

January 2004

**Address of W. Bernard Richland, Corporation Counsel of the City
of New York, Before the National Institute of Municipal Law
Officers and World Conference on Law at Washington, D.C.**

W. Bernard Richland

Follow this and additional works at: https://digitalcommons.nyls.edu/nyls_law_review



Part of the [State and Local Government Law Commons](#)

Recommended Citation

W. Bernard Richland, *Address of W. Bernard Richland, Corporation Counsel of the City of New York, Before the National Institute of Municipal Law Officers and World Conference on Law at Washington, D.C.*, 48 N.Y.L. SCH. L. REV. (2003-2004).

This Article is brought to you for free and open access by DigitalCommons@NYLS. It has been accepted for inclusion in NYLS Law Review by an authorized editor of DigitalCommons@NYLS.

ADDRESS OF W. BERNARD RICHLAND, CORPORATION
COUNSEL OF THE CITY OF NEW YORK, BEFORE THE
NATIONAL INSTITUTE OF MUNICIPAL LAW OFFICERS AND
WORLD CONFERENCE ON LAW AT WASHINGTON, D.C.

OCTOBER 15, 1975

My friends of NIMLO (the National Institute of Municipal Law Officers) and my brethren and sisters of the Bar and other lands, I come before you at a time of great trouble for my city, New York. Be assured, my city is not about to disappear. Be assured my city will be here, long after we are gone. It will live and prosper. New York City is a grand and glorious place. Its problems are temporary. They will go away. They are deep, and they are difficult, too. But we will overcome.

To those of other nations, let me say at the outset, we all have our strange ways. We live with our own myths and our own strange notions, and they seem stranger to others than they do to us. Some of yours seem impossible to understand. So it is with ours.

A missionary once told me years ago that he met a cannibal tribe, and its leader said to him, "I don't understand your position. After all, we cannibals believe that the Lord must have made people to eat or he wouldn't have made them out of meat." So, you see, there is a logic in even the strangest of our notions.

We, in our city, have some very strange institutions. We have our own kind of cannibals, and we even have our own strange flagellants. You remember the medieval flagellants who paraded in black hoods and whipped themselves and one another in an orgy of self-torture. We have such cannibals and flagellants in New York City. They are called, respectively, the *New York Times*, *New York Magazine*, and the *Village Voice*. These are the ones who chastise us from day to day and who now chastise themselves.

The *New York Times* is very much like the Sorcerer's Apprentice. You remember the Sorcerer's Apprentice? He learned the trick of turning on the floods but did not learn the trick of stopping them. While his master was away, he turned on the floods and was drowned in the avalanche he created but could not stem.

My friend Martin Tolchin of the *Times* is with us today. As far as I can see, he is one of the bright lights in that strange establishment. The *Times*, the *Village Voice*, and *New York Magazine* have been decrying New York and denouncing New York and proclaiming that New York is on the verge of bankruptcy in their editorial page, month after month after month.

The reporting staff of the *Times* is excellent. But their editorial page has proclaimed the disaster of New York for so long that finally they have convinced the world. Because in our present state the people in the communications industry have so little time to think that they will accept any printed expression of opinion and adopt it as their own. They read the *Times* editorial page and accept it as the gospel of the year and on into the next year and the next year.

The *Times*, *New York Magazine*, and the *Village Voice* have been predicting bankruptcy for New York continuously. Finally that prophecy has been fulfilled; fulfilled by the prophecy itself. Because when you deal with a question of credit, you deal with a funny psychological factor; it is highly psychological.

My friend Dan Goldberg, who knows more about municipal bond issues than anyone I know, has said, "New York City actually is not worse off today than it was a year ago. But its credit has vanished." Any institution, any large corporation, whether it be a commercial or a municipal corporation, must necessarily live on credit.

We have our problems and we have met them. And one of the interesting and unnoted things about New York City is the tremendous efforts it has made, and is making, against all of the soothsayers, against all of the naysayers, and all those who cry havoc and alack, to maintain our credit. We have turned ourselves inside out in an attempt to make sure that our bonds are paid on time and that interest on our debts is paid on time. You have no idea the excesses to which we have gone in this effort, over the past two hundred years, and we have never, and I repeat, *never* through recession after recession, through administration after administration, even from the days of the corrupt Boss Tweed — we have never failed to make an interest or principal payment, and we are struggling even now to keep that record.

We have a host of special problems in New York — the vastness of our institutions, the enormous numbers involved — that cannot fail to impress even the most cynical. Consider: we have almost a million and a half physically and mentally handicapped whom we have to take care of in a civilized manner and this entirely apart from the dreadful, overwhelming problem of welfare.

The welfare problem is a very special one. What has happened is this: as Dan Goldberg pointed out to me, the United States Supreme Court held that you may not discriminate against anyone in the payment of welfare benefits on the basis of the shortness of his or her residence in a particular city or particular state. And that has transformed the whole welfare problem from a local into a national problem. But we in New York have accepted the task as our own. And it has become an enormous drain on our resources unequalled in any other city or any other state. Obviously, a responsible federal administration should recognize this, and take over that problem and deal with it as it should be dealt with.

We hear stories about a need to “bail out” New York City. Bail out New York City, indeed! We have been bailing out the United States government since the income tax law was enacted. Our resources, and our resources are vast but not limitless, flow out to the federal government and come back to New York in a trickle. We recognize that other states and other communities are less able than we are to obtain necessary revenues. We are satisfied that a larger share of federal aid and federal funds go to other states and cities. We don’t begrudge or complain about Farm Aid. We don’t complain about Rural Electrification Aid because ours is one nation. And we want our nation to prosper in all its areas because, entirely apart from our deep innate patriotism, we recognize that it is in our interest, as well as in the interest of the rest of our nation.

And let me say one thing in connection with this notion of patriotism: that there is no patriot like a first generation American, and our city has many, because it is the first generation American who knows the quality and magnificence and the beauty of this, our land and our culture, and wants to preserve it.

Coming back to my city, it is the most open city in the world in terms of the availability of information in regard to its activities. Not a single significant act of policy, not a significant measure, can

be adopted without a full public hearing, on full public notice, before a governing body, after full public discussion. And by a public hearing, I do not mean merely a public session but a hearing in which the public is heard.

This is unique in the civilized world. Try to make a speech as a citizen at a council meeting in Stockholm — a decent, civilized city — and you'll get thrown out on your ear. Try to discover in London how rates are fixed on a particular piece of property, and you will be treated as though you were a nuclear spy.

All of this is available in New York — fully available. Every public record is subject to scrutiny by anyone.

We invented the Freedom of Information Act. It has been in effect in New York for generations and is only now being copied elsewhere.

We are accused by strange sources of municipal "profligacy." I came here with nobody else. I came here with no troupe of body guards. I came here with no retinue. I do not have a corps of speech writers like others who spoke here. I work for my living. I get a salary approximately one-fifth of what I could get outside. My Mayor's salary is approximately \$90,000 a year less than that of a Deputy Mayor he recently appointed from private industry. Those who have taken over fiscal control of our city receive salaries in private industry — and they apparently have time to divert to public matters (I don't have time to work on private matters) — get salaries ranging from \$250 to \$350 thousand a year. They're multiples, multiples by far, of the salary of our hard-working, decent, compassionate, highly intelligent Mayor.

We don't live fancy. Our Mayor has not built a swimming pool for himself in his backyard at public expense. We live frugally. We try to live within our means. We have had imposed upon us the enormous burden of welfare payments; they are crippling us because they are a fantastic burden.

That does not mean, by any means whatsoever, that those who suffer the indignity of being on welfare are living in the lap of luxury. I have seen cases of old people relegated to living on cat food they snatch from the supermarket shelves. Well, we pay what we can, and we pay for the most part out of our own limited resources.

There are a host of myths that have been broadcast in regard to my city. Let me give some examples. We are accused of having over-contracted indebtedness and that we are in debt up to our ears. Well, I made a comparison of indebtedness of other municipalities in the United States, and I found that the relationship between the ordinary expense budget you and I deal with all the time and the amount of bonded indebtedness runs about this way: the indebtedness of cities generally is about 1.7 times the amount of their annual expenses. In the case of New York City our indebtedness is less than *one* times our annual expense budget. And included in our indebtedness is a large amount for the construction and operation of a state-controlled and operated rapid transit system.

The accusation of our “profligacy” continues — we over-pay our employees. Yet, our policemen get paid less than policemen living in a suburban county directly adjacent to New York City, where the cost of living is much lower. Our policemen’s salaries and our firemen’s salaries are less than those in five of the nation’s largest cities, in each of which the cost of living is lower than that of New York. The relationship between the number of our employees and our population and the number of employees in other cities and their populations shows that we have fewer per capita than other significant cities. We operate with, I think, a pretty high degree of efficiency. But through no fault of our own, and through a mismanaged national economy, we have been confronted with a combination of inflation and recession.

Over the past few years, we have lost more than 400,000 jobs, and our cost of living keeps mounting. The loss of 400,000 jobs, you can readily see, reflects directly on our revenues. We have taxed our people to the hilt. Yet, there are suggestions from ignorant national leaders that we tax them even more. But then, we have received all kinds of wonderful, intelligent federal government suggestions. Before I get to that, let me talk one moment about pensions.

The myths continue: our municipal pensions, they say, are over-generous. I have spent a total of twenty years in government, and the rest of my time in private practice. When I leave the government, I will get a pension of \$3,000 a year, and fortunately, so-

cial security. And so I will live in the lap of luxury at the public expense. Last week, a newspaper reporter — by my standards a young man — who is about 54 years old and retired, and in accordance with the requirements of his union pension contract, got a cash retirement allowance of \$46,000, plus an annual pension. We all know that corporate executives enjoy pensions that run even into \$100,000 a year. My people in government — my Mayor, our top administrators, magnificent men on whom there is imposed the most fantastic burden of duties and obligations requiring a quality of mind and heart, the likes of which corporations don't see — are paid a fraction of what corporate executives make and retire on a fraction of corporate executives' pensions.

But more of the myths: we are accused of having engaged in "fiscal gimmicks." Fiscal gimmicks is another phrase for what, in commerce, is called "creative accounting." But our creative accounting is not quite as creative as commercial accounting. Perhaps bad faith might be a harsh term, but not too harsh, as is usual in commercial accounting. We know perfectly well what commercial accounting is all about. We know perfectly well that you use the write-down. You use the original cost or whatever, depending upon whether you want to sell your stockholders down the river or give them the impression that you are a hell of a manager. One of the great fiscal gimmicks I have discovered recently — I beg your pardon, "creative accounting" — that I have seen recently was offered by the Chairman of our Federal Reserve System, Mr. Burns. He said that in the event that New York City bonds go into default, the Federal Reserve System will ignore that fact for the purpose of allowing banks to borrow against them and will permit such borrowing against them, just as though their value had not depreciated. Now there's creative accounting for you!

Another myth: in making up our budget, the estimation of revenues is always a great problem; it is a difficult and ticklish affair. I think everyone of you municipal law officers knows that perfectly well, and I don't think those of you from other lands are completely unaware of it. It's a chancy thing. It's a dicey thing, and in the past few years, it has really been practically impossible to actually estimate revenues with any degree of accuracy. But this criticism comes from a very peculiar source: our Treasury Department. Do

you know that our United States Treasury Department, in September, underestimated the revenues for one month alone to the extent of \$4 billion? The result was that the Secretary of the Treasury had to issue \$4 billion more in Treasury Notes than he anticipated. Yet, for this, there is no criticism from the *New York Times*. I've heard no criticism from *New York Magazine*. The *Village Voice* comes out today, and I don't think it will have any criticism either. And I don't think that the *Village Voice* is an insignificant publication. It has an international circulation. It's read by every hippie in Amsterdam.

You know, actually, there are two men in Washington on whom we have counted heavily (two men who knew New York and knew New York well), and it has been a source of bitter disappointment to us that neither Mr. Simon (who was a principal architect of our system of borrowing money that is now under attack) nor Mr. Rockefeller have risen to the occasion. I'm terribly sorry because both of them are outstanding and capable men, and I find it bewildering when I consider the positions that both have taken in regard to New York's difficulties. Our Vice President, I'm sorry to say, was the author of, or sponsored, every single one of the identified fiscal gimmicks that are being complained about.

Consider the "gimmick" of transforming expense budget items into capital budget items to be financed by bond issues. A program of manpower training would seem to be an expense budget item. Yet a state legislature, dominated by the Governor, made it a capital item payable out of a bond issue. Even the overgenerous, and I quote "overgenerous," pension provisions were not selected by New York City. Initially they were rammed down our throat by the state legislature under the leadership of the same, very able, Governor, who's now a very able Vice President.

You know, I keep coming back to the problems of welfare, because so many of us overlook the reality of welfare, and why New York City is so burdened by it. You know, on our Statue of Liberty in New York Harbor, there is a statement by Emma Lazarus that begins, "Give me your tired, your poor" and so forth, and so on. Herblock, that wonderful cartoonist-commentator on the common scene (to those from abroad, he's our equivalent of David Lowe), drew a delightful cartoon recently. You know how vital, how inci-

sive and how wonderfully effective a cartoonist can be. It was a picture of a character identified as "New York City" carrying the Statue of Liberty with a sign on it that said, "Give me your tired, your poor," and he was offering it to the Secretary of the Treasury, behind whom stood a gentleman with a cigar in his mouth holding a moneybag marked "Lockheed." And the New York City character is saying, "Maybe you'd like to stand this in front of some other town." The Secretary of the Treasury is carrying a sign that says "Give me your taxes and go away." I wish I could do a thing like the New York City character, you know.

More myth: New York City is the Crime Capital, and Johnny Carson — that great economist, that eminent philosopher, and sometimes, but not often comedian — says so. To come back to dull crime statistics: we are twentieth on the list of the twenty-five largest cities in reported crime. But I don't like such generalizations. One of our crime problem areas is identified as Times Square. It's not really Times Square; it's the side streets and the parallel streets that are a sordid place, with naughty bookstores, massage parlors and street ladies. So I asked the Police Department to please give me an account of what happens on an average weekend in that precinct. The Police Department reported, "We picked up approximately so many robbers and muggers and we picked up approximately so many prostitutes." 50% of the robbers and muggers came from out of state, and 70% of the hookers came from outside New York State. They're your kids, not mine.

You know, the federal government helped us in a wonderful left-handed manner. And I appeal to you from other nations not to misunderstand this, because I'm sure that within your countries you find other curiosities and strained relations with your national government. After all, it's not unusual that the king is rich and people are poor. Historically, that's often been the case. But let me tell you some of the lovely stories about the federal assistance that we receive. And I can only tell you about a few of them that have hit me recently in my line of work. I'm sure that in other departments of government there must be similar complaints and similar incidents and similar sources of wry entertainment. Oh dear, we have troubles! Example: we were having great troubles in issuing bonds and in obtaining a credit to which we most certainly are entitled on

the basis of 200 years of paying on the dot — paying cash on the barrel head on our bonds. We have never had an interest or principal default.

Doesn't that mean something? If you were a banker dealing with a man who had paid his bills regularly, week after week, year after year, wouldn't that count for something? But it doesn't. Anyway, there was a meeting of the American Bar Association up in Montreal a month ago and up spake a worthy member of the United States Securities and Exchange Commission, whose function we mistakenly thought was to aid our ailing city. We were in for a surprise. He said, in effect, "What surprises me is that a lot of people have not brought suits against New York City for issuing bonds which were not backed by accurate revenue estimates." Now there are no more responsive people in the world to situations like this than lawyers. Within three days we were sued for \$19 billion — almost twice our bonded debt! That is what we get in federal aid. Another example of this kind of federal aid came into my office recently.

The Federal Environmental Protection Administration, whose members I think must have been born and bred on the plains because they obviously know nothing about New York City. And they obviously sit somewhere in the middle of the plains making determinations as to what New York City should do to purify its air. You know, when I was a lad in Liverpool, England, we had pea-soup fog so thick you couldn't see your hand in front of your eyes because of the pollution. We had environmental protection laws in New York City long before the federal government got around to thinking of the environment. We've tried to do what we can to improve the quality of our air. Along came the Federal Environmental Protection Agency in these days of dreadful fiscal distress to say to us, "What you have to do, immediately, next year, is put tolls on all the bridges which cross the East River and the Harlem River." It seems that the plainsmen read about the Harlem and East Rivers somewhere in a geography book.

Now the Harlem River is not much wider than this platform. It has six bridges going over it with tremendous traffic and actually they are merely projections of the streets. There's simply no room on them for a toll plaza and toll booths. And if you could put tolls

booths in, it would back up traffic all the way to Boston. Might not be a bad idea.

And on the East River, we have that magnificent Brooklyn Bridge, the Brooklyn terminus of which is one of the finest historical neighborhoods in the city, Brooklyn Heights. Building a bridge plaza there would ruin Brooklyn Heights. It wouldn't have any effect on the plains where the deer and the antelope play. Putting a toll plaza and booths on the Brooklyn side of the Manhattan Bridge would tear down a thoroughly useful industrial neighborhood, would cause traffic jams that would make a shambles out of the Brooklyn street system, and would poison the air to a degree never yet experienced. The same thing would happen on the Williamsburg Bridge and on the Queensboro Bridge.

But in addition to that, the cost of all this would be fantastic. Years ago, it was determined after study that it would take \$40 million in construction costs alone to build a collection of toll plazas for the four East River bridges. Those costs would run up to \$100 million now. We haven't got \$100 million. We haven't got \$40 million. That kind of money can be raised only by issuing bonds, and we can't sell bonds because the federal government says, "You solve your own problems, we won't help you to sell your bonds. We won't provide for you the kind of guarantees we gave Lockheed to aid in borrowing for its needs." So they involve us in this ridiculous Catch-22 situation.

You wonder whose side they are on. I mean, aren't they Americans? I tell you, it's fantastic. But there is hope: the Chancellor of West Germany has announced that New York City should be aided. That's wonderful, marvelous. We can get Henry Kissinger to do the deal. There won't even be a language barrier.

There used to be a wonderful story that in the early days in the Knesset, there was an argument about how Israel, which was in more difficulty than it is now, could get help. And someone said, "I'll tell you what we will do, we'll declare war on the United States. We will lose and then the United States will send us an enormous amount of Marshall Aid." And someone said, "But suppose we were to win."

Maybe we ought to try something like that. I don't know who we could declare war on. We like everybody, and most of the peo-

ple in New York City come from someplace else anyway. I guess it's not practical. But I'll tell you, maybe we'll get the Chancellor of West Germany and Quai D'Orsey and the British Foreign Office. And maybe the foreign nations will get us a hearing here in Washington and help us tell our government that the fate of New York City is not merely the fate of New York City, it's the fate of all our cities, it may be the fate of our country. It has been suggested that it might even be the fate of the world.

The urgency, the need, is so obvious. The necessity of quick action is so clear. Is it too much to think that perhaps this body, my brethren officers of municipal government — who know what the problems of local government are, who understand what revenue estimates are, who know what budgets are, and who know the task of floating bonds — will rise and help us?

New York is a marvelous place. It's a good place. It's a great national asset. To those of you who are from other lands, I say that nowhere else in this world will you find so many non-controversial, non-argumentative, friendly, United-Nations-neighborhoods, as you will find in New York: where Arabs and Jews live in peace together, where Greeks, Armenians and Cretes live in peace together, where Red Chinese and Blue Chinese live in harmony together, and where Irish and Orange live in friendship, together.

Ours is a great city. Come and see our magnificent universities and our superb library system, the likes of which you will find nowhere else in the world. Go to Lincoln Center and take a look at our unique Library of Performing Arts. It's a wonderful experience, and it isn't even noticed in guide books.

Look at the Entertainment Section of the *Sunday Times* and see what kind of a cultural center New York is — what a special grace it gives to our land and what a world capital it is: seventy-six plays on the boards, eight superb ballet companies performing nightly, seven opera companies (two major and five minor), five excellent symphony orchestras, twenty-five major art museums, a hundred magnificent special art galleries, ninety recitals of artists, violinists, cellists, chamber musicians a week, Shakespeare in Central Park in the summer, performed by a magnificent company of players, and more, more, more.

Come take a walk down Fifth Avenue at 1:00 o'clock in the morning. Drop in at Rizzoli, a bookshop the likes of which you've never seen. Then go across the street to Brentano's and down to Doubleday. Imagine — bookshops open in the middle of the night.

What a city to save!