

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 two billion dollars 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 one percent of loans outstanding, nor to the installment seller operating on a 100% markup who break 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 bankruptcy of a debtor is a painful blow.

Moreover, bankruptcy is a catastrophe for the debtor. As one observer has said, "Although uninformed 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, *Non-Business Bankruptcies*, in Proceedings of Tenth 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 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 laws has allowed the creditor to do. It is 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 operative Section "earnings in the form of wages, salary, commission or bonus as compensation for personal service" be substituted for "wages or salary due an employee." I would delete the second reference to "employee" in Section 202(a) because of experience with the wage priority under section 64a(2) of the Bankruptcy Act where it three times became necessary to amend the original language, "wages due to workmen, clerks, or servants," once by adding "traveling or city salesmen," again by adding "on a salary or a commission basis, whole or part-time," and finally by adding "whether or not they are independent contractors ... with or without a drawing account."

If this suggestion were followed in its entirety, section 202(a) might read:

"No person may attach or garnish or by any similar legal or equitable process or order stop or divert the payment of earnings in the form of wages, salary, commission or bonus as compensation for personal service."

Third, I doubt the necessity of prohibiting garnishment of all earnings, regardless of size. I see no necessity for immunizing all the income of entertainers, corporate executives, etc. whose incomes approach or run into six figures.

I realize the difficulty of fixing a limit. One recent proposal suggests a poverty-level limit of \$3,600, which I regard as much too low. Karlen, *Exemptions from Execution*, 22 Bus. Law. 1167, 1171 (1967). The present working draft of the Uniform Consumer Credit Code, a project of the National Conference of Commissioners on Uniform State Laws which is not yet in final form, would put the limit at \$100 per week for debtors with dependents and \$65 per week for others [and would limit the protection to consumer credit claims.]. This seems too low to me also, but I have attached to my statement a copy of the pertinent sections of the present draft of the Code so that the Committee can examine them.

The studies of personal bankruptcies to which I have previously referred indicate that the typical bankrupt has an income of about \$5,000 per year. I would take that figure as an indication that the protection against garnishment should extend considerably higher.