The original documents are located in Box 2, folder "Bankruptcy Act Amendments - PL94-143 (1)" of the Loen and Leppert Files at the Gerald R. Ford Presidential Library.

94th CONGRESS
1st Session

Mr. Ashley (for himself and Mrs. Sullivan, Mr. Rees, Mrs. Spellman, Mr. Tsongas, Mr. St Germain, and Mr. McKinney)

A BILL

To authorize emergency guarantees of obligations of States and political subdivisions thereof; to amend the Internal Revenue Code of 1954 to provide that income from certain obligations guaranteed by the United States shall be subject to taxation; to amend the Bankruptcy Act; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

§1. Short title

This Act may be cited as the "Intergovernmental Emergency Assistance Act".

TITLE I--INTERGOVERNMENTAL EMERGENCY ASSISTANCE

§101. Definitions and rules of construction

(a) The definitions and rules of construction set forth in this section shall be applicable for the purposes of this title.

(b) The term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(c) The term "political subdivision" shall have the same meaning as used in section 103 of the Internal Revenue Code of 1954.

(d) Any action authorized or required under this title by or with respect to a State may be taken by or with respect to any agency or instrumentality thereof approved by the Board for that purpose, having regard to the purposes of the State law creating any such agency or instrumentality.

§102. Establishment of the Board

There is created an Intergovernmental Emergency Assistance Board (referred to in this title as the "Board") composed of the Secretary of the Treasury, as Chairman, the Secretary of Housing and Urban Development, the Secretary of Health, Education and Welfare, the Chairman of the Board of Governors of the Federal Reserve System, and the Chairman of the Securities and Exchange Commission. Decisions of the Board shall be made by majority vote.

§103. Authority for guarantees

The Board may guarantee the payment, in whole or part, of interest, principal, or both, of obligations of States (including agencies and instrumentalities thereof as described in section 102(d)) the interest on which is subject to Federal taxation, in accordance with this title. The Board shall give prompt consideration to any application for a guarantee under this title and shall, in the event such guarantee is denied, set forth the reasons for such denial in a written statement copies of which shall be furnished to the Governor of the State concerned, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Banking, Currency and Housing of the House of Representatives.

§104. Purpose

The Board may make guarantees under this title only for the purpose of--

(1) enabling a political subdivision of a State to continue to provide essential public services and facilities; or

(2) preventing, or mitigating the effects of, default in the payment of obligations of a political subdivision of a State where such default has had, or, in the judgment of the Board, could reasonably be expected to have, a serious adverse effect on general economic conditions or on the marketability of obligations of States and their political subdivisions in general.

§105. Conditions of eligibility

(a) Except as provided in subsection (b) of this section, the Board may make guarantees under this title to a State for the benefit of a political subdivision thereof only if--

(1) the Board finds that the State or State agency whose obligations would be guaranteed (hereinafter referred to as "the applicant State") and the political subdivision whose credit needs would be financed by such obligations (hereinafter referred to as "the assisted municipality") are effectively unable to obtain credit in the private market or elsewhere;

(2) the assisted municipality submits, with the approval of the Governor of the applicant State, in such detail and in accordance with such accounting principles as the Board may prescribe, a plan for bringing its operating expenses into balance with its recurring revenues for its second full fiscal year following the initial application for assistance, and thereafter for as long as any such assistance remains outstanding;

(3) the applicant State demonstrates that it has the authority to control the fiscal affairs of the assisted municipality for the entire period during which the Federal guarantee will be outstanding including the authority to determine all revenue estimates, set aggregate expenditure limits, disapprove all expenditures not in compliance with the plan required under paragraph (2), and approve all borrowing and contracts during that period; and

(4) the applicant State agrees to provide in accordance with this subsection a grant or loan to the assisted municipality for each fiscal year of the municipality during which a guarantee under this title may be outstanding. Such grant or loan shall--

(A) Be in an amount determined by the Board but not exceeding one-third of the anticipated operating deficit of the assisted municipality for that fiscal year or portion thereof as determined in accordance with accounting principles prescribed by the Board;

(B) be derived from the general tax revenues of the applicant State;

(C) be in addition to all other grant or similar assistance provided to the assisted municipality by the applicant State pursuant to programs established or commitments made prior to its initial request for a guarantee under this ~~Act~~ title;

(D) be provided at such times as the Board may prescribe; and

(E) be used by the assisted municipality to meet its operating expenses in accordance with the financial plan required under paragraph (2).

(b) In the case of a political subdivision which has filed a petition under the Bankruptcy Act or which has actually defaulted on one or more of its obligations, the Board may, for a period of six months following the filing of such petition or the date of such default (as determined by the Board), ~~extend financial assistance~~ make guarantees under this title without regard to one or more of the conditions prescribed in subsection (a) of this section to a State for the benefit of such political subdivision if the Board determines that an emergency exists which makes compliance with such condition or conditions impracticable.

§106. Guarantee fees

Whenever any obligation is guaranteed under this title, the Board shall assess and collect from the obligor a guarantee fee which shall not exceed three-quarters of one percent per annum. Any such fees shall be ~~covered into the Treasury as miscellaneous receipts.~~ paid into the Emergency Municipal Debt Guarantee Fund established under section 111 of this title.

~~351~~

§107. Limitations on amount of ~~assistance~~ guarantees outstanding

(a) Except as provided in subsection (b) of this section, the total amount of all ~~financial assistance~~ guarantees (exclusive of unearned interest) which may be outstanding under this title at any one time shall not exceed--

(1) $5,000,000,000 during the period from the date of enactment of this title through September 30, 1989, and

(2) $3,000,000,000 during the period from October 1, 1989 through September 30, 1999.

(b) In addition to the amounts authorized under subsection (a) of this section, prior to October 1, 1978, there may be outstanding at any one time not exceeding $2,000,000,000 in the form of guarantees of obligations having a maturity of eleven months or less from date of issue.

(c) No obligation may be guaranteed under this title which has a maturity beyond September 30, 1999.

§108. Obligations callable after three years

Any obligation guaranteed under this title may be called for redemption at the option of the issuer and without the payment of a call premium at any time more than three years after the date of issue.

§. 109. Additional Terms and Conditions

(a) As a condition to ~~the extension of any financial assistance~~ making an guarantee under this title, the Board shall impose reasonable requirements with respect to the renegotiation or exchange of outstanding obligations entered into by, on behalf of, or for the benefit of, the political subdivision for whose benefit such benefit ~~assistance is being considered or extended~~ the guarantee is intended. Where such renegotiation or exchange involves the terms of bonds, notes, or similar obligations previously entered into, the Board shall require that a substantial percentage of such obligations be exchanged for nonguaranteed obligations bearing a substantially longer maturity, a substantially lower interest rate, or both. Where such renegotiation involves the terms of contracts of other provisions for compensation (including pensions and other benefits) for personal services rendered or to be rendered, there may be taken under consideration the compensation and other benefits provided for similar services by other employers, with particular reference to employers which are political subdivisions of the same State or of other States. In any renegotiation, there may also be taken into consideration the reduction which the results of such renegotiation may effect in the risk that the political subdivision involved would be unable to fulfill its commitments.

(b) In addition to the terms and conditions otherwise required by or under this title, the Board may impose such terms and conditions, not inconsistent with the general purposes of this title, as it deems appropriate with respect to ~~any financial assistance~~ the making of any guarantee under this title.

§110. Audits

(a) No ~~financial assistance may be extended~~ guarantee may be made under this title for the benefit of any State or political subdivision thereof unless the General Accounting Office is authorized to make such audits as may be deemed appropriate by either the Board or the General Accounting Office of all accounts, books, records, and transactions of the State, the political subdivision, if any, involved, and any agency or instrumentality of such State or political subdivision. The General Accounting Office shall report the results of any such audit to the Board and to the Congress.

§111. Emergency Municipal Debt Guarantee Fund

(a) There is established in the Treasury an emergency municipal debt guarantee fund (hereinafter referred to as the "fund") to be administered by the Board. The fund shall be used for the payment of the expenses of the Board and for the purpose of fulfilling the Board's obligations under this Act. Moneys in the fund not needed for current operations may be invested in direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof.

(b) Sums realized from the guarantee fee required under this Act shall be deposited in the fund. Notwithstanding any other provision of law, the Secretary of the Treasury shall deposit in the fund any payment, or portion thereof, which a State government or unit of local government would otherwise be entitled to receive under the State and Local Fiscal Assistance Act of 1972, or any comparable program of fiscal assistance to State and local government, and which is waived by such government pursuant to this Act.

(c) Payments required to be made as a consequence of

any guarantee by the Board shall be made from the fund. In the event and to the extent that the moneys in the fund are insufficient to make such payments the Secretary of the Treasury is authorized and directed to make such payments on behalf of the Board and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include any such payments.

§112. Federal Reserve banks as fiscal agents

Any Federal Reserve bank which is requested to do so shall act as fiscal agent for the Board. Each such fiscal agent shall be reimbursed by the Board for all expenses and losses incurred by it in acting as agent on behalf of the Board,

§113. **Protection of Government's interest**

(a) The Attorney General shall take such action as may be appropriate to enforce any right accruing to the United States or any officer or agency thereof as a result of the issuance of guarantees under this title. Any sums recovered pursuant to this section shall be paid into the emergency loan guarantee fund.

(b) The Board shall be entitled to recover from the borrower, or any other person liable therefor, the amount of any payments made pursuant to any guarantee agreement entered into under this title, and upon making any such payment, the Board shall be subrogated to all the rights of the recipient thereof.

art

(c) There is hereby reserved to the United States the right to offset against any sums otherwise due for any reason from the United States (including but not limited to any sums which may be due under the State and local Fiscal Assistance Act of 1972, or other comparable general purpose financial assistance) to any State ~~to which assistance is extended~~ whose obligations are guaranteed under this title, or to any political subdivision for ~~the~~ whose benefit ~~of~~ ~~which assistance is extended~~ any guarantee is made under this title, the amount in whole or part of any payment actually made by the United States pursuant to any ~~guarantee under this title.~~ such guarantee. Such right of offset shall be exercised only with respect to such sources of Federal revenue, and at such rate, as the Board may determine to be appropriate with a view to reimbursing the United States as expeditiously as may be practicable under the circumstances as they exist at the time.

(d) Whenever any ~~financial assistance~~ guarantee under this title is outstanding, and there is a failure on the part of the obligor or on the part of the political subdivision for whose benefit such assistance was extended to fulfill any commitment or undertaking which it agreed to fulfill in consideration of such assistance, the Board may, in its discretion, for any period during which such failure continues, assess an additional guarantee fee in any amount such that the total of the original guarantee fee and any such additional fees for such period does not produce a total which is at a rate in excess of three times the rate otherwise authorized under section 106.

§114. Reports

The Board shall submit to the Congress quarterly ~~annually~~ a full report of its operations under this title.

§ 112. Termination

The authority of the Board to make ~~loans and~~ guarantees under this title terminates on September 30, 1979. Such termination does not affect the carrying out of any contract, guarantee, commitment, or other obligation entered into pursuant to this title prior to that date, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts advanced or paid out in carrying on operations under this title.

TITLE II—AMENDMENT TO INTERNAL REVENUE CODE OF 1954

§ 201. Taxability of certain federally guaranteed obligations

Section 103 (a) (1) of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by inserting immediately before the semicolon at the end thereof the following: ", except in the case of an obligation whose payment is guaranteed in whole or part under authority of section 103 of the Intergovernmental Emergency Assistance Act".

TITLE III--AMENDMENT TO THE BANKRUPTCY ACT

end

The Department of the TREASURY NEWS
WASHINGTON, D.C. 20220 TELEPHONE 964-2041

FOR RELEASE ON DELIVERY

STATEMENT OF THE HONORABLE WILLIAM E. SIMON
SECRETARY OF THE TREASURY
BEFORE THE JOINT ECONOMIC COMMITTEE
WEDNESDAY, SEPTEMBER 24, 1975, 11:00 A.M.

NEW YORK CITY'S FINANCIAL SITUATION

Mr. Chairman and Members of this Distinguished Committee:

I am here today at the express invitation of the Chairman, who has called upon me to testify about the possible impact of a financial default by New York City.

This is an occasion that none of us can welcome. All of us share the hope that a default can be avoided. Personally, I am confident that if the proper steps are taken, default will be avoided. One of the great pleasures in my life was to spend some 20 years working in the financial community in downtown Manhattan. I gained from that experience not only a love for the City but also enormous respect for the wisdom and strength of its people. I sincerely believe that if those great resources are properly marshaled, New York City will emerge from its current difficulties.

As your invitation to me recognizes, however, it is also important that we seek to understand what the implications would be if default does occur. I am sure that the Members of this Committee, as well as the American people, want this inquiry to be as honest and objective as possible. This cannot be a time when we delude ourselves with excessive optimism and thus fail to act wisely. By the same token, we should not engage in excessive pessimism. Impassioned statements that a default would have catastrophic consequences for the financial markets as well as the economy -- statements which have no foundation in observable facts -- can only make the situation worse. This is a time, then, for an honest appraisal, devoid of emotionalism or partisanship. My testimony today is offered in that spirit.

I have appeared before this Committee many times to discuss economic and financial issues. I have enjoyed our dialogues and I recognize their value in exposing your colleagues in the Congress and the nation as a whole to a wide range of views on the issues which confront us.

Our job today is not a pleasant one. This Committee has an obligation to inquire into the major economic matters which face the nation and I have a corresponding obligation to present the Administration's views: responsively, accurately and fairly. And neither of us meets these obligations unless we deal with all sides of the issues: the unlikely as well as the likely, the worst case as well as the best.

Moreover, these obligations extend beyond evaluation. To the extent we identify the potential for harm in a default, we must implement measures designed to minimize harm in the event default occurs. Properly designed, such measures should not enhance the possiblity that default will occur. Nor should they reflect a judgment that a default will necessarily occur. They simply involve the Government carrying out one of its most important roles: protecting its citizens.

It is for these reasons that we have carefully evaluated the potential impact of default. Because default has two aspects -- the objective and the psychological -- any evaluation of the impact must involve highly subjective judgments. Absolute certainty is simply not possible.

With these considerations in mind, let me outline the substance of my remarks today.

First, although the challenges and the task are great, New York City, with the assistance of the State, has both the mechanisms and the resources to avoid default.

Second, if default were to occur, the event would be primarily legal in nature: the political and social infrastructure of the City would remain intact.

Third, while a default could adversely affect the capital markets, the effect in my judgment would be tolerable and temporary.

Fourth, a default would cause little, if any, damage to our financial structure: the banking system would remain intact, no bank customers would lose their deposits, and the system would continue to be able to provide credit to all levels of the economy, including consumers.

Finally, the costs and risks associated with any program to provide special federal financial assistance to prevent default substantially outweigh the benefits which prevention would provide.

The Administration Program

At the President's request, I have put together an informal inter-agency task-force, chaired by my Under Secretary Edwin H. Yeo III, to deal with every aspect of a potential default by New York City. The evaluations and the plans outlined in my testimony today are the result of these efforts. We did not, however, feel that it would serve anyone's interests to publicize the activities of this group until this time.

Working through this group, and with the cooperation of other agencies of government, we have developed a program designed specifically to minimize harm in the event of a default. Particular aspects of the program are described in detail throughout my testimony, but let me summarize it now.

-- To complement action by the State Legislature, we have prepared, and will shortly submit to the Congress, legislation amending Chapter 9 of the Federal Bankruptcy Act to facilitate use of the protections of that Act by New York City. In addition, we are also studying the feasibility of a Chapter 11 type reorganization procedure as an alternative mechanism.

-- We will continue to provide for the flow of Federal assistance payments to New York City.

-- To protect the banking system and thus assure the continued availability of resources that system provides to consumers, corporations and governments, the FDIC will, in appropriate cases, provide capital to institutions where such action is necessary to maintain solvency. Moreover, as Chairman Burns reported to this Committee earlier this month: "the Federal Reserve will act promptly to relieve liquidity strains on the banking system, whatever the cause of those strains may be."

Let me repeat, default can be avoided. But it is our responsibility -- to the Congress and to the nation -- to design programs for any eventuality.

Current Status

Let us now consider the current efforts of New York City and New York State to prevent a default.

On September 9, a special session of the New York State Legislature enacted legislation calling for:

-- Creation of a State dominated Emergency Financial Control Board to assume plenary control over the City's finances;

-- Authority to issue $750 million in short term State notes, the proceeds to be used to purchase MAC bonds;

-- A mandate to State and City employee pension plans to purchase $750 million in MAC bonds (and relief for the State Comptroller with respect to his fiduciary responsibilities regarding these plans);

-- An increase in MAC's borrowing authority from $3 billion to $5 billion; and,

-- Authorization for the City to file a petition in bankruptcy under Chapter 9 of the Federal Bankruptcy Act.

Two days later, New York State sold $755 million of short term notes, including $250 million earmarked for the City. MAC is beginning to raise from other sources the $800 million necessary to complete the $2.3 billion package which is required to finance the City through December 1.

At the City level, meanwhile, Mayor Beame has appointed a top financial executive to serve as the chief financial officer of New York City and to develop, by mid-October, an expense reduction plan to return the City to a sound fiscal basis.

These laudable efforts reflect a renewed sense of dedication to attack the causes of the problems I discussed with Congressman Rosenthal's subcommittee last June. Will these measures work? Can the City do enough between now and December to restore investor confidence? Some have answered in the negative, but I cannot agree. I would be less than candid with this Committee if I suggested the task will be easy. I would be less than candid if I failed to say that more in the way of immediate actions -- immediate expense reductions -- is required now than would

have been required at some earlier time. But it would be equally untruthful to suggest that the job cannot be done. Appropriate mechanisms are now in place. It is essential that they be used promptly and well.

Impact of a Default

Necessary Concepts

To set the framework for my analysis of the impact of default, it is important to define some relevant terms and concepts. I sense that the dialogue concerning the issue has been hampered by confusion over the meaning and import of certain key words. First, there is "insolvency" which, simply stated, means that a person or a city has current obligations which exceed its available funds. "Default" is a technical legal term describing a debtor's refusal or inability to pay a creditor who has demanded payment. "Bankruptcy" describes a legal proceeding -- provided for in the Constitution -- under which an insolvent party in default turns over to a court the job of deciding how his financial resources will be apportioned among creditors.

In looking at default and bankruptcy, we should also draw a distinction between the options available in the event of a corporate default and those available with respect to a municipal default. If a corporation defaults and is subsequently brought under the jurisdiction of a federal bankruptcy court, one option -- albeit often not the most desirable one -- is liquidation: the sale of assets to satisfy the claims of creditors and the subsequent disappearance of the corporation as a continuing entity. Both common sense and Constitutional principles preclude such an option with respect to municipal defaults.

In this respect, a default by a state or local government is closely analogous to a default by an individual person. In either case, if a bankruptcy proceeding ensues, resources essential to the maintenance of life in the one case and essential services in the other, are protected from the demands of creditors.

It is important to re-emphasize this point: If New York City defaulted, it would continue to exist and to operate. Tax payments, Federal and State assistance payments and other sources of revenue would continue to flow. Schools and hospitals would remain open; police, fire and sanitation services would be provided and paid for.

In short, it is essential not to confuse the legal and idiomatic meanings of the term bankruptcy. In common parlance, we may use bankruptcy to define a condition devoid of substance or resources. By that definition, New York has not been, is not now, and will not be bankrupt. If New York City does default, however, to deal with its creditors in an orderly way, a proceeding under the Federal bankruptcy laws is the most appropriate solution.

As I have often said, no observer who is asked to predict the impact of a default can do so with absolute certitude. A default -- like any major financial reversal -- has two aspects: a tangible, objective aspect on the one hand and a psychological aspect on the other. It would be inadequate to limit the analysis to only one of these aspects. And confusing the two would further cloud our evaluation of the impact of default. Indeed, I sense that such confusion is in large part responsible for some of the more extreme predictions which have been made in recent weeks.

Moreover, as I cautioned in my letter of last week, it is important to be sensitive to the risk that the evaluation process itself may aggravate reaction to a default. Let us suppose, for example, that leaders of major financial institutions contend that their institutions and the markets in which they function would be devastated by a default. Objective factors notwithstanding, such contentions would measurably enhance the impact of default.

Let me turn to a sector-by-sector analysis.

Essential Services

If New York City defaulted on an obligation to redeem a maturing note issue for cash, a question of immediate importance is whether the City could continue to provide essential services: police and fire protection, sanitation, mass transit, water and sewerage facilities, and the like. We evaluated the outlays required to provide these services against the City's level of receipts. While, as I have indicated on earlier occasions, levels of outlay for these services are extreme in relation to the outlays of other cities, New York City's revenues appear sufficient to provide an adequate level of services in the event of default.

THE WHITE HOUSE

WASHINGTON

Charlie --

Attached is the testimony of Simon last week at the Comte.

Klee says that in view of Simon's comments (see parts in yellow) he feels that something is available at W.H. and it would be very helpful if the Comte had a copy. Klee gave me this comment on 10/1/75.

On 9/30 MacRay called and told me had a copy of the proposed legislation and then he suddenly played dumb and told me to call Rod Hills about it.

Klee feels there is proposed legislation and wants to know how he can get it for the Comte. I don't think anyone around here wants to give it to us -- can you do anything about it?

Neta
10/2/75

House Judiciary Cmte passed out Municipal Bankruptcy Act.

9/29/75

Ken Klee of Subcommittee on Civil and Constitutional Rights is holding hearings right now on the Bankruptcy Laws. Klee wants to know if the P. will propose municipal bankruptcy legislation in the near future and, if so, the Subcomte would liketo have a copy of the proposal so they can review it in the Subcomte right now.

Called Jim MacRay at OMB x 4874 - referred to

Cal Collier at OMB x 4844 - referred to

Rod Hills with Buchen x 6611 referred to - Jane

Ken Lazarus x 6297 and his office said they are not a ware of any proposal by the P. to amend Bankruptcy law, but know of the hearings.

Advised Ken Klee's office on 9/30/75. x 5025

Neta

TK. Neta.

Charlie Note

9/30/75 - Klee says Sec. Simon mentioned during testimony before a Govt. Operations Comte that P was working on some form of legislation.

Talked to Maureen in Eberle's office at ~~Rex~~ Treas. and she told me that Simon mentioned that an informal task force would be set up to review the problem and work on proposed legislation - Edwin Yeo is in charge of the Task Force. She is sending me a copy of the testimony.

MacRay called at 3:15 9/30/75 to say he had copy of proposed legislation. Scalia

MacRay asked me if I wanted a copy of it and then he said maybe I better call Rod Hills and ask him about it.

Called Rod Hills office and Jane said she would check with Hills. Called back later and said she misunderstood and that what they had was legislation pertaining to New York City and their problem - that they had no proposed legislation on municipal bankruptcy. Confusing???

Neta

Federal Assistance Programs

Another potential concern relates to continuation of the various Federal Assistance programs which benefit the citizens of New York. The Office of Management and Budget and the Domestic Council have completed a survey of the most important of these programs with the objective of identifying the potential consequences on scheduled assistance flows in the event local mechanism temporarily become unavailable. As the Committee knows, certain assistance to the City and its citizens depends upon local matching funds. The great bulk of this assistance is matched by the State of New York. However, under State law, the City is required to provide some share of the State portion. In our view, and under current Federal law, the State is responsible to make the matching payments if the flow of Federal assistance is to continue.

Speaking more broadly, programs of assistance to the disadvantaged are fundamental in a compassionate democratic society. But if such programs lose the support of the American people -- if they are perceived as too often providing the wrong benefits to the wrong recipients -- our ability to provide any assistance of this nature will be limited.

For these reasons, the President has asked Vice President Rockefeller, as Chairman of the Domestic Council, to conduct a thorough re-evaluation of all Federal assistance programs and to develop proposals for reform. While that review is not yet complete, my views are well known. I personally have long favored a simple program of income maintenance as the most efficient approach to our responsibilities in this area.

Debt Adjustment

The requirement that the City continue to provide and finance essential services underscores the importance of insuring that there is an orderly mechanism for allocating the City's financial resources and effecting a restructuring of the short term debt. Absent such a mechanism, there is the risk of a multitude of lawsuits, each seeking a legal injunction against the payment of City funds to one class of creditor or another.

It is for this reason that we have prepared, and will submit shortly to Congress, legislation amending Chapter 9 of the Federal Bankruptcy Act. This legislation is designed to insure that the claims of all legitimate creditors would be dealt with in a single proceeding. It would be complementary to the legislation enacted by the New York State Legislature authorizing New York City, in the event of default, to seek reorganization of its debt under the plenary jurisdiction of a federal court.

Specifically, our proposal would modify existing law by eliminating the existing requirement that a city must file a reorganization plan and written assents to the plan from 51% of the creditors before obtaining the protection of a Federal bankruptcy court. Under the revised procedure, Federal protection would be provided upon the filing only of a simple petition by the City. As is the case with respect to other types of reorganizations under our bankruptcy laws, the reorganization plan and the creditors' assent thereto would be developed in the course of the proceeding. In the interim, however, the City would be protected from conflicting claims and injunctions regarding its resources, and could continue to conduct its affairs in an orderly manner.

I would point out that this proposal is substantially consistent with the recommendations of the National Commission on the Reform of the Bankruptcy Laws, embodied in S. 235.

Financial Markets

In assessing the impact of a default on the financial markets, we are dealing in the realm of judgment; as I have said, absolute certainty is simply not possible. My analysis is based on a detailed review of all the factual circumstances, discussions with a wide range of market professionals in the private sector, and my own conclusions, based on more than twenty years of experience in the investment banking business.

The impact of a default on markets other than the municipal market is, in the final analysis, closely related to the impact on the overall economy. As I shall discuss more fully in a few moments, it is our judgment that a default would not damage the prospects for the Nation's economic recovery. The public understands that New York City's problems are unique in most important respects. Moreover, over the past six months and in the months to come, the public has had, and will have, ample opportunity to decide whether a default by New York City is merely representative of a more fundamental flaw in our economy. Only if such a conclusion were reached -- and there is no objective reason why it should be -- could we expect a serious and lasting adverse impact on these markets.

Municipal Bond Market

Our conclusions with respect to the municipal bond market are at once more precise and more complex. Over at least the past year, the municipal market has been unsettled due to a variety of complex factors.

First, the enormous volume of tax-exempt securities coming to market -- more than $51 billion of bond and notes in 1974 and more than $40 billion in the first eight months of this year alone -- has not been matched by a corresponding increase in demand for such securities. Second, inflation and now its inevitable handmaiden -- the anticipation of future inflation -- caused by massive Federal demands on the market has dampened investor interest in committing funds for the long term. Finally, a series of events -- the repeal of the Port Authority covenant by the legislatures of New York and New Jersey; the default by UDC, occasioned by the New York State Legislature's initial refusal to carry out its "moral obligation;" and the problems of New York City itself -- have all sharpened investor awareness of risk and created an element of doubt about the willingness of public bodies to carry out their financial obligations.

To a significant extent, these doubts have already led to some adjustments in the market. In the event of default, we would expect only a temporary period of moderate adjustment. And over a slightly longer time frame, we can see some potentially favorable signs. We understand that numerous intermediaries and investors are currently withholding funds from the municipal market because of the current uncertainties. When the New York City situation is resolved -- one way or another -- we can expect a substantial return of funds to the market, improving liquidity and lowering borrowing costs.

But the implications of default are broader than short range fund flows or price adjustments. Since at least the beginning of this decade, there has been a marked increase in the tendency of investors to restrict themselves to higher-grade instruments -- or a "flight to quality" to use the terminology of the market. Inflation and its by-products is the primary cause, but there is little question that major financial reversals -- the penn central bankruptcy, for example -- have served as important catalysts.

Clearly, New York City's situation has caused this trend to accelerate. Issuers whose obligations are viewed as less than prime are paying high rates of interest relative to the general structure of interest rates. Conversely, well-run issuers are benefitting in the form of lower rates.

In short, when we move away from this period of uncertainty, underlying credit characteristics -- financial soundness -- will be the dominant factor in the pricing of all municipal debt. The result will be a better and more efficient municipal bond market.

At the same time, we cannot ignore the way in which the municipal market has performed even under these seriously unsettled conditions. During August alone, four states and 255 municipalities raised nearly $2.6 billion in long term debt. And contrary to widely held opinion, such funds were raised at a cost not grossly disproportionate to historical levels.

Traditionally, there has been a 30% spread between tax-exempt and taxable issues of comparable quality. When we hear complaints about the record rates municipalities are paying for funds, we must keep in mind that conditions in the corporate market are no better. This month, the spread between long term prime municipals and comparable utility issues was squarely on the 30% figure.

This is not to suggest that the municipal market has not been impacted by the uncertainty surrounding New York City's condition. But it does place the reaction of the market in a more accurate perspective than some of the rhetoric of recent months.

Finally, the disruptions which have occurred in the market place can provide an impetus for some very important reforms. One reason our capital markets are the finest in the world is that, under our laws and procedures, investors are provided with detailed and accurate information concerning potential investments. To the extent investors begin to receive such information from tax-exempt issuers, the market will clearly benefit.

New York State and Its Agencies

We have taken a particularly careful look at the credits within New York State to determine whether any credit would be able to withstand an increased level of scrutiny. We now believe there is little risk that a default by New York City would directly precipitate a default by New York State or its agencies.

Impact on the Banking System

As the Committee is aware, the Treasury Department, in conjunction with the Comptroller of the Currency, the Federal Reserve Board and the FDIC, has taken a close look at the holdings of New York City securities in our banking system. While significant amounts of New York City's debt is held by commercial banks, we do not believe a default would have a material impact on the banking system.

Specifically, our analysis revealed that only an infinitesimal number of the nation's 14,000 commercial banks could face serious capital impairment if New York City defaulted. Moreover, all of the nation's larger banks would be secure in the event of default.

But as is the case in other areas, we have felt an obligation to develop mechanisms to minimize all risks, however small. Accordingly, with respect to any bank which may be impacted, various mechanisms are now available to insure that none will fail as a result of a decline in the value of their holdings of New York City obligations. Bank customers have no need to fear for their funds.

1. Where possible, bank directors will be required to contribute additional capital.

2. Certain banks may be sold to, or merged with, other banks or bank holding companies.

3. As a last resort, in appropriate cases, the FDIC may provide capital in the form of convertible subordinated debt, at the same time imposing appropriate sanctions on the bank officials directly and indirectly responsible for the bank's exposure.

In addition, in recognition of the likelihood that any default could be cured promptly, the bank regulatory agencies have agreed that in the event of default, no bank will be required to write its holdings to market for six months.

Overall Economic Impact

As I suggested earlier, we cannot conclude that a default by New York City would result in a broad-based decline in consumer or investor confidence or in the adoption of unnecessarily restrictive lending policies by financial institutions. The American people know the reasons New York City is having financial difficulties and they know that there is little, if any, direct relationship between these difficulties and the condition of the national economy.

New York City is facing a possible default because for years it has spent far more than it takes in. New York City is facing a possible default because, until recently, it has not shown itself willing to implement the necessary reform measures required to restore confidence and regain access to the capital markets. No change in the national economic picture will measurably improve conditions in New York. And by the same token, no change in New York's condition will materially influence the economy as a whole.

Federal Financial Assistance

The only event which could modify this conclusion would be the provision of Federal financial assistance to avert a default. Indeed, such assistance -- be it in the form of a guarantee or a loan, insurance or a grant -- would, in my view, cause many problems for the process of recovery.

As the chief financial officer of this great country I have a responsibility to all the people, not simply to particular groups or sectors at particular times. My job, in essence, is to protect and restore the eroding fiscal and financial integrity of the United States for the benefit of every citizen. To state my views on special financial assistance for New York City most directly: I would be ignoring this fundamental responsibility if I were to support such assistance.

For years, government at all levels has been promising more than it can deliver. This is the cause of New York City's problem and, in my view, it is the cause of our severe problems at the Federal level as well. More and larger deficits and the increased level of Federal borrowing required to finance these deficits have combined to threaten our economic system with fundamental change: No longer can we be confident that our private sector will have access to the capital required if it is to meet the needs of all our citizens. Yet some would have us accelerate these changes to deal with the consequences of fiscal irresponsibility at the local level.

Any form of financial assistance would directly increase the burden the Federal Government imposes on the capital markets. Who would suffer? All borrowers, including every other state and local government, would pay higher interest rates. And certain sectors -- housing, small and medium-sized companies, for example -- could discover that funds were not available at any price.

Moreover, we do not escape these problems by making the assistance slightly less direct; by providing a guarantee or insurance for municipal debt. Indeed, such a program would create a security superior to those of the Federal Government itself: Backed by the full faith and credit of the United States and exempt from Federal taxes. The impact on any municipal issuer which did not have a guarantee would be direct and severe: The guaranteed bonds would skim the cream of the market and all other issuers would pay higher rates.

And what would such a program do to fiscal policies at the local level? Today, the desire to maintain access to credit at the lowest possible rate is the most important incentive for fiscal restraint. A Federal guarantee program would provide all participants with the credit of the United States: This critical restraint on spending would be lost entirely.

But, some will ask, why not have the Federal Government impose these restraints as a condition for the guarantee? That possibility concerns me more than any other because it would amount to no less than a Federal takeover of the fiscal and financial decision-making process at the State and local level.

We would have to create a new bureaucracy, simply to concoct and enforce the guidelines as to local priorities we here in Washington would be imposing on the Governments of the nation. We would be confronted with the sorry spectacle of duly-elected local officials lining up outside my door, attempting to persuade me that they were carrying out their responsibilities in a satisfactory fashion. We would, in short, be contravening constitutionally - imposed principles of Federalism; principles which lie at the heart of the structure of government in this nation.

Thousands, perhaps tens of thousands, of governments would resist this intrusion into local affairs. And they would be absolutely right. But in the final analysis, theirs would be a Hobson's Choice: Submit to Federal control or pay the price of independence in the bond markets. Are we really prepared to inflict this choice on the nation?

Finally, there are those who say that New York City is a special case; that helping New York will not obligate us to help other cities in the future. But we are already obligated. We are obligated to local officials throughout the country who have risked their careers by insisting on fiscal restraint. Would financing the deficits of New York City be consistent with our obligation to them? And can we really draw the line at New York City? I doubt it. Assistance to one city would create an intolerable precedent for the future.

Before concluding, I must return once again to an important point. As strong as our economy and our financial system may be, it remains somewhat vulnerable to attacks from within. To those who continue to insist that a default by New York City would devastate this great nation, I simply ask: Provide some objective basis for your fears and, if you cannot, please remain silent. We in the Administration have done all we can to evaluate the risks a default presents and, where possible, to provide mechanisms to minimize those risks. But if I may borrow a thought from Justice Holmes, the most elaborate fire protection system in the world may not protect theatergoers from the man who cries "fire."

Mr. Chairman, fiscal restraint is not an easy task for any economic unit in our society -- a person, a corporation, a partnership, a city. I do not want to deviate from the subject at hand, but I must point out that even we as a nation are not immune. Only our printing press allows us a greater opportunity for postponement, while we daily risk mortgaging away the financial health and prosperity of future generations.

But our economy -- however weakened by excesses at the Federal level -- remains able to withstand even the most severe shocks. I do not wish a default upon New York City. I do not believe it has to default and I expect it to take the measures necessary to avoid such an event. But if it does default, the economy of this nation and its financial system will survive, with enough strength not only to repair the damage, but also to start our greatest city along the road to recovery.

EMBARGOED FOR RELEASE
UNTIL 1:30 P.M., E.S.T.
WEDNESDAY, OCTOBER 29, 1975

OCTOBER 29, 1975

Office of the White House Press Secretary

THE WHITE HOUSE

TEXT OF LETTERS FROM THE PRESIDENT TO THE
SPEAKER OF THE HOUSE OF REPRESENTATIVES
AND THE PRESIDENT OF THE SENATE

Dear Mr. Speaker: (Dear Mr. President:)

Enclosed for your consideration and appropriate reference is a legislative proposal to amend the Bankruptcy Act to add a new Chapter XVI dealing with the adjustment of debts of major municipalities.

This legislative recommendation is submitted because of the inadequacies of Chapter IX of the current Bankruptcy Act in its application to the problems of major municipalities. The attached draft legislative proposal would provide a desirable alternative to Chapter IX of the Bankruptcy Act.

A major concern of all of us is the need for meaningful action to bring into balance the revenues and expenditures of a city which may need to seek relief under the Bankruptcy Act. The attached legislative proposal will provide the incentives needed to force such a city to make the hard decisions required to achieve this important objective. The draft legislation will accomplish this without improper intrusion into the internal governmental affairs of any State.

We do not wish for any city to have to undergo bankruptcy. However, recent events remind us we cannot ignore the fact that there must be relief legislation ready and available in the event insolvency forces resort to relief under the Bankruptcy Act. I can assure you that the Executive Branch would be prepared to work with the bankruptcy court in a proceeding under the proposed Act.

Administration witnesses will be pleased to consult with and advise the Committee to which this legislation is assigned. This legislation is urgently needed. I respectfully urge its early consideration by the Congress.

Sincerely,

GERALD R. FORD

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FOR IMMEDIATE RELEASE OCTOBER 29, 1975

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

THE WHITE HOUSE

REMARKS OF THE PRESIDENT
AND
QUESTION AND ANSWER SESSION

THE NATIONAL PRESS CLUB

12:02 P.M. EST

THE PRESIDENT: Mr. President, fellow members of the Press Club, ladies and gentlemen, guests:

I am deeply grateful for the opportunity to join you today and talk to you about a matter of very deep concern to all Americans.

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

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 my conclusions, and to you, whose job it is to carry them throughout the world, as well as 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.

The time has come for all Americans to consider how the problems of New York and the hard decisions they demand, foreshadow and focus upon potential problems for all Governments -- Federal, State and local -- problems which demand equally hard decisions for them.

One week ago, New York City tottered on the brink of financial default, which was deferred only at the eleventh hour.

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

MORE

They said it is now up to Washington 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 argued that the big metropolitan city has become obsolescent, that decay and pollution have brought a deterioration in the quality of urban life, and New York's downfall could not be prevented.

Let's face one simple fact: Most other cities in America have faced these very 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," and I kind of like that definition of "luck."

During the last decade the 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 percent every year, while its tax revenues are increasing by only 4 to 5 percent per year.

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

The record shows that New York City's 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 percent of base pay. There are 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 percent or more of the cost of their pensions. New York City is the only major city in the country that makes up the entire burden. The record shows that when New York's municipal employees retire, they often retire much earlier than in most cities and at pensions considerably higher than sound retirement plans permit. The record shows 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. 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. As for New York's much-discussed welfare burden, the record shows more than one current welfare recipient in ten may be legally ineligible for welfare assistance.

Certainly, I do not blame all the good 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 about the inevitable consequences of what they are doing or were doing over the last ten years.

The consequences 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 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 City, there will be catastrophe for the United States, and perhaps for the world.

Is this scare story true? Of course, there are risks that default could cause temporary fluctuations in the financial markets. But, these markets have already made a substantial adjustment in anticipation of a possible default by New York City.

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

But, the New York City record of bad financial management is unique among municipalities throughout the United States. 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 idifficulty raising funds.

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

MORE

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 City officials and bankers try to scare New York's mortgage payments out of them.

We have heard enough scare talk. What we need now is a calm, rational decision as to what is the right solution, 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 public services for the people of New York City. It must protect the innocent victims of this tragedy. There must be policemen on the beat, firemen in the station, nurses in emergency wards.

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

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 were the creatures of the States. The States delegated 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.

I see a serious threat to the legal relationships among our Federal, State and local Governments in any Congressional action which could lead to disruption of this traditional 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 City?

What is the solution to New York's dilemma. 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 should or would guarantee the availability of funds to New York City. I can tell you, and tell you now, that 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 is 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.

Such a step would be a terrible precedent for the rest of the Nation. It would promise immediate rewards and eventual rescue to every other city that follows the tragic example of our largest city. What restraint would be left on the spending of other local and State Governments once it becomes clear 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 beneficiaries would not be those who live and work in New York City because the really essential public services must and will continue.

The primary beneficiaries would be the New York officials who would use the escape responsibility for their past follies and be further excused from making the hard decisions required now to restore the city's fiscal integrity.

The secondary 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.

As you know, the Constitution empowers the Congress to enact uniform bankruptcy laws. Therefore, I will submit to the Congress special legislation providing the Federal Courts with sufficient authority to precide 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 they mature and would be accompanied by a proposed way to work out an adjustment of its debts with its creditors.

The Federal Court would then be authorized to accept jurisdiction of the case. There would be an automatic stay of suits by creditors so that the essential functions of the City would not be disrupted. This would enable an orderly plan to be developed so that the City could work out arrangements with its creditors. While New York City works out a compromise with its creditors the essential Government functions of the City would continue. In the event of default, the Federal Government will work with the Court to assure that police and fire and other essential services for the protection of life and property in New York are maintained.

The proposed legislation will include a 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.

In order to meet the short-term needs of New York City the Court would be empowered to authorize debt certificates covering new loans to the City, which would be paid out of future 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 in lawsuits.

Second, it will provide the conditions for an orderly plan to be developed for payments to New York City's creditors over a long-term.

Third, it will provide a way for new borrowing to be secured by pledging future revenues.

I don't want anybody misled. This proposed legislation will not, by itself, put the affairs of New York City in order. Some hard measures must be taken by the officials of New York City and New York State. They must either increase revenues or cut expenditures or devise some combination that will bring them to a sound financial position.

MORE

Careful examination has convinced me 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 approach I am recommending is this: If New York fails to act in its own behalf, orderly proceedings would then be supervised by a Federal Court.

The ones who would be most affected by this course of action would be those who are now fighting tooth and nail to protect their authority and to protect their investments -- New York City officials and the City's creditors. The creditors will not be wiped out; how much they will be hurt will depend upon the future conduct of the City's 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 that is adopted.

For the financial community, the default may bring some temporary difficulties but the repercussions should not be large or longstanding.

Finally, for the people of the United States, this 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 sensible way to proceed.

There is a profound lesson for all Americans in the financial experience of our biggest and our richest city. Though we are the richest Nation, the richest Nation in the world, there is a practical limit to our public bounty, just as there is to New York City's.

Other cities, other States, as well as the Federal Government, are not immune to the insidious disease from which New York City 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 so on, and so on, and so 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 stimulant that has proved so popular and so successful in Washington for so many years.

None of us can point a completely guiltless finger at New York City. None of us should now derive comfort or pleasure from New York's anguish. But neither can we let that 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. If we go on spending more than we have, providing more benefits and more 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 City.

So let me conclude with one question of my own: When that day of reckoning comes, who will bail out the United States of America?

Thank you very much.

MORE

Q. Now we have time for just a few questions, haven't we, Mr. President? The first one asks, "Mr. President, you say that in the event of a default the Federal Government is prepared to work with the courts to assure that the City can continue to maintain its essential services such as police and fire protection. Does this mean the Federal Government will provide cash or guarantees or Federal troops?

THE PRESIDENT: Of course, I don't assume that the City will default because I think the capacity in the City and the capacity in the State is there to avoid default; but in the eventuality that those in control of the City and State refuse to step up to that responsibility and that capability, then the court will have to go through the default process.

I can only say that the Federal Government will work with the Court. I do not want to prescribe precisely the means or method but I can say that in working with the Court after the refusal of local and state people to assume their responsibility, this Federal Government will see to it that essential services are maintained.

Q. If it comes to default, how much do you estimate it will cost the United States Government at a minimum?

THE PRESIDENT: Again I do not assume that default is absolutely certain for the reasons that I, a few moments ago, said. It is my judgment that the Federal court under the default procedure and the jurisdiction that the Court has, that it can issue on behalf of the City and/or the State certificates that will have a prior lien on any revenue that comes in while other creditors are held off from getting any benefits in the interim period, so I foresee no loss to the Federal Government whatsoever.

Q. Mr. President, this next question has been asked in about fifteen different ways and I have chosen this version: The questionner asks, what is the difference between the Federal Government's bailing out Lockheed and bailing out New York City?

THE PRESIDENT: Well, in retrospect we may have made a mistake in bailing out Lockheed and yet I think you can draw a distinction. In the case of Lockheed the Federal Government contributes in defense contracts a very substantial portion of the revenue that comes to the company -- I have forgotten the exact percentage but it is 75 or 80 percent or perhaps even more -- and the Federal Government as a result of that tremendous control over funding had a capability of maintaining control precisely without other public officials being involved.

I think that is a fair distinction but in retro-

spect, as I said at the outset, I am not sure we didn't make a mistake.

Q. Thank you, sir. Another questioner asks: In order to insure a continued flow of private funds to public related entities, how does the administration intend to assure future investors that their interests will also be protected when financial difficulties arise?

THE PRESIDENT: The best way for that to occur, Mr. President, is to say that in the case of New York City where there is mismanagement as there has been, the city must go into court in bankruptcy, in default, and when that happens as every investor knows, their obligations which they bought in the free market, hoping for a good return on a tax-free basis, was not a good investment.

I think investors will be more discerning. They will be much more discerning and they will insist that municipal and state officials manage their affairs in a way that will assure credibility to the investor.

I think this course of action that I am suggesting is the greatest deterrent to mis-management of municipal and state action and it is the greatest assurance to future investors that when they buy municipal securities they are making a good investment. I think that will be the end result.

Q. Another questioner wonders why will the people buy the debt certificates that you propose when they would not buy Big Mac bonds which also were backed by assured revenues?

THE PRESIDENT: The legislation would provide that the court cooperate in the issuance of these certificates with those certificates having the highest priority on any revenues that come into the city -- priority above any other -- which means that revenues from taxes, revenues which might come from the Federal Government under revenue sharing or otherwise, would be earmarked for precisely those court-backed certificates.

Every other creditor stands in line and, as I understand it, this current problem that may come in the middle of November, certainly in December, is more of a short-term cash flow problem providing the local officials and the State officials face up to the long-range difficulty.

Q. Another questioner says your prescription for New York City sounds fine but would it work for management of the Federal establishment?

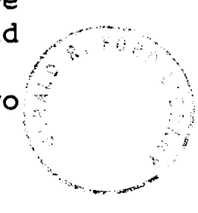
THE PRESIDENT: Well, we have a little different situation here but I think the basic problem, as I said in my remarks, is exactly the same. And if we don't start getting a handle on these long-range commitments in a wide variety of cases, both in our domestic programs as well as our defense, we are going to be faced in a relatively short period of time in the history of this country with the same problem that the City of New York faces today.

We have a different power than New York City has, that we can print money, in effect, but that is not an honest decision or an honest course of action for the American people or the country.

Q. Mr. President, before we go to the final question, I would like to give you the traditional gift that we give all of the proper speakers. This is a National Press Club tie and it is as close as we can get to the maize and blue of an arbor, and also with it goes the certificate from us for appreciation, awarded in recognition of your appearance as guest speaker here today.

Now we have one final question: Do you think you will carry New York City in the next election? (Laughter)

THE PRESIDENT: I will take my chances on New York City because I think there is a substantial number of people in New York City who have known for a long period of time that their great city was being misled and they are now ripe for some straight answers, some straight talk, and I am confident that we can solve the problem, and when we do it, and do it right, I think I will have a friend or two in New York City.



Q. Mr. President, we will get a chance for a reaction to that question next Wednesday when Mayor Beame speaks to this audience.

END (AT 12:40 P.M. EST)

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 section 811 and the provisions of the plan of composition or extension.

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 ampunt 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 insufficent 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.