

and of "extreme hardship."¹⁰¹ Vial summed up the paradoxical effect of wage garnishments by noting that while preservation of the debtor's ability to pay is important in order to have debts paid, garnishment-induced discharges destroy ability to pay. The fear of discharge, Vial added, "is a real factor that causes a debtor to take the course of bankruptcy which may be the less offensive alternative to him but the worst from a public policy point of view."¹⁰²

Thus, garnishment of wages poses problems not only of actual loss of employment, but of threatened loss with its attendant temptation to use bankruptcy as a way out (discussed in detail below). Aside from bankruptcy, the question remains whether society should consider the threat of loss of employment as a legitimate debt-collecting device. We have given up imprisonment for debt; do we want to tolerate joblessness for debt?

Short of abolishing wage garnishments, the possibilities for dealing with the employment problem are principally: (1) to attempt to prohibit discharges based on garnishment; (2) to utilize a trusteeship procedure, such as the Ohio one, which gives an employee protection against garnishments and at the same time provides for amortized payment of his debts; or (3)—possibly in conjunction with (2)—to increase the exemption and modify the garnishment procedure.

Discussing these in inverse order, the third alternative is likely to have an ameliorative effect on discharges to the extent that it decreases the use of wage garnishments. Yet in New York, whose garnishment law is relatively favorable to debtors, garnishments apparently still lead to discharges: Several bills were introduced in the 1965 session of the New York legislature designed to prohibit firings based on that ground.¹⁰³ This is not to suggest, however, that such an approach may not reduce the problem.

Trusteeship would benefit employees who can avail themselves of legal services and arrange for regular payment to the trustee of the non-exempt part of their wages. Essential to the success of any such procedure would be the enthusiastic co-operation of the courts and a very low (if any) deduction from payments for administrative costs. Society now handsomely subsidizes the garnishment process;¹⁰⁴ the subsidy could well be shifted to trusteeships. The success of this kind of trusteeship in California is obviously uncertain. By itself, it is probably of limited value;

¹⁰¹ *Id.* at 64. For case studies see SPENDER SYNDROME *passim*.

¹⁰² *Hearings* 62.

¹⁰³ Senate Intro. 2168 (1965); Senate Intro. 2299 (1965); Senate Intro. 3061, Assembly Intro. 4920, vetoed July 19, 1965; Senate Intro. 4146 (1965); Senate Intro. 4164, Assembly Intro. 3577 (1965).

¹⁰⁴ See note 48 *supra*.