

**The original documents are located in Box 78, folder “New York City, May – October 1975 (6)” of the L. William Seidman Files at the Gerald R. Ford Presidential Library.**

### **Copyright Notice**

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald R. Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

THE WHITE HOUSE

WASHINGTON

October 24, 1975


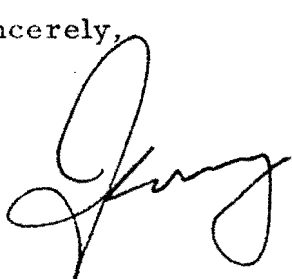
Dear Charly:

Thank you very much for providing me with your candid assessment of New York City's financial problems. I understand you have discussed your views more fully with Bill Seidman, who is keeping me advised.

As you point out, it is both a difficult and delicate problem, and I appreciate having the benefit of your advice.

As always, thanks for your encouraging words of support.

Sincerely,



Mr. Charls E. Walker  
Charls E. Walker Associates, Inc.  
1730 Pennsylvania Avenue, N.W.  
Washington, D.C.



OCT 2 4 1975

Dear Charly:

Thank you very much for providing me with your candid assessment of New York City's financial problems. I understand you have discussed your views more fully with Bill Seidman, who is keeping me advised.

As you point out, it is both a difficult and delicate problem, and I appreciate having the benefit of your advice.

As always, thanks for your encouraging words of support.

Sincerely,

JERRY FORD

Mr. Charles E. Walker  
Charles E. Walker Associates, Inc.  
1730 Pennsylvania Avenue, N.W.  
Washington, D.C.

GRF:LWS:RBP:lc



# MEMORANDUM FROM

CHARLS E. WALKER

DATE 10/7/75

DEAR MR. PRESIDENT:

① Some thoughts on the NYC problem.

② I think your "tax-spending ceiling" package is great!

2



THE PRESIDENT HAS SEEN....

October 7, 1975

C.F.

MEMORANDUM FOR THE PRESIDENT

I am getting very, very worried about the New York City financial problem.

Bill Simon may be right about the minimal impact of default, but I personally believe that there's simply no way of knowing in advance just what the economic and financial fallout would be. I am convinced that it would be much more than the "ripple effect" that the press talks about. And in a recovery period that has to be handled with much T.L.C., the impact on confidence in an economy in which many, many things are still "out of whack" could be very damaging.

Politically, there seems to me to be real dynamite here. My conversations on the Hill indicate that the odds of Congressional action are growing. I can therefore envisage your having on your desk by Christmas a bad bill (Lud would handle in the House, but Prox could really foul it up in the Senate). Then, if you vetoed it in the public interest, NYC defaulted, and the roof fell in -- I don't like to think about all of that happening at the beginning of a Presidential election year.

I have discussed this at some length with Governor Connally and I think he agrees with me (but I'm sending him, and Simon, a copy of this, and the Governor can speak for himself). I also think he agrees that the approach outlined in copy I've prepared for my next newsletter represents the safest approach (i.e., gets the job done without tying Uncle Sam into long run municipal fiscal support) and also one perhaps most acceptable to the Congress.

There are false rumors circulating that I have agreed to take on a massive lobbying job for the mayors and bankers on this issue. Those rumors are false. I've talked to Hugh Carey about the problem. And I was approached by a representative of the mayors (but no bankers), made no commitment whatsoever, but did outline the thoughts in the enclosed copy. Bill Simon called me about the rumors and I pledged to him that I would not commit our firm to any such project without further discussion with him and The White House. I repeat that pledge.

I think this needs your early and earnest attention. A bad bill to save NYC on your desk around December 25 would be a lousy Christmas present.

As always, yours to count on.

cc:  
The Honorable John B. Connally  
The Honorable William E. Simon

Chas

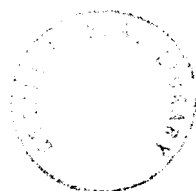
P.S.-Almost forgot to mention that a simple amendment to the Securities Act of 1933, requiring State and local governments to disclose information in the same manner as business would (according to a leading accountant) prevent fiascos of the NYC type.

NEW YORK CITY: PART II

In our last issue we suggested that the financial problems of New York City will not disappear (and in fact, they have worsened); that the problem is not confined to Fun City but is national in scope; that the proposals now before the Congress are not likely to be enacted ("Super Mac" or Federal guarantees of municipal securities); and that there was a chance--but only a chance--that legislation could be fashioned which would draw the support of "people in Paducah, Podunk and Pocatello," a euphemism for all those voters "out yonder" who believe that the Big Apple is getting just what it deserves. Not surprisingly, our statements that existing legislative proposals wouldn't fly prompted queries as to what might get off the ground. And, having been consulted by some interested people on this matter, the fact is that we do have some ideas on what Congress might be willing to do. In fact, a variation of our suggestions was presented by the executive committee of the Conference <sup>of</sup> Mayors to President Ford two weeks ago.

Reports last week that Secretary of the Treasury William E. Simon was softening in his opposition to helping NYC were promptly knocked down by the White House. However, the statement by highly respected Dr. Arthur F. Burns that a NYC default could impede recovery--beyond which he refused to elaborate--bolstered the hopes of New York officials and their supporters in Congress that something might well be done. To this end, both the Senate and House Banking Committees are gearing up for hearings on the issue.

An RFC for Cities? If Congress and the Administration feel compelled to do something about municipal financing problems in general and NYC's in




particular, then an adequately funded, toughly managed, 1975-model RFC appears to be the preferable approach (let's call it a "Municipal RFC," or "MRFC"). What follows is not a specific plan, but some of the major considerations that would have to be dealt with in mounting any such approach.

First, without doubt, the authority of MRFC should be "generic"--that is, its aid should be available to any eligible city, county, or State local assistance authority that is able and willing to meet its terms and conditions. The chances of getting legislation through that zeroes in on the NYC problem alone is, in our view, next to nothing.

Second, an MRFC should provide assistance only through lending cold cash--every effort should be made to make certain that it has no guarantee authority, however circumscribed, that might be twisted around as a back-up for State and local securities. This provision would answer the Treasury's major objection to direct Federal guarantees (that these would create securities as good or better than U.S. obligations).

Third, although some sort of public/private board might have overall responsibility for the policies of MRFC, it should be run by a hard-nosed, take-charge financial type accustomed to driving hard bargains and making them stick. The chairman of the board might well be the Secretary of the Treasury, but the president and chief operating officer--the hard-nosed manager--would be in charge of making and enforcing the deals, and we do mean deals, with suppliant governments. To help guard against the danger that a politically-oriented operating officer might sooner or later come to head MRFC, the policy board should contain no elected officials, but perhaps be patterned after the Emergency Loan Guarantee Board which has done an excellent job in monitoring the Lockheed loan guarantee. That board is chaired by the Secretary of the Treasury, and includes the chairmen of the Federal Reserve Board and the



Securities and Exchange Commission. Also, the Congressional mandate for MRFC should specify that its president and chief operating officer be an individual with impeccable credentials in financial and fiscal matters.

Fourth, rather than providing MRFC with authority for either "on-" or "off-budget" financing on its part, it should simply be able to "tap" the Treasury for an amount specified by Congress. If the full faith and credit of the U.S. backs up MRFC, then there is no reason to go through the charade of providing it with its own financing authority. Moreover, this approach, through the appropriations process, would show the Congress and the people just what the effort costs. This is in contrast to so many loan or guarantee programs whose real economic impact is difficult to determine.

Fifth, although the grant of Congressional authority to MRFC should be relatively broad, there should be the strongest of statements concerning the strict terms on which MRFC assistance is to be provided. Those terms (including fully competitive interest rates) should be tough, tough, tough! In essence, any applicant should be forced to relinquish its "sovereignty" to MRFC in exchange for emergency financing.

The reasons for this are obvious. New York and some other cities are in trouble because they've been living far beyond their means. (Uncle Sam would have been in deep trouble long ago but for one important distinction. The Federal Government has the power to print money, while States and localities do not.) In the absence of unlimited credit and/or money-creating powers, a family, business or governmental unit can eat too high on the hog for only so long--then the time comes to pay the butcher.

Although it is unfair to point to the militant New York City unions as the sole culprit (many other factors are important, some of which, such as a heavy






welfare load, are perhaps beyond the city's control), their demands and power illustrate the point. Their political and economic power (including that of endangering the safety and health of the city's inhabitants) is so great that no elected mayor or city council can stand up to them. Thus the logic of transferring some degree of sovereignty from NYC to the State (through Big Mac) is apparent. But NYC's problems are now so huge that, as noted, the State may be pulled down with it.

Objection will be raised that the MRFC would be in no position to monitor and enforce these necessary tough conditions relating to taxes and spending in general, and services and payrolls in particular. Not so. Our hard-nosed financial type, the chief operating officer, should be so severe in drawing up what is essentially a "trust indenture" with the suppliant city that any elected official who approaches MRFC would be committing political suicide. As a result, the number of applicants should be few indeed and the "enforcement" problem easily manageable. Indeed, the function could probably be handled by a relatively small group of retired city controllers and bankers with a reputation for skill and toughmindedness.

A final consideration relating to operations of MRFC involves the maturity of the loans a president is authorized to make. Although he should be given some latitude in this respect, generally the loans should be of very short term, perhaps for no more than a year. The purpose of such short maturities would be to keep a leash on the local politicians and city power brokers and blocks. MRFC would be saying, in effect, you must get on the fiscal straight and narrow not only to get the loan, but stay on that path or your credit line will be revoked. In addition, short-term loans would reduce the danger of Uncle Sam coming to play a long-run role in bolstering the fiscal positions of a large number of cities. In other words, the loans from MRFC would be for the sole purpose of "bridging the gap" while the city took the bitter medicine necessary to put its fiscal affairs in order.




Businessmen who have got into financial trouble and have had to scramble for emergency bank credit will recognize the considerations as having almost their exact counterpart in the non-governmental sector. When a corporation is in trouble, extension of bank lines of credit are frequently so laden with restrictions on management that it's not much of an exaggeration to say that the head of the company can't even go to the wash room without his banker's permission.

We submit that, if Uncle Sam is going to do something about NYC, that type of arrangement represents the most desirable approach--and one that might well be sold to a majority in the Congress.

Some Political Problems. First, it will be objected that MRFC is not really generic, but only a thinly veiled effort to bail out the Big Apple. Answer: Both the level of funding and directives to management should provide strong indications that any distressed city could qualify for help--provided its leaders were to lay certain "sovereign" powers on the line.

Second, some will argue that the nation's governors would never support such an approach, because cities are creatures of the state, and the MRFC would by-pass State Capitals. Answer: This objection, if valid, could easily be handled by bringing the governor of the particular state into the action through a certifying and auditing role, etc. But is it really a problem? Do the governors want to be the financial court of last resort for their cities? We don't think so.

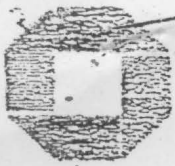
Third, others may maintain that with many small businesses and homeowners in distress, Congress will refuse to enact what is likely to be viewed as "bail-out" legislation for some profligate cities while their individual and business constituents suffer. Answer: If so, an additional title (or titles) can be added to provide assistance--but still on tough terms--for distressed businesses and/or homeowners. There is considerable support for this idea on Capitol Hill.



Fourth, many believe that the Ford Administration is set in concrete on this issue and is not about to accept any legislation along these lines, even if it applies across-the-board to all cities. Answer: Maybe so. But a tightly drawn bill, to meet legitimate and pressing city problems at a time of overall economic and financial malaise, would be very hard to veto. Any such veto, if followed by near-calamitous developments in the financial affairs of a number of major cities, would have a strong negative political impact on The White House.

Conclusion. The point of all the preceding discussion is not to lay out in specific terms a legislative proposal. It is instead to recognize that legislation to help New York and other cities may pass the Congress. And, if that be the case, it should be drafted with extreme care. Given all our other pressing economic and financial problems, this is no time to throw the vaults at Treasury wide open to New York or any other hard-pressed city.





[10-24-75]

# THE CHASE MANHATTAN BANK, N.A.

Public Relations Division 1 Chase Manhattan Plaza New York, N.Y. 10015

**release:** IMMEDIATELY

Idan Sims - 212-552-4407

## STATEMENT BY CHASE CHAIRMAN DAVID ROCKEFELLER ON MUNICIPAL ASSISTANCE CORPORATION

"Two days ago, a letter was sent to the Municipal Assistance Corporation from the selected underwriters for the next MAC issue, The Chase Manhattan Bank and Merrill Lynch, Pierce, Fenner and Smith Incorporated. We believe there is an obligation, as the lead underwriters, to make the contents of that letter public," stated David Rockefeller, Chairman of the Board of The Chase Manhattan Bank.

In part the letter to MAC said:

"It makes no sense whatever to propose that the New York City commercial banks make a further bridge loan in the hope that the problems will disappear before the City needs additional funds. MAC is, in essence, a bridge but to this point the basic problems have not been solved. Modest bridge loans as a part of an overall package, as done in the past, are clearly constructive, but such a tactic in the absence of a total plan, can only be construed by investors as temporizing and, therefore, self-defeating.

In order to have a chance at a solution, the following steps must be taken:

- (1) An immediate, dramatic and creditable program putting a firm, spartan control on the total expenses of the City, which is endorsed and visibly supported by the Governor and the legislative leaders, and implemented by the Mayor and the MAC Board.
- (2) A highly accelerated effort on the part of MAC to put in place the monitoring and accounting efforts as authorized by the Legislation and outlined in the Prospectus."



Mr. Rockefeller went on to say, "The facts of the matter are now clear to everyone. What is desperately needed is concrete action now. A definitive program, strongly endorsed by the Governor, the Legislature, the Mayor, and the MAC Board, must not only be announced in full detail, but agreed to and acted upon by all parties with no further delay."

"Every hour's delay makes the task more difficult. If there is to be any chance of a successful financing in August, decisive action must be taken at the earliest possible moment," Mr. Rockefeller continued.

"Until the comprehensive program has been implemented, I see no possibility of a bank loan. In any event, it is our judgment that any bank loan could only be part of a total credible fiscal program," Mr. Rockefeller concluded.

(Letter attached)

\*\*\*

1/24/75







---

**The Challenge of the Cities**  
By David Rockefeller

---

**Owen V. Frisby**  
Vice President



**The Chase Manhattan Bank, N.A.**  
900 17th Street, N.W., Suite 706  
Washington, D.C. 20006  
Telephone (202) 833-1070



Mr. Chapin  
10/24/75

**[CONFIDENTIAL SUBCOMMITTEE PRINT]  
[DISCUSSION DRAFT]**

OCTOBER 23, 1975

94TH CONGRESS  
1ST SESSION

**H. R.**

**IN THE HOUSE OF REPRESENTATIVES**

OCTOBER , 1975

Mr. ----- introduced the following bill; which was referred to the Com-  
mittee on -----

**A BILL**

To revise chapter IX of the Bankruptcy Act.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 That chapter IX of the Bankruptcy Act is amended to read  
4 as follows:

5

**"CHAPTER IX**

6

**"ADJUSTMENT OF DEBTS OF POLITICAL SUBDIVISIONS AND**

7

**PUBLIC AGENCIES AND INSTRUMENTALITIES**

8

**"SEC. 81. CHAPTER IX DEFINITIONS.—As used in**

9

**this chapter the term—**

J. 60-106—1



1           “(1) ‘claim’ includes any bond, note, judgment,  
2 demand, obligation, evidence of indebtedness, or certifi-  
3 cate of beneficial interest in property;

4           “(2) ‘court’ means court of bankruptcy in which  
5 the case is pending, or a judge thereof;

6           “(3) ‘creditor’ means holder of a claim against the  
7 petitioner;

8           “(4) ‘claim affected by the plan’ means claim as  
9 to which the rights of its holder are proposed to be  
10 materially and adversely adjusted or modified by the  
11 plan;

12           “(5) ‘debt’ means claim allowed under section  
13 88 (a) ;

14           “(6) ‘petitioner’ means agency, instrumentality,  
15 or subdivision which has filed a petition under this  
16 chapter;

17           “(7) ‘plan’ means plan filed under section 90;

18           “(8) ‘special tax payer’ means record owner or  
19 holder of title, legal or equitable, to real estate against  
20 which has been levied a special assessment or special  
21 tax the proceeds of which are the sole source of pay-  
22 ment for obligations issued by the petitioner to defray  
23 the costs of local improvements; and

24           “(9) ‘special taxpayer affected by the plan’ means  
25 a special taxpayer with respect to whose land the plan





1 proposes to increase the proportion of special assess-  
2 ments or special taxes reerred to in paragraph (8) as-  
3 sessed against that land.

4 "SEC. 82. JURISDICTION AND POWERS OF COURT.—

5 "(a) JURISDICTION.—The court in which a petition is  
6 a petition is filed under this chapter shall exercise exclusive  
7 filed under this chapter shall exercise exclusive original jur-  
8 isdiction for the adjustment of a petitioner's debts, and for  
9 the purposes of this chapter, shall have exclusive jurisdiction  
10 of the petitioner and its property, wherever located.

11 "(b) POWERS.—Upon a filing of a petition under this  
12 chapter the court may—

13 "(1) permit the rejection of executory contracts,  
14 including unexpired leases, of the petitioner upon notice  
15 to the parties to such contracts and to such other parties  
16 in interest as the court may designate; and

17 "(2) upon such notice as the court may prescribe  
18 and for cause shown, permit the issuance of certificates  
19 of indebtedness for such consideration as is approved  
20 by the court, upon such terms and conditions, and with  
21 such security and priority in payment over existing  
22 obligations, secured or unsecured, as in the particular  
23 case may be equitable.

24 "(c) LIMITATION.—Unless the plan so provides, the



1 court shall not, by any order or decree, in the case or other-  
2 wise, interfere with—

3 “(1) any of the political or governmental powers  
4 of the petitioner;

5 “(2) any of the property or revenues of the peti-  
6 tioner; or

7 “(3) any income-producing property.

8 “SEC. 83. RESERVATIONS OF STATE POWER TO CON-  
9 TROL GOVERNMENTAL FUNCTIONS OF POLITICAL SUB-  
10 DIVISIONS.—This chapter does not limit or impair the power  
11 of any State to control, by legislation or otherwise, any politi-  
12 cal subdivision or public agency or instrumentality of or in  
13 such State in the exercise of the political or governmental  
14 powers of that subdivision, agency, or instrumentality, in-  
15 cluding expenditures for such exercise, but no State law  
16 prescribing a method of composition of indebtedness of such  
17 an agency, instrumentality, or subdivision shall be binding  
18 upon a creditor who does not consent to such composition,  
19 and no judgment shall be entered under such State law which  
20 would bind a creditor to such composition without that  
21 creditor's consent.

22 “SEC. 84. ELIGIBILITY FOR RELIEF.—Any State's  
23 political subdivision or public agency or instrumentality  
24 which is not prohibited by State law from filing a petition  
25 under this chapter is eligible for relief under this chapter



1 if it is insolvent or unable to meet its debts as they mature,  
 2 and desires to adjust its debts. An entity is not eligible for  
 3 relief under this chapter unless—

4 “(1) it has successfully negotiated a plan of adjust-  
 5 ment of its debts with a majority in amount of claims  
 6 of its creditors;

7 “(2) it has negotiated in good faith for a reasonable  
 8 period of time with its creditors and has failed to obtain  
 9 the agreement of a majority in amount of claims of its  
 10 creditors to such a plan of adjustment; or (3) such nego-  
 11 4) “(3) it has reasonable fears that a creditor may tiation is imprac-  
 12 act to obtain payment of that creditor’s claim in prefer- ticable;  
 13 ence to another creditor.

14 “SEC. 85. PETITION AND PROCEEDINGS RELATING  
 15 TO PETITION.—

16 “(a) PETITION.—An entity eligible under section 84  
 17 may file a petition for relief under this chapter. In the case  
 18 of an unincorporated tax or special assessment district having  
 19 no officials of its own, the petition may be filed by its govern-  
 20 ing authority or the board or body having authority to levy  
 21 taxes or assessments to meet the obligations of the district.

22 “(b) LIST.—The petitioner shall file a list of its credi-  
 23 tors, insofar as practicable, and of its special tax payers.  
 24 If an identification of all the petitioner’s creditors is im-  
 25 practicable, the petitioner shall state in the petition the



1 reasons such identification is impracticable. If the list is not  
2 filed with the petition, the petitioner shall file the list at such  
3 later time as the court, upon its own application or upon  
4 application of the petitioner, prescribes.

5 “(c) OFFICE OF FILING AND FEES.—The petition and  
6 any accompanying papers, together with a filing fee of  
7 \$100, shall be filed with the court in a district in which  
8 the petitioner is located.

9 “(d) NOTICE.—The court shall give notice of the filing  
10 or dismissal of the petition to the State in which the peti-  
11 tioner is located, the Securities and Exchange Commission,  
12 creditors, and special tax payers. The notice shall also state  
13 that a creditor or special tax payer who files with the court a  
14 request, setting forth his name and address and the nature  
15 and amount of his claim, shall be given notice of any other  
16 matters in which that creditor or special tax payer has a  
17 direct and substantial interest. The notice required by the  
18 first sentence of this subsection shall be published at least  
19 once a week for three successive weeks in at least one news-  
20 paper of general circulation published within the jurisdiction  
21 of the court, and in such other papers having a general  
22 circulation among bond dealers and bondholders as may be  
23 designated by the court. The court may require that it  
24 be published in such other publication as the court may  
25 deem proper. The court shall require that a copy of the



1 notice required by the first sentence of this subsection be  
2 mailed, postage prepaid, to each creditor and special tax  
3 payer of the petitioner named in the list at the ad-  
4 dress of such creditor or special tax payer given in the  
5 list, or, if no address is given in the list for any creditor or  
6 special taxpayer and the address of such creditor or spe-  
7 cial tax payer cannot with reasonable diligence be ascer-  
8 tained, then a copy of the notice may, if the court so  
9 determines, be mailed, postage prepaid, to such creditor  
10 or special tax payer addressed as the court may prescribe.  
11 All expense of giving notice required by this subsection  
12 shall be paid by the petitioner. The notice shall be first  
13 published and the mailing of copies of the notice shall be  
14 completed, as soon as practicable after the filing of the  
15 list required by subsection (b) but not later than transmission  
16 of the plan under section 90 (b) .

17 “(e) STAY OF ENFORCEMENT OF CLAIMS AGAINST  
18 PETITIONER.—

19 “(1) EFFECT OF FILING A PETITION.—A petition  
20 filed under this chapter shall operate as a stay of the  
21 commencement or the continuation of a judicial or  
22 other proceeding against the petitioner, its property, or  
23 an officer or inhabitant of the petitioner, which seeks  
24 to enforce any claim against the petitioner, or of an act  
25 or the commencement or continuation of a judicial or



1 other proceeding which seeks to enforce a lien upon  
2 the property of the petitioner, and shall operate as a stay  
3 of the enforcement of any set-off or counterclaim relating  
4 to a contract, debt, or obligation of the petitioner.

5 “(2) DURATION OF AUTOMATIC STAY.—Except  
6 as it may be terminated, annulled, modified, or condi-  
7 tioned by the court under the terms of this section, the  
8 stay provided for herein shall continue until the case  
9 is closed or dismissed.

10 “(3) RELIEF FROM AUTOMATIC STAY.—Upon the  
11 filing of a complaint seeking relief from a stay provided  
12 for by this section, the court may, for cause shown, ter-  
13 minate, annul, modify, or condition such stay.

14 “(4) OTHER STAYS.—The commencement or con-  
15 tinuation of any other act or proceeding may be stayed,  
16 restrained, or enjoined by the court, upon notice to each  
17 person and entity against whom such order would apply,  
18 and for cause shown. The petitioner shall not be required  
19 to give security as a condition to an order under this  
20 paragraph.

21 “SEC. 86. REPRESENTATION OF CREDITORS PARTIES  
22 IN INTEREST.—

23 “(a) DISCLOSURE.—Every person representing more  
24 than one creditor shall file with the court a list of the cred-  
25 itors represented by such person, giving the name and ad-



1 dress of each such creditor, together with a statement of  
2 the amount, class, and character of the claim held by that  
3 creditor, and shall attach to the list a copy of the instrument  
4 signed by the owner of such claim showing such person's  
5 authority, and shall file with the list a copy of the contract  
6 or agreement entered into between such person and the  
7 creditors represented by that person. Such person shall dis-  
8 close all compensation to be received, directly or indirectly,  
9 by that person. That compensation shall be subject to mod-  
10 ification and approval by the court.

11 “(b) MULTIPLE COMPENSATION.—The court shall  
12 examine all of the contracts, proposals, acceptances, deposit  
13 agreements, and all other papers relating to the plan, specifi-  
14 cally for the purpose of ascertaining if any person promoting  
15 the plan, or doing anything of such a nature, has been or is  
16 to be compensated, directly or indirectly, by both the peti-  
17 tioner and any of its creditors, and shall take evidence under  
18 oath to determine whether any such compensation has  
19 occurred or is to occur. After such examination the judge  
20 shall make an adjudication of this issue, and if it be found  
21 that any such compensation has occurred or is to occur he  
22 shall dismiss the petition and tax all of the costs against the  
23 person promoting the plan or doing anything of such a  
24 nature, or against the petitioner, unless such plan is modified,



1 within the time to be allowed by the court, so as to eliminate  
2 the possibility of such compensation in which event the  
3 court may proceed to further consideration of the confirma-  
4 tion of the plan.

5 "SEC. 87. REFERENCE AND JOINT ADMINISTRATION.—

6 "(a) REFERENCE.—

7 "(1) The court may refer any special issue of fact to a  
8 referee in bankruptcy or a special master for consideration,  
9 the taking of testimony, and a report upon such special issue  
10 of fact, if the court finds that the condition of its docket is  
11 such that it cannot take such testimony without unduly de-  
12 laying the dispatch of other business pending in the court,  
13 and if it appears that such special issue is necessary to the  
14 determination of the case. Only under special circumstances  
15 may references be made to a special master who is not a  
16 referee in bankruptcy. The court shall not make a general  
17 reference of the case, but may only request findings of specific  
18 facts.

19 "(2) The court may allow reasonable compensation for  
20 the services performed by any such special master, and the  
21 actual and necessary expenses incurred in connection with  
22 the proceeding, including compensation for services rendered  
23 and expenses incurred in obtaining the deposit of securities  
24 and the preparation of the plan, whether such work has been  
25 done by the petitioner or by committees or other representa-





1 tives of creditors, and may allow reasonable compensation  
2 for the attorneys or agents of any of them. No fees, com-  
3 pensation, reimbursement, or other allowances for attorneys,  
4 agents, committees, or other representatives of creditors  
5 shall be assessed against the petitioner or paid from any  
6 revenues, property, or funds of the petitioner except in the  
7 manner and in such sums, if any, as may be provided for in  
8 the plan of composition.

9 “(b) If more than one petition by related entities are  
10 pending in the same court, the court may order a joint  
11 administration of the cases.

12 “SEC. 88. CLAIMS.—

13 “(a) ALLOWANCE OF CLAIMS.—In the absence  
14 of an objection by a party in interest, or of a filing of a  
15 proof of claim, the claim of a creditor that is not disputed,  
16 contingent, or unliquidated, and appears in the list filed  
17 by the petitioner under section 85(b) shall be allowed  
18 by the court. The court may set a date by which proofs  
19 of claim of other creditors shall be filed. If the court does  
20 not set a date, the proofs of claim must be filed before the  
21 entry of an order confirming the plan. Within thirty days  
22 after the filing by the petitioner of the list under section  
23 85(b), the court shall give written notice to each person  
24 entity whose claim is listed as disputed, contingent, or un-  
25 liquidated, informing each such person that a proof of claim



1 must be filed within the time fixed under the subsection.

2 If there is no objection to such plan, the court shall allow  
3 the claim. If there is an objection, the court shall hear and  
4 determine the objection.

5 “(b) CLASSIFICATION OF CLAIMS.—The court shall  
6 classify the claims according to their nature.

7 “(c) DAMAGES UPON REJECTION OF EXECUTORY CON-  
8 TRACTS.—If an executory contract, including an unexpired  
9 lease, is rejected under a plan or under section 82 (b), any  
10 person injured by such rejection has a claim against the  
11 petitioner. The claim of a landlord for injury resulting from  
12 the rejection of an unexpired lease of real estate or for  
13 damages or indemnity under a covenant contained in such  
14 lease shall be allowed, but shall be limited to an amount not  
15 to exceed the rent, without acceleration, reserved by such  
16 lease for the three years next succeeding the date of the sur-  
17 render of the premises to the landlord or the date of reentry  
18 of the landlord, whichever first occurs, whether before or  
19 after the filing of the petition, plus unpaid accrued rent, with-  
20 out acceleration, up to the date of surrender or reentry. The  
21 court shall scrutinize the circumstances of an assignment of a  
22 future rent claim and the amount of the consideration paid  
23 for such assignment in determining the amount of damages  
24 allowed the assignee of that claim.



1       "SEC. 89. PRIORITIES.—The following shall be paid  
2 in full in advance of the payment of any distribution to  
3 creditors under a plan, in the following order:

4           “(1) The cost and expenses of administration  
5 which are incurred by the petitioner subsequent to the  
6 filing of a petition under this chapter.

7           “(2) Debts or consideration owed for services and  
8 materials actually provided within four months before  
9 the date of the filing of the petition under this chapter.

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

13       "SEC. 90. FILING AND TRANSMISSION OF PLAN.—

14       “(a) FILING.—The petitioner shall file a plan for the  
15 adjustment of its debts. If such plan is not filed with its  
16 petition, the petitioner shall file the plan at such later time  
17 as the court, upon its own motion or upon motion of the  
18 petitioner, prescribes. At any time prior to the confirmation  
19 of a plan, the petitioner may file a modification of the plan.

20       “(b) TRANSMISSION OF PLAN AND MODIFICATIONS.—

21 As soon as practicable after the plan or any modification of  
22 the plan has been filed, the court shall transmit by mail a  
23 copy of such plan or modification, or a summary and any  
24 analysis of such plan or modification, and a notice of the



1 right to receive a copy, if it has not been sent, of such plan  
2 and modification, to each of the creditors, to each of the  
3 special tax payers affected by the plan, and to each such  
4 other party in interest as the court may designate. Upon  
5 request by a recipient of such summary and notice, the court  
6 shall transmit by mail a copy of the plan or modification to  
7 that recipient.

8 "SEC. 91. PROVISIONS OF PLAN.—A petitioner's plan  
9 may include provisions modifying or altering the rights of  
10 creditors generally, or of any class of them, secured or un-  
11 secured, either through issuance of new securities of any  
12 character, or otherwise, and may contain such other provi-  
13 sions and agreements not inconsistent with this chapter as  
14 the parties may desire, including provisions for the rejection  
15 of any executory contract, including unexpired leases.

16 "SEC. 92. ACCEPTANCE.—

17 "(a) GENERAL RULE.—Except as otherwise provided  
18 in this section, the plan may be confirmed only if it has  
19 been accepted in writing by or on behalf of creditors hold-  
20 ing at least two thirds in amount of the claims of each class.

21 "(b) COMPUTING ACCEPTANCE.—The two-thirds ma-  
22 jority required by subsection (a) is two thirds in amount of  
23 the claims—

24 "(1) with respect to which an acceptance or re-



1       jection has been filed, whether or any of those claims  
2       have been allowed under section 88; and

3       “(2) which are not owned, held, or controlled  
4       by the petitioner.

5       “(c) EXCEPTION.—It is not requisite to the confirma-  
6       tion of the plan that there be such acceptance by any creditor  
7       or class of creditors—

8       “(1) whose claims are not affected by the plan;

9       “(2) if the plan makes provision for the payment  
10      of their claims in cash in full; or

11      “(3) if provision is made in the plan for the pro-  
12      tection of the interests, claims, or lien of such creditor  
13      or class of creditors.

14      “(d) ACCEPTANCE OF MODIFICATION.—If the court  
15      finds that a proposed modification does not materially and  
16      adversely affect the interest of a creditor, the modification  
17      shall be deemed accepted by that creditor if that creditor  
18      has previously accepted the plan. If the court determines that  
19      a modification does materially and adversely affect the inter-  
20      est of a creditor, that creditor, if entitled to accept or reject  
21      the plan, shall be given notice of the proposed modification  
22      and the time allowed for its acceptance or rejection. The  
23      number of acceptances of the plan as modified required by  
24      subsection (a) shall be obtained. The plan as modified shall



1 be deemed to have been accepted by any creditor who  
2 accepted the plan and who fails to file a written rejection of  
3 the modification with the court within such reasonable time  
4 as shall be allowed in the notice to that creditor of the pro-  
5 posed modification.

6 "SEC. 93. OBJECTION TO PLAN.—A creditor affected by  
7 the plan or a special tax payer affected by the plan may file a  
8 complaint with the court objecting to the confirmation of the  
9 plan. The Securities and Exchange Commission may also file  
10 a complaint with the court objecting to the confirmation of  
11 the plan, but in the case of a complaint filed under this sec-  
12 tion, the Securities and Exchange Commission may not seek  
13 appellate review. A complaint objecting to the confirmation  
14 of the plan may be filed any time prior to ten days before the  
15 hearing on the confirmation of the plan, or within such other  
16 time as prescribed by the court.

17 "SEC. 94. CONFIRMATION—

18 "(a) HEARING ON CONFIRMATION.—Within a reason-  
19 able time after the expiration of the time set by the court  
20 within which a plan and any modifications of the plan may  
21 be accepted or rejected, the court shall hold a hearing on the  
22 confirmation of the plan and any modifications of the plan.  
23 The court shall give notice to all parties entitled to object  
24 under section 93 of the hearing and time allowed for filing  
25 objections,



1       “(b) CONDITIONS FOR CONFIRMATION.—The court  
2 shall confirm the plan if satisfied that—

3               “(1) the plan is fair and equitable and feasible and  
4 does not discriminate unfairly in favor of any creditor or  
5 class of creditors;

6               “(2) the plan complies with the provisions of this  
7 chapter;

8               “(3) all amounts to be paid by the petitioner  
9 or by any person for services and expenses in the case  
10 or incident to the plan have been fully disclosed and  
11 are reasonable;

12               “(4) the offer of the plan and its acceptance are  
13 in good faith; and

14               “(5) the petitioner is not prohibited by law from  
15 taking any action necessary to be taken by it to carry  
16 out the plan.

17       “SEC. 95. EFFECT OF CONFIRMATION.—

18               “(a) PROVISIONS OF PLAN BINDING.—The provisions  
19 of a confirmed plan shall be binding on the petitioner and  
20 on all creditors who had timely notice or actual knowledge  
21 of the petition or plan, whether or not their claims have been  
22 established under section 88, and whether or not they have  
23 accepted the plan.

24               “(b) DISCHARGE.—The confirmation of a plan,  
25 the deposit by the petitioner of the consideration to be dis-



1 tributed under the plan with a disbursing agent appointed  
2 by the court, and the determination by the court that any  
3 security so deposited will constitute upon distribution a valid  
4 legal obligation of the petitioner, and that any provision made  
5 to pay, or secure of, the obligation, is valid shall discharge  
6 the petitioner from all claims against it provided for by the  
7 plan other than—

8           “(1) those excepted from discharge by the plan or  
9           the order confirming the plan; and

10           “(2) those whose holders, prior to confirmation,  
11           had neither timely notice nor actual knowledge of the  
12           petition or plan.

13           “SEC. 96. POSTCONFIRMATION MATTERS.—

14           “(a) TIME ALLOWED FOR DEPOSIT UNDER THE PLAN.—

15           Prior to or promptly after confirmation of the plan, the court  
16           shall fix a time within which the petitioner shall deposit with  
17           the disbursing agent appointed by the court any consideration  
18           to be distributed under the plan.

19           “(b) DUTIES OF PETITIONER.—The petitioner shall  
20           comply with the plan and the orders of the court relative to  
21           the plan, and shall take all actions necessary to carry out the  
22           plan.

23           “(c) DISTRIBUTION.—Distribution shall be made in  
24           accordance with the provisions of the plan to creditors whose  
25           claims have been established under section 88. Distribution






1 may be made to holders of securities of record at the date the  
2 order confirming the plan becomes final whose claims have  
3 not been disallowed.

4 “(d) COMPLIANCE DATE.—When a plan requires pre-  
5 sentment or surrender of securities or the performance of  
6 any other act as a condition to participation under the plan,  
7 such action must be taken not later than five years after  
8 the entry of the order of confirmation. A person who has  
9 not within such time presented or surrendered that person’s  
10 securities or taken such other action shall not participate  
11 in any distribution under the plan and the consideration  
12 deposited with the disbursing agent for distribution to  
13 such person shall become the property of the petitioner.

14 “(e) EXECUTION OF INSTRUMENTS.—The court may  
15 direct the petitioner and other necessary parties to execute  
16 and deliver or to join in the execution and delivery of any  
17 instruments required to effect a transfer of property under  
18 the confirmed plan, and to perform such other acts, including  
19 the satisfaction of liens, as the court may determine to be  
20 necessary for the consummation of the plan.

21 “(f) CONTINUING JURISDICTION.—The court may re-  
22 tain jurisdiction over the case for such period of time as the  
23 court determines is necessary for the successful execution of  
24 the plan.



1       "SEC. 97. EFFECT OF EXCHANGE OF DEBT SECURITIES  
2 BEFORE DATE OF THE PETITION.—The exchange of new  
3 debt securities under the plan for claims covered by the plan,  
4 whether the exchange occurred before or after the date of the  
5 petition, shall not limit or impair the effectiveness of the  
6 plan or of any provision of this chapter. The written consents  
7 of the holders of any securities outstanding as the result of  
8 any such exchange under the plan shall be included as  
9 acceptances of such plan in determining the percentage of  
10 the claims that have accepted the plan."





[CONFIDENTIAL SUBCOMMITTEE PRINT]

[DISCUSSION DRAFT]

OCTOBER 23, 1975

94TH CONGRESS  
1ST SESSION

**H. R.**

---

---

**A BILL**

To revise chapter IX of the Bankruptcy Act.

---

---

By Mr. -----

OCTOBER , 1975

Referred to the Committee on -----

10/24/75

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.

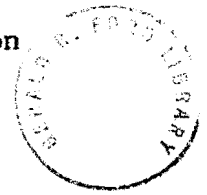
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Bankruptcy Act of 1898 (30 Stat. 544), as amended, is hereby amended to add a new Chapter XVI thereto reading as follows:

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, provided however, that if any provision of this chapter, or the application thereof to any such 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.

(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.

#### 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 processing 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 FOR RELIEF AND ITS 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. If the list of claims required by Section 809 is not filed with the petition, the petition shall specify the type of claims proposed to be affected and the claimants shall be identified to the extent possible.

(b) The petition shall be filed with the court in whose territorial jurisdiction the municipality or the major part thereof is located.

(c) The petition 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 or any officer or inhabitant thereof, on account of the claims proposed in the petition or plan to be affected by the plan; and 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 acquired by petitioner through foreclosure of any such tax lien or special assessment lien, for the payment of obligations pursuant to such claims.

(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, unless the plan of composition so provides.

#### 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.

#### NOTICES

SEC. 807. (a) The clerk shall give prompt public notice of the commencement of a case under this chapter; and shall as soon as creditors are identified, give all creditors notice of such commencement.

(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) The clerk shall also give notice to any person who will be or may be adversely affected by the plan, of the pendency of the case, and of any matters in which he has a direct and substantial interest.

(e) 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 any creditor not so requesting will receive no further written notice of proceedings under the chapter.

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

#### REPRESENTATION OF CREDITORS

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



## LIST OF CLAIMS AND PERSONS ADVERSELY AFFECTED

SEC. 809 (a) The petitioner shall file with its petition, or within such time as the court shall direct, lists of claims and of persons who may be adversely affected by the proposed plan.

(b) The list of claims shall include the name of each known creditor to be affected by the plan, his address so far as known to petitioner, and a description of each claim showing its amount and character, the nature of any security therefore and whether the claim is disputed, contingent or unliquidated as to amount.

(c) 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 petitioner shall also file with the court lists showing the names and addresses, so far as known, of the holders of record of title, legal or equitable, to such real property adversely affected.

(d) 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.

#### PLAN OF ADJUSTMENT AND DEBT CERTIFICATES

SEC. 811 (a) 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.

(b) 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.

(c) If two thirds of the creditors of any class materially and adversely affected by the plan who vote for acceptance or rejection do not accept the plan,



the plan shall provide for payment in cash of the value of the claims of such creditors, or for such method of protection as will, consistent with the circumstances of the particular case, equitably and fairly provide for the realization by them of the value of their claims.

(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.

(e) 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 approved by the court, under such terms and conditions and with such security and priority in payment over existing obligations as in the particular case may be equitable. Notwithstanding any other provision of law except Section 820 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.

#### FILING OF PLAN AND NOTICE OF TERMS

SEC. 812. (a) The petitioner shall file a plan with its petition or at such later time as the court may direct.



(b) As soon as practicable the clerk shall transmit to the creditors or other interested persons notice of the provisions of the plan and any modification thereof in such manner as the court may direct.

#### ACCEPTANCE OR REJECTION OF PLAN

SEC. 813. (a) Unless his claim has been disallowed, any creditor who is included on a list filed pursuant to Section 809 or who files a proof of claim pursuant to Section 810 may accept or reject a plan or modification thereof within the time set pursuant to Subsection 807(b).

(b) Acceptance shall not be required from any creditor or class of creditors whose claims are not materially and adversely affected by the plan or whose claims are provided for pursuant to Section 811(c).

#### REFERENCE OF ISSUES AND COMPENSATION

SEC. 814. (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 composition. 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.





## HEARING ON CONFIRMATION OF PLAN

SEC. 815. (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 make certain whether or not any such practice obtains or might obtain.



(d) 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.

(e) 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, and for the best interests of the creditors and does not discriminate unfairly in favor of any creditor or class of creditors; (2) complies with the provisions of this chapter; (3) has been accepted by creditors, holding two-thirds in amount of claims of all classes materially and adversely affected by the plan who have accepted or rejected the plan but exclusive of claims provided for pursuant to Subsection 811(c) and of



claims owned, held, or controlled by the petitioner; (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; and (6) the petitioner is authorized by law to take all action necessary to be taken by it to carry out the plan. If not so satisfied, the judge shall enter an order dismissing the proceeding. No case shall be reversed or remanded for want of specific or detailed findings unless it is found that the evidence is insufficient to support one or more of the general findings required in this section.

#### MODIFICATION OF PLAN

SEC. 816. Before a plan is confirmed, changes and modifications may be made therein with the approval of the judge after hearing 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, within a period to be fixed by the judge and after such notice as the judge may direct, 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.



## EFFECT OF PLAN

SEC. 817. (a) The provisions 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.

## 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.



(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.

#### UNCLAIMED SECURITIES

SEC. 819. 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.

#### TERMINATION OF JURISDICTION

SEC. 820. The court shall retain jurisdiction of a proceeding under this chapter until the proceeding is dismissed or until the court is satisfied that the plan of composition or extension has been operating satisfactorily for a reasonable length of time.



NEW YORK CITY

Events are now rushing to an apparent climax in the financial affairs of New York City. \_\_\_\_\_ days ago the city tottered on the brink of a default and was saved from that fate by an eleventh-hour decision of the teachers union <sup>PENSION FUND</sup>

The next day, Mayor Beame testified here in Washington that the financial resources of the city and of the State of New York were exhausted. Governor Carey agreed. It's now up to Washington, they said, and unless the Federal Government intervenes, New York City will no longer be able to pay its bills <sup>WITHIN A SHORT TIME</sup> [~~as of December 1.~~]

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

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



those across the land:

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

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

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

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

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

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



(MORE)

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

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

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

Consider what this has meant in specific terms:





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

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

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

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



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

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

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

The consequences are incontrovertible:

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



-- And total disregard of ~~[their own]~~ independent experts who warned again and again that the city was courting disaster.

There can be no doubt where real responsibility lies.

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

~~[pay]~~ its bills, it should be no surprise to its leaders that

many Americans ask why. Why should they <sup>**SUPPORT**</sup> ~~[pay for]~~ advantages

in New York that they have not been able to afford for their

own communities? Why should all the working people of this

country be forced to rescue those who bankrolled New York

City's policies for so long -- the <sup>**LARGE INVESTORS AND BANKS ?**</sup> ~~[big banks]~~ ~~[and other creditors?]~~

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

Nor can I.

Instead, Americans are told that unless the rest of the country bails out New York, there will be certain catastrophe for the United States and perhaps for the world. ~~There is no objective evidence to support that conclusion. It would be~~



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

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

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



~~more accurate to say that no one really knows precisely what~~

To be sure there are risks that default could <sup>temporarily</sup> unsettle financial markets  
~~and at least temporarily create financing difficulties for weaker~~  
~~municipalities.~~ But <sup>these</sup> financial markets have already made a substantial  
adjustment in anticipation of a possible default by New York City. ~~And~~  
The more important risk is that any attempt to provide a blank check  
for the politicians of New York City would insure that no long-run  
solution to the city's problems would be possible.

~~of the whole Nation would not be seriously set back.~~

~~I can understand why some people disagree with this  
conclusion and would speak out about their reservations.~~

~~They believe other prophets the ones whose earlier prophecies  
brought New York City to its present state.~~

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. [I say] The people of



this country will not be stampeded; they will not panic when a few desperate New York politicians and bankers try to scare the mortgage payments out of them.

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

~~(EPB to check Lockheed and Penn Central cases)~~

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

-- It must maintain essential services for the people of New York City. It must protect the innocent victims of this struggle. ~~[Those citizens must be assured that their governments, city, state and Federal, will not punish them for the fiscal sins of others.]~~

-- Second, the solution must <sup>ASSURE</sup> ~~make absolutely certain~~ that New York City can and will achieve and maintain a balanced



budget in the years ahead.

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



There are at least eight different proposals under consideration by the Congress <sup>INTENDED</sup> to prevent default. They are all

variations of one basic theme: that the Federal Government

would guarantee <sup>THE AVAILABILITY OF FUNDS TO</sup> ~~the future bonds of~~ New York City ~~so that it~~

~~could borrow additional money in the financial markets.~~ The

sponsors of these bills say that the guarantee would be short-

term because New York City could be forced by Federal law to

balance its books within three years.

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

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





As long as "politics as usual continues in New York -- as long as the present power coalition remains undisturbed -- there can be no serious hope that hard, tough decisions will be taken for long-term reform. Federal guarantees would change nothing in New York's power structure. Instead, they would inevitably lead to long-term Federal control over the city's affairs of the city -- New York would become a colony of Washington -- or vice versa.

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

(MORE)



[to replace pages 12 and 13]

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

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

The second beneficiaries would be the <sup>LARGE</sup>~~high income~~ 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.~~



as gains in risk-taking. And when the risks do turn out to be bad, as in New York City, I do not believe that the Federal Government and all the taxpayers of this country should then make them good. To me, it is clear that those who made the free choice to invest their money in New York City should now bear the risk, not the 200,000,000 Americans who never made such a choice.

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



First, I propose that the leaders of New York face up to reality. Either they must take firm steps to avoid default, or they should prepare to accept the inevitable. They argue that they have run out of resources to help the city. I disagree. What they have run out of are alternatives that are politically easy. They can still take the tough but decisive step of raising their taxes. And if they do, they can save themselves from default.



[p. 13 (b) lead in]



I am well aware that New York has had increasing difficulty raising money to pay its bills.

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

~~law is inadequate to deal with this problem.~~ Therefore, I

will tomorrow submit to the Congress special legislation providing the Federal Courts with sufficient authority to ~~carry~~ <sup>PRESIDE</sup>

<sup>OVER</sup> ~~out~~ an orderly reorganization of the City's financial affairs <sup>SHOULD THAT BECOME NECESSARY.</sup>

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

[p. 13 (b) lead in]



I am well aware that New York has had increasing difficulty raising money to pay its bills.

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

~~law is inadequate to deal with this problem.~~ Therefore, I

will tomorrow submit to the Congress special legislation pro-

viding the Federal Courts with sufficient authority to <sup>PRESIDE</sup>~~carry~~

<sup>OVER</sup>~~out~~ an orderly reorganization of the City's financial affairs, <sup>SHOULD THAT BECOME NECESSARY.</sup>

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

The Court will accept jurisdiction of the case and provide for an automatic stay of suits by creditors so that the essential functions of the City will not be disrupted. This stay, essentially an injunction, would continue until the proceeding is terminated. This will enable an orderly plan to be developed whereby the City can work out <sup>AN ARRANGEMENT</sup> ~~[a composition]~~ with its creditors. ~~[This might take the form of payment in full but over a longer period of time, or it might involve payment for less than the full amount due the creditors.]~~

While the City is working out a compromise with its creditors the essential governmental functions of the City would continue under <sup>CURRENT LAW</sup> ~~[the financial direction of the Court and the State financial control Board.]~~



The proposed legislation will include provision that as a condition of the City petitioning the Court, ~~[that]~~ the City must <sup>NOT ONLY</sup> file a good faith plan ~~[which will not only provide]~~ for ~~[partial]~~ payment <sup>TO</sup> ~~[of]~~ its creditors but ~~[which]~~ <sup>MUST</sup> ~~[will]~~ also ~~[establish]~~

*PRESENT A PROGRAM FOR PLACING*

the fiscal affairs of the City on a sound basis [~~within a reasonable period of time.~~]

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

Thus, the legislation I am proposing will do three essential things. First, it will prevent, in the event of a default, all City funds from being tied up by lawsuits. Secondly, it will enable an orderly plan to be developed for [~~partial~~] payment<sup>3</sup> <sup>TO</sup> ~~of~~ New York's creditors over the long term. Thirdly, it will enable some new borrowing secured on a priority basis by future tax revenues.

Let us not dilude ourselves that this proposed legislation will in and of itself put the affairs of New York City in order without the need for some hard measures to be taken by the officials of New York City and State. This must include





either increased revenues or expenditure cuts or some combination of both that will bring them to a sound financial position. Our careful examination has indicated, however, that those measures are neither beyond the realm of possibility nor beyond the demands of reason. If they are taken, New York City will, with the assistance of the legislation I am proposing, be able to restore itself as a fully solvent operation. ~~within a reasonable period of time.~~

To summarize, the plan I am recommending tonight is this: if New York fails to act in its own behalf, there should be an orderly <sup>PROCEEDING</sup> ~~[default]~~ supervised by a Federal Court.

~~[This plan will work. It will work because it is fair.]~~

The ones who will be hurt by this plan will be those who are now fighting so hard to protect their power and their profits: New York politicians and the city's creditors. The creditors <sup>NEED</sup> ~~[will]~~ not be wiped out; how much they will be



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

For the people of New York, this plan will mean that essential services will continue. There may be some temporary inconveniences, but that will be true of any solution that is adopted. For the financial community, the default may bring some temporary disorder but the repercussions <sup>NEED</sup> ~~will~~ not be large or long-lasting. In fact, there is solid reason to believe that once the uncertainty of New York is ended, ~~in-~~ ~~vestors will begin returning to the markets and those~~ ] markets will be sturdier. Finally, for the people of the United States, this plan means that they will not be

(MORE)



asked to assume a burden that is not of their own making and should not become their responsibility. This is a fair and honorable way to proceed.

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

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

Tonight I think it is clear what path New York City chose. None of us can take any pleasure from this moment,



because the leaders of New York were in a very basic sense following the same <sup>SPENDING</sup> practices they saw in Washington. The difference is that Washington owns printing presses and can always print more money to pay its bills. But ultimately the practice of living beyond your means catches up with a nation just as it catches up with a family or city. And for the citizens of that nation, the bill comes due either in the form of higher taxes or the harshest and most regressive tax of all, inflation.

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

Thank you and good evening.



10/25/75

NEW YORK CITY

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

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

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

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



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

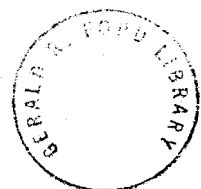
-- To say what solution will work and what should be cast aside;

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

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

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

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



Let's face the facts: many other cities in America have faced these same challenges, and they are still financially healthy today.

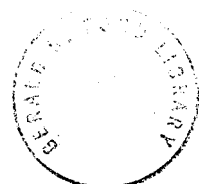
They have not been luckier than New York; they have simply been better managed.

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

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

Consider what this has meant in specific terms:

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




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

Where else?

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

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

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





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

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

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

The consequences are incontrovertible:

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



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

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

Nor can I.

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



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

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

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



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

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

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

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

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

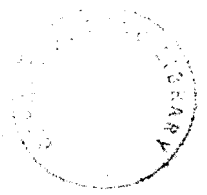


-- And third, the right solution must guarantee that neither New York City nor any other American city ever becomes a ward of the Federal Government.

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

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

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



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

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

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



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

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

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

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



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

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

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



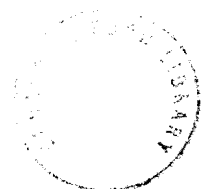


continue until the proceeding is terminated. This will enable an orderly plan to be developed whereby the city can work out an arrangement with its creditors.

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

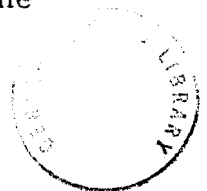
The proposed legislation will include provision that as a condition of the city petitioning the Court, the city must not only file a good faith plan for payments to its creditors but must also present a program for placing the fiscal affairs of the city on a sound basis.

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



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

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



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

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

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

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

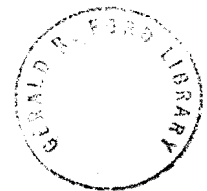
For the people of New York, this plan will mean that essential services will continue. There may be some temporary inconveniences, but that will be true of any solution that is adopted. For the financial community, the default may bring some temporary disorder, but the



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

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

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



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

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

Thank you and good evening.