop of being number one. When John Gardner resigned as the secretary of Health, Education, and Welfare, the President offered Heineman the job as secretary of Health, Education, and Welfare, flying in from Chicago one Sunday I think making him commit absolutely not to tell me that he was in town and Heineman turned that down and then the President gave the job to Wilbur Cohen. We ought to--it's a little vignette but we ought to put that in.

G: Why didn't he want to tell you?

C: Who knows? He just probably didn't want any leaks. Probably, who knows? Maybe he thinks I wanted the job. I mean, I have no idea.

In any case, with these calls back and forth between me and the President the fact that he calls Macy and gets a call from Macy, what was happening was we're deciding we're going with Boyd. He's checking with Macy to make sure we're okay. We've got all the checks run and there's no problems there with Boyd and at 8:05 he calls Boyd. It's another of the belts [dictabelts] we ought to try to get our hands on. October 15, eventually when we go after Mildred Stegall for the belts. I'm sure since he belted that thing he offered the job to Boyd. Without even looking at the belt I would say that he offered the job to Boyd; Boyd accepted. He told Boyd if there were any leak it was over; he didn't want anyone to know. Nobody knew except him and Boyd or what have you. In any case, I think we knew by Saturday night that Boyd--that we'd done it. I have to see when he announced it. Okay?

Then on the eighteenth of October, that following week, the Supreme Court decides to review the Penn-Central merger ICC decision, and delays the merger until it

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can review it. The Court agrees to hear the case--this says January 1. That's a surprise to me; I'm not sure that date is right--and sets aside four hours of argument because the stakes were so high. Then we begin what turns out to be (inaudible) Stuart Saunders--then for however or whatever I clearly get--I have a meeting on Transportation for the twenty-first of October. Are there any notes on that meeting?

(Interruption)

I think the meeting on the twenty-first of October was still just a meeting largely devoted to the transportation program for the coming year and perhaps implementation of the Department of Transportation, not focused on a merger. On the third of November, Stuart Saunders comes to see me, and talks to me about the merger and what he views as the commitment he has to let the merger go forward. These appointments going around the Ranch, I don't think any of that stuff is dealing with the merger. That's dealing with the economy. I don't think the meeting with [Harry] McPherson, [Abe] Fortas on the eleventh--

(Interruption)

G: You were saying that the McPherson-Fortas meeting--

C: I don't think that meeting had--I was just looking up . . . No, that probably related to the D.C. Crime Bill, which ought to be an item we cover both in the book and here. You ought to get the papers on that. Nor the appointment with [John] Gardner or any of that stuff, or the meetings with--I guess off of Stuart Saunders meeting with me though I must have asked Ramsey [Clark] for a memo telling me the Justice Department position. Okay let's stop here. Okay? Tomorrow we'll pick up.

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End of Tape 1 and Interview XXXVII

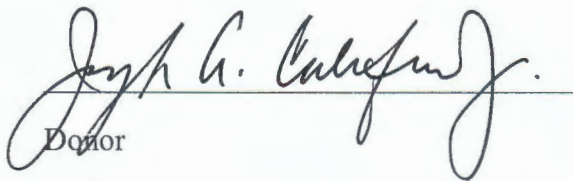
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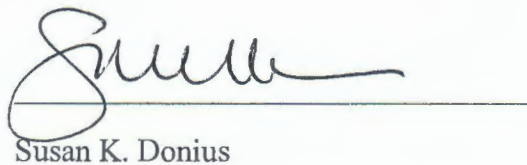
Joseph A. Califano

Interviewed by: Paige Mulhollan, Joe B. Frantz and Michael L. Gillette

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