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THE WHITE HOUSE

WASHINGTON

October 27, 1975

MEMORANDUM FOR: THE PRESIDENT
FROM: L. WILLIAM SEIDMAN *LWS*
SUBJECT: New York City

A redraft of your New York City speech designed to incorporate the substance of your proposal is attached at Tab A. The draft has been coordinated with all appropriate Departments and agencies.

A copy of the proposed Bill referred to in the speech providing for a Chapter XVI in the Federal Bankruptcy Act is attached at Tab B.

A letter from Chairman Burns to Congressman Ashley outlining his views on New York City is attached at Tab C.

cc: Robert T. Hartmann
Donald Rumsfeld



NEW YORK CITY

Events are now rushing to an apparent climax in the financial affairs of New York City. _____ days ago the city tottered on the brink of a default and was saved from that fate by an eleventh-hour decision of the Teachers Union Pension Fund.

The next day, Mayor Beame testified here in Washington that the financial resources of the city and of the State of New York were exhausted. Governor Carey agreed. It's now up to Washington, they said, and unless the Federal Government intervenes, New York City will no longer be able to pay its bills within a short time.

Responsibility for New York City's financial problems is being left on the front doorstep of the Federal Government -- unwanted and abandoned by its real parents.

As your President, I believe the time has come to state my position personally to the citizens of New York and to those across the land:



-- To sort out fact from fiction in this terribly complex situation;

-- To say what solution will work and what should be cast aside;

-- And to tell all Americans how the problems of New York City relate to their own lives.

Many explanations have been offered about what led New York City into this quagmire.

Some have said it was long-range economic factors such as the flight to the suburbs of the city's more affluent citizens, the migration to the city of poorer people, and the departure of industry.

Others have said that the big metropolitan city has become obsolescent, that decay and pollution have brought a deterioration in the quality of life, and that a downfall could not be prevented.



Let's face the facts: many other cities in America have faced these same challenges, and they are still financially healthy today. They have not been luckier than New York; they have simply been better managed.

There is an old saying: "The harder you try, the luckier you are."

During the last decade, the politicians of New York have allowed the budget to triple. No city can expect to remain solvent if it allows its expenses to increase by an average of 12 percent every year, while its tax revenues have been increasing by only 4 to 5 percent a year.

Consider what this has meant in specific terms:

-- New York City's payroll costs are the highest in the United States. A sanitation worker with three years experience now receives a base salary of nearly \$15,000 a year. Fringe benefits and retirement



costs average more than 50 percent of base pay. Four-week paid vacations and unlimited sick leave after only one year on the job.

Where else?

-- In most cities, city employees are required to pay 50 percent or more of the cost of their pension. New York City is the only major city in the country that picks up the entire burden.

-- And when retirement for municipal employees does come, it often comes much earlier than in most cities, and the system has been rigged so that most can retire at pensions considerably higher than any sound retirement plan would permit.

-- New York City has 18 municipal hospitals; yet, on an average day, 25 percent of the hospital beds are empty. Meanwhile, the city spends millions more to pay the hospital expenses of those who use private hospitals.



-- New York City also operates one of the largest universities in the world, free of tuition for any high school graduate, rich or poor, who wants to attend.

-- As for the much discussed welfare burden, more than one current welfare recipient in ten is legally ineligible for welfare assistance.

I do not blame all the people of New York City for their generous motives or for their present plight. I do blame those who have misled the people of New York City about the inevitable consequences of what they have allowed to happen over the last 10 years.

The consequences are incontrovertible:

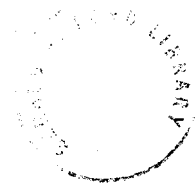
- A steady stream of unbalanced budgets;
- Massive growth in the city's debt;
- Extraordinary increases in public employee contracts;

-- And total disregard of independent experts who warned again and again that the city was courting disaster.

There can be no doubt where real responsibility lies. And when New York City now asks the rest of the country to guarantee its bills, it should be no surprise to its leaders that many Americans ask why. Why should they support advantages in New York that they have not been able to afford for their own communities? Why should all the working people of this country be forced to rescue those who bankrolled New York City's policies for so long -- the large investors and banks? In my judgment, no one has yet given these questions a satisfactory answer.

Nor can I.

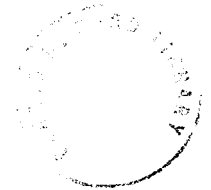
Instead, Americans are told that unless the rest of the country bails out New York, there will be certain catastrophe for the United States and perhaps for the world. To be sure, there are risks that



default could temporarily unsettle financial markets. But these markets have already made a substantial adjustment in anticipation of a possible default by New York City. Moreover, claims have been made that because of New York City's troubles, other municipalities will have grave difficulties in selling their bonds.

But, the New York City fiasco is unique among municipalities. Other communities have a solid reputation for living within their means. In recent days and weeks, other local governments have gone to investors with clean records of fiscal responsibility and have had no difficulty raising funds.

The more important risk is that any attempt to provide a blank check for the politicians of New York City could insure that no long-run solution to the city's problems would occur.



What I cannot understand -- and what nobody should condone -- is the blatant attempt in some quarters to frighten the American people and their representatives in Congress into panicky support of patently bad policy. The people of this country will not be stampeded; they will not panic when a few desperate New York politicians and bankers try to scare the mortgage payments out of them.

What we need now is a calm, rational decision as to what the right solution is -- the solution that is best for the people of New York and best for all Americans.

To be effective, the right solution must meet three basic tests:

-- It must maintain essential services for the people of New York City. It must protect the innocent victims of this struggle.

-- Second, the solution must assure that New York City can and will achieve and maintain a balanced budget in the years ahead.

-- And third, the right solution must guarantee that neither New York City nor any other American city ever becomes a ward of the Federal Government.

There are at least eight different proposals under consideration by the Congress intended to prevent default. They are all variations of one basic theme: that the Federal Government would guarantee the availability of funds to New York City. The sponsors of these bills say that the guarantee would be short-term because New York City could be forced by Federal law to balance its books within three years.

I am fundamentally opposed to this purported solution, and I will tell you why.

Basically, it is a mirage. By giving a Federal guarantee we would be reducing rather than increasing the prospect that the city's budget will ever be balanced. New York City's politicians have proved in the past



that they will not face up to the city's massive network of pressure groups as long as any alternative is available. If they can scare us into providing that alternative now, why should they not be confident of scaring us into providing it three years from now? In short, it encourages the continuation of "politics as usual" in New York -- which is precisely not the way to solve the problem.

Such a step would set a terrible precedent for the rest of the Nation. It would promise immediate rewards and eventual rescue to every other city that followed the example of our largest city. What restraint would be left on the spending of other local and state governments once it became clear to them that there is a Federal rescue squad that will always arrive in the nick of time?

Finally, we must all recognize who the primary beneficiaries of a Federal guarantee program would be. The immediate beneficiaries



would not be the recipients of the services provided to New York City residents because the really essential public services must and will continue to be provided.

The prime beneficiaries would just be the New York politicians who would thus be excused from bearing the responsibilities of the profligacy of their past decisions and further excused from now making the hard decisions required to restore the fiscal integrity of the city.

The second beneficiaries would be the large investors and financial institutions who purchased these securities anticipating a high rate of tax-free return.

Does this mean there is no solution? Not at all. There is a fair and sensible way to resolve this issue, and this is the way to do it:



If the city is unable to act to provide a means of meeting its obligations, a new law is required to assure an orderly and fair means of handling the situation. Therefore, I will tomorrow submit to the Congress special legislation providing the Federal Courts with sufficient authority to preside over an orderly reorganization of the city's financial affairs, should that become necessary.

How would this work? The city, with State approval, would file a petition with the Federal District Court in New York. The petition would state that the city is unable to pay its debts as they mature and that the city desires to work out an adjustment of its debts with its creditors.

The Court will accept jurisdiction of the case and provide for an automatic stay of suits by creditors so that the essential functions of the city will not be disrupted. This stay, essentially an injunction, would

continue until the proceeding is terminated. This will enable an orderly plan to be developed whereby the city can work out an arrangement with its creditors.

While the city is working out a compromise with its creditors, the essential governmental functions of the city would continue under current law.

The proposed legislation will include provision that as a condition of the city petitioning the Court, the city must not only file a good faith plan for payments to its creditors but must also present a program for placing the fiscal affairs of the city on a sound basis.

In order to meet the short-term needs of the city, the Court will be empowered to authorize debt certificates covering new loans to the city which would be paid out of future tax revenues ahead of other creditors.



Thus, the legislation I am proposing will do three essential things. First, it will prevent, in the event of a default, all city funds from being tied up by lawsuits. Secondly, it will enable an orderly plan to be developed for payments to New York's creditors over the long term. Thirdly, it will enable some new borrowing secured on a priority basis by future tax revenues.

Let us not delude ourselves that this proposed legislation will in and of itself put the affairs of New York City in order without the need for some hard measures to be taken by the officials of New York City and State. This must include either increased revenues or expenditure cuts or some combination of both that will bring them to a sound financial position. Our careful examination has indicated, however, that those measures are neither beyond the realm of possibility nor beyond the demands of reason. If they are taken, New York City will, with the



assistance of the legislation I am proposing, be able to restore itself as a fully solvent operation.

To summarize, the plan I am recommending tonight is this:

If New York fails to act in its own behalf, there should be an orderly proceeding supervised by a Federal Court.

The ones who will be hurt by this plan will be those who are now fighting so hard to protect their power and their profits: New York politicians and the city's creditors. The creditors need not be wiped out; how much they will be hurt will depend upon the future conduct of the city's politicians.

For the people of New York, this plan will mean that essential services will continue. There may be some temporary inconveniences, but that will be true of any solution that is adopted. For the financial community, the default may bring some temporary disorder, but the



repercussions need not be large or long lasting. In fact, there is solid reason to believe that once the uncertainty of New York is ended, markets will be sturdier. Finally, for the people of the United States, this plan means that they will not be asked to assume a burden that is not of their own making and should not become their responsibility. This is a fair and honorable way to proceed.

In conclusion, let us pause for a moment to consider what the New York City experience means for the United States.

Two weeks ago, I spoke to you about the choice I believe we face as a nation: the choice between continuing down a path of higher government spending, higher government deficits, and more inflation or taking a new direction by cutting our taxes and cutting the growth in government spending. Down one fork, I said, lies the wreckage of many great nations of the past. Down the other lies the opportunity for greater prosperity and greater freedom.



Tonight I think it is clear what path New York City chose. None of us can take any pleasure from this moment because the leaders of New York were in a very basic sense following the same spending practices they saw in Washington. The difference is that Washington owns printing presses and can always print more money to pay its bills. But ultimately the practice of living beyond your means catches up with a nation just as it catches up with a family or city. And for the citizens of that nation, the bill comes due either in the form of higher taxes or the harshest and most regressive tax of all, inflation.

All of us tonight care especially about the people of New York City: they have worked hard over the years to create one of the greatest centers of civilization. But as we work with them now to overcome their difficulties, let us never forget what led that city to the brink. And let us resolve that these United States will never reach the same crisis.

Thank you and good evening.



A B I L L

To amend the Bankruptcy Act to add a new chapter thereto providing for the adjustment of the debts of major municipalities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Bankruptcy Act of 1893 (30 Stat. 544), as amended, is hereby amended to add a new Chapter XVI thereto reading as follows:

CHAPTER XVI - ADJUSTMENT OF INDEBTEDNESSES
OF MAJOR MUNICIPALITIES

JURISDICTION AND RESERVATION OF POWERS

SEC. 801. (a) This Act and proceedings thereunder are found and declared to be within the subject of bankruptcies and, in addition to the jurisdiction otherwise exercised, courts of bankruptcy shall exercise original jurisdiction as provided in this chapter for the composition or extension of the debts of certain public agencies or instrumentalities or political subdivisions. The court in which the petition is filed in accordance with Subsection 804(c) shall exercise exclusive jurisdiction for the adjustment of petitioner's debts and, for purposes of this chapter, shall have exclusive jurisdiction of petitioner and its property, wherever located.

(b) Nothing contained in this chapter shall be construed to limit or impair the power of any State to control by legislation



or otherwise, any public agency or instrumentality or political subdivision of the State in the exercise of its political or governmental powers, including expenditure therefor; Provided, however, that no State law prescribing a method of composition of indebtedness of such agencies shall be binding upon any creditor who does not consent to such composition, and no judgment shall be entered under such State law which would bind a creditor to such composition without his consent.

DEFINITIONS

SEC. 802. The words and phrases used in this chapter have the following meanings unless they are inconsistent with the context.

- (1) The term "attorney" means an attorney licensed to practice law by any State and includes a law partnership.
- (2) The term "claim" means a demand for performance of an obligation to pay money, whether matured or unmatured.
- (3) The term "composition" means a plan for payment of less than the full amount of debts provided for by the plan, with or without the extension of time for payment of such debts.
- (4) The term "court" means United States District Court sitting in bankruptcy, and the terms "clerk" and "judge"



shall mean the clerk and judge of such court.

- (5) The term "creditor" means any person who owns a claim against the petitioner. With respect to such claims owned by a trustee under a mortgage deed of trust, or indenture, pursuant to which there are securities outstanding, other than voting trust certificates, the term "creditor" means only the trustee.
- (6) The term "lien" means a security interest in property, a lien obtained on property by levy, sequestration or other legal or equitable process, a statutory or common-law lien on property, or any other variety of charge against property to secure performance of an obligation.

ELIGIBILITY FOR RELIEF

SEC. 803. (a) Any municipality with a population in excess of 1,000,000 inhabitants is eligible for relief under this chapter, if the municipality is first specifically authorized by the State to file a petition initiating a proceeding under this chapter.

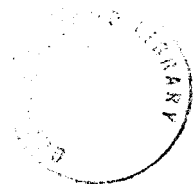


(b) Any public agency or instrumentality or political subdivision subordinate to such municipality or whose responsibilities are restricted to the geographical limits thereof, including incorporated authorities, commissions and districts, for whose debts such municipality is not otherwise liable, is eligible for relief as a separate petitioner in the same proceeding in which such municipality seeks relief under this chapter if such agency, instrumentality or subdivision is not prohibited from filing a petition by applicable State law.

PETITION; PROPOSED PLAN AND STATEMENT OF
REVENUES AND EXPENDITURES; FILING

SEC. 804. (a) Any entity eligible for relief under Section 803 may file a voluntary petition under this chapter. The petition shall state that the petitioner is eligible to file a petition, that the petitioner is insolvent or unable to pay its debts as they mature and that it desires to effect a plan of composition or extension of its debts. The petitioner shall file with its petition lists of claims outstanding and of persons who may be adversely affected by the plan, as set forth in Section 809.

(b) A petition shall be insufficient to invoke the jurisdiction of the court unless it is accompanied by (1) a good faith plan of



composition or extension of debts which petitioner certifies is in its view fair, equitable, feasible, and not unfairly discriminatory in favor of any creditor or class of creditors and (2) a statement of petitioner's current and projected revenues and expenditures adequate to establish that the budget of petitioner will be in balance within a reasonable time after adoption of the plan.

(c) The petition shall be filed with the court in whose territorial jurisdiction the municipality or the major part thereof is located, and shall be accompanied by payment to the clerk of a filing fee of \$100, which shall be in lieu of the fee required to be collected by the clerk under other applicable chapters of this title, as amended.

STAY OF PROCEEDINGS

SEC. 805. (a) A petition filed under Section 804 shall operate as a stay of the commencement or the continuation of any court or other proceeding against the petitioner, its property or any officer or inhabitant of the petitioner, which seeks to enforce any claim against the petitioner; as a stay of any act or the commencement or continuation of any court proceeding to enforce any lien on taxes or assessments, or to reach any property of the petitioner; and as a stay of the application of any set-off or enforcement of any



counterclaim relating to any contract, debt or obligation of the petitioner.

(b) Except as it may be terminated, annulled, modified, or conditioned by the court under Subsection (c) of this Section, the stay provided by Subsection (a) of this Section shall continue until the case is closed or dismissed or the property subject to the lien is, with the approval of the court, abandoned or transferred.

(c) On the filing of a motion seeking relief from a stay provided by Subsection (a) of this Section, the court shall set a hearing for the earliest possible date. The court may, for cause shown, terminate, annul, modify or condition such stay.

(d) The commencement or continuation of any act or proceeding other than described in Subsection (a) of this Section may be stayed, restrained, or enjoined pursuant to Rule 65 of the Federal Rules of Civil Procedure, except that a temporary restraining order or preliminary injunction may be issued without compliance with subdivision (c) of that rule.

(e) No stay, order, or decree of the court may interfere with
(1) any of the political or governmental powers of the petitioner;



or (2) any of the property or revenues of the petitioner necessary for essential governmental purposes; or (3) the petitioner's use or enjoyment of any income-producing property. Provided, however, that the court shall enforce the conditions attached to certificates of indebtedness issued under Subsection 811 and the provisions of the plan of compensation.

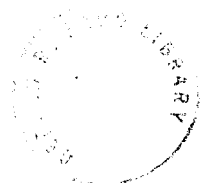
CONTEST AND DISMISSAL OF PETITION

SEC. 806. (a) Any creditor may file a complaint in the bankruptcy court contesting the petition for relief under this chapter or stating any objection he has to the plan. The complaint may be filed at any time up to ten days before the hearing on the confirmation of the plan or within such other times as may be directed by the court.

(b) The court may, upon notice to the creditors and a hearing following the filing of such a complaint, dismiss the proceeding if it finds that the petition was not filed in good faith, that it does not meet the provisions of this chapter, that it has not been prosecuted with reasonable diligence, or that there is no substantial likelihood that a plan of composition will be approved by the court.

NOTICES

SEC. 807. (a) The clerk shall give prompt notice of the commencement of a proceeding under this chapter to the State and to the Securities and Exchange Commission. As creditors and other persons



who may be materially and adversely affected by the plan are identified, the clerk shall give such persons notice of the commencement of the proceeding, a summary of the provisions of the plan and any proposed modification of the plan, and of their right to request a copy of the plan, or modification.

(b) The clerk shall also give notice to all creditors of the time permitted for accepting or rejecting a plan or any modification thereof. Such time shall be 90 days from the filing of the plan or modification unless the court for good cause shall set some other time.

(c) The clerk shall also give notice to all creditors (1) of the time permitted for filing a complaint objecting to confirmation of a plan, (2) of the date set for hearing objections to such complaint, (3) of the date of hearing of a complaint seeking dismissal of the petition, and (4) of the date of the hearing on confirmation of the plan.

(d) All notices given by the clerk shall be given in the manner directed by the court; however, the court may issue an order at any time subsequent to the first notice to creditors directing that those persons desiring written notice file a request with the court. If the court enters such an order persons not so requesting will receive no further written notice of proceedings under the chapter.

(e) Cost of notice shall be borne by the petitioner, unless the court for good cause determines that the cost of notice in a particular instance should be borne by another party.



REPRESENTATION OF CREDITORS

SEC. 808. For all purposes of this chapter any creditor may act in person or by an attorney or a duly authorized agent or committee. Where any committee, organization, group, or individual shall assume to act for or on behalf of creditors, such committee, organization, group, or individual shall first file with the court in which the proceeding is pending a list of the creditors represented, giving the name and address of each and describing the amount and character of the claim of each; copies of the instrument or instruments in writing signed by such creditors conferring the authority for representation; and a copy of the contract or contracts of agreement entered into between such committee, organization, group, or individual and the represented creditors, which contract or contracts shall disclose all compensation to be received, directly or indirectly for such representation, which agreed compensation shall be subject to modification and approval by the court.

LIST OF CLAIMS AND PERSONS ADVERSELY AFFECTED

SEC. 809. (a) The list of claims filed with the petition shall include, to the extent practicable, the name of each known creditor to be affected by the plan, his address so far as known to the petitioner, and a description of each claim showing its amount and character, the nature of any security therefor and whether the claim is disputed,



contingent or unliquidated as to amount. With respect to creditors not identified, the petition shall set forth the reasons identification is not practicable, and shall specify the character of claim involved. The list shall be supplemented as petitioner becomes able to identify additional creditors.

(b) If the proposed plan requires revision of assessments so that the proportion of special assessments or special taxes to be assessed against some real property will be different from the proportion in effect at the date the petition is filed, the holders of record of title, legal or equitable, to such real property shall be deemed persons adversely affected and shall be similarly listed.

(c) The court may for cause modify the requirements of Subsections (b) and (c) of this Section.

PROOFS OF CLAIM

SEC. 810. Unless an objection is made by any party in interest, the claim of a creditor that is not disputed, is established by the list of claims filed pursuant to Section 809. The court may set a date by which proofs of claim of unlisted creditors and of creditors whose listed claims are disputed must be filed. If the court does not set such a date, the proofs must be filed before the entry of the order of confirmation. The clerk shall give notice to each person whose claim is listed as disputed in the manner directed by the court.



DEBT CERTIFICATES

SEC. 811. During the pendency of a proceeding for a plan of composition or extension under this chapter, or after the confirmation of the plan if the court has retained jurisdiction, the court may, upon good cause shown, authorize the petitioner to issue certificates of indebtedness for cash, property or other consideration, under such terms and conditions and with such security and priority in payment over existing obligations as the court may approve. Notwithstanding any other provision of law including Section 819 of this chapter, the court shall have plenary jurisdiction of any action which may be brought against petitioner to enforce compliance with the terms of any such certificates of indebtedness.

PRIORITIES

SEC. 812. The following shall be paid in full in advance of the payment of any distribution to creditors under a plan, in the following order:

- (1) The cost and expenses of administration which are incurred by the petitioner subsequent to the filing of a petition under this chapter.
- (2) Debts owed for services and materials actually provided within four months before the date of the filing of the petition under this chapter.



- (3) Debts owing to any person or entity, which by the laws of the United States (other than this Act) are entitled to priority.

PLAN OF ADJUSTMENT

SEC. 813. The plan of composition or extension sought under this chapter may include provisions modifying or altering the right of creditors generally, or of any class of them, secured or unsecured, either through issuance of new securities of any character, or otherwise, and may contain such other provisions and agreements not inconsistent with this chapter as the parties may desire, including provisions for the rejection of executory contracts and unexpired leases.

VOTING ON ACCEPTANCE OF PLAN

SEC. 814. (a) A plan of composition or extension may be confirmed only if, of the creditors voting in writing to accept or reject the plan, those holding two-thirds in amount of each class materially and adversely affected have voted to accept: Provided, however, that no such acceptance shall be required from any class which, under the plan, is to be paid in cash the value of its claims or is to be afforded such method of protection as will, consistent with the circumstances of the particular case, equitably and fairly provide for the realization of the value of its claims.



(b) Unless his claim has been disallowed, any creditor who is included on the list filed pursuant to Section 809 or who files a proof of claim pursuant to Section 810 is entitled to vote to accept or reject a plan or modification thereof within the time set pursuant to Subsection 807(b). Claims owned, held or controlled by the petitioner are not eligible to vote.

(c) The holders of all claims regardless of the manner in which they are evidenced, which are payable without preference out of funds derived from the same source or sources shall be of one class. The holders of claims for the payment of which specific property or revenues are pledged, or which are otherwise given preference as provided by law, shall constitute a separate class or classes of creditors.

(d) If any controversy shall arise as to whether any creditor or class of creditors shall or shall not be materially and adversely affected, the issue shall be determined by the judge, after hearing, upon notice to the parties interested.

MODIFICATION OF PLAN

SEC. 815. Before a plan is confirmed, changes and modifications may be made therein with the approval of the judge after hearing and upon such notice to creditors as the judge may direct, subject to the right of any creditor who has previously accepted the plan to withdraw his acceptance in writing, within a period to be fixed by the



judge, if, in the opinion of the judge, the change or modification will materially and adversely affect such creditor; and if any creditor having such right of withdrawal shall not withdraw within such period, he shall be deemed to have accepted the plan as changed or modified: Provided, however, That the plan as changed or modified shall comply with all the provisions of this chapter and shall have been accepted in writing by the petitioner.

HEARING ON CONFIRMATION OF PLAN

SEC. 816. (a) Within a reasonable time after the expiration of the time within which a plan and any modifications thereof may be accepted or rejected, the court shall set a hearing on the confirmation of the plan and modifications, and the clerk shall give notice of the hearing and time allowed for filing objections as provided in Subsection 807(c).

(b) Any creditor, or any other party in interest may file a complaint objecting to the confirmation of the plan. The complaint shall be served on the petitioner, and such other persons as may be designated by the court, at any time prior to the date of the hearing on confirmation or such earlier date as the court may set.

(c) Before concluding the hearing on confirmation of the plan the judge shall inquire whether any person promoting the plan or doing anything of such a nature, has been or is to be compensated, directly or indirectly, by both the petitioner and any creditor, and shall take evidence under oath to ascertain whether any such practice obtains. After such examination the judge shall make an



adjudication of this issue, and if he finds that any such practice obtains, he shall forthwith dismiss the proceeding and tax all of the costs against such person, or against the petitioner, unless such plan be modified within the time to be allowed by the judge so as to eliminate the possibility of any such practice.

(d) At the conclusion of the hearing, the judge shall make written findings of fact and his conclusions of law thereon, and shall enter a decree confirming the plan if he finds and is satisfied that (1) it is fair, equitable, feasible and not unfairly discriminatory in favor of any creditor or class of creditors; (2) it complies with the provisions of this chapter; (3) it has been accepted by creditors as required in Section 814; (4) all amounts to be paid by the petitioner for services or expenses incident to the composition have been fully disclosed and are reasonable; (5) the offer of the plan and its acceptance are in good faith; (6) the petitioner is authorized by law to take all action necessary to be taken by it to carry out the plan; and (7) it appears from petitioner's current and projected revenues and expenditures that the budget of the petitioner will be in balance within a reasonable time after adoption of the plan. If not so satisfied, the judge shall enter an order dismissing the proceeding. No case shall be reversed or remanded for want of specific or detailed findings unless it is found that the evidence is insufficient to support one or more of the general findings required in this section.

EFFECT OF CONFIRMATION

SEC. 817. (a) The provision of a confirmed plan shall be binding on the petitioner and on all creditors, whether or not they are affected by it, whether or not their claims have been listed, filed, or allowed, and whether or not they have accepted the plan.

(b) The confirmation of a plan shall extinguish all claims against the petitioner provided for by the plan other than those excepted from discharge by the plan or order confirming the plan.

DUTY OF PETITIONER AND DISTRIBUTION UNDER PLAN

SEC. 818. (a) The petitioner shall comply with the provisions of the plan and the orders of the court relative thereto and shall take all actions necessary to carry out the plan.

(b) Subject to the provisions of Subsection (c), distribution shall be made in accordance with the provisions of the plan to creditors (1) whose proofs of claim have been filed and allowed or (2) whose claims have been listed and are not disputed. Distribution to creditors holding securities of record shall be made to the record holders as of the date the order confirming the plan becomes final.

(c) When a plan requires presentment or surrender of securities or the performance of any other act as a condition to participation under the plan, such action must be taken not later than five years after the entry of the order of confirmation. Persons who have not within such time presented or surrendered their securities or taken

such other action shall not participate in the distribution under the plan. Any securities, monies, or other property remaining unclaimed at the expiration of the time allowed for presentment or surrender of securities or the performance of any other act as a condition to participation in the distribution under a confirmed plan shall become the property of the petitioner.

(d) The court may direct the petitioner and other necessary parties to execute and deliver or to join in the execution and delivery of any instruments required to effect a transfer of property pursuant to the confirmed plan and to perform such other acts, including the satisfaction of liens, as the court may determine to be necessary for the consummation of the plan.

RETENTION OF JURISDICTION

SEC. 819. The court may retain jurisdiction of a proceeding under this chapter for such period as it determines is necessary to assure execution of the plan.

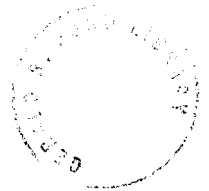
REFERENCE OF ISSUES AND COMPENSATION

SEC. 820. (a) The judge may refer any special issues of fact to a referee in bankruptcy, magistrate or another special master for consideration, the taking of testimony, and a report upon such special issues of fact, if the judge finds that the condition of his docket is such that he cannot take such testimony without unduly delaying the dispatch of other business pending in his court, and if



it appears that such special issues are necessary to the determination of the case. Only under special circumstances shall reference be made to a special master who is not a referee in bankruptcy or a magistrate. A general reference of the case to a master shall not be made, but the reference, if any, shall be only in the form of requests for findings of specific facts.

(b) The court may allow reasonable compensation for the services performed by any such special master who is not a salaried Federal employee, and the actual and necessary expenses incurred in connection with the proceeding, including compensation for services rendered and expenses incurred in obtaining the deposit of securities and the preparation of the plan, whether such work may have been done by the petitioner or by committees or other representatives of creditors, and may allow reasonable compensation for the attorneys or agents of any of the foregoing: Provided, however, That no fees, compensation, reimbursement, or other allowances for attorneys, agents, committees, or other representatives of creditors shall be assessed against the petitioner or paid from any revenues, property, or funds of the petitioner except in the manner and in such sums, if any, as may be provided for in the plan of adjustment. An appeal may be taken from any order making such determination or award to the United States Court of Appeals for the circuit in which the proceeding under this chapter is pending, independently of other appeals which may be taken in the proceeding, and such appeal shall be heard summarily.



SEPARABILITY

SEC. 821. If any provision of this chapter, or the application thereof to any agency, instrumentality, or subdivision is held invalid, the remainder of the chapter, or the application of such provision to any other agency or instrumentality or political subdivision shall not be affected by such holding.





CHAIRMAN OF THE BOARD OF GOVERNORS
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

October 24, 1975

Honorable Thomas L. Ashley
Subcommittee on Economic Stabilization
House Committee on Banking, Currency
and Housing
2220 Rayburn Building
Washington, D. C. 20515

Dear Mr. Chairman:

During my testimony yesterday, I stated that I could not at present recommend to Congress that federal financial assistance be provided to the City of New York. I stated, however, that if Congress felt that such assistance was required, stringent conditions should be imposed, and I outlined six such conditions that I would consider essential. During the colloquy I suggested that certain additional conditions might be considered, and I would like now to expand on that suggestion.

Federal financial assistance to New York may be viewed as an alternative to default by the City on its obligations. It is recognized, I believe, that our bankruptcy laws are presently inadequate to provide an orderly and effective remedy in the event of the default, and proposals are now before the Congress to amend the bankruptcy laws to cure these shortcomings. If the bankruptcy laws were modified to provide a remedy that would be available to New York City, the City would be able to restructure its bonded indebtedness, as well as burdensome contractual obligations, such as those that might be represented by collective bargaining agreements and pension retirement plans. In a bankruptcy, therefore, such creditors of the City as the New York City financial institutions, who are major holders of New York's debt obligations, as well as City employees, who may be entitled to pension benefits upon retirement, could have their contractual rights substantially affected.



If federal financial assistance is viewed as an alternative to default, then it seems to me that these groups, whose interests could be so dramatically affected in a bankruptcy, should be required to make voluntary concessions as a condition of avoiding default. Accordingly, I would urge that as a prerequisite to the implementation of any federal guarantee program provision be made, by voluntary agreement with those directly affected, (1) for a scaling down of the interest charges presently in effect for Municipal Assistance Corporation securities, (2) for scaling down of the interest charges and lengthening of maturities on those New York City securities held by New York City financial institutions, and (3) for some reduction of the burden imposed upon the City under existing pension and retirement plans.

The scaling down of interest charges on debt obligations of MAC and the City could be accomplished through the agreement of New York City financial institutions to accept new lower yield securities in exchange for those presently held by them. It should be specified that before a federal guarantee could be issued some percentage (it should be high) of the securities owned by New York City financial institutions must be committed to such an exchange. By doing this not only would the burden on the City be reduced, but the federal exposure with respect to the guarantee would also be reduced.

The voluntary modification of the City's obligations with respect to pension and retirement plans may, of course, present legal problems. But the labor organizations representing City employees have in the past demonstrated great effectiveness in negotiating on behalf of their members, and if they were committed to a cooperative effort to make a federal assistance program a reality I believe a means could be found to achieve the necessary accommodations.

There are no groups whose interests would be more drastically affected by a default than New York City financial institutions and City employees. New York City financial institutions, which are the predominant holders of the high interest rate MAC securities, and major holders of direct obligations of the City, could quite reasonably elect to reduce their



Honorable Thomas L. Ashley

- 3 -

present claims on these obligations as an alternative to the disruption and uncertainty that would be caused by default. Similarly, in the event of a default, the jobs of many City employees -- or even the salaries of all City employees -- would be in jeopardy, and faced with the prospect of a present loss of income such employees might well elect voluntarily to reduce their claims to future retirement benefits. It is highly appropriate that these groups, who have such a great stake in the continued vitality of the City, be required to demonstrate their own firm commitment to the City's rehabilitation as a prerequisite for federal aid.

Sincerely yours,

Arthur F. Burns

JDH/jp

NEW YORK CITY

I have asked for this opportunity to speak to you face to face about a matter of concern to all Americans.

New York City, where one out of every 25 Americans live, through whose "Golden Door" untold millions have entered this land of Liberty, faces a financial showdown.

It is impossible for any American to think of New York without a mixture of emotions. It is impossible for any President of all the people not to think seriously and sympathetically about the eight million people of New York.

The time has come for straight talk -- to these eight million Americans and to the other 206 million Americans to whom I owe the duty of stating my convictions and conclusions, and to you, with whom I share the Federal obligations fixed by the Constitution of the United States.

The time has come to sort facts and figures from fiction and fear-mongering in this terribly complex situation. The time has come to say what solutions will work and which should be cast



aside.

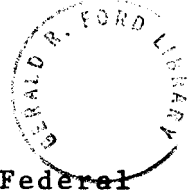
And the time has come for all Americans to see how the problems of New York and the hard decisions they demand, fore-shadow and focus upon/~~XXXXXX~~ ^{potential} problems for all Federal, State and local governments -- problems which demand equally hard decisions from all of us.

One week ago New York City tottered upon the brink of financial default and was only saved by an 11th-hour decision of the Teachers' Union pension fund. ✓

The next day Mayor Beame testified here in Washington that the financial resources of the City and State of New York were exhausted. Governor Carey agreed.

It's now up to Washington, they said, ^{and} unless the Federal government intervenes, New York City within a short time will no longer be able to pay its bills.

The message was clear: Responsibility for New York City's financial problems is being left on the front doorstep of the Federal government -- unwanted and abandoned by its real parents.



Many explanations have been offered about what led New York City deeper and deeper into this quagmire.

Some contend it was long-range economic factors such as the flight to the suburbs of the city's more affluent citizens, the migration to the city of poorer people, and the departure of industry.

Others argue that the big metropolitan city has become obsolescent, that decay and pollution have brought a deterioration in the quality of urban life, and that New York's downfall could not be prevented.

Let's face one simple fact: most other cities in America have faced these same challenges, and they are still financially healthy today. They have not been luckier than New York; they simply have been better managed.

There is an old saying: "The harder you try, the luckier you are." I like that definition of "luck".



(MORE)

During the last decade, the politicians of New York City have allowed its budget to triple. No city can expect to remain solvent if it allows its expenses to increase by an average of 12% every year, while its tax revenues are increasing by only 4 to 5% a year.

As Al Smith, a great Governor who came from the sidewalks of New York, used to say: "Let's look at the record."

The record shows that New York City's payroll costs are the highest in the United States. A sanitation worker with three years experience now receives a base salary of nearly \$15,000 a year. Fringe benefits and retirement costs average more than 50% of base pay. Four-week paid vacations and unlimited sick leave after only one year on the job.

The record shows that in most cities, municipal employees have to pay 50% or more of the cost of their pensions. New York City is the only major city in the country that picks up the entire burden.



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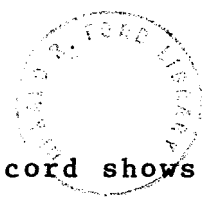
The record shows that when New York's municipal employees retire they often retire much earlier than in most cities. The New York City retirement system has been rigged so that most can retire at pensions considerably higher than any sound retirement plan would permit.

The record shows New York City has 18 municipal hospitals; yet, on an average day, 25% of the hospital beds are empty. Meanwhile, the city spends millions more to pay the hospital expenses of those who use private hospitals.

The record shows New York City operates one of the largest universities in the world, free of tuition for any high school graduate, rich or poor, who wants to attend.

New York's
As for/~~the~~ much discussed welfare burden, the record shows more than one current welfare recipient in ten is, legally ineligible for welfare assistance. (proof?)

Certainly I do not blame all the people of New York City for their generous instincts or for their present plight. I



do blame those who have misled the people of New York City about the inevitable consequences of what they have allowed to happen over the last 10 years.

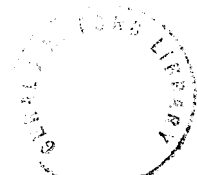
The consequences are incontrovertible:

- A steady stream of unbalanced budgets;
- Massive growth in the city's debt;
- Extraordinary increases in public employee contracts;
- And total disregard of independent experts who warned again and again that the city was courting disaster.

There can be no doubt where the real responsibility lies. And when New York City now asks the rest of the country to guarantee its bills, it can be no surprise to its leaders that many other Americans ask why.

Why, they ask, should they support advantages in New York that they have not been able to afford for their own communities?

Why, they ask, should all the working people of this country be forced to rescue those who bankrolled New York City's policies



for so long -- the large investors and big banks?

In my judgment, no one has yet given these questions a satisfactory answer.

Instead, Americans are being told that unless the rest of the country bails out New York, there will be certain catastrophe for the United States and perhaps for the world.

Is this Halloween scare story true?

Of course there are risks that default could temporarily unsettle the financial markets. But these markets have already made a substantial adjustment in anticipation of a possible default by New York City.

Claims also are made that because of New York City's troubles, other municipalities will have grave difficulty selling their bonds. I know this troubles many thoughtful citizens.

But, the New York City record of financial fiasco is unique among municipalities. Other communities have a solid reputation for living within their means. In recent days and weeks, other local governments have gone to investors with clean records of



fiscal responsibility and have had no difficulty raising funds.

The greater risk is that any attempt to provide a(Federal?) blank check for the politicians of New York City could insure that no long-run solution to the city's problems would ever occur.

I can understand the concern of many citizens in New York and elsewhere. I understand because I am also concerned.

What I cannot understand -- and what nobody should condone -- is the blatant attempt in some quarters to frighten the American people and their Representatives in Congress into panicky support of patently bad policy. The people of this country will not be stampeded; they will not panic when a few desperate New York politicians and bankers try to scare New York's mortgage payments out of them.

We have heard enough of these self-serving false alarms.

What we need now is a calm, rational decision as to what the right solution is -- the solution that is best for the people of New York and best for all Americans.

(MORE)

That is what you want and what I want.

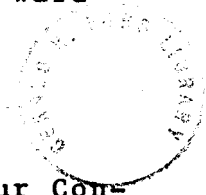
To be effective, the right solution must meet three basic tests:

-- It must maintain essential services for the people of New York City. It must protect the innocent victims of this struggle. There must be policemen on the beat, firemen in the station, nurses in the wards and teachers in the classrooms. Life must go on.

-- Second, the solution must assure that New York City can and will achieve and maintain a balanced budget in the years ahead.

-- And third, the right solution must guarantee that neither New York City nor any other American city ever becomes a ward of the Federal Government.

Let me digress a minute to remind you that under our Constitutional system, both the cities and the Federal government are the creatures of the States. The States delegate certain



of their sovereign powers -- the power to tax, police powers and the like -- to local units of self-government. And they can take these powers back if they are abused.

The States also relinquished certain sovereign powers to the Federal government -- some altogether and some to be shared. In return the Federal government has certain obligations to the States -- but no authority to by-pass them and regulate their subdivisions.

I see a serious threat to the legal and traditional relationships among our Federal, State and local governments in any Congressional action which could lead to disruption of this delicate balance. Our largest city is no different in this respect than our smallest town. If Mayor Beame doesn't want Governor Carey to run his city, does he want the President of the United States to be Acting Mayor of New York?

Now, what is the solution to New York's dilemma?



(MORE)

There are at least eight different proposals under consideration by the Congress intended to prevent default. They are all variations of one basic theme: that the Federal Government would guarantee the availability of funds to New York City. The sponsors of these bills say that the guarantee would be short-term because New York City could be forced by Federal law to balance its books within three years.

I am fundamentally opposed to this purported solution, and I will tell you why.

Basically, it is a mirage. By giving a Federal guarantee we would be reducing rather than increasing the prospect that the city's budget will ever be balanced. New York City's politicians have proved in the past that they will not face up to the city's massive network of pressure groups as long as any alternative is available. If they can scare us into providing that alternative now, why should they not be confident of scaring us into providing it three years from now? In short, it encourages the continuation of "politics as usual" in New York -- which is precisely not the



way to solve the problem.

Such a step would set a terrible precedent for the rest of the Nation. It would promise immediate rewards and eventual rescue to every other city that followed the example of our largest city. What restraint would be left on the spending of other local and State governments once it became clear to them that there is a Federal rescue squad that will always arrive in the nick of time?

Finally, we must all recognize who the primary beneficiaries of a Federal guarantee program would be. The immediate beneficiaries would not be those who live and work in New York City because the really essential public services must and will continue to be provided.

The primary beneficiaries would be the New York politicians who would thus escape responsibility for the profligacy of their past decisions and be further excused from now making the hard decisions required to restore the fiscal integrity of the city.

The secondary beneficiaries would be the large investors and financial institutions who purchased these securities anticipating a high rate of tax-free return.



This is a formidable alliance. But we have all taken solemn oaths to serve the best interests of all the American people.

We are all aware that New York has had increasing difficulty raising money to pay its bills.

If, at some point, the city is unable to pay all of its bills, legal confusion could result. In order to prevent this confusion -- and to insure that New York City can continue to provide for essential public services -- the Federal bankruptcy law must be changed. As you know, the Constitution empowers the Congress to enact uniform bankruptcy laws. Therefore, I will submit to the Congress tomorrow (?) special legislation providing the Federal Courts with sufficient authority to preside over an orderly reorganization of New York City's financial affairs -- should that become necessary.



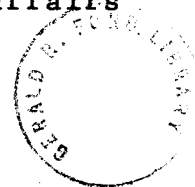
How would this work? The City, with State approval, would file a petition with the Federal District Court in New York under a proposed new Chapter XVI of the Bankruptcy Act. The petition would state that New York City is unable to pay its debts as

as they mature and that the City desires to work out an adjustment of its debts with its creditors.

The Court will then be authorized to accept jurisdiction of the case and provide for an automatic stay of suits by creditors so that the essential functions of New York City will not be disrupted. This stay, essentially an injunction, would continue until the proceeding is terminated. This will enable an orderly plan to be developed whereby the City can work out an arrangement with its creditors.

City
While New York/is working out a compromise with its creditors the essential governmental functions of the City would continue under current law.

The proposed legislation will include provision that as a condition of New York City petitioning the Court, the City must not only file a good faith plan for payments to its creditors but must also present a program for placing the fiscal affairs of the City on a sound basis.



(MORE)

In order to meet the short-term needs of New York City the Court would be empowered to issue debt certificates covering new loans to the City which would be (repaid) paid out of future tax revenues ahead of other creditors.

Thus, the legislation I am proposing will do three essential things.

First, it will prevent, in the event of a default, all New York City funds from being tied up by lawsuits.

Second, it will enable an orderly plan to be developed for payments to New York's creditors over the long term.

Third, it will enable some new borrowing[?] to be secured on a priority basis by future tax revenues.

We should not delude ourselves that this proposed legislation will, in and of itself, put the affairs of New York City in order without some hard measures being taken by the officials of New York City and State. They must either increase revenues or cut expenditures or devise some combination of both that will



bring them to a sound financial position. Careful examination has indicated, however, that those measures are neither beyond the realm of possibility nor beyond the demands of reason. If they are taken, New York City will, with the assistance of the legislation I am proposing, be able to restore itself as a fully solvent operation.

To summarize, the plan (?) I am recommending tonight is this: if New York fails to act in its own behalf, there should be an orderly proceeding supervised by a Federal Court.

The ones who will be most affected by this plan will be those who are now fighting so hard to protect their power and their profits: New York politicians and the city's creditors. The creditors need not be wiped out; how much they will be hurt will depend upon the future conduct of the City's politicians.

For the people of New York, this plan will mean that essential services will continue. There may be some temporary inconveniences, but that will be true of any solution that is adopted.

(MORE)

For the financial community, the default may bring some temporary disorder but the repercussions need not be large or long-lasting. In fact, there is solid reason to believe that once the uncertainty of New York is ended, markets will be sturdier.

Finally, for the people of the United States, this plan means that they will not be asked to assume a burden that is not of their own making and should not become their responsibility. This is the only fair and sensible way to proceed.



(MORE)

There is a profound lesson for all Americans in the financial experience of our biggest and richest city.

Though we are the richest Nation in the world, there is a practical limit to our public bounty, just as there is to New York's.

Other cities, other States as well as the Federal Government are not immune to the insidious disease from which New York is suffering. This sickness is brought on by years and years of higher spending, higher deficits, more inflation and more borrowing to pay for higher spending, higher deficits and on and on.

It is a progressive disease and there is no painless cure.

Those who have been treating New York's financial sickness have been prescribing larger and larger doses of the same political pep pills that have proved so popular and successful in Washington for so many years.

None of us can point a completely guiltless finger at New York. We have all enjoyed its pleasures and comforts. None of us should now derive comfort or pleasure from New York's anguish.



But neither can we let the contagion spread.

As we work with the wonderful people of New York to overcome their difficulties -- and they will -- we must never forget what brought this great center of human civilization to the brink.

For mark my words -- if we go on spending more than we have, providing more benefits and services than we can pay for, then a day of reckoning will come to Washington and the whole country just as it has to New York.

I leave you with this question:

When that day comes, who will bail out the United States of America?

Thank you.

#



JM

1. Why coming to congress
2. early may going to make some suggestions
3. "pul edis" instead of "pols"



Optional paragraph re seasonal cash flow financing for New York City:

This court authority will assure the funds necessary to meet seasonal cash flow needs for essential services. If New York State and City take appropriate actions, these borrowings should be saleable. The Secretary of the Treasury will be authorized to assure such marketability by providing Federal assistance if, in his opinion, short-term market conditions require such assistance. His authority will include the right to set such conditions as appear appropriate prior to such assistance.

I want to make it absolutely clear that I do not believe the Federal Government can or should be involved in providing financial assistance in the form of a bail-out to avoid default. To provide assistance in advance of default would merely protect the bond holders and remove any incentive the city's political leaders may have to restore fiscal integrity.

After default, it may be necessary, if state and local officials continue to refuse to accept responsibility for managing the affairs of the city, to provide sufficient assistance, ~~through~~ ^{IN CONTINUATION WITH THE COURTS} ~~to~~ ^{to} maintaining essential services for the citizens of New York City.

I believe we have to make a distinction between bailing out the bond



holders and politicians on the one hand, and on the other, protecting the people of New York City from the consequences of the lack of courage which may be exhibited by their office holders.



A

The Federal government should not bail out New York City. But if the City fails to maintain essential services such as police and fire, the Federal government will act with the appropriate authority to assure the protection of the ~~city's citizens.~~ *public.*

~~people of New York.~~

B

In the event of default, the Federal Government will work with the Court to assure that police, fire and other essential services for the protection of ~~citizens~~ *the public* are maintained.

Option C

If default were to occur, New York State and the City should be able to maintain essential services for the people of New York if they act to close the gap between revenues and expenditures.

The federal government will not bail out New York City. But in the highly unlikely event that New York continues to refuse to take the steps necessary to assure the maintenance of essential services, whether by raising revenues or reducing expenditures or both, we would of course work with the appropriate agencies of government to assure the protection of life and property of the ~~citizens.~~ *public.*



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THE WHITE HOUSE

WASHINGTON

October 27, 1975

MEMORANDUM FOR: THE PRESIDENT
FROM: ROBERT T. HARTMANN 
SUBJECT: New York City

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It was not retyped entirely "as is" because Seidman had some more refinements, but he says they were not substantive. I have given him and Rummy a copy of my Reading Text, the original of which is attached.

I have also finished my redraft of the Los Angeles speech. Do you want to go over it at 4 p.m.? It is now being circulated for factual checking and comment.

Milt Friedman is working on San Francisco.

cc: Mr. Rumsfeld
Mr. Seidman



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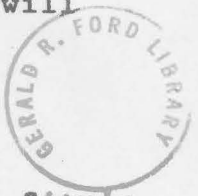
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There is an old saying: "The harder you try, the luckier you are." I like that definition of "luck".



(MORE)

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(MORE)

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Instead, Americans are being told that unless the rest of the country bails out New York, there will be certain catastrophe for the United States and perhaps for the world.

Is this Halloween scare story true?

Of course there are risks that default could temporarily ^{cause} ~~unsettle~~ ^{fluctuate} in the financial markets. But ^{unintentionally,} these markets have already made a substantial adjustment in anticipation of a possible default by New York City.

Claims also are made that because of New York City's troubles, other municipalities will have grave difficulty selling their bonds. I know this troubles many thoughtful citizens.

But, the New York City record of financial ^{bad} ~~fiasco~~ ^{management} is unique among municipalities. Other communities have a solid reputation for living within their means. In recent days and weeks, other local governments have gone to investors with clean records of



fiscal responsibility and have had no difficulty raising funds.

The greater risk is that any attempt to provide a (Federal?) blank check for ~~the politicians~~ of New York City could insure that no long-run solution to the city's problems would ever occur.

I can understand the concern of many citizens in New York and elsewhere. I understand because I am also concerned.

What I cannot understand -- and what nobody should condone -- is the blatant attempt in some quarters to frighten the American people and their Representatives in Congress into panicky support of patently bad policy. The people of this country will not be stampeded; they will not panic when a few desperate New York ~~politicians~~ ^{of ~~the~~ ~~city~~} and bankers try to scare New York's mortgage payments out of them.

W have heard enough of these self-serving false alarms.

What we need now is a calm, rational decision as to what the right solution is -- the solution that is best for the people of New York and best for all Americans.



(MORE)

That is what you want and what I want.

To be effective, the right solution must meet three basic tests:

-- It must maintain essential services for the people of New York City. It must protect the innocent victims of this ~~struggle~~^{mess}. There must be policemen on the beat, firemen in the station, nurses in the wards and teachers in the classrooms. Life must go on.

-- Second, the solution must assure that New York City can and will achieve and maintain a balanced budget in the years ahead.

-- And third, the right solution must guarantee that neither New York City nor any other American city ever becomes a ward of the Federal Government.

Let me digress a minute to remind you that under our Constitutional system, both the cities and the Federal government are the creatures of the States. The States delegate certain



of their sovereign powers -- the power to tax, police powers and the like -- to local units of self-government. And they can take these powers back if they are abused.

The States also relinquished certain sovereign powers to the Federal government -- some altogether and some to be shared. In return the Federal government has certain obligations to the States -- but no authority to by-pass them and regulate their subdivisions.

I see a serious threat to the legal and traditional relationships among our Federal, State and local governments in any Congressional action which could lead to disruption of this ~~dilemma~~ balance. Our largest city is no different in this respect than our smallest town. If Mayor Beame doesn't want Governor Carey to run his city, does he want the President of the United States ^{and the Congress} to be Acting Mayor of New York?

Now, what is the solution to New York's dilemma?



(MORE)

There are at least eight different proposals under consideration by the Congress intended to prevent default. They are all variations of one basic theme: that the Federal Government would guarantee the availability of funds to New York City.

The sponsors of these bills say that the guarantee would be short-term because New York City could be forced by Federal law to balance its books within three years.

I am fundamentally opposed to this ^{so called} ~~purported~~ solution, ^{because it is not a solution} and I will tell you why.

Basically, it is a mirage. By giving a Federal guarantee we would be reducing rather than increasing the prospect that the city's budget will ever be balanced. New York City's ~~politicians~~ ^{ethnals} have proved in the past that they will not face up to the city's massive network of pressure groups as long as any alternative is available. If they can scare ^{the counter} us into providing that alternative now, why should they not be confident of scaring us into providing it three years from now? In short, it encourages the continuation of ^{business} "politics as usual" in New York -- which is precisely not the



way to solve the problem.

Such a step would set a terrible precedent for the rest of the Nation. It would promise immediate rewards and eventual rescue to every other city that followed the example of our largest city. What restraint would be left on the spending of other local and State governments once it became clear to them that there is a Federal rescue squad that will always arrive in the nick of time?

Finally, we must all recognize who the primary beneficiaries of a Federal guarantee program would be. The ~~immediate~~ beneficiaries would not be those who live and work in New York City, because the really essential public services must and will continue to be provided.

The primary beneficiaries would be the New York ~~politicians~~ ^{officials} who would thus escape responsibility for the profligacy of their past ^{who would} decisions and ^f be further excused from now making the hard decisions required to restore the fiscal integrity of the city.

The secondary beneficiaries would be the large investors and financial institutions who purchased these securities anticipating a high rate of tax-free return.



This is a formidable alliance. But we have all taken solemn oaths to serve the best interests of all the American people.

We are all aware that New York has had increasing difficulty raising money to pay its bills.

If, at some point, the city is unable to pay all of its bills, legal confusion could result. In order to prevent this confusion -- and to insure that New York City can continue to provide for essential public services -- the Federal bankruptcy law ^{CAN} must be changed. ^{under the} ~~As you know,~~ the Constitution [!] ~~empowers the~~ ~~Congress~~ to enact uniform bankruptcy laws. Therefore, I will submit to the Congress tomorrow (?) ^{narrow} ~~special~~ legislation providing the Federal Courts with sufficient authority to preside over an orderly reorganization of New York City's financial affairs ~~which~~ -- should that become necessary.

if it were to become necessary?

How would this work? The City, with State approval, would file a petition with the Federal District Court in New York under a ^{modified} ~~proposed new~~ Chapter XVI of the Bankruptcy Act. The petition would state that New York City is unable to pay its debts as



as they mature and that the City desires to work out an adjustment of its debts with its creditors.

^{Federal} The Court ^{would} ~~will~~ then be authorized to accept jurisdiction of the case and provide for an automatic stay of suits by creditors so that the essential functions of New York City ^{would} ~~will~~ not be disrupted. This stay, essentially an injunction, would continue until the proceeding is terminated. This ^{would} ~~will~~ enable an orderly plan to be developed whereby the City ^{could} ~~can~~ work out an arrangement with its creditors.

While New York ^{City was} ~~is~~ working out a compromise with its creditors the essential governmental functions of the City would continue, ~~under current law.~~

^{Such an amendment could}
~~The proposed legislation will include~~ provision that as a condition of New York City petitioning the Court, the City must not only file a good faith plan for payments to its creditors but must also present a program for placing the fiscal affairs of the City on a sound basis ^{and a demonstration that it ~~will~~ execute such a program.}



(MORE)

In order to meet the short term needs of New York City the Court would be empowered to issue debt certificates covering new loans to the City which would be (repaid) paid out of future tax revenues ahead of other creditors.

Thus, the legislation I am proposing will do three essential things.

First, it will prevent, in the event of a default, all New York City funds from being tied up by lawsuits.

Second, it will enable an orderly plan to be developed for payments to New York's creditors over the long term.

Third, it will enable some new borrowing/[?]secured on a ^{to be} priority basis by future tax revenues.

We should not delude ourselves that this proposed legislation will, in and of itself, put the affairs of New York City in order without some hard measures being taken by the officials of New York City and State. They must either increase revenues or cut expenditures or devise some combination of both that will



There is no other solution.

bring them to a sound financial position. Careful examination has indicated, ~~however~~, that those measures are neither beyond the realm of possibility nor beyond the demands of reason. If *as they must be,* they are taken, New York City will, with the ~~assistance of the~~ legislation I am proposing, be able to restore itself as a fully solvent operation.

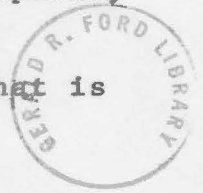
approach

To summarize, the ~~plan~~ (?) I am recommending ~~tonight~~ is this: if New York fails to act in its own behalf, there should be an orderly proceeding supervised by a Federal Court.

The ones who will be most affected by this plan will be those who are now fighting so hard to protect their power and their profits: New York ~~politicians~~ *officials* and the city's creditors.

The creditors need not be wiped out; how much they will ~~be~~ *lose of their* ~~investments~~ *investments* will depend upon the future conduct of the City, ~~politicians~~.

For the people of New York, this plan will mean that essential services will continue. There may be some temporary inconveniences, but that will be true of any solution that is adopted.



(MORE)

For the financial community, the default may bring some temporary ~~disorder~~ ^{disturbances,} but the repercussions need not be large or long-lasting. In fact, there is solid reason to believe that once the uncertainty of New York is ended, markets will be sturdier.

Finally, for the people of the United States, this plan means that they will not be asked to assume a burden that is not of their ~~own~~ ^{which} making and should not become their responsibility. This is the only fair and sensible way to proceed.

(MORE)



There is a profound lesson for all Americans in the financial experience of our biggest and richest city.

Though we are the richest Nation in the world, there is a practical limit to our public bounty, just as there is to New York's.

Other cities, other States, as well as the Federal Government, are not immune to the insidious disease from which New York is suffering. This sickness is brought on by years and years of higher spending, higher deficits, more inflation and more borrowing to pay for higher spending, higher deficits and on and on. *In short it is bought on by thinking that choices need not be made. They must.* It is a progressive disease and there is no painless cure.

Those who have been treating New York's financial sickness have been prescribing larger and larger doses of the same ~~political~~ *FANTASY* ~~pop pills~~ that have proved so popular and successful in Washington for so many years.

None of us can point a completely guiltless finger at New York. We have all enjoyed its pleasures and comforts. None of us should now derive comfort or pleasure from New York's anguish.



But neither can we let the contagion spread.

As we work with the wonderful people of New York to overcome their difficulties -- and they will -- we must never forget what brought this great center of human civilization to the brink.

For ~~mark my words~~ -- if we go on spending more than we have, providing more benefits and services than we can pay for, then a day of reckoning will come to Washington and the whole ^{nation} ~~country~~ just as it has to New York.

I leave you with this question:

When that day comes, who will bail out the United States of America?

Thank you.

#



10/28/75

Option A

After default, it may be necessary, if State and local officials continue to refuse to accept responsibility for managing the affairs of the City, to work with the courts to maintain the protection of life and property for the citizens of New York City. I believe we have to make a distinction between bailing out the bond holders and politicians on the one hand, and on the other, protecting the people of New York City from the consequences of the lack of courage which may be exhibited by their office holders.

Option B

After default, we will work with all of the appropriate agencies of government to insure the protection of life and property for the citizens of New York City.

Option C

The real victims of the default caused by mismanagement of the affairs of the City by its leaders, are the eight million citizens of New York City who have paid their taxes but have been hurt by this fiscal tragedy. I wish to assure them that I will work with the appropriate governmental agencies to insure the protection of life and property.

Option D

In the event of default, the Federal Government will work with the Court to assure that police, fire and other essential services for the protection of citizens are maintained.



orig. to P. Sherris' office
PM - 10/28/75

Page
FIFTH DRAFT
October 26, 1975
28

NEW YORK CITY

Today I want to talk to you
~~I have asked for this opportunity to speak to you face~~

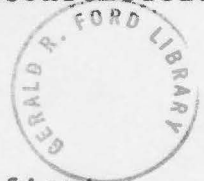
~~to face~~ about a matter of concern to all Americans.

New York City, where one out of every 25 Americans live, through whose "Golden Door" untold millions have entered this land of Liberty, faces a financial showdown.

Must
~~It is impossible for any American to think of New York without a mixture of emotions. It is impossible for any President of all the people not to think seriously and sympathetically about the eight million people of New York City.~~
no *can* *no*
Can do his duty with concern
Americans who live in New York City

The time has come for straight talk -- to these eight million Americans and to the other 206 million Americans to whom I owe

the duty of stating my convictions and conclusions, and to you, *whose job it is to carry them throughout*
~~with whom I share the Federal obligations fixed by the Constitution~~
The nation and around the world.
~~of the United States.~~



The time has come to sort facts and figures from fiction and fear-mongering in this terribly complex situation. The time has come to say what solutions will work and which should be cast

aside.

And the time has come for all Americans to ^{consider} ~~pay~~ how the problems of New York and the hard decisions they demand, fore-shadow and focus upon ^{potential} ~~future~~ problems for all Federal, State and local governments -- problems which demand equally hard decisions from ~~all of us~~ ^{them}.

One week ago New York City tottered upon the brink of financial default ^{which was deferred only at the} ~~and was only saved by an 11th-hour decision~~ of the Teachers' Union pension fund. ✓

The next day Mayor Beame testified here in Washington that the financial resources of the City and State of New York were exhausted. Governor Carey agreed.

It's now up to Washington, they said, ^{and} unless the Federal government intervenes, New York City within a short time will no longer be able to pay its bills.

The message was clear: Responsibility for New York City's financial problems is being left on the front doorstep of the Federal government -- unwanted and abandoned by its real parents.



Many explanations have been offered about what led New York City deeper and deeper into this quagmire.

Some contend it was long-range economic factors such as the flight to the suburbs of the city's more affluent citizens, the migration to the city of poorer people, and the departure of industry.

Others argue that the big metropolitan city has become obsolescent, that decay and pollution have brought a deterioration in the quality of urban life, and that New York's downfall could not be prevented.

Let's face one simple fact: most other cities in America have faced these same challenges, and they are still financially healthy today. They have not been luckier than New York; they simply have been better managed.

There is an old saying: "The harder you try, the luckier you *get*." I like that definition of "luck".



(MORE)

During the last decade, the ~~politicians~~ ^{officials} of New York City have allowed its budget to triple. No city can expect to remain solvent if it allows its expenses to increase by an average of 12% every year, while its tax revenues are increasing by only 4 to 5% a year.

As Al Smith, a great Governor who came from the sidewalks of New York, used to say: "Let's look at the record."

The record shows that New York City's ~~payroll costs~~ ^{wages and salaries} are the highest in the United States. A sanitation worker with three years experience now receives a base salary of nearly \$15,000 a year. Fringe benefits and retirement costs average more than 50% of base pay. Four-week paid vacations and unlimited sick leave after only one year on the job.

The record shows that in most cities, municipal employees have to pay 50% or more of the cost of their pensions. New York City is the only major city in the country that picks up the entire burden.



(MORE)

The record shows that when New York's municipal employees retire they often retire much earlier than in most cities. ~~The way~~

~~New York City retirement system has been rigged so that most can~~ *works to employees*

and ~~retire~~ at pensions considerably higher than ~~any~~ sound retirement plan ~~would~~ permit.

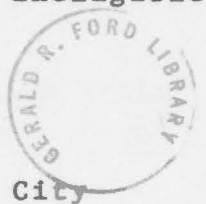
The record shows New York City has 18 municipal hospitals; yet, on an average day, 25% of the hospital beds are empty.

Meanwhile, the city spends millions more to pay the hospital expenses of those who use private hospitals.

The record shows New York City operates one of the largest universities in the world, free of tuition for any high school graduate, rich or poor, who wants to attend.

New York's As for ~~the~~ much-discussed welfare burden, the record shows more than one current welfare recipient in ten ^{may be} legally ineligible for welfare assistance. *over*

good Certainly I do not blame all the people of New York City for their generous instincts or for their present plight. I



do blame those who have misled the people of New York City

about the inevitable consequences of what they ~~have allowed~~ *were doing*

~~happen~~ over the last 10 years.

The consequences ~~are incontrovertible:~~ *have been:*

-- A steady stream of unbalanced budgets;

-- Massive growth in the city's debt;

-- Extraordinary increases in public employee contracts;

-- And total disregard of independent experts who warned

again and again that the city was courting disaster.

There can be no doubt where the real responsibility lies.

And when New York City now asks the rest of the country to

guarantee its bills, it can be no surprise ~~to its leaders~~ that

many other Americans ask why.

Why, they ask, should they support advantages in New York that they have not been able to afford for their own communities?

Why, they ask, should all the working people of this country be forced to rescue those who bankrolled New York City's policies



for so long -- the large investors and big banks?

In my judgment, no one has yet given these questions a satisfactory answer.

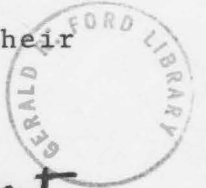
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Of course there are risks that default could ^{cause} temporarily ~~unsettle~~ ^{fluctuations in} the financial markets. But these markets have already made a substantial adjustment in anticipation of a possible default by New York City.

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(MORE)

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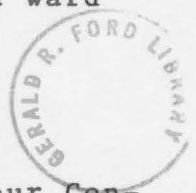
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~~Life must go on.~~

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Now, what is the solution to New York's dilemma?



(MORE)

There are at least eight different proposals under consideration by the Congress intended to prevent default. They are all variations of one basic theme: that the Federal Government would guarantee the availability of funds to New York City.

~~The sponsors of these bills say that the guarantee would be short term because New York City could be forced by Federal law to balance its books within three years.~~
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Such a step would set a terrible precedent for the rest of the Nation. It would promise immediate rewards and eventual rescue to every other city that followed ^{the} ~~the~~ ^{tragic} example of our largest city. What restraint would be left on the spending of other local and State governments once it ~~became~~ ^{becomes} clear ~~to them~~ that there is a Federal rescue squad that will always arrive in the nick of time?

Finally, we must all recognize who the primary beneficiaries of a Federal guarantee program would be. The ~~immediate~~ beneficiaries would not be those who live and work in New York City because the really essential public services must and will continue ~~to be provided.~~

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The secondary beneficiaries would be the large investors and financial institutions who purchased these securities anticipating a high rate of tax-free return.

~~This is a formidable alliance. But we have all taken solemn~~

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~~We are all aware that New York has had increasing difficulty~~

~~raising money to pay its bills.~~

Insert 2

If, at some point, the city is unable to pay all of its bills, legal confusion could result. In order to prevent this confusion -- and to insure that New York City can continue to provide for essential public services -- the Federal bankruptcy law must be changed. As you know, the Constitution empowers the

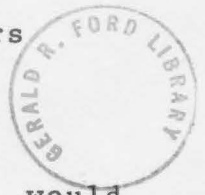
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Insert Z

Does this mean there is no solution? Not at all. There is a fair and sensible way to resolve this issue, and this is the way to do it:



more insert Z

If the city is unable to act to provide a means of meeting its obligations, a new law is required to assure an orderly and fair means of handling the situation. Therefore, I will ~~submit~~ submit to the

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The Court will accept jurisdiction of the case and provide for an automatic stay of suits by creditors so that the essential functions of the city will not be disrupted. This stay, essentially an injunction, would.

A

The Federal government should not bail out New York City. But if the City fails to maintain essential services such as police and fire, the Federal government will act with the appropriate authority to assure the protection of the city's citizens.

Insert B

B

In the event of default, the Federal Government will work with the Court to assure that police, fire and other essential services for the protection of ~~citizens~~ *life & property of N.Y.* are maintained.

Option C

If default were to occur, New York State and the City should be able to maintain essential services for the people of New York, if they act to close the gap between revenues and expenditures.

The federal government will not bail out New York City. But in the highly unlikely event that New York continued to refuse to take the steps necessary to assure the maintenance of essential services, whether by raising revenues or reducing expenditures or both, we would of course work with the appropriate agencies of government to assure the protection of life and property of the citizens.



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(MORE)

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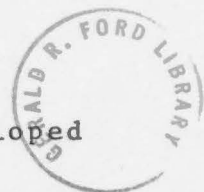
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W.H. [unclear]

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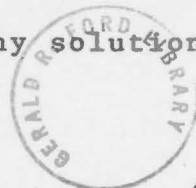
The ones who ~~will~~ *would* be most affected by this ~~plan~~ *course would be* will be

those who are now fighting ~~to~~ *tooth and nail* protect their ~~power~~ *authority* and
 their ~~interests~~ *investments*: New York ~~politicians~~ *officials, municipal unions* and the city's creditors.

The creditors ~~are~~ *will* not be wiped out; how much they will be

hurt will depend upon the future conduct of the City's ~~politicians~~ *leaders.*

For the people of New York, this plan will mean that
 essential services will continue. There may be some temporary
 inconveniences, but that will be true of any ~~solution~~ *solution* that is
 adopted.



(MORE)

For the financial community, the default may bring some
temporary ~~disorder~~ ^{difficulties} but the repercussions ~~will~~ ^{should} not be large or
long-lasting. In fact, there is solid reason to believe that
once the uncertainty of New York is ended, markets will be
sturdier.

Finally, for the people of the United States, this ~~plan~~
means that they will not be asked to assume a burden that is
not of their own making and should not become their responsi-
bility. This is ^a ~~the only~~ fair and sensible way to proceed.

(MORE)



There is a profound lesson for all Americans in the financial experience of our biggest and richest city.

Though we are the richest Nation in the world, there is a practical limit to our public bounty, just as there is to New York's.

Other cities, other States as well as the Federal Government are not immune to the insidious disease from which New York is suffering. This sickness is brought on by years and years of higher spending, higher deficits, more inflation and more borrowing to pay for higher spending, higher deficits and on and on. ~~It is brought~~

~~on to the~~
It is a progressive disease and there is no painless cure.

Those who have been treating New York's financial sickness have been prescribing larger and larger doses of the same political pep pills that have proved so popular and successful in Washington for so many years.

None of us can point a completely guiltless finger at New York. We have all enjoyed its pleasures and comforts. None of us should now derive comfort or pleasure from New York's anguish.



But neither can we let the contagion spread.

As we work with the wonderful people of New York to overcome their difficulties -- and they will -- we must never forget what brought this great center of human civilization to the brink.

~~For mark my words~~ *I* If we go on spending more than we have, providing more benefits and services than we can pay for, then a day of reckoning will come to Washington and the whole country just as it has to New York.

I'm sorry I can't stay to answer your questions. But I leave you with one question of my own:
of reckoning
When that day comes, who will bail out the United States

of America?

Thank you.

#



I am gratified and encouraged that New York City officials are getting serious about their fiscal responsibilities.

New York City has presented a plan for attaining financial stability to the administration.

However, these words and promises are not actions.

If New York City officials can demonstrate their plan can be implemented, the administration can seriously consider assistance, on a highly controlled and federally audited basis, to maintain essential services during the difficult transition period to fiscal stability.

However the bail-out bill now before ^{the House} ~~Congress~~ is irrelevant to the situation because it does not address the current problem, and furthermore, I would veto this bill.

Therefore I recommend that the leaders in New York follow up their plan with action. It should be understood that the administration will not commit federal intervention prior to this action.

At the same time, as a safeguard, I urge Congress to pass the bankruptcy legislation which I have recommended in the event it is needed.

I am convinced that if New York City continues to move towards fiscal responsibility, and the Congress adopts proper safeguard legislation, I believe that all parties concerned can look forward to a satisfactory resolution despite the current obstacles.



The President is gratified that the leaders of New York appear to have accepted primary responsibility for solving the financial problems of New York City and are proceeding in the direction of a long-term solution in accordance with the State Constitution and State laws. He is impressed with the seriousness of their intentions as described by Governor Carey in his letter to Secretary Simon and awaits further concrete actions by the State and the other parties concerned. If all parties continue to cooperate and take prompt action the President believes that a satisfactory solution can be found. The President continues to give sympathetic consideration to the well-being of the people of New York City and reiterates his determination that their essential services will be maintained.



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I see that even w all things done there will be seas for prob in less serv a Fed legal solut to that might in sh + loan or guarantee



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STATEMENT BY THE PRESIDENT

Instead of continuing to press for massive Federal bailouts for New York City, the leaders of New York are now taking firm initiatives to solve their problems on their own. The seriousness of their intent is underscored in a recent letter sent by Governor Carey to Secretary Simon.

In view of these encouraging developments, I will today submit to the Congress legislation which will provide for tightly restricted seasonal loans to the City. These loans must be repaid in full during the year in which each loan is made and will be secured by future Federal payments to New York. This assistance will also be earmarked for services only and is intended to ensure, as I have pledged before, that the people of New York City not suffer undue hardships as the financial integrity of their City is restored.

My support for these loans is contingent, of course, upon the completion of appropriate fiscal actions by the leaders in New York sufficient to ensure that these loans can be repaid. At the same time, however, I must emphasize that the type of financial actions taken at the State and local levels are entirely a matter for the leadership of New York to decide. Primary responsibility for the resolution of this matter continues to rest in New York.



In the event the New York leaders fail to accept their responsibilities, New York City could still be forced into legal default. Therefore, I am asking the Congress once again to enact special amendments to the Federal bankruptcy laws which would ensure that the process of such a default, if it occurs, is as orderly as possible.

I am waiting to see the leaders of NY take appropriate fiscal action ~~and~~ Under these circumstances it ~~will~~ ^{may be appropriate to} consider ^{limited} Federal action to assure essential services.

Until this is done, it would be inapp. to consider ~~limited~~ Fed action to assure essen



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I am encouraged by reports that after many months of effort the officials of New York State and ~~New York~~ City, bankers and union representatives appear to be approaching a realistic solution to the financial problems of the City of New York. The tentative plan, as indicated to us, would involve major concessions and sacrifices on the part of all interested parties who have come to recognize that the solution to New York City's problems requires the marshaling of the vast financial resources of the City and State of New York -- and that they could not count on a bailout by the American taxpayer. Basically we understand the program provides for:

- (1) New taxes to be enacted on a bi partisan basis.
- (2) Deferral of payment on debts and a reduction of interest payments.
- (3) Amendments to union contracts requiring pension contributions and fundamental changes in the pension systems.
- (4) A reduction in city operating expenditures.
- (5) Additional credit financed through the City pension funds.

It would appear that such a plan could accomplish all of the difficult long-term adjustments which ordinarily can be accomplished only through bankruptcy proceedings.

They are on the right track. I encourage them to firm up their plans.

I instruct _____, _____ to



RESPONSE TO THE MAC PLAN FOR NEW YORK CITY

OPTIONS

Option 1

Reaffirm the position outlined in your National Press Club speech: "I am prepared to veto any bill that has as its purpose a Federal bailout of New York City to prevent a default. I am fundamentally opposed to this so-called solution, and I will tell you why. Basically, it is a mirage. By giving a Federal guarantee we would be reducing rather than increasing the prospects that the City's budget will ever be balanced. New York City's officials have proved in the past that they will not face up to the City's massive network of pressure groups as long as any other alternative is available. If they can scare the whole country into providing that alternative now, why shouldn't they be confident they can scare us again into providing it three years from now? In short, it encourages the continuation of 'politics as usual' in New York -- which is precisely not the way to solve the problem.

Indicate that there will be no pre-default Federal assistance.

Option 2

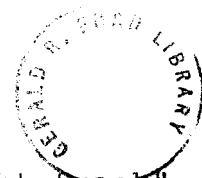
Indicate that you believe that the plan is on the "right track" and request that the plan be finalized and be signed by all the interested New York parties, without providing any indication of what Federal action, if any, might be taken.

Option 3

Same as Option 2 but indicate that the plan, if implemented, would not involve a Federal bailout and would have the effect of a default in that it would require a restructuring of the City's obligations. Under these circumstances, the Federal government could consider providing short-term assistance for essential services and/or seasonal financing only.

Option 4

Indicate that you believe that the plan is on the "right track" and that the seasonal financing requirements of the plan should be financed through private banks and investigate the possibility of assuring that such private financing will be available.



Option 5

Indicate that you believe that the plan is on the "right track" and that you are requesting Secretary Simon to work with New York State and City officials to assure that the plan is implemented. Secretary Simon's instructions would be to assure that any Federal participation does not constitute a Federal bailout.

Option 6

State that the plan in its present form is inadequate and request that the New York officials make changes to require further commitments of revenue increases or expenditure reductions.

Option 7

Make no public response to the New York plan.

11/12/75

