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Introduction to W. Bernard Richland's Address Before the National Institute for Municipal Law Officers on October 15, 1975

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INTRODUCTION TO W. BERNARD RICHLAND'S ADDRESS BEFORE THE NATIONAL INSTITUTE FOR MUNICIPAL LAW OFFICERS ON OCTOBER 15, 1975*

Bernard Richland, Corporation Counsel for the city of New York, delivered an optimistic speech to NIMLO, the National Institute for Municipal Law Officers (now known as IMLA, the International Municipal Lawyers Association) at a time when New York City had little about which to be optimistic. The subject was the city's fiscal crisis. Richland's audience included lawyers from around the nation and globe who were members of IMLA, a professional organization which provides resources and advocacy for the nation's local government attorneys.[1]

For decades, the population of New York City had been changing.[2] Middle-income inhabitants moved to the suburbs and took their tax dollars with them. Retail trade, along with manufacturing, followed. The state, under the guidance of then-Governor Nelson Rockefeller, failed to provide enough aid to offset the loss in tax revenues.[3]

As a result of this realignment, the city was left with a large population of low-income and impoverished citizens at a time when "no other large city in this country [had] as many services assigned to it."[4] Despite the fact that the New York Constitution mandated that the state bear twenty-five percent of its welfare costs and fifty percent of the expenses of home relief programs,[5] state aid given to the city for these programs resulted in "the city receiv[ing] less aid per person than the rest of the state of New York."[6] In addition to providing its inhabitants with police, fire, and sanitation services,

* By Courtney Rineer, Executive Editor for the Center for New York City Law, New York Law School Law Review.

1. IMLA History and Mission Statement, at http://www.IMLA.org (last visited February 25, 2004).

2. Donna E. Shalala & Carol Bellamy, *A State Saves a City: The New York Case*, 1976 Duke L.J. 1119 (1976).

3. *Id.* at 1121.

4. *Id.*

5. *See* N.Y. Soc. Serv. Law § 154 (McKinney 1976).

6. *See* Donna E. Shalala, *State Aid to Local Government, in* Governing New York State: The Rockefeller Years, 100 (R. Connery & G. Benjamin eds., 1974).

the city operated hospitals, primary, secondary, and higher education institutions, and subsidized health care and mass transportation.[7]

Despite the city's growing debt, the city's politicians had a very hard time cutting back on programs upon which citizens had come to rely.[8] Even when the federal government cut back on aid to welfare programs, New York City's mayors picked up the slack rather than scale back the programs.[9] From 1961 to 1975, the city's public functions, such as higher education, primary and secondary education, and welfare, increased ten fold.[10] During the same time period, the city was only levying taxes to cover a fifth of the money it was spending on public services.[11]

Beginning in the 1950's, New York City's mayors began utilizing inventive accounting practices in order to ensure a "balanced" budget. Mayor Richard Wagner began these creative accounting practices by issuing "budget" notes; he certified the city's budget deficit, had notes issued in that amount, and budgeted repayment of the debt in the next year's budget, creating short-term debt for the city.[12] The following year, there was another budget deficit and more budget notes were issued.[13] In addition to issuing budget notes that were not repaid, the city balanced its budget by counting revenues in the budget that had not yet been received, delaying expenses until the new year had begun, and borrowing against revenues that existed only on paper.[14]

Mayor Wagner's successor, John V. Lindsay, decried Wagner's borrowing spree while campaigning, but continued Wagner's practices while he was mayor.[15] When Abraham D. Beame took over the Mayor's office in 1974, he inherited a $1.5 billion deficit from Lind-

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7. Donna E. Shalala & Carol Bellamy, *supra* note 2 at 1121. *See also* MAC REPORT 7.

8. Donna E. Shalala & Carol Bellamy, *supra* note 2 at 1122.

9. FRED FERRETTI, THE YEAR THE BIG APPLE WENT BUST 31 (1976).

10. The City of New York, Annual Report of the Comptroller, fiscal years 1961 and 1975, part 2-A, Statement 5.

11. *Id.*

12. FRED FERRETTI, THE YEAR THE BIG APPLE WENT BUST 28 (1976).

13. *Id.*

14. *Id.*

15. *Id.* at 34.

say.[16] Beame eliminated jobs and ordered an eight and one-half percent cut for all departments in his first year as mayor in an effort to stem the deluge of debt that was going to force the city to default on its loans. Nonetheless, in the beginning of 1975, the city had $12.3 billion in securities and interest outstanding.[17]

As the 1975 fiscal year opened, in the face of this mounting debt, banks began to fidget and become panicky.[18] Banks and other municipal bond holders refused to bailout the city as the city's deficit reached fifty percent of total spending.[19] This effectively closed the municipal bond market to New York City. Faced with the possibility of defaulting on its debt, the city turned to the state for assistance. The state first advanced the city $800 million in state aid.[20] It then established the Municipal Assistance Corporation for the City of New York (MAC).[21] MAC's major responsibility was to transfer the city's short-term debt into long-term obligations.[22] Unfortunately, even when the debt was backed by the state, the investment community was reluctant to buy New York securities.

MAC next set about to create a rescue plan by placing the fiscal rule of the city into the hands of state officials.[23] The Emergency Financial Control Board (Control Board) was created by the New York Financial Emergency Act for the City of New York to control the disbursement of city monies and to supervise the financial management of the city.[24] In spite of all of these efforts, noteholders still did not want to convert their existing bonds into MAC bonds or buy the MAC bonds which would bail out the city.

On October 15, 1975, in the speech that follows, Richland proclaimed that New York City "would not disappear."[25] Nevertheless,

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16. *Id.* at 87.

17. *Id.* at 90.

18. *Id.*

19. Lorraine Woellert, Control Board Unlikely to be Quick Fix for D.C., WASH. TIMES, July 30, 1995, at A1.

20. Donna E. Shalala & Carol Bellamy, *supra* note 2 at 1129.

21. N.Y. PUB. AUTH. LAW §§ 3030-40 (McKinney 1970-75 Cum. Supp.).

22. Donna E. Shalala & Carol Bellamy, *supra* note 2 at 1128.

23. *Id.* at 1129.

24. *Id.*

25. W. Bernard Richland, Speech Before The National Institute of Municipal Law Officers and World Conference on Law at Washington, D.C. (October 15, 1975) (transcript on file with New York Law School Law Review).

on October 16, 1975, the city came its closest to falling into default when the teachers' union refused to buy all of the MAC bonds they had promised to buy in order to force a contract settlement.[26] The effect of this near default was felt throughout the U.S. and world when trading opened on October 17, 1975. Trading in bonds came to a near halt and prices declined sharply.[27] When word came in the early afternoon that default had been averted (by finding funds in other places), all of the earlier losses were erased with increased trading.[28] The effect of a real default would have been massive. But Richland was right, New York City did not "disappear." Its finances were controlled by the state. The federal government, in November 1975, agreed to extend a temporary line of credit to the city in order to cover the city's operating costs. But the city did recover and prosper and remain the great city Richland describes.

26. Fred Ferretti, *supra* note 9, at 339.
27. Fred Ferretti, *supra* note 9, at 341.
28. Fred Ferretti, *supra* note 9, at 341.