

To this I would like to add my own opinion, based on discussions with many referees in bankruptcy and bankruptcy attorneys, and on the examination of the files in hundreds of bankruptcy cases, that wage garnishment, either actual or threatened, is a precipitating cause in a very substantial number of the personal bankruptcy cases.

I have previously estimated, based on my studies of the official bankruptcy statistics published by the Administrative Office of the U.S. Courts, that over a billion dollars in creditors claims per year is being discharged in bankruptcy cases and more than 90 percent of these cases are personal bankruptcies. (Countryman, "The Bankruptcy Boom"—77 Harv. L. Rev. 1452 (1964).) A more recent analysis of the statistics has persuaded me that my prior estimate was far too low and that the amount of creditors claims discharged is now approaching \$2 billion per year.

This figure may not reflect serious damage to the bankers, loan companies, and finance companies whose losses probably do not exceed one-half of 1 percent of loans outstanding, nor to the installment seller operating on a 100 percent markup who breaks even whenever he loses only one-half of his claim. After all, they can shift half of their relatively small loss to the Federal fisc when they make out their tax returns. But there are other small-volume, low-margin creditors for whom the bankruptcy of a debtor is a painful blow.

Moreover, bankruptcy is a catastrophe for the debtor. As one observer has said:

Although uniformed people may minimize the gravity of the consumer bankruptcy problem by saying that only one-tenth of one per cent of the population goes bankrupt, there is a qualitative dimension in human distress that is understated by such statistics. (Myers, "Nonbusiness Bankruptcies, in Proceedings of 10th Annual Conference, Council on Consumer Information," page 9.)

I would agree, and would add that the studies referred to above, and others, indicate that the typical bankrupt has three or four dependents, so that the human distress is felt not merely by the 176,000 personal bankrupts, but by families whose members number from 700,000 to 880,000.

My conclusions about the relationship of wage garnishments to bankruptcy lead me to my first suggested change in H.R. 11601. I would suggest that the finding in section 201 of the bill be not confined to the effect of wage garnishment on interstate commerce, but that it take account also of the effect of wage garnishment on the Federal bankruptcy system. It is ludicrous, unseemly, and uneconomic to have most of the States providing creditors with a remedy for collection and the Federal bankruptcy system providing debtors with a countervailing remedy to undo what State law has allowed the creditor to do. It's well within the power of Congress to do directly what it now authorizes indirectly and to relieve the Federal bankruptcy system of the burden of cases where bankruptcy petitions are filed only to avoid garnishment.

Second, I would suggest that the term "wages" in the title of title II and in section 201 is probably too restrictive, and that the same is true of "wages or salary" in section 202(a). The compensation of many of those you would want to protect from garnishment is derived, wholly or in part, from commissions and bonuses. I would suggest, instead, that the reference in the title and in section 201 be changed from "wages" to "personal earnings" and that in section 202(a), the opera-