THE WAGE EARNERS' PLAN

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Last December the Michigan Credit Union League, with the cooperation of the Detroit Bar Association, sponsored a symposium and role-play demonstration of the Wage Earners' Plan for Debt Liquidation, otherwise known as Chapter XIII of the Bankruptcy Act. The purpose of the program was to inform federal referees, attorneys, creditors and debtors about the way the plan operated. Initially the program was intended for a Michigan audience, but when word got out as to our intentions, we soon discovered that we were sponsoring a program of national interest. The result was an audience made up of people from both coasts as well as the deep south. It became apparent that, with a few striking exceptions, Chapter XIII was an unknown quantity and little-used facility not only in Michigan but the nation as a whole. And even among the few who claimed to be knowledgeable on the plan, there was obviously a great deal of erroneous information circulating.

Before the body of consumer-minded individuals gathered here, however, there would be little merit in delving into the legal intricacies of Chapter XIII. For those who were interested in more information of this nature, Mr. Sidney Barnes, Director of the Legal Department of the Michigan Credit Union League, has accompanied me and will be happy to entertain your questions. Suffice to say for

our purposes that the Wage Earners' Plan provides an alternative to personal bankruptcy by which a harassed debtor can stop garnishments and thus protect his job and at the same time pay his debts over an extended period.

The most fascinating thing about preparing for the Chapter XIII symposium for those of use on the staff at the League responsible for the program was the learning process which went along with it. Once again, it was the case of the teacher, in the course of preparing the subject matter for the student, getting fresh insights into the problem and gaining more from the experience than the students for whom it was intended. True, Chapter XIII had only been utilized in Michigan in nine out of 4800 cases of personal bankruptcies during the previous fiscal year. Obviously Chapter XIII was extremely under-utilized and terribly misunderstood. The basic problem, however, remained; namely, the increasing number of personal bankruptcies themselves. We discovered that personal bankruptcies had increased over 400% nationally and 500% in Michigan in the last decade. More interesting, still, was the comparison of Michigan's 4800 personal bankruptcies with those of 700 and 140 in Pennsylvania and Maryland respectively. In the light of these figures, it became apparent that to direct most of our time and energy to promoting more use of Chapter XIII instead of tackling the basic problem of mounting bankruptcies itself would be comparable to advocating more sanitary overnight shelters as the "big thing" about the skid row problem that needs attention.

Accordingly, even before the Chapter XIII program was behind us, we began giving our attention to one obvious contributor to the increasing number of bankruptcies that has probably received little attention in consumer circles. I am referring to the contribution that wage garnishment procedures in our various states might be making to the increasing number of personal bankruptcies. I compared above the large number of bankruptcies in Michigan as over against those of Pennsylvania and Maryland. Interestingly, neither of these Middle Atlantic states has a garnishment law. Michigan, on the other hand, has what some of us consider a harsh garnishment law. What is the relationship between stringent wage garnishment procedures and the number of personal bankruptcies in a particular state?

In Michigan the relationship between wage garnishments and personal bankruptcies is readily perceivable. The Michigan garnishment statute permits a creditor, following a court judgment against a debtor, to attach a portion of the wages owed to the debtor by a suit against the employer. Since garnishments in Michigan are in effect for one pay period only, subsequent suits are necessitated against an employer over a number of paydays to satisfy a debt. This procedure is both a nuisance and a bookkeeping expense for an employer; so much so, as Dunn's Review has recently reported, that some large corporations have begun to set up special departments to process wage garnishments. One Detroit plant of 50,000 employees, for example, has handled over 15,000 garnishments a year against workers' wages.

Available figures suggest that the processing of garnishments in a metropolis like Detroit costs employers millions of dollars annually.

The answer to this problem for many employers is to discharge an employee after three garnishments. Indeed, written into the UAW contracts with the auto plants in Michigan is a provision permitting the discharge of a worker after one garnishment. In turn, the debt-harassed worker, to avoid an anticipated garnishment that would cost him his job, responds by filing for bankruptcy to have his debts discharged, since one does not lose his job for going bankrupt. Occupational suicide via the garnishment of wages is thus avoided but in the process the number of personal bankruptcies is increased considerably. It has been said that only a general lack of knowledge of the availability of this recourse by law by employees has kept the rapidly mounting figure of personal bankruptcies, presently approaching 150,000 below the million-mark. Accordingly, we at the Michigan League are presently making a study of wage garnishment procedures in anticipation of recommending some basic amendments to existing legislation. Perhaps a sharing of few of the prevailing practices in Michigan which disturbs us will stimulate members of this consumer-minded group to give some attention to this matter in their own states. Inevitably the debt-harassed family who has not profited from all our erudite pronouncements on wise money management will be affected, if not victimized, by wage garnishments.

Probably the harshest aspect of Michigan's wage garnishment law is the inadequacy of present exemption - provisions of the law; that is, the amount of one's wages that can be protected from garnishment each payday. While our law is quite complicated at this point, it is fair to say that only 60% of a family man's wage is exempt from garnishment, but he may not receive more than $50 nor less than $30. For a single worker 40% is protected, but he cannot receive more than $50 nor less than $20. No consideration is given to the number of dependents a worker might have. The worker with six dependents is subject to the same treatment on exemptions as the worker with one dependent. Moreover, custom in an area, not law, determines whether employers use the above formula for garnishment deductions on the basis of gross or take-home pay. In any case, it should be readily apparent to this audience that the balance left for the majority of families affected by garnishment legislation is not sufficient to meet minimum needs. The result is that such families are forced to resort to more questionable financial practices to make ends meet and in doing so only compound their difficulties.

Another aspect of the Michigan statute that should be corrected is the practice of multiple garnishments which works against the interests of the debtor, creditor, employer, and the court. Since a wage garnishment is in effect for one payday only, a debt of any size can only be satisfied by a series of garnishment procedures. This phase of the law than not only threatens the job of the debtor, because of the relationship between the number of garnishments and his discharge by an employer, but also involves the debtor in additional court costs for

each garnishment processed. The nuisance-value of this procedure to all parties concerned is so obvious that further comment should not be necessary.

We at the Michigan League tend to look to the present New York statute for suggestions for improving our statute. Here in New York no more than 10% of the debtor's wages may be reached by garnishment at only one time. Further, once levied upon an employer, a garnishment against a debtor's wages remains a lien upon his wages until a debt is satisfied. Also, additional garnishments subsequently filed must wait in line until prior ones have been satisfied in turn. Perhaps a closer look at the New York law might change our minds, but for the present the New York pasture looks much greener than ours!

One additional aspect of the garnishment jungle that should be of interest to American consumers as a group and researchers in particular is the cost of processing these wage garnishment judgments through our courts. Since an employer is directed to pay to the clerk of a court wages withheld and the court in turn reimburses a creditor, in effect a municipality becomes a bill collector for a creditor at the expense of the taxpayer. Add to this the expense of hearing and processing such judgment-requests in the first place and the costs of this public service by the courts must be considerable, particularly when the number per year reaches 50,000 or more as it does in the Detroit Common Pleas Court alone. This volume, moreover, is in a court unfrienly to garnishments and for this reason avoided by many creditors in favor of more friendly Justices of the Peace within the area.

More vexing still would be the probable results of some research directed at documenting who the benefactors of this public bill collection service actually are. A cursory check over one week in the above court in Detroit revealed that some 283 garnishments were filed by 14 firms with bad reputations as "easy credit" operators--the "Borax" furniture and jewelry stores as they are called in Detroit. Hillel Black, author of Buy Now, Pay Later, would call them "merchants in debt." In essence, it is this fringe of the lending fraternity, the irresponsible unregulared high-interest-rate sellers of credit that look upon the garnishment privilege as security for their credit sales, who profit most from the bill-collection services of our courts. Responsible lenders, sensitive to the ability-to-pay of a family, have but limited need of such a service. Undoubtedly it is this unsavory segment of the credit community that gives credulity to a statement in an article last year in the Personal Finance Law Quarterly Review; to wit:

> "Now Finance companies and retail business concerns vie with each other for the bankrupt's business. The bankrupt is considered a good credit risk because the creditor has six years by law to collect his account before he can become a bankrupt again!"

The risk involved in extending credit to such families is further reduced through the notorious abuse of the garnishment privilege.

We have attempted in this presentation to demonstrate the relationship of wage garnishment procedures for personal-bankruptcy rates in our various states. Placed in its proper context, it is only one of numerous factors which help to explain the rising rate of personal bankruptcies in our country. Others in this panel will surely discuss fundamental factors more customary in consumer circles, such as poor management habits and so on. It has been our purpose here to dwell on the wage garnishment issue precisely because, to my limited knowledge, it has been given little attention in consumer-gatherings to date. We at the Michigan Credit Union League hope that it will prove to be as stimulating and challenging to you as it has been for us.