

Chapter Nine:
For Regional and Rational Transport

In 1972, the second of the "twin towers" of the World Trade Center neared completion -- the ultimate expression of the inner city as forest of skyscrapers. People in many of America's large cities could not avoid noticing that their physical surround was becoming considerably more elevated. Not every city had 100-story buildings, but in a dozen cities, thirty- and forty-story-high buildings replaced entire blocks of smaller and lower structures that had existed for the previous hundred years. At first such changes seemed positive, because the old buildings had been dilapidated, but there was soon a realization that the old pattern of smaller buildings had sustained residential as well as business uses, while the new taller structures were strictly for business, and that while these new tall buildings brought greater daytime population density to downtown Boston, Baltimore, Chicago, Cleveland, Detroit, New York, Philadelphia and Washington, they accelerated the depopulation of the center cities in the evenings and on weekends, and served to further aggravate the problems of conveying people to and from the city centers. Skyscraping meshed with the final stages of ringing the major cities with interstates, which worsened the effects of both construction binges. Moreover, highway tendrils penetrating from the outer suburbs into midtown centers further enabled suburban residents to distance themselves from the life of the city by allowing commuters to drive to tall-building places of employment, and to return home again, without ever interacting with the rest of the city.

Kheel had long believed that transportation was the key to sustaining a future livable urban environment. Having won the battle of the 1971 bond issue, he was at the height of his public power. With no particular plan in mind but the desire to push for more rational regional transport, he pursued various opportunities that came his way to act in support of mass transit and against further erosion of the city by automobiles and highways. He became chairman of the advisory board of the Highway Action Coalition, which opposed further highway construction and advocated dipping into the federal highway trust fund to assist mass transit, a proposal being considered by Congress in late 1971. He convinced New York City to sue General Motors for monopolizing the bus market and blocking the production of cheap buses in order to sell more automobiles, which impeded progress in mass transit; a similar federal suit against GM, for pushing cities to switch from electrified trolleys to less-efficient buses, had been settled earlier by a consent decree, but this was the first time a municipality was suing to break up a monopoly.¹ At an anti-highways meeting, Kheel prophesized, "I can see it now -- the year 2000 A.D., when New York State will be criss-crossed by a thick web of highways and the Second Avenue subway will still not be completed."²

If his plans for achieving rational regional transport seemed scattershot, nevertheless the critiques of current policies that Kheel

¹ General Motors lobbied to have Kheel stricken from a list of witnesses at a Congressional hearing on the matter, because of his alleged bias against autos, and moved to transfer the trial out of New York, claiming that Kheel's views would have too much influence over prospective jurors and prevent GM from obtaining a fair trial.

² The Second Avenue subway, for which tunnels were dug, has been permanently shelved (interred?) as a city construction project.

had sounded were increasingly echoed by others, especially his warning about the social costs of the World Trade Center.³ Real estate developer Harry Helmsley asserted that the Twin Towers were unfair competition from the Port Authority that was hurting downtown property owners, because while private builders had to charge \$9 per square foot in a new building just to break even, the World Trade Center could charge \$7, because the PA could borrow money at lower rates than commercial developers and pay less in taxes. Adding to commercial developers' woes was that a third of the space in the towers was being filled with state offices moved from quarters they had previously rented from commercial landlords.⁴

Other Kheel ideas Rockefeller had labeled as "crazy" during the 1971 campaign -- mandating that the PA apply its surpluses to mass transit, build rail links to the airports, and restructure its board -- were now embodied in bills moving through the state legislature. As more people came around to Kheel's point of view, there were calls for him to replace Tobin as Port Authority executive director.

William Ronan wanted the job and was more qualified. Kheel counseled Ronan against taking the position because a "heavy cloud put there by Mr. Tobin," namely the covenant, would prevent him from changing the PA's stance on mass transit. Kheel wrote a tongue-in-cheek Help Wanted ad in *New York* for the executive

³ Kheel discovered that the legislature had originally approved only one 72-story tower, and that Tobin had then built two 110-story buildings without legislative approval.

⁴ The opening of the World Trade Center added 10 million square feet of office space to a market that was already saturated, and is considered in retrospect to have contributed substantially to a slump in the construction and real estate industries that lasted for a half-dozen years; by depressing the market, it also resulted in lower-than-anticipated city tax collections, which contributed to the near-default of 1975.

director of “the most powerful state-within-a-state outside of the Vatican,” whose perks included “use of chauffeured helicopter.”

In late March, 1972, the Second Circuit federal appeals court dismissed Kheel’s suit against the Port Authority on a technicality. For this second go-around, the PA’s lawyers had changed the basis on which they attempted to rebuff Kheel: they attacked his standing in court. To sue in a federal court, a plaintiff had to show \$10,000 in potential gains or losses at stake.⁵ Kheel’s advisors had suggested that he argue that because the Port Authority had not built rail links to the airports, he had to take \$12,000 worth of taxis to reach the airports. Kheel recalls that “The appeals court said that ‘Given the age of Mr. Kheel and the amount of time it would take to build Mr. Kheel the kind of transportation system he requires, he won’t live long enough to see it happen,’ so they ruled I didn’t have standing and there was no federal jurisdiction in the case. They said nothing about the real issues.” Kheel mulled an appeal to the Supreme Court. A second chance to challenge the constitutionality of the covenant sprang up in New Jersey, as advertising executive Daniel Gaby took Kheel’s New York complaint, word for word, and brought it as his own suit in state court there. Gaby was delighted to have Kheel and his associates do the legal work on this suit for him. With two suits in hand, Kheel was able to goad Standard and Poor’s to issue a letter warning that the constitutional conflict raised in the suits “must be resolved” before any future PA bond sale.

⁵ At that time, the Supreme Court had ruled that the claims of all members of a class action suit could not be aggregated to meet the threshold amount; in later years, well after the Kheel suit was settled, the Court reversed its position on aggregation.