

in the form of a loan or purchase.¹⁷⁵ It is the occasional, small creditor—if anyone—who might need the garnishment remedy. (b) Garnishment on other obligations could be had only after notice and a hearing. (c) At the hearing the court would consider the debtor's financial circumstances as well as the nature of the indebtedness involved. (d) The court would have discretion to order up to (and including) ten per cent of the defendant's earnings applied on the judgment. This would introduce a desirable measure of flexibility into the garnishment procedure. The court would retain jurisdiction and power to modify its order. (e) An execution levied against earnings pursuant to such an order would remain in effect until the judgment is paid. In other words, a single levy would suffice, thereby greatly reducing the expenses involved. Only one such execution would be allowed to be in effect at one time, otherwise the exemption could be defeated.

It is anticipated that the recommended changes would reduce the number of garnishments sufficiently so as to obviate the need for prohibiting discharges based on garnishments. However, that would be the case only if the substance of the recommendations were to be enacted. Particularly important is the proposed limitation of garnishment to obligations that do not arise from installment credit transactions. Without such a limitation garnishments are likely to continue in substantial numbers, and serious consideration of steps to provide direct protection against garnishment-caused discharge would be necessary.

(4) If it is desired, as the Judiciary Committee report suggests,¹⁷⁶ to help debtors work out a program of paying off their debts, provisions similar to the Ohio trusteeship statute could be enacted.¹⁷⁷ However, we should proceed cautiously before putting the State into the debt pooling business. The desirability of trusteeship depends at least in part on whether private facilities are adequate (and, if not, whether the development of more adequate ones can be encouraged) and whether the Bankruptcy Act's chapter 13 proceedings can be made more available to the average person in financial difficulties. It depends, too, on whether the California courts would welcome such a function—their wholehearted co-operation would be essential—and on whether society is willing to subsidize the expense of operating trusteeships to a sufficient extent to encourage its use. The answers to these questions are debatable. Trusteeship may merit further thoughtful consideration, but that should not delay moving ahead on the other recommendations.

¹⁷⁵ Compare the Delaware and South Carolina provisions, text accompanying notes 36, 37 *supra*. These have substantially the same effect and their wording could be adapted for California use.

¹⁷⁶ Note 173 *supra*.

¹⁷⁷ Note 77 *supra* and accompanying text. *But see* note 105 *supra*. As to the Michigan conciliation procedure, see note 76 *supra* and accompanying text.