

January 1998

PANEL THREE PRESENTATIONS AND DISCUSSION: CITY GOVERNMENT: THE NEXT GENERATION'S DEMANDS

Sam Roberts

Fernando Ferrer

John Mollenkopf

Fred Siegel

Harry Wellington

Follow this and additional works at: https://digitalcommons.nyls.edu/nyls_law_review



Part of the [Law Commons](#)

Recommended Citation

Sam Roberts, Fernando Ferrer, John Mollenkopf, Fred Siegel & Harry Wellington, *PANEL THREE PRESENTATIONS AND DISCUSSION: CITY GOVERNMENT: THE NEXT GENERATION'S DEMANDS*, 42 N.Y.L. SCH. L. REV. 1017 (1998).

This Article is brought to you for free and open access by DigitalCommons@NYLS. It has been accepted for inclusion in NYLS Law Review by an authorized editor of DigitalCommons@NYLS.

PANEL THREE: CITY GOVERNMENT: THE NEXT
GENERATION'S DEMANDS

SAM ROBERTS, MODERATOR

First, let me thank Professor Sandler, Dean Wellington, the students, today's audience members, and those who have spent so many years in the trenches of good government.

I researched articles in the *New York Times* (the "Times") to see how reporters covered consolidation one hundred years ago,¹ because today's reporters often lack perspective in covering news events. There is an assumption that everything is happening for the first time. I found a story on the back page of the *Times*, one paragraph long, about a man who jumped off the roof of his tenement on Ludlow Street.² Why did he jump off the roof and kill himself? The article described the event as a suicide.³ The man had four children and was described as despondent and in poor health.⁴ His family was threatened with eviction from their Lower East Side tenement because they had not paid rent.⁵

On the front page, another story described Greater New York, the five prosperous boroughs, the aggregate wealth of nearly \$4.5 billion, and a population that propelled New York City past Paris to become the second largest city in the world.⁶ I learned from that article how little things change. We can talk about New York City as being a tale of two cities—a city of very rich people and a city of very poor people. As Fritz Schwarz noted,⁷ it is a city that Robert Wagner, Jr. reported as being very much divided.⁸

1. Greater New York City was consolidated on January 1, 1898. See David C. Hammack, *Consolidation*, in THE ENCYCLOPEDIA OF NEW YORK CITY 277 (Kenneth T. Jackson ed., Yale Univ. Press 1995).

2. See Sam Roberts, *Then as Now, a City of Great Contrasts*, N.Y. TIMES, May 4, 1997, at 42.

3. See *id.*

4. See *id.*

5. See *id.*

6. See *id.*

7. See Frederick A. O. Schwarz & Eric Lane, THE POLICY AND POLITICS OF CHARTER MAKING: THE STORY OF NEW YORK CITY'S 1989 CHARTER, 42 N.Y.L. SCH. L. REV. 723 (1998).

8. See Lucia Mouat, *New York City—A Vibrant but Troubled Metropolis*, THE CHRISTIAN SCI. MONITOR, Nov. 6, 1991, at 10 (referring to a 1988 report by the Commission on the Year 2000, chaired by Robert Wagner, Jr.).

The 1890s was the period that Ward McAllister wrote about the “four hundred,”⁹ a select group of New York society. It was also the time when Jacob Riis chronicled the poor in New York City in words and pictures.¹⁰ Of course, the city was as disparate then as it is now, perhaps even more so. Violent crime was a major issue. Even the father of greater New York, Andrew Haswell Green, was murdered, sometime after consolidation, on a Park Avenue street corner.¹¹ This was a random murder of an elderly man by someone described as a deranged gunman.¹²

When I was researching the Charter, I discovered a typical discrepancy that demonstrates how little has changed. The Charter is dated May 4, 1897, the day the Charter was passed by the New York State Legislature.¹³ The *Times* story, datelined Albany, May 5, reported that Governor Frank S. Black signed the Greater New York Charter at 9 a.m.¹⁴ Why was it dated May 4 and signed May 5? Archivists at the Museum of the City of New York still have not found the definitive answer, but their best guess was that Albany stopped the clock at May 4. Thus, by Albany’s time it was May 4, even though by everyone else’s time it was May 5.

This discrepancy is yet another example that tradition dies hard. In covering the day of consolidation, the *Times* reported that, “Tremendous issues are at stake for this community.”¹⁵ That was in the editorial, not the news columns.¹⁶ The editorial continued with a recurring theme of consolidation: “whether consolidation is to bring benefaction or calamity depends upon the direction of its affairs by the men who are this year to be chosen to office under the charter.”¹⁷

I would like to introduce our speakers for this panel who will discuss how the changing city will create changing demands for the City Charter and for the City government. Let us begin with the borough president of the Bronx, Fernando Ferrer.

9. The “four hundred” were a group of New York City’s elite, named for the number of guests who could be accommodated in Mrs. William Astor’s ballroom. See James E. Mooney, *McCallister (Samuel) Ward*, in THE ENCYCLOPEDIA OF NEW YORK CITY, *supra* note 1, at 703.

10. See Bonnie Yochelson, *Riis, Jacob Augustus*, in THE ENCYCLOPEDIA OF NEW YORK CITY, *supra* note 1, at 1005.

11. See Seymour Durst, *Green, Andrew Haswell*, in THE ENCYCLOPEDIA OF NEW YORK CITY, *supra* note 1, at 505.

12. See *id.*

13. See N.Y. CITY CHARTER (1898).

14. See *Charter Bill Signed*, N.Y. TIMES, May 6, 1897, at 1.

15. *Greater New York*, N.Y. TIMES, May 6, 1897, at 6.

16. See *id.*

17. See *id.*

FERNANDO FERRER

Thank you, Sam. I appreciate the invitation to speak today, and I was intrigued by the title of this panel: *City Government: The Next Generation's Demands*. Perhaps it will be useful to begin with a dialogue on who the next generation really is. Is it comprised of the people who depend on the City government's decisions for their lives and their livelihoods? Is it comprised of people who depend on the City government for jobs, economic growth, or housing? Those people represent virtually every constituent of this city in one form or fashion, and they are going to be with us racially, linguistically, and culturally over the course of the next century, albeit in a more diverse way.

I say this because I do not think you can talk about the demands of the next century without talking about the current situation. In that respect, I note that: one, I am the only member of a so-called minority group on this panel;¹⁸ and two, I am the only practitioner on this panel. In fact, I am the only practitioner on the last couple of panels. So, let me talk a little about my own experience.

I believe people should have access to every government decision. People should have an impact on decisions. People should be able themselves—or through their elected representatives—to affect the major areas of discourse in this city, including how we use our public land; how we regulate the use of land; how we spend public money; how we ourselves, in dispensing public money for services, provide those services; and how we abide by the philosophic underpinnings of the union of Greater New York.

When the five boroughs came together there were at least two promises. First, each New York City resident would gain the benefits of the larger city, in terms of hooking residences up to water supply and sewage supply; paving roads; and building schools and parks. This inclusion in the larger city was a predicate for many who voted for consolidation.¹⁹

Second, there would be some form of shared government for people in jurisdictions like the Bronx that were essentially created out of whole

18. Mr. Ferrer is of Puerto Rican descent. See Adam Nagourney, *Ferrer to Withdraw from the Campaign to Unseat Giuliani*, N.Y. TIMES, May 13, 1997, at A1.

19. See David C. Hammack, *Consolidation*, in THE ENCYCLOPEDIA OF NEW YORK CITY, *supra* note 1, at 277-78; see also Gary Hermalyn, *The Bronx at the Turn of the Century*, 26 BRONX COUNTY HIST. SOC'Y J. 92, 92 (1989).

cloth.²⁰ The Bronx did not exist, except for two wards of the West Bronx. The East Bronx was then a collection of towns comprising Westchester County.²¹ These promises presented challenges for Charter Commission after Charter Commission in the past and will continue to affect decisions in the future.

In examining the issue of shared government, I want to consider a major change effected by the Charter Commission: the removal of the Board of Estimate. I was not an apologist for the old Board of Estimate.²² I believed there was a better way to do things. I agreed with the Supreme Court that the voting structure of the Board of Estimate—not necessarily the Board of Estimate itself²³—was unconstitutional.²⁴ I was, however, not nostalgic about the Board. Having served on that Board as a member²⁵ and having served in the City Council, I thought there was a better way to do things.

For example, look at the kinds of decisions this City made routinely, including the giving out of contracts²⁶—by the way, a process that remains even more inaccurate than before—and the siting of municipal usage throughout the city. I note that fair share is a little like the Fourteenth Amendment.²⁷ I hope it does not take a century to figure out what fair share means, because, by that time, the Bronx will have become the medical waste capital of the world and the solid waste capital of the world.

20. See Gary D. Hermalyn & Lloyd Ultan, *Bronx*, in THE ENCYCLOPEDIA OF NEW YORK CITY, *supra* note 1, at 144-45; Lloyd Ultan, *The Bronx Is 100 Years Old: City's Consolidation Created Borough*, BRONX PRESS REVIEW (N.Y.), Jan. 1-7, 1998, at 1.

21. See Gary D. Hermalyn & Lloyd Ultan, *Bronx*, in THE ENCYCLOPEDIA OF NEW YORK CITY, *supra* note 1, at 144-45.

22. See Alan Finder, *About New York; Borough Leaders and the Charter: A Winding Road*, N.Y. TIMES, Nov. 2, 1989, at B1.

23. Mr. Ferrer and others believed conceptually that the Board of Estimate should be retained because it gave a voice to the interests of the boroughs and minorities, and because it counterbalanced New York City's strong mayor. See Alan Finder, *Opposition to Charter Change Diverse*, N.Y. TIMES, Nov. 10, 1989, at B3.

24. See *Board of Estimate v. Morris*, 489 U.S. 688 (1989).

25. The Board of Estimate consisted of the mayor, the city council president, the comptroller, and the presidents of the five boroughs. See Martin Shefter, *Board of Estimate*, in THE ENCYCLOPEDIA OF NEW YORK CITY, *supra* note 1, at 122-23. Mr. Ferrer, as Bronx borough president, served on the Board from 1987 until it ceased operations in August 1990.

26. Mr. Ferrer represented the Thirteenth Councilmanic District, located in the West Bronx, from 1982 until his election as Bronx borough president in 1987. See Office of the Bronx Borough President, *Fernando Ferrer On-Line* (visited Oct. 13, 1998) <<http://www.bpferrer.org/PressRoom/Bios/Ferrer-bio.html>>.

27. See U.S. CONST. amend. XIV.

Prior Commissions attempted to decentralize government,²⁸ and, in fact, I advocated for some administrative decentralization.²⁹ Of course, that was called breaking up the city into five. I guess when you disagree with people, you use a nomenclature like that.

A provision in the Charter invites borough-level commissioners to borough-service cabinet meetings or board meetings to talk about service delivery and to develop boroughwide strategies,³⁰ but they are not required to attend. In some ways the Charter sets up a lot of processes but not enough rule-making authority in some areas.

This lack of rule-making authority, a problem I pointed out about nine years ago,³¹ will continue to be vexing as people discuss how we spend money, provide for services, and treat the boroughs equitably with respect to what this City does and how it sites its facilities. The glaring loophole is that now the City is not required to own a facility; it may lease a facility or agree with a private operator to manage a facility.³² So guess where these facilities generally collect themselves? In areas generally deemed powerless and not so well represented politically. These are the type of issues that will continue to affect the quality of life in this city if we do not pay careful attention to how decisions are made and to whom has access to those decisions. We must also notice that we had a very strong mayor who became an enormously strong mayor under the new Charter.³³ The City Council was to have been a legislative counterweight to the mayor,³⁴ but its only legislatively important member is the speaker. Making City government more diverse and presumably more democratic offers no guarantee that the people, through their representatives have access to every decision. If we are to make city governance meaningful for the next generation, these issues must be resolved in the very near future; otherwise, there will constantly be the kind of cynicism and outright doubt about the validity, quality, and legitimacy of City government decisions—whether they concern the opening of a transfer station, the closing of the world's largest garbage dump, the siting of a major league

28. Mr. Ferrer himself offered a plan to decentralize New York City government. See Finder, *About New York; Borough Leaders and the Charter*, *supra* note 22.

29. *See id.*

30. *See* N.Y. CITY CHARTER ch. 69 § 2706 (1989).

31. *See* FERNANDO FERRER, A PROPOSAL FOR CHARTER REFORM, at 6 (1988).

32. *See* N.Y. CITY CHARTER ch. 23 § 595(3)(b)(1) (1989) (permitting contracts for services and facilities under this chapter may be made with public or private institutions).

33. *See* Edward T. O'Donnell, *Changes to the City Charter, 1653-1989*, in THE ENCYCLOPEDIA OF NEW YORK CITY, *supra* note 1, at 207.

34. *See* Gerald Benjamin, *Charter*, in THE ENCYCLOPEDIA OF NEW YORK CITY, *supra* note 1, at 208; *see also* Alan Finder, *Would New Charter Create Throne Room at City Hall?*, N.Y. TIMES, Oct. 18, 1989, at B1.

baseball field, or a determination of which streets in which neighborhoods get cleaned up and which do not.

SAM ROBERTS

Thank you, Borough President Ferrer. Allow me now to introduce John Mollenkopf of the City University.

JOHN MOLLENKOPF

I would like to say a few words about three fundamental conditions that will frame the demands on government in the next century and constrain, in various ways, its ability to respond to those demands.

The first condition is the increasingly complex social and cultural makeup of the city,³⁵ which poses the age-old challenge of making a *unum* out of the *pluribus*. The second condition is the failure of our post-industrial economy and labor market to generate the kind of upward mobility for the bottom half of the income distributions that was characteristic of the period from roughly 1898 through the 1950s. Conversely, we currently shower the top tenth, particularly the top one percent, of the income distribution with fabulous rewards, which has resulted in growing inequality in New York City.

Finally, the third condition is that federal, state, and local budgets are highly constrained by factors that will make any major new spending initiative virtually impossible. We should not be lulled by the current surge of revenues coming into the state and City budgetary processes,³⁶ because it will pass. The more fundamental problem is that we will face serious revenue constraints in the foreseeable future. I will, therefore, say a few words about each of these conditions, followed by some thoughts about how we might respond to them.

First, to examine the social and cultural makeup of the city, we need to consider the impact of immigration. The city is becoming more

35. See David M. Halbfinger, *Immigrants Continue to Reshape the City*, N.Y. TIMES, Dec. 1, 1997, at B3 (discussing the shaping of the community by new immigrants).

36. New York State and New York City have both recently enjoyed record budget surpluses. See Jennifer Preston, *Whitman, Like Other Leaders, Must Pick Budget Surplus Plan*, N.Y. TIMES, Feb. 7, 1998, at B5 (noting that New York State's budget surplus in 1998 was a record \$1.8 billion); Norimitsu Onishi, *City Now Puts Budget Surplus at Record High of \$2 Billion*, N.Y. TIMES, Apr. 23, 1998, at B1.

diverse.³⁷ Immigration is changing the balance among the ethnic groups within the city.³⁸ The black population is fairly stable demographically, while the Latino and Asian populations are growing rapidly.³⁹ According to some estimates, Latinos will soon become more numerous than blacks in New York City.⁴⁰

More important, we cannot rely on the simplistic racial and ethnic categories used to define the city's demographic groups. Many of these categories have become increasingly diverse. Today, more than a third of the black families in New York City are headed by an immigrant.⁴¹ People of Puerto Rican ancestry now probably comprise less than half of all Hispanics in New York City.⁴² Thus, within and between these groups, there has been much cultural diversification.⁴³ Although the Voting Rights Act⁴⁴ has accomplished a lot in terms of black representation, it has not done much to address this emerging cultural diversification and differentiation—a differentiation that has had a number of profound consequences. First, it has broken down all of the old meanings of race and ethnicity. Second, it has created the need to bridge new cultural boundaries between these groups. Finally, it has created a challenge for the city similar to one the city faced a century ago—assimilating many different groups.⁴⁵ An added challenge is that many of the institutions that accomplished assimilation a century ago are much weaker today. For example, political parties are in decline. Trade unions, especially in the private sector, are less important today than the labor groups were in the years shortly after 1898. The school system is not working well. Religious institutions are weakened. I am not suggesting that these

37. See Halbfinger, *supra* note 35 (reporting that New York City's white population continues to decline, while the percentage of Hispanic and Asian-American New Yorkers continues to increase).

38. See *id.* (discussing the stable numbers of blacks and the growing numbers of Hispanics in the City).

39. See *id.*

40. See *id.*

41. See *id.* (citing a 1997 New York University study, which found that a foreign-born person headed 35% of black households in New York City).

42. The 1990 U.S. Census estimated that Puerto Ricans accounted for about half of New York City's Hispanic population, probably less when illegal immigrants were taken into account. See David Gonzalez, *Dominican Immigration Alters Hispanic New York*, N.Y. TIMES, Sept. 1, 1992, at A1.

43. See *id.*

44. 42 U.S.C. § 1973 (1998).

45. Between 1880 and 1919, more than 17 million immigrants entered the United States through New York City. By 1890, immigrants made up 42% of the population of New York County, and the foreign-born population of New York City and Brooklyn came from over 41 different nations. See Carol Groneman & David M. Reimers, *Immigration*, in THE ENCYCLOPEDIA OF NEW YORK CITY, *supra* note 1, at 582-84.

institutions did not struggle to accomplish assimilation a century ago; however, we face more challenges to efforts to assimilate today than New Yorkers faced in the fifty years after 1898.

Second, to consider the growing economic inequity, we need to look at the stagnation of earnings growth and median family income both in the United States⁴⁶ and in New York City, where this stagnation has trailed behind the national picture.⁴⁷ The economic recovery from the last recession is not producing the wide dispersal of benefits that occurred during the expansion of New York City in the 1980s.⁴⁸ Speaker Vallone's office recently issued a thought-provoking report called *Hollow in the Middle*, which documents the decline of the middle class in New York City.⁴⁹ One of the most troubling aspects of the report is that the middle class has continued to decline even during this recent period of upswing, leaving New Yorkers in a worse condition than in 1977.⁵⁰

The middle class is sinking to the bottom,⁵¹ but the bottom portion of the income distribution has also fared poorly during the last twenty years.⁵² The top, on the other hand, is doing exceedingly well. I am sure all of you saw the story in the *Times* about how bonuses for top executives were going to exceed \$1 million or more.⁵³ That is a sign of what is happening at the top end of the income distribution. The debate about the philanthropy, or lack thereof, among the new rich is quite interesting, and the problem is not restricted to the shores of Lake Washington in Seattle.⁵⁴ We must ask whether New York City residents are part of one civil society, and whether we feel reciprocal obligations to each other.

46. See Blaine Harden, *New York's Richest Get Richer, Poorest Poorer*, WASH. POST, Dec. 19, 1997, at A3 (examining the report of the New York City Council, titled *Hollow in the Middle, The Rise and Fall of New York City's Middle Class*).

47. See *id.*

48. See Fred Siegel & Joel Kotkin, *Urban Renaissance? Not Yet*, WALL ST. J., Nov. 6, 1997, at A22.

49. See Harden, *supra* note 46.

50. See THOMAS MCMAHON ET AL., NEW YORK CITY COUNCIL FINANCE DIVISION, *HOLLOW IN THE MIDDLE, THE RISE AND FALL OF NEW YORK CITY'S MIDDLE CLASS (1977)*; see also Bob Wiemer, *Now We Can 'Hollow Out' LI Governments*, NEWSDAY (N.Y.), Nov. 6, 1995, at A36.

51. See Siegel & Kotkin, *supra* note 48.

52. See *id.*

53. See Leslie Eaton, *Tales of the Players Who Quit the Game*, N.Y. TIMES, Jan. 29, 1998, at D2.

54. See *Young Mogul Philanthropy: All Things Considered* (NPR radio broadcast, Feb. 5, 1998) (transcript on file with the *New York Law School Law Review*).

Third, we need to examine budget constraints. The federal budget is being squeezed by a historic vice.⁵⁵ As baby boomers age, and as the ratio of earners to beneficiaries of social service and social insurance programs shifts towards the beneficiaries⁵⁶—given the indexing of benefits and the elimination of bracket creep in taxing⁵⁷—there is not going to be, over the long haul, any discretionary money in the federal budget for major new programs.⁵⁸ Given the suburbanization of national politics,⁵⁹ even if there were more discretionary revenue, it would not likely be targeted towards places like New York City.⁶⁰

In Tokyo, they are fond of talking about the bubble economy,⁶¹ especially since it collapsed in Tokyo and in Japan generally.⁶² Currently, we have bubble budgets in New York City and New York State.⁶³ Both the state and City budgets receive an influx of cash generated by the Wall Street boom.⁶⁴ This will not last, even if Wall Street continues to perform well.⁶⁵ The tax system will adjust and revenue will not keep increasing at the same rate.⁶⁶ But spending pressure will accelerate if we keep increasing budgets as we seem to be doing at the state and City level.⁶⁷ Thus, we will eventually find ourselves in a more difficult situation.

55. See Paul Pierson, *The Deficit and the Politics of Domestic Reform*, in THE SOCIAL DIVIDE: POLITICAL PARTIES AND THE FUTURE OF ACTIVIST GOVERNMENT 126, 126-72 (Margaret Weir ed., 1989).

56. See Margaret Weir, *Political Parties and Social Policy Making*, in THE SOCIAL DIVIDE: POLITICAL PARTIES AND THE FUTURE OF ACTIVIST GOVERNMENT, *supra* note 55, at 25.

57. See Pierson, *supra* note 55, at 131.

58. See *id.*

59. See, e.g., Caleb Solomon, *Why Nashua Prospered While Lawrence Suffered*, WALL ST. J., Jan. 14, 1998, at NE1 (explaining that the suburbanization of a small Massachusetts city began in the 1950s and expanded in the 1970s).

60. See *id.* (citing an example where growth occurred outside the limits of a city and has subsequently caused that city to lose its tax base).

61. See *Japanese Official Warns U.S. Facing "Bubble" Economy*, AGENCE FRANCE-PRESSE, WL 2263711 (Apr. 18, 1998).

62. See *id.*

63. See, e.g., Frederick J. Longe, *Budget Preparation Full of Political Intrigue*, TIMES UNION (Albany, N.Y.), Feb. 1, 1998, at B4; *How to Spend NY's Tax Windfall*, NEWSDAY (N.Y.), Mar. 9, 1997, at G3.

64. See *How to Spend NY's Tax Windfall*, *supra* note 63.

65. See Fred Kaplan, *Apple Losing Its Shine Despite Bright Lights, New York's Boom Confined to Wall Street*, CHI. TRIB., Mar. 23, 1997, at 7Q.

66. See Howard Chernick, Presentation to the New York City Council Finance Staff at the Center for Urban Research, CUNY Graduate Center (July 9, 1997).

67. See NEW YORK CITY INDEPENDENT BUDGET OFFICE, ANALYSIS OF THE MAYOR'S EXECUTIVE BUDGET FOR 1999, at 23 (May 1998).

Welfare reform generated a \$730 million bonus to the state;⁶⁸ \$450 million of that went into tax relief in this last year.⁶⁹ At some point, we will be in a recession, and we will have to shoulder more social service costs. Unfortunately, we will have given away the resources to address this burden.

What should we conclude from these statistics on these conditions? First, we must solve the problems concerning city resources. We cannot think that the state or the federal government will bail out the city. We have to find ways to spend the city's own revenues more wisely, more equitably, and more effectively.

Second, we have to develop creative new ways to respond to the challenge of cultural change and assimilation. We need to launch conversations across cultural borders and implement a new phase in the civil rights movement. In large parts of the city, a third to a half or more of the adults cannot participate in the political process by reason of non-citizenship.⁷⁰ Accordingly, we need a major citizenship campaign. We should also consider allowing non-citizens to vote in municipal elections.

Third, we must completely rethink and rebuild our definition of urban liberalism. Ken Jackson and David Hammack pointed out that New York City has always spent far more than the state and the surrounding states for public services.⁷¹ New York City spends a lot of money.⁷² The City spent more on a per capita basis, and in terms of public employees per ten thousand residents, than any other jurisdiction except for Washington, D.C.⁷³ Thus, we have to rethink how we spend that money to get more out of our resources.

Finally, we need to find new frameworks for regional cooperation. A great achievement of consolidation is that it created a much more extensive and powerful metropolitan government than the previous central City had been.⁷⁴ It enabled New York to capture all of its suburbs in a way that cities today cannot.⁷⁵

68. See John Caher, *Pataki Urged to Redirect Windfall*, TIMES UNION (Albany, N.Y.), June 13, 1997, at B2.

69. See OFFICE OF THE COMPTROLLER, 1998-1999 BUDGET ANALYSIS; REVIEW OF THE ENACTED BUDGET 36 (1998).

70. See Howard Jordan, *New York Forum About Voting: Empowering Immigrants*, NEWSDAY (N.Y.), Apr. 7, 1993, at 52 (reporting that 1.2 million residents in New York City cannot vote because of their noncitizen status).

71. See JOHN HULL MOLLENKOPF, *A PHOENIX IN THE ASHES: THE RISE AND FALL OF THE KOCH COALITION IN NEW YORK CITY POLITICS 70-71* (1992).

72. See *id.* at 70.

73. See *id.* at 71.

74. See Fred Siegel, *The Big Apple Turns 100*, WALL ST. J., Dec. 31, 1997, at A10.

75. See *id.*

Clearly, we are not going to annex New Jersey, the Meadowlands, Westchester, or Long Island. Our problems, however, can have only regional solutions. Thus, we need to build new mechanisms to create dialogue within the region about how to address their problems.

SAM ROBERTS

Thank you, Mr. Mollenkopf. Now allow me to now introduce Fred Siegel of Cooper Union.

FRED SIEGEL

Thank you. If you look at the period from 1898, when greater New York City consolidated,⁷⁶ to the present, you will find that not only city governments but also corporations were consolidating.⁷⁷ Economic activity became more concentrated.⁷⁸ The railroads made that possible.⁷⁹ Everything came into the center of the city. The railroads made the center of the city the place for commerce, for great department stores, for intellectual life, for businesses, and for manufacturing.⁸⁰ Railroads have since become less important as major economic engines.⁸¹ Over the past fifty years, economic activity has dispersed—first driven by trucks and telephones,⁸² now driven by new technological devices, such as the fax and the modem.⁸³

Having given you this background on development since 1898, I am going to make some observations related to this development. First, the new Charter paved the way for a very strong mayor, and we have that mayor now.⁸⁴ It would be interesting, however, to see how the Charter would look if we returned to a weak mayor. Second, I would argue that a strong, centralized government, which is what the Charter created, and

76. See Michael Blood, *Historic Consolidation of Five Boroughs Put the Big in Big Apple*, BUFF. NEWS, Jan. 1, 1998, at A3.

77. See Siegel, *supra* note 74.

78. See Blood, *supra* note 76.

79. See *id.*

80. See *id.*

81. See Daniel Machalaba, *Railroads' Big Outlays on Infrastructure Are Questioned*, WALL ST. J., Apr. 30, 1998, at B4; see also Blood, *supra* note 76.

82. See William J. Holstein, *They'd Rather Be in Omaha as the Heartland Goes High-tech: The Cornfields Are Rocking*, U.S. NEWS & WORLD REP., WL 8332698 (Sept. 1, 1997).

83. See *id.*

84. See Editorial, *Rudy Proved a Mayor Can Make a Difference*, NEWSDAY (N.Y.), Oct. 26, 1997, at B2.

a finance-dominated economy are related. Essentially, our economy is driven by Wall Street.⁸⁵ Let me now explain how a strong mayor and a finance-driven economy are connected.

Consolidation was supposed to improve the infrastructure of every borough⁸⁶ and to create a central treasury for financing infrastructure development needed to support the economy of the larger city.⁸⁷ It did not. Over time, the city became increasingly Manhattan-dominated, not only politically, but also economically. After the city agreed to allow the port of Elizabeth, N.J., rather than the port of Brooklyn, to become the area's primary harbor, the city became increasingly dependent economically on Wall Street.⁸⁸

Consolidation did not always work. For example, would an independent Brooklyn have given up its port? Consider answering that question in terms of John Mollenkopf's discussion. When the city reduced the port of Brooklyn's role in the region, a new influx of immigrants, who needed the kinds of unskilled jobs a port offers, were entering the city.⁸⁹

In considering whether consolidation worked, I would not argue, however, as John Tierney did in the *Times Sunday Magazine*, that Brooklyn should never have amalgamated with the larger city.⁹⁰ You can argue that Manhattan reneged on the deal or that Rockefeller or whomever else you want to blame reneged on the deal. You can argue that the Port Authority, which was created to build a cross-harbor tunnel to connect Brooklyn to the mainland,⁹¹ is to blame. The Port Authority never built a tunnel across the harbor. In other words, consolidation has not been a complete success.

I would also like to discuss the 1989 Charter and the 1989 Charter reform effort. Given the courts' desires and the climate of the time, it is understandable that the Charter focused on racial redistricting to the exclusion of virtually all other considerations.⁹² Regardless of the justification at the time, however, the consequences were unfortunate. Racial redistricting helped accentuate problems of ethnic identity and

85. See, e.g., Michael Finnegan, *City Spends Extra Bucks*, DAILY NEWS (N.Y.), Dec. 11, 1997, at 5.

86. See Hedy Weiss, *Making the Most of a Centennial Celebration*, CHI. SUN-TIMES, Mar. 29, 1998, at 6.

87. See Blood, *supra* note 76.

88. See Siegel, *supra* note 74.

89. See *id.*

90. See John Tierney, *Brooklyn Could Have Been a Contender*, N.Y. TIMES., Dec. 28, 1997, § 6 (Magazine), at 2.

91. See Siegel, *supra* note 74.

92. See Henry Stern, *New York Forum About Districting: Numbers vs. Neighborhoods*, NEWSDAY (N.Y.), June 3, 1991, at 42.

created a new kind of problem of nonrepresentation.⁹³ If districts are divided according to ethnic and racial lines, then who represents nonmembers of that racial majority in the district? In effect, Charter reform created representation by race.⁹⁴ I say that as someone who lives in Una Clarke's district and has tried to talk to Una Clarke; I do not exist in her eyes.

Before 1989, my neighbors across the street and to my right were all in the same district. Today, we are in three different Council districts.⁹⁵ Before 1989, my neighborhood was an integrated neighborhood. Integrated neighborhoods, rather than rewarded, were divided.⁹⁶ That was not a good result.

Another problem with the 1989 Charter reform is that it did not anticipate a shifting economic landscape. The 1989 year marked a period of steep economic decline.⁹⁷ The decade's first Wall Street crash occurred in October of 1987.⁹⁸ The second was in October of 1989.⁹⁹ The city headed downward—not just cyclically, but structurally—and today's prosperity on Wall Street masks it.¹⁰⁰ Taxes flow out of New York to Newt Gingrich's district and other districts in the South. We have helped build a new South. During the last decade, the economic power of the United States also shifted to the West. Much of this shift came from the growth in the high-tech industry. There were 220 high-tech initial public offerings in the United States last year;¹⁰¹ New York City, however, has not produced one commercially viable company in its Silicon Alley.¹⁰²

93. *See id.* (discussing that compact and contiguous districts, made up of whole neighborhoods, are desirable for effective representation).

94. *See id.*

95. *See id.* (finding that many of the districts drawn by the City Charter's Districting Commission connect unrelated areas and people).

96. *See id.* (discussing that when neighborhoods are torn apart to advance a mathematical mix, the quality of representation is impaired).

97. *See* ROBERT FITCH, *THE ASSASSINATION OF NEW YORK* 21 (1993) (discussing that between 1989 and 1993, New York City suffered a decline equal to 40% of the nation's net job loss).

98. *See* Karen Damato, *The Next Century: Trying to Play a Market Crash*, WALL ST. J., Oct. 28, 1996, at C1.

99. *See id.*

100. *See* Hedrick Smith, *How the Middle Class Can Share in the Wealth*, N.Y. TIMES, Apr. 19, 1998, at C1.

101. *See* Tim Draper, *Silicon Valley to Washington: Ignore Us, Please*, WALL ST. J., Mar. 4, 1997, at A19.

102. *See* Gary Andrew Poole, *Dream On, Silicon Alley: New York Fashions Itself as the New Cybercity, but It's a Million Nerds Short of Reality*, FORBES, Aug. 25, 1997, at S84 (Silicon Alley is in a four-mile radius of the Soho, Tribeca, and Flatiron districts, where start-up companies specializing in technology have recently sprung up.).

New York's congressional delegation was not very concerned with these shifting economic forces, and when the City was reforming its Charter, the City did not think enough about the economy. This may be understandable, given that the Charter was created in the afterglow of the 1980s boom.¹⁰³ Today, we live in the glow of another boom.¹⁰⁴ This too will pass, and things will look very different if we have a huge budget deficit and a weak mayor.

What should have happened in 1989 with Charter reform? At a time when technology was dispersing accountability,¹⁰⁵ corporations were flattening,¹⁰⁶ and the advanced sectors of the economy were decentralizing,¹⁰⁷ borough presidents should have been made into county executives.¹⁰⁸ If they had been, concern for economic development in the borough presidents' boroughs would be front and center. The local questions of garbage collection and schools would have had a more obvious focus. Currently, when we vote on all these subjects, we vote solely for a mayor of a city of seven and one-half million people. It is not a reasonable way to run things, even under Mayor Giuliani.

I would now like to discuss a few scattered subjects. Since the 1940s, many have discussed how to decentralize New York.¹⁰⁹ "White papers" appeared every five or ten years, and the issue of decentralization exploded in Ocean Hill-Brownsville—one of the great disasters of New York City history. Since that incident, people have been reluctant to discuss the issue.¹¹⁰

Coterminality, however, makes sense, and co-terminal districts are a desirable option. Where I live, my police, fire, and voting districts barely

103. See Karen Slater, *Investing Lessons of the Eighties: The '80s: The Decade Investors Cashed In Despite the Crash and Other Traumas*, WALL ST. J., Dec. 15, 1989; see also MOLLENKOPF, *supra* note 71, at 71.

104. See David Barboza, *Analysts Say 1990's Bull Market Faces Its Toughest Test*, N.Y. TIMES, Mar. 31, 1997, at D2; see also Robert D. Hershey, Jr., *Brother (or Sister), Can You Spare a Dime for a Boom-Era Economist?*, N.Y. TIMES, Sept. 18, 1997, at D1.

105. See DAVID OSBORNE & TED GAEBLER, *REINVENTING GOVERNMENT: HOW THE ENTREPRENEURIAL SPIRIT IS TRANSFORMING THE PUBLIC SECTOR* 251-54 (Penguin Books 1993) (1992).

106. See *id.* at 265.

107. See *id.* at 251-54.

108. See Fernando Ferrer, *New York Forum About Politics: More Power to Borough Hall*, NEWSDAY (N.Y.), Mar. 23, 1989, at 80.

109. See Siegel, *supra* note 74.

110. See *id.*; see also Matthew Fleischer, *The New Visionaries: When Small Goes Big: The Future of New York Schooling?*, VILLAGE VOICE (N.Y.), Apr. 18, 1995, at 3 (describing the Ocean Hill-Brownsville incident as community control of schools which led to a 1968 teachers strike and nearly resulted in a race war).

overlap.¹¹¹ There is no political coherence. It is important to integrate immigrants, to give people a sense of coherence, and to give people a sense of being connected to officials who represent coherent neighborhoods across ethnic lines.

PANEL THREE DISCUSSION

SAM ROBERTS

Thank you, Mr. Siegel. Before we turn to questions from the audience, I would like to ask every panel member whether he heard anything with which he vigorously disagrees.

JOHN MOLLENKOPF

I believe the issue of balancing the need for a large, powerful government to manage a highly complex city with the need for a government that is responsive to the interests of specific subareas—neighborhoods, districts, etc.—is chronic. It is chronic in New York.¹¹² It is an issue in Berlin, Paris, and Tokyo.¹¹³ Other cities, such as Mexico City, have mechanisms where subdistricts provide a form of government.¹¹⁴ Although I understand why the Charter Revision Commission did not delve into this issue in 1989, I believe we should reopen the issue as Mr. Siegel has.

FERNANDO FERRER

We should have addressed these issues nine years ago. These issues continue to be relevant. They are still important, and they relate to the economic future of this city. Big buildings, big ballparks, and other big projects capture the attention of City Hall, but the little things, such as small projects that generate twenty-five jobs or so, are ignored. Add up some of these small projects, and you have jobs for a lot of people who can pay rent, buy groceries, and support themselves. That is the future of this city.

111. See Stern, *supra* note 92.

112. See Siegel, *supra* note 74.

113. See Alan L. Anders, *Funding Capital Expenditures: How Countries Around the World Do It*, GOV'T FIN. REV., Oct. 1, 1996, at 19.

114. See Joni L. Leithe, *Mexico: The Economic Emergence of the United States' Neighbor to the South*, GOV'T FIN. REV., Feb. 1, 1998, at 31.

SAM ROBERTS

Attempting to reconcile things is one of the city's major problems; it has been a problem for a long time. During the last Charter revision, while working for the *Times*, I met the head of the Budapest City Council Committee on Minorities.¹¹⁵ I asked him to identify the minorities in Budapest. He identified the minorities as gypsies.¹¹⁶ Gypsies account for about ten percent of the population in Budapest, which is hardly a minority by New York City standards. He said that he had watched the process of Charter revision, watched the process of voting for new Council members, and remarked that it was fascinating that New York City residents elected the first Dominican, the first Caribbean woman, and the first openly gay City Council member.¹¹⁷ He also noted that New York City residents almost elected the first Asian.¹¹⁸ He then asked me who would represent the majority. It was a question that, during the city's focus on increasing representation on the City Council, was being asked. It was overlooked, but it is an issue we face today.

Let me open the floor to questions from the audience.

AUDIENCE MEMBER 1

Good afternoon. Borough President Ferrer, under the new City Charter, three things happened in the Bronx that would have been accomplished under the old Board of Estimate formula. The first is Yankee Stadium.¹¹⁹ The second is the police academy.¹²⁰ The third is Farberware, where seven hundred jobs were at risk.¹²¹ Would it have made a

115. The Chairman of the Budapest City Council's Committee on Human Rights and Minorities was Dr. Gabor Nagy. See Sam Roberts, *Budapest Official Shares Concerns of Counterparts*, N.Y. TIMES, Sept. 9, 1991, at B1.

116. See *id.*

117. See Pozner & Donahue: *Interview: Sam Roberts, Columnist for the New York Times, Discusses Urban Affairs and Race in America* (CNBC television broadcast, Sept. 4, 1994) (transcript on file with the *New York Law School Law Review*).

118. See Michael H. Cottman, *Asians Beat but Not Defeated in Elections*, NEWSDAY (N.Y.), Sept. 14, 1991, at 12.

119. See George E. Jordan, *City Pushes Empowerment Zone*, NEWSDAY (N.Y.), Apr. 8, 1994, at A6 (reporting that the area around Yankee Stadium was selected to vie for \$100 million in federal grants and tax breaks).

120. See George E. Jordan & Catherine Woodard, *Rudy's Capital Spending Plan Adds, Subtracts*, NEWSDAY (N.Y.), May 4, 1994, at A25 (reporting that Mayor Giuliani did not include a new Bronx police academy in his budget plan).

121. See Judith Messina, *Farberware Set to Flee Bronx; 700 Jobs at Risk*, CRAIN'S NEW YORK BUS., Feb. 12, 1996, at 1.

difference if these had come before the Board of Estimate for approval? Would the results have been different under a different structure or the old structure?

FERNANDO FERRER

You touched on three raw nerves. As for Farberware, I do not think the Board of Estimate's formula would have made a difference. The new owner of Farberware bought the company to dismantle it and to cash out.¹²² There was nothing we could have done about that. In fact, Herculean efforts were extended, but none of it worked. This guy wanted to cash out.

Yankee Stadium is City property and would have come before the Board of Estimate. The police academy project and appropriations for it would have come before the old Board of Estimate.¹²³

Let me talk about one of the Board's important functions. In 1988, when David Dinkins was borough president of Manhattan, and I was a freshman borough president in the Bronx, one of the city's hallowed housing programs, the Partnership Program, was set up as a subsidiary by the New York City Partnership,¹²⁴ a group of prominent individuals in the city who were building housing in formerly devastated areas like East New York and the South Bronx.¹²⁵ None of the builders, however, resembled any of the people who lived in the areas where housing was being built. No one talked about taking out a slide ruler and figuring out how many builders should be minorities or women, but people said that if taxpayer funds subsidized the revival of parts of the city,¹²⁶ some of the people living in those areas of the city should participate in the revival.¹²⁷ Ultimately, David Dinkins and I vowed that a housing partnership program would not be funded again unless the situation changed. It is amazing how the will to change it developed. That was an important function of the Board. We

122. See Chris Reidy, *Boston Philanthropist Gets Bronx Cheer: N.Y. Blasts Florence for Farberware Deal, but Here Charges Don't Stick*, BOSTON GLOBE, June 25, 1996, at 37. Syratech Corp., headed by Leonard Florence, bought the Farberware name and its assets, but not the plant, in April, 1996. See *id.*

123. See Alan Finder, *From Budget to Land Use: The Powers of the Board of Estimate*, N.Y. TIMES, Mar. 30, 1989, at B1.

124. See Alan S. Oser, *Helping Buyers; Pension Fund Widens Housing Role*, N.Y. TIMES, Dec. 11, 1988, at J7; Alan S. Oser, *Churches as Builders; A Struggle over the Sites in the South Bronx*, N.Y. TIMES, Oct. 22, 1989, at J9.

125. See Alan S. Oser, *Helping Buyers; Pension Fund Widens Housing Role*, N.Y. TIMES, Dec. 11, 1988, § 10, at 7.

126. See *id.*

127. See *id.*

changed a fundamental policy of this city. Borough presidents cannot do that much anymore. That is the problem.

DEAN HARRY WELLINGTON

President Clinton and the people have praised the revival and comeback of the Bronx. Does that mean that all of the comeback began when there was a Board of Estimate, and that a borough president without a Board of Estimate will have little influence?

FERNANDO FERRER

Ninety percent of the Bronx revival began when there was a Board of Estimate¹²⁸ and, more important, a mayor who began to understand the need to spend the \$5 billion that he was talking about for housing.¹²⁹ A good thing about the Board was that it had a plan. Once the Board of Estimate had money, the Board could affect how money was spent and when it was spent. Since that time, most of that \$5 billion has been spent. Most of the multifamily housing has been completed. The city is now working on partnership houses, where we "sweeten" the city and state subsidy with \$10,000 more per dwelling unit to make the houses affordable and to encourage the construction of three-family homes.¹³⁰ We did not need a Board of Estimate to accomplish that. We needed a Board of Estimate or a similar entity to have access to the city's decision-making process.

SAM ROBERTS

I have not heard the specifics on what is being considered for Charter revision today. Are we dealing with a Speaker Vallone Commission, a Mayor Giuliani Committee, or something short of a state constitutional convention? In which direction should we move—decentralization or centralization—and how do we get there? What should we do differently? How do we achieve the goals discussed on this panel? Not many people would disagree with the goals. How do we get there? Do we go back to

128. See generally Joseph P. Fried, Abstract, N.Y. TIMES, Nov. 15, 1978, at B2.

129. See Todd S. Purdum, *Some Tiles Are Still Missing from the Mayor's Mosaic*, N.Y. TIMES, Jan. 28, 1990, at D5; see generally Fried, *supra* note 128.

130. See Rachelle Garbarine, *South Bronx Revival Shifting to 2-Family Houses*, N.Y. TIMES, Dec. 26, 1997, at B7; Rachelle Garbarine, *Subsidized 3-Family Houses Are Rising in the Bronx*, N.Y. TIMES, Apr. 1, 1994, at A21.

five boroughs or five cities? Do we create county executives and, if so, what functions should be centralized and what functions should not be?

FRED SIEGEL

I believe Charter revision will not become a priority until we have a recession again. Hopefully people will then look at this conference to understand what happened and how things evolved. Hopefully they will look at the history of consolidation as well. The major changes resulting from the 1989 Charter revision, however, were driven by a crisis.¹³¹ The courts struck down the Board of Estimate;¹³² we had to act. Similarly, it will take another crisis for any major changes to occur. People feel very good now. I am struck today by the complete lack of interest in politics by most people I know. The economy is going well. There is no war. Politics has disappeared. A new UCLA survey of college students shows they are more interested in culture.¹³³ I believe it will be very hard in a climate like this one to make any major changes.

SAM ROBERTS

If we were in a more receptive climate, what would you want to do?

FRED SIEGEL

I would want a Charter Revision Commission with a sense of how to make New York City competitive again outside of the financial sector—an area where even New York City is losing some of its edge. When economic power shifts, banking follows.¹³⁴ Note the growth of banking in Silicon Valley¹³⁵ and the capitalization of banks between San Francisco and San Jose. Though they have not reached the level of New York banks,¹³⁶ they are on their way. The place is awash with money, and we have to

131. See Claudia H. Deutsch, *How the New Charter Affects Land Use*, N.Y. TIMES, Sept. 6, 1992, at J3.

132. See *Board of Estimate v. Morris*, 489 U.S. 688 (1989).

133. See Peter Schrag, *The Real Value of Higher Education*, SANDIEGO UNION-TRIB., Feb. 7, 1998, at B1. The survey of the nation's college freshmen was conducted by the Higher Education Research Institute at UCLA. See *id.*

134. See, e.g., Don Lee, *California: Bank Expansion*, L.A. TIMES, Jan. 14, 1998, at D2.

135. See *id.*

136. See, e.g., Judith Crown, *Unicom Generates a Huge Bond, Fee Windfall*, CRAIN'S CHI. BUS., Mar. 23, 1998, at 1.

wake up to that fact. We have to ask why—when we were the most wired city in the country at the beginning of this decade and had great intellectual capital—more has not happened in this city. Those issues would have to be discussed during any Charter revision.

I would like to conclude that some of the income distribution questions in New York are functions of past crises. We have a very peculiar history. We are the only city where the New Deal, which was great for its time, never ended.¹³⁷ The assumption of the New Deal was that economic growth had ended, and that government's job was to get into the game of income redistribution.

On the issue of economic inequality, I worry about the low end of the income pool in terms of the need to create new jobs and new businesses. I also think not enough people outside of Wall Street are at the high end of the income pool. New York City residents once comprised about one-fifth of the Forbes 400 list of the wealthiest people in the United States. Today New Yorkers comprise about one-tenth of that list.¹³⁸ Among the wealthiest people in the high-tech industry, none of them lives in New York City. We are not part of the new wealthy in the United States. Over time, that will become a serious problem.

AUDIENCE MEMBER 2

A larger technological issue was alluded to earlier. A new generation of ships is being built,¹³⁹ which will lead to a debate concerning whether New York, Halifax, or Norfolk, Virginia, will be the "hub port" for the Atlantic coast.¹⁴⁰ This debate could touch on issues, such as the previously proposed cross-harbor tunnel. Thus, a cross-harbor tunnel could affect not only the five boroughs, Brooklyn, or New York metropolitan area, but also the northeastern United States and possibly the entire country. These kinds of infrastructure projects—a hub port and a cross-harbor tunnel for freight—require a larger governmental structure to manage budgets, generate political will, and capture the consent of the federal government.

My question for the three panelists is how, in an urban setting that has multiple players and under a Charter that encourages a greater sense of

137. See FRED SIEGEL, *THE FUTURE ONCE HAPPENED HERE* 46 (1997).

138. See *If I Were a Rich Man, It's More than Speculation for 170 U.S. Billionaires*, *NEWSDAY* (N.Y.), Sept. 29, 1997, at A6.

139. See Todd Blecher, *Navy Adding Work at Ingalls*, *TIMES-PICAYUNE* (New Orleans), June 4, 1997, at C1; see also Thomas J. Lueck, *Is Harbor Tunnel Worth the Billions?*, *N.Y. TIMES*, Feb. 25, 1997, at B7.

140. See Christopher Dinsmore, *Takeover Presents Port with Opportunity, Threat*, *VIRGINIAN-PILOT* (Norfolk, Va.), Apr. 20, 1997, at D1.

democracy, can one create an infrastructure or update an infrastructure so that it can be competitive for the future?

FERNANDO FERRER

Your question's foundation has a problem. I have performed my job for the last eleven years. I understand the difference, as I did nine years ago, between making large and small decisions.

This city still has the ability to accomplish large efforts. A mayor can set out a vision, allocate money, and speed up an approval process, especially when the mayor has authority to appoint a chairman of the City Planning Commission and a majority of its members as well as a number of other regulatory agencies.¹⁴¹ A mayor of New York City can encourage the governor to negotiate, through the Port Authority or another agency, with the governor of New Jersey to build the political support for a cross-harbor tunnel.

The cross-harbor tunnel is essential to our growth as a major port city. If we do not build it, we will be shut out of certain business. If we do not build it, we will no longer be in the rail freight game.¹⁴² We could be in the rail freight game tomorrow if we generated the political will. If there were a political will, we could service, by rail, eighty percent of the American market by the Oak Point Rail link through the Bronx.¹⁴³ We are not doing that.

Unfortunately, I do not believe discussions on the tunnel are serious because no one has taken intermediate steps. No one is talking about serious money or planning either.

SAM ROBERTS

This discussion raises another question talked about today: How much can be legislated? How much can you structure a system rather than attempt to influence the people who participate in that system? The people who agree that the cross-harbor tunnel is important for the city, important for the region, are missing in the political equation.

141. See N.Y. CITY CHARTER ch. 1 §§ 6, 8 (1989).

142. See Dinsmore, *supra* note 140.

143. See *Rail Monopoly Rips Us Off*, DAILY NEWS (N.Y.), Nov. 24, 1997, at 28; Philip Lentz, *Oak Point Saga: Tiff Derails Bronx Freight Shortcut: Conrail, State Squabble Delays Opening of Link*, CRAIN'S N.Y. BUS., Nov. 10, 1997, at 1.

FERNANDO FERRER

The only thing that could derail a project is if someone objected and took the project's planners to court. If we plan the project well and do it right, we may not avoid litigation, but we may anticipate it. Litigation is the only thing that can stop a freight link.

SAM ROBERTS

We have not reached the point where someone started litigation against the project.

FERNANDO FERRER

That is correct.

FRED SIEGEL

I agree with Bronx Borough President Ferrer. This project is a big deal. It is troubling that other projects have stalled, however. We have failed to approve efforts to repair the Gowanus—the primary southern road/freight link—after ten years.¹⁴⁴ It is a permanent traffic jam from 6 a.m. until midnight every day.¹⁴⁵

One reason for this failure is that the state Democratic Party—and now the Republican Party—turned the state Highway Department into a revolving trust fund for candidates.¹⁴⁶ Another reason is that although the city's economy depends on Wall Street,¹⁴⁷ Wall Street has no interest in infrastructure.¹⁴⁸ Why do they need a truck route? If Wall Street is the primary industry in the city, why would a free-flowing Gowanus be important? It is not terribly important. If the City cannot repair a highway after ten years, how is the City going to build a cross-harbor tunnel?

I hope Mayor Giuliani redeems the original unification agreement of New York, which called for building a cross-harbor rail tunnel.¹⁴⁹ If he did, he could help revive the economy of Brooklyn. I know that the tunnel

144. See Laura Williams, *State Bends to Gowanus Plan Foes*, DAILY NEWS (N.Y.), Nov. 5, 1996, at 1.

145. See *id.*

146. See GOVERNMENT ETHICS REFORM FOR THE 1990s, at 349 (Bruce A. Green ed., 1991).

147. See *Portraits of an Economy*, N.Y. TIMES, Oct. 19, 1997, § 3, at 1.

148. See GOVERNMENT ETHICS REFORM FOR THE 1990s, *supra* note 146, at 348.

149. See ENCYCLOPEDIA OF NEW YORK, *supra* note 1, at 277.

would create competition between Brooklyn and the Bronx, but the Bronx's rail connections should be upgraded as well.

FERNANDO FERRER

May I punctuate that response by looking at something smaller than building a rail tunnel, like building a public school? This City has set up a number of processes and rules for construction projects.¹⁵⁰ To build a school, you have to go through a number of hoops.¹⁵¹ Most cities build a school in less than two years.¹⁵² The Empire State Building was built in eight months.¹⁵³ We cannot build a public school in less than five years,¹⁵⁴ and after it is built, no one is certain it is leak-free for the first day of school.

150. See N.Y. CITY ADMIN. CODE § 27-588 (1997); N.Y. CITY CHARTER ch. 8 § 197-c (1989).

151. See N.Y. CITY ADMIN. CODE § 27-588 (1997); N.Y. CITY CHARTER ch. 8 § 197-c (1989).

152. See generally *Eight Years to Build a School?*, N.Y. TIMES, Aug. 5, 1987, at A26.

153. See Jere Hester, *Long List of Highs and Lows: The Site of Fantasies and Sudden Tragedy*, DAILY NEWS (N.Y.), Feb. 24, 1997, at 19.

154. See *Eight Years to Build a School?*, *supra* note 152.

