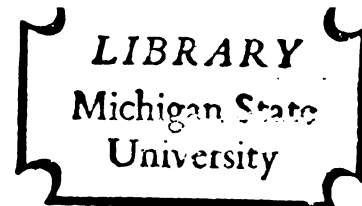


AN ANALYSIS OF ECONOMIC AND
PERSONAL FACTORS LEADING TO
CONSUMER BANKRUPTCY

Thesis for the Degree of D. B. A.
MICHIGAN STATE UNIVERSITY
Robert Dolphin, Jr.
1964



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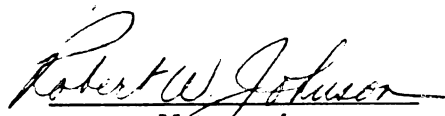
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ABSTRACT

AN ANALYSIS OF ECONOMIC AND PERSONAL FACTORS LEADING TO CONSUMER BANKRUPTCY

by Robert Dolphin, Jr.

Society's attitude towards debt has changed. People today are much more favorably inclined towards the use of consumer credit than they were a generation ago. This change in attitude has been accompanied by a new outlook on the misuse or overuse of credit. The new outlook is reflected in the transition from debtor's prisons to personal bankruptcy laws.

With the changes in attitude and law and increased use of consumer credit have come an increase in the number of personal bankruptcies. From 1950 through 1963 the annual personal bankruptcy rate increased 503 per cent. This is of importance to both the creditor and the public. In most cases the assets are not large enough to cover court costs and the difference is covered by tax revenues.

While there have been many reasons given for the growth of personal bankruptcy, little empirical research has been done. Some information is available, but the bankrupt's socio-economic characteristics have not been developed to a statistically reliable level, and there is little information pertaining to the attitude of the bankrupt. To identify the bankrupt, to determine the causes of bankruptcy and to discern possible remedies for the growth of bankruptcy, this study develops and analyzes extensive data on the characteristics of the bankrupt in Michigan's Genesee County. Data were obtained through

personal interviews of the bankrupt, questionnaires administered by the referee and from the petitions filed with the court.

The first phase of the study analyzes the legal environment in which individuals carry on their credit activities before going into bankruptcy. Phase two develops the social and economic characteristics of the bankrupt and compares these to the community to show whether he is typical or atypical of the population in general. In the third phase the bankrupt's financial condition is analyzed to determine the types and amounts of liabilities, also when these liabilities were incurred in relation to the filing date of each bankruptcy. The bankrupt's ability to retain assets despite bankruptcy is also considered. The bankrupt's ability to pay his creditors and his attitude toward his debts are considered in the last phase. Also, in this phase, a sequential analysis is used to indicate the dissemination of bankruptcy knowledge throughout the community.

The findings may be summarized as follows:

1. Although many individuals claim that garnishment is a participating factor, if not the primary reason, for their bankruptcy, there are several legal alternatives other than bankruptcy for avoiding garnishment in Michigan's Genesee County.

2. There appears to be a definite social-economic class generating most of the personal bankruptcies. It is typified by the young married families whose income is earned by the husband as a manual worker, while the wife is occupied with a more than average number of children.

3. No particular types of creditor may be held primarily responsible for the bankrupt's financial difficulty and resultant bankruptcy, but creditors as a group share some responsibility for extending credit to individuals unable to repay in an orderly fashion.

4. Failure to recognize the development of financial trouble and/or lack of self restraint is indicated by the purchase of goods which in most cases could have been postponed and the increased use of credit as bankruptcy neared.

5. Given an "adequate" standard of living, 49 per cent of the bankrupts could have paid 100 per cent of their debts within three years under a Chapter XIII proceeding.

6. The individual has an apparent lack of desire to pay, but most do not accumulate debt with the intention of going into bankruptcy.

7. Financial counseling for the individual likely to go into bankruptcy is almost nonexistent.

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1965

AN ANALYSIS OF ECONOMIC AND PERSONAL FACTORS
LEADING TO CONSUMER BANKRUPTCY

By

Robert Dolphin, Jr.

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CHAPTER I

INTRODUCTION

With the passage of time, attitudes have changed and the debtor has gained acceptance in society. This change of attitude has been accompanied by more liberal laws pertaining to bankruptcy. In contemporary society the debtor enjoys the protection of Federal bankruptcy law. Today the debtor may obtain judicial relief from his debts by filing bankruptcy in a Federal district court; whereas, in the past the debtor may have been put to death.

Statement of the Problem

In the past thirteen years the annual personal bankruptcy rate has increased 503 per cent¹ while the United States economy has enjoyed its most prosperous decade in history. While there have been many reasons given for the growth in personal bankruptcy, little empirical research has been done. The latter is pointed out by the Consumer Bankruptcy Committee of the American Bar Association as follows:

Much has been written about the great increase in bankruptcies but little has been said of the basic causes of bankruptcy and whether and how the situation may be improved. Who are the people that go bankrupt and why are they in such a situation? Answers to these questions will never be known in their

¹Administrative Office of the United States Courts, Washington, D. C. This calculation is based on the number of filings in each year. Also, it does not include Chapter XIII proceedings.

entirety, but any revelation of the personal factors involved should be of some help to those interested in and concerned by the problem.²

Personal bankruptcy is not only of importance to the creditor, it is also important to the public. In addition to the loss sustained by the creditor, there is a cost to the public. In most cases the assets are not large enough to cover the court costs and the difference is covered by tax revenues. Any information as to the nature of the bankrupt, his socio-economic characteristics and his attitude, should be of value. Some headway has been made in a few studies and surveys which provide some information,³ but due to the difficulty of obtaining the information the bankrupt's socio-economic characteristics have not been defined empirically with trustworthy precision and there is little information pertaining to the attitude of the bankrupt. In addition, there has been no comprehensive comparison of the bankrupt's characteristics with those of the general population to determine whether or not the bankrupt is typical or atypical.

Evolution of Bankruptcy Legislation

Bankruptcy law as it is known and practiced today is the result of a long period of development beginning with England's Henry VIII.

²Consumer Bankruptcy Committee, "The Hue and Cry," (submitted to Section of Corporation, Banking and Business Law of the American Bar Association, February, 1961), p. 3. (Mimeographed.)

³Wesley D. Harms, "Some Aspects of Business Policies and Procedures in Relation to Personal Bankruptcy in the Wichita Area," (Unpublished thesis: University of Wichita, Kansas, 1961); Samuel L. Meyers, "The Consumer Bankrupt in Maryland," (Unpublished paper: Morgan State College, Baltimore, Maryland, 1961); George L. Schaber, "Voluntary Bankruptcy - A Growing Consumer Banking Problem," (Unpublished thesis: School of Consumer Banking, University of Virginia, Charlottesville, Virginia, 1959).

The first bankruptcy law was passed in 1542, and was essentially a law against debtors.⁴ Debtors did not have the right to voluntarily go into bankruptcy and be relieved of their debts. Initiation of bankruptcy was a right reserved for creditors, who under certain conditions could throw the debtor into bankruptcy and divide his assets. If there was an unpaid balance which the debtor could not pay he was sent to prison or put to death. The death penalty was common practice up to the nineteenth century.⁵

The power to enact bankruptcy legislation in the United States was delegated to Congress by Article I, section 8 of the Constitution which provides:

Congress shall have the power to establish. . . . uniform laws on the subject of bankruptcy throughout the United States.

Congress has exercised this power to enact a major bankruptcy statute in 1800, 1841, 1867, 1898 and 1938.

The Bankruptcy Act of 1800 contained the main features and wording of the English laws.⁶ As in the case of English law, it was a law against debtors and was supposed to suppress fraudulent and criminal practices on the part of the debtor. It was not intended to provide for the administration and distribution of the assets of insolvent estates.⁷ There was no provision for voluntary bankruptcy

⁴Stanley F. Brewster, Legal Aspects of Credit (New York: Ronald Press, 1924), p. 498.

⁵Ibid., p. 499.

⁶Harold Remington, A Treatise on the Bankruptcy Law of the United States, 5th edition by James M. Henderson, I (Rochester: The Lawyers Co-operative Publishing Co., 1950), p. 16.

⁷Ibid.

and the law applied only to traders, merchants, underwriters and brokers. The Act was a temporary measure expressly limited to five years, but it was repealed in 1803. This was a period of great fear of a powerful central government and many people thought that the Act gave the government too much power.⁸

In the second national bankruptcy law enacted in 1841 the debtor was given the right to voluntarily enter bankruptcy and obtain a discharge of the unpaid balance remaining after his assets were distributed to the creditors.⁹ The debtor was presumed to be honest rather than dishonest as in the previous Act. Also, the Act was no longer limited to businessmen. The Act was repealed in 1843.

The next bankruptcy law, the Act of 1867, endured until 1878. It was the first legislation to allow a debtor to effect a composition without being adjudicated a bankrupt. Thus, this is the beginning of the escape in American legislation from the stigma attaching to bankruptcy.¹⁰ Among several reasons for the repeal of this Act were the excessive fees charged by the courts and the attorneys as well as the physical inaccessability of some of the courts.¹¹

Permanent legislation was obtained in 1898. The present law is basically this Act as amended. The most comprehensive amendment was the Bankruptcy Act of 1938, commonly known as the Chandler Act. The nature of the bankruptcy legislation as it now exists will be examined in the latter part of Chapter two.

It is interesting to note the change in the attitude toward debtors. Whereas they were formerly imprisoned, if not put to death,

⁸Ibid., p. 17.

⁹Ibid.

¹⁰Collier on Bankruptcy, Editor James W. Moore, 14th edition, I (Matthew Bender and Company, 1962), p. 9.

¹¹Ibid.

they now may relieve themselves of their debt burden quickly and easily. This seems to be analogous to the development of contract law from an attitude of caveat emptor to caveat venditor. Bankruptcy law might be viewed as going from a position of debtor beware to creditor beware.

Consumer Bankruptcy in Perspective

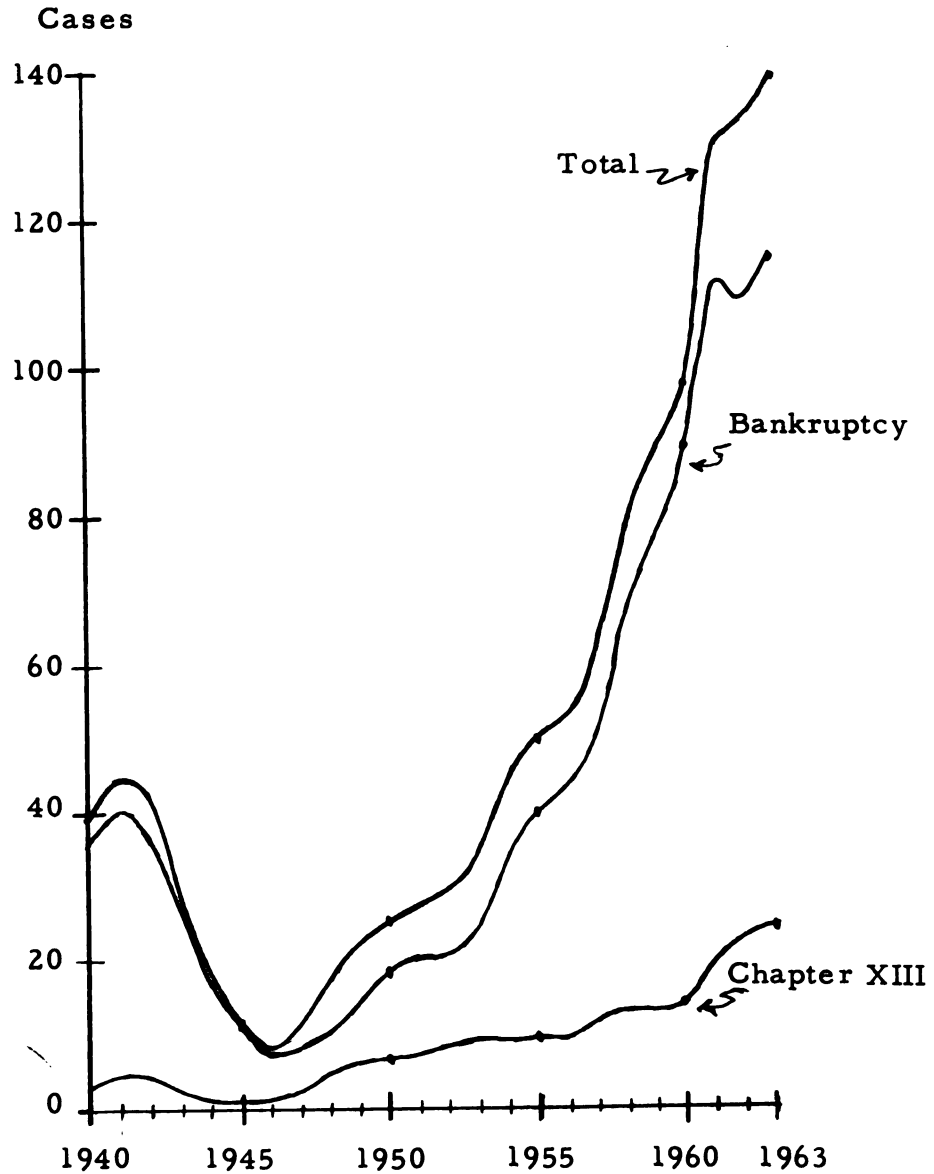
Consumer bankruptcy as used in this study refers to the discharge of an individual's debts through the Bankruptcy Act. Cases including debts resulting from a business involvement will not be considered consumer bankruptcies.¹² Chapter XIII filings are not bankruptcies since through Chapter XIII proceedings individuals seek to pay their debts, not discharge them. Since World War II, there has been a rapid growth in the number of individuals going into bankruptcy each year. In 1950 there were 19,033 petitions filed in bankruptcy as compared to 114,861 in 1963, an increase of 503 per cent (Chart 1-1). With the exception of 1962, in which there was a slight decline, there has been an increase in the number of consumer bankruptcies in every year since 1946. After a two per cent decline in 1962 there was a five per cent increase in 1963, but this was small compared to the 33 per cent increase in 1961.¹³

Chapter XIII proceedings have also increased but not as rapidly except for the years 1950 through 1952 and 1960 through 1963.

¹²Data from the Administrative Office of the United States Courts on number of consumer bankruptcies include a few cases that have some business debts.

¹³Data on number of cases under the Bankruptcy Act are for fiscal years. All data on number of cases were obtained in a letter from Mr. Berkeley Wright, Attorney, Bankruptcy Division of the Administrative Office of the United States Courts, November 27, 1963.

Chart 1-1. Consumer Bankruptcy and Chapter XIII Filings
(In thousands)



Source: Administrative Office of the United States Courts.

During the ten years following 1950 Chapter XIII filings increased by 7,592 filings, while bankruptcy increased by 65,118 filings or 126 per cent and 342 percent respectively (Chart 1-1). However, since 1960 use of Chapter XIII has grown more than twice as rapidly as the use of bankruptcy. This recent change in pattern may reflect a trend toward greater substitution of Chapter XIII for bankruptcy by financially distressed individuals.

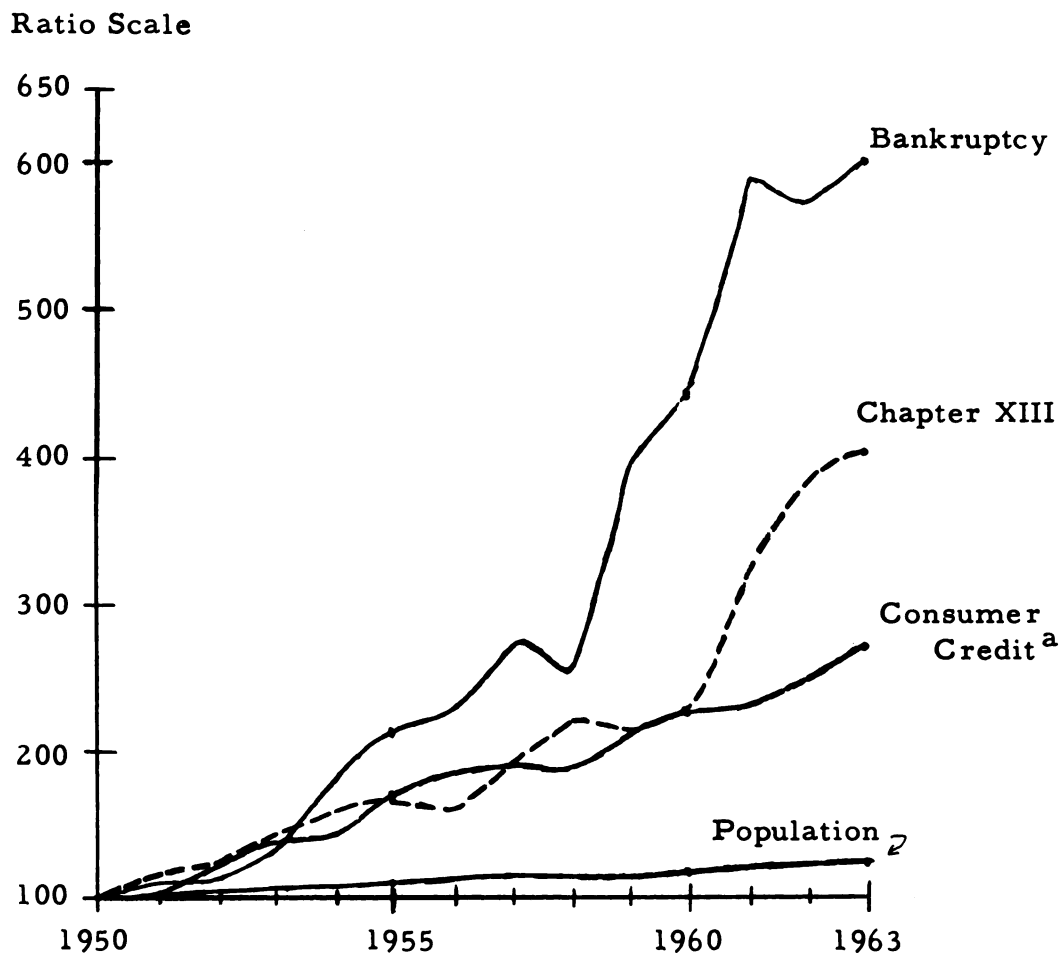
The growth in bankruptcy and Chapter XIII proceedings to some extent will reflect the growth of the population. Chart 1-2 shows the population index to be 123.8 per cent of its 1950 base or an increase of 24 per cent. This would appear to explain part of the upward bankruptcy trend; however, in this case the aggregate data are misleading. Examination of the composition of the population trend reveals that there was a one per cent decrease from 1950 to 1960 in the segment of the population 20 to 39 years old rather than an increase. This is particularly significant since 83 per cent of the bankrupts are 20 to 39 years old (see Chapter III, Table 3-6). Thus, contrary to popular opinion, the upward population trend is not a causal factor of any consequence.

The growth in bankruptcy has occurred in the most prosperous economic period in the history of the United States. Between 1950 and 1963, disposable personal income (personal income after taxes) increased from \$207.7 billion to \$402.4 billion. The rising income was accompanied by a reduction in the proportion of families receiving less than \$3,000.¹⁴

With the rising income there was also an increase in the use of credit by the consumer. Consumer credit outstanding was \$20,097 billion in 1950 and \$69,890 billion in 1963. Indexes of consumer

¹⁴U. S. Bureau of the Census, Statistical Abstract of the United States: 1963 (Washington, D. C.), p. 338.

Chart 1-2. Indexes of Consumer Bankruptcy Filings, Chapter XIII Filings, Consumer Credit and Population, 1950 = 100



Source: Administrative Office of the United States Courts, Board of Governors of the Federal Reserve System and Department of Commerce, Bureau of the Census.

Note: The bankruptcy and Chapter XIII indexes are based on fiscal years and the consumer credit and population indexes are based on calendar years.

^a Consumer credit has been adjusted for price level changes with the consumer price index.

credit and bankruptcy using 1950 as a base (Chart 1-2) show consumer credit in 1963 at 272 per cent of its 1950 level as compared to bankruptcy at 603 per cent of its 1950 level.¹⁵ Although comparison of the indexes shows that bankruptcy has grown much more rapidly, it does not show the increase in the proportion of consumer credit involved in bankruptcy. By relating the amount of bankruptcy debt to the amount of consumer credit outstanding and comparing this ratio over time the increase in the relative importance of bankruptcy can be determined. Assuming that the mean debt per bankrupt is \$3,500,¹⁶ the bankruptcy debt in 1950 was only .331 per cent of consumer credit outstanding and in 1963 it was only .575 per cent of consumer credit outstanding. Notwithstanding the rate of increase, bankruptcy is still very small in relation to total consumer credit outstanding.

It would seem desirable to analyze the growth of consumer bankruptcy in the Flint metropolitan area, the location of this study, if data were available. However, since the court system does not classify the data it collects by cities or individual counties, any description will have to be limited to 1963, the year in which this study was done. Of the 543 filings under the provisions of the Bankruptcy Act, 34 were bankruptcies resulting from business involvement, 26 were Chapter XIII proceedings and 483 were consumer bankruptcies.

¹⁵Note that the bankruptcy index will be the same whether computed in terms of number of cases or amount of debt involved if a constant amount of debt per bankrupt is assumed for all years. In using these indexes for comparison, the implicit assumption is that the amount of debt per bankrupt is constant over time. There is no reason to expect it to have increased except for price level changes. The amount of debt required to force an individual into bankruptcy should not change over time, unless there is a change in attitude.

¹⁶Real estate is excluded from this estimate of the mean debt because a comparison is made with short- and intermediate-term consumer credit which does not include real estate debt. This estimate is based on an analysis of the financial characteristics of bankrupts in this study and on estimates made in other studies, see Chapter IV.

Two of the business bankruptcies were filed as consumer bankruptcies and two of the consumer bankruptcies were filed by a husband and wife. This study includes 482 cases; only the husband's petition in the joint filing was included.

Rounded to the nearest thousand, the total debt scheduled was \$1,870,000. Finance companies had the largest holdings of any group of creditors, \$498,000 (see Appendix for definitions of creditor groups). Banks were second with \$312,000, while the medical services group held \$276,000, and retailers held \$229,000. The bankrupts were indebted to the service industry for \$104,000. Although not all the scheduled debt is discharged, creditors of bankrupts in the Flint metropolitan area had an average of \$155,000 of receivables per month invested in bankruptcy. Even if the rate of growth of bankruptcy has been normal, the size of the debt involved is enough to qualify bankruptcy as an important problem.

Setting of the Study

This study is based on data pertaining to those residents of Genesee county, Michigan who filed for bankruptcy during 1963. The county has a population of over 374,000, of which 196,940 live in Flint.¹⁷ It is an industrial community deriving 52 per cent of its employment from manufacturing industries (Table 1-1). A high proportion of the workers are employed in the automobile industry. As shown in Table 1-1, forty-two per cent of the employed labor force works for the transportation equipment industry. Genesee county is the home of the Buick and Chevrolet motor divisions, the

¹⁷"Census Tract Project, Flint and Genesee County, Part I," (Council of Social Agencies of Flint and Genesee County, Michigan, 1963), p. 6.

Table 1-1. Employment Composition of the Labor Force in Genesee County, 1962 (Percentage distribution of employees)

Type of Employment	Per Cent
Total employment ^a	100
Agricultural employment	1
Self-employment	9
Manufacturing industries	52
Durable goods industries	50
Transportation equipment	42
Other.	8
Non-durable goods industries	2
Non-manufacturing industries	29
Government	8

^aPer cents do not add to totals due to rounding.

Source: Michigan Employment Security Commission, "Labor Force and Employment Estimates," BM Series 3/62-ND (Flint, Michigan).

Fisher Body division and the AC Spark Plug division of General Motors. Since the economy is quite dependent on the auto industry, it is subject to sizable gyrations. Notice in Table 1-2 the change in the rate of unemployment from January, 1961 through May, 1961. The unemployment rate went from 5.1 per cent to 23.2 per cent back to 8.3 per cent in five months. Although the economy is not stable, it provided Genesee county with the highest average weekly manufacturing industry earnings in the nation during 1962.

In examining the various aspects of personal bankruptcy during 1963, the economic condition of the community must be considered. Of primary importance is the impact of the economic conditions on

Table 1-2. Monthly Unemployment Rate in Genesee County, 1960-63
(Per cent of labor force)

Months	Years			
	1960	1961	1962	1963
January	4.3	5.1	3.7	2.7
February	4.0	18.3	3.6	3.2
March	4.4	23.2	3.3	2.9
April	4.4	11.1	2.5	1.9
May	4.3	8.3	2.4	1.8
June	5.1	8.1	2.6	2.0
July	5.7	9.3	3.4	2.5
August	15.7	11.4	14.4	11.0
September	4.5	4.0	2.8	1.9
October	2.7	2.7	2.0	1.5
November	2.2	2.6	2.2	1.6
December	2.7	2.7	2.1	1.8
Average	5.0	8.9	3.7	2.9

Source: See Table 1-1.

the financial health of the individual. The rate of unemployment should serve as an adequate indicator of any possible impact. Two aspects of the unemployment rate are important, its low level and the narrow range in which it fluctuated. During the last four months of 1961 and during 1962 and 1963 the Flint economy operated at a very high level. As shown in Table 1-2, the unemployment rate during this period fluctuated in the narrow range from 4.0 per cent to 1.5 per cent, except for the model change-over periods in August of

each year. The individual filing for bankruptcy during 1963 had experienced 16 to 28 months of a very active labor market, depending on the month in which the petition was filed. Given such an economic condition, all qualified workers desiring work should have been able to obtain it. Unavailability of work or instability of employment should not have been a significant causal factor in the bankruptcy of Genesee county citizens during 1963.

The high unemployment rate that occurs in August of each year due to model change over, might appear to be alarming and a possible factor in bankruptcy. However, the economic impact of this high unemployment is not what might be expected. Workers must expect to be unemployed during August and plan for this slack time. Furthermore, due to unemployment benefits, union compensation programs and a bonus which is given at the beginning of August, the workers have nearly as much, if not as much, money available in this slack period than at any time during the year.¹⁸

Even though the economy was strong and work plentiful in the 16 to 28 months preceding this study, the less favorable economic conditions prevailing in early 1961 might be of some importance. As shown in Chapter IV, approximately 30 per cent of the debts discharged in 1963 were acquired before or during 1961. The trough of the 1961 recession in terms of unemployment appears to have been in March when the unemployment rate reached 23.2 per cent (Table 1-2). January through August, 1961 seems to mark a difficult period. The unemployment rate was quite high during these months. During 1960 employment appears to have been satisfactory. Thus, the only period of possible concern is January through August, 1961. By causing the creation of additional debts and by causing the worker to

¹⁸Interview with Herman Kaplan, Labor Market Analyst, Michigan Employment Security Commission, Flint, Michigan, March 19, 1964.

be unable to pay existing debts, less favorable employment conditions might contribute to bankruptcy in 1963. However, it is unlikely that many individuals would be forced into bankruptcy by debts that are over two years old.

In addition to the economic conditions, the social climate of the community may have an effect on personal bankruptcy. Flint is the benefactor of the generous philanthropist Charles Stewart Mott. During 1963, Mr. Mott gave 1,826,421 shares of General Motors common stock to the nonprofit Charles Stewart Mott Foundation. The Foundation provides the Flint community with a variety of cultural and educational activities. Educational achievement has been stressed through enthusiastic support of the Flint Junior College and noncredit evening courses. A variety of adult-education courses are offered by the Mott Foundation for those not desiring college credit, but desiring further education. In addition, the Foundation sponsors health and safety programs, a children's health center and an athletic program. These programs are highly publicized and well-known in the community. A researcher should question whether or not the effect of such a program makes the city unique and, therefore, not representative of other communities throughout the nation.

For comparative purposes a rough measure of Flint's uniqueness is the rate of crime. Even though there has been a great educational-cultural effort, the community has a substantial amount of crime compared to other areas of approximately the same size. Of 18 metropolitan areas of comparable size, only four had a higher crime rate per 100,000 inhabitants during 1962.¹⁹ Although this does

¹⁹John Edgar Hoover, Crime in the United States, Uniform Reports, 1962 (Federal Bureau of Investigation, United States Department of Justice, July, 1963), pp. 55-78. The crime rate is based on the reported number of occurrences of the following crimes: murder and non-negligent manslaughter, forcible rape, robbery, aggravated

not show that Flint is typical, it does show that the city is not atypical in the sense that all of its social problems have been solved.

Order of Presentation

Personal bankruptcy must be viewed and analyzed as part of a complex social structure. To do otherwise would surely distort various aspects of the problem. At the risk of over simplification, the relevant aspects of the social structure may be visualized as a combination of three environments, legal, social and economic, each having an effect on the level of personal bankruptcy. This study will identify the bankrupt segment of the population and analyze it in the context of these three environments.

The legal environment is discussed in Chapter two. All relevant state laws are reviewed to show what role they may play in an individuals eventual bankruptcy and to show what protection they provide the distressed debtor. Next, Chapter XIII of the Bankruptcy Act, the rehabilitative chapter, is considered followed by a discussion of the bankruptcy provisions of the Act. The social and economic environments will be integrated into Chapters three, four and five.

Chapter three is devoted to such background and social characteristics as age, level of education, size of family, mobility, and level of income. The bankrupt segment of the population and the general population are described in terms of these characteristics and compared to determine whether or not any given segment of the population

assault, burglary, larceny (over \$50) and auto theft. The metropolitan areas used in the above comparison were Bakersfield, Calif.; Beaumont-Port Arthur, Tex.; Canton, Ohio; El Paso, Tex.; Fall River-New Bedford, Mass.; Flint, Mich.; Fort Lauderdale-Hollywood, Fla.; Fresno, Calif.; Grand Rapids, Mich.; Harrisburg, Penn.; Knoxville, Tenn.; Lansing, Mich.; Mobile, Ala.; Orlando, Fla.; Tacoma, Wash.; Tucson, Ariz.; Utica-Rome, N.Y. and Wichita, Kans.

is more susceptible to bankruptcy than another. In Chapter four the bankrupt's financial position is analyzed. His debts are categorized by type of organization or individual making the credit decision. In addition, debts are placed in a time perspective to show when the debts were acquired in relation to the filing date of the bankruptcy petition. The proportion of the bankrupts having given amounts of all types of debt and of specific types of debt will be shown. Chapter five is concerned with other aspects of importance not covered in chapters three and four, such as attitude toward bankruptcy and sources of knowledge about it and the economic feasibility of Chapter XIII. Conclusions and recommendations are set forth in Chapter six.

CHAPTER II

LEGAL ENVIRONMENT

The legal environment in which the consumer carries on his credit activities is divided into two main categories, protection of the creditor and protection of the debtor. Under protection of the creditor, actions which may be taken by the creditor against the debtor will be examined. Alternatives available to the debtor, to protect himself from creditor action, will be examined in the section on protection of the debtor.

Knowledge of the Bankruptcy Act alone is not enough. A basic understanding of the legal environment is necessary for a proper interpretation of the personal and economic characteristics of the bankrupt to be analyzed in Chapters III, IV and V. Legal actions which may be taken against the debtor prior to bankruptcy are important in that they are a strain on the debtor which may be a contributing factor to the debtor's eventual bankruptcy. In addition to legal actions which may be taken against the debtor there are legal steps other than bankruptcy which the debtor may take to protect himself. To analyze garnishment of wages and bankruptcy alone without considering the entire legal environment is to analyze them out of context. The legal environment as described herein pertains only to Genesee County unless otherwise indicated. This is not to be considered a legal treatise. The material presented has been selected to enable the reader to understand bankruptcy, not to practice it.

Protection of the Creditor

Assignment of Wages

A wage assignment is a contract which provides that the creditor can collect when an instalment payment becomes overdue by taking part of the debtor's earnings directly from his employer.¹ Wage assignments may be used as security for loans and for purchase of goods on credit. For the individual with few, if any, assets of value, the wage assignment may be the only form of security he may be able to offer. Even though assignment of wages is permitted,² it is infrequently used.

During 1962, only 1.5 per cent of the loans extended by small loan companies in Michigan were secured by wage assignments.³ A check on various Flint retailers and loan companies indicates that very few assignments are used. Disapproval of the use of wage assignments for security by the state banking department and the need for the spouse's signature on the contract may work to discourage the use of assignments by loan companies.

The role of wage assignments in bankruptcy is insignificant. No wage assignments were cited in the bankruptcy petitions examined and none of the bankrupts interviewed indicated that assignment was a factor in their financial difficulties.

¹Francis M. Rush, Jr., Assignment, Garnishment, and Consumer Credit in Illinois, Bulletin 26 (University of Illinois: Institute of Labor and Industrial Relations, 1958), p. 7.

²Michigan Law and Practice, Assignments for Creditors, sec. 42.

³Michigan, State Banking Department, Abstract of Reports of Small Loan Licensees, 1962, p. 3.

Judgments

A judgment is a decision by the court. When a wage earner falls behind on his payments to his creditor the creditor can sue and obtain a judgment, that is, a decision that the wage earner owes a certain amount to the creditor. Normally, the defendant appears in court, and a judgment is rendered after both parties to the suit, defendant and plaintiff, have presented their cases. Judgments may also arise from default of the defendant, confession of the defendant or confession for the defendant by the creditor.

If the defendant does not appear at the scheduled hearing of a suit, the court will render a default judgment in favor of the plaintiff. Default judgments may result from improper service of the summons. This abuse does not seem to be of great importance in bankruptcy, since the Municipal Court requires service to be in person and most judgments against bankrupts are from this court.

A confession judgment will be rendered by the court if the debtor appears and admits the debt.⁴ Confession by the debtor settles the suit and eliminates the need for a hearing. Examination of the Municipal Court records reveals that confession of judgment occurs frequently.

A debtor may give his creditor the power to confess judgment for him if he falls behind in his payments. The creditor may obtain a judgment by going to court and admitting debt for the debtor. Small loan companies in Michigan are specifically prohibited from using this process.⁵ Retailers may use it, but it is not used in the Flint area.

⁴Michigan Law and Practice, Judgment, sec. 21.

⁵Michigan, 17 Michigan Statutes Annotated (1962), sec. 23.667 (12).

Another type of judgment, commonly called deficiency judgment, arises from deficiency balances on repossessed property after crediting the proceeds from the sale of the chattels used as security. It is a judgment for the difference between the amount owed and the resale price or the fair value of the merchandise acting as security for the debt.⁶ Deficiencies on automobiles appear frequently in the bankrupt population. Of the bankruptcy petitions examined, 35 per cent showed a deficiency. A strong feeling toward deficiency balances was shown by those bankrupts who were interviewed. Most of them thought that the deficiencies were unjust and that they should not have to pay them. Although there may be some cases in which repossessed property is sold for less than the fair market value, no evidence has been collected indicating extensive abuse of this area. The role of deficiency balances in bankruptcy will receive further consideration in Chapter V.

Garnishment

Garnishment is a process whereby the creditor may have the court order the debtor's employer to pay a portion of the debtor's wages to the court for distribution to the creditor.⁷ Discussion will be limited to creditors' use of garnishment as a tool to collect debts from individuals through their employers; however, garnishment is a statutory provision which is applicable to both property and money in the possession of third parties. Garnishment is one of three types of legal action which creditors may take in collecting from debtors.

⁶Daniel R. Fusfeld, Don't Get Garnished (Michigan State University: Labor Program Service, Labor and Industrial Relations Center, n.d.), p. 6.

⁷Harold F. Lusk, Business Law: Principles and Cases (Homewood, Illinois: Irwin, 1955), p. 1029.

Execution and attachment may also be used.⁸ Execution is the forced seizure and sale of property for payment of a judgment debt; whereas attachment is seizure and holding of property by the court until a judgment has been rendered.⁹ Neither execution or attachment proceedings are of great significance in the analysis of bankruptcy since debtors who go into bankruptcy usually have few assets which may be executed against or attached. Since the usual potential bankrupt's primary asset is his future wages, attention will be focused on garnishment.

Garnishment in Theory

A garnishment action is a lawsuit which generally must be preceded by a judgment, especially where the action is concerned with garnishment of money for labor preformed.¹⁰ In the event that a creditor is unable to collect a judgment he can begin a garnishment suit against a debtor's employer. The suit is to determine whether or not the employer (garnishee defendant) owes money to the debtor (principal defendant) and to have any money owed paid into the court for benefit of the creditor (plaintiff). After the garnishment is requested, the court serves a writ of garnishment on the garnishee defendant requiring that he tell the court (disclose) what wages or money he owes to the principal defendant. The disclosure must be made even if the employer owes nothing to the debtor. Disclosure

⁸Adrian Jaffe, Civil Procedure Manual for Michigan Justices of the Peace (Okemos, Michigan: By the author, 1960), pp. 78-79.

⁹The attached property may be released if the defendant provides a bond for at least twice the value of the property. Ibid., p. 89.

¹⁰Michigan, 22 Michigan Statutes Annotated (1962), sec. 27A.4011. Prior to 1957 garnishments could be obtained without first obtaining a judgment. Jaffe, p. 63.

can be made in person or by filing a disclosure under oath. The court may, after the disclosure, order the employer to pay into the court the disclosed amount.¹¹ When the disclosure is received, the court subtracts the legal exemptions to which the principal defendant is entitled and pays the exemption to the defendant. The remainder is paid to the plaintiff. If the amount received by the plaintiff is not enough to satisfy the debt of the principal defendant, the plaintiff must garnishee again at a later date.¹² In Michigan each garnishment lasts for only one pay period.

Exemptions to which the principal defendant is entitled in Michigan are set by a rather complex statute.¹³ The amount depends on three facts:

1. Whether or not it is the first garnishment
2. Whether or not the wage earner has a family
3. Amount of time worked for the wages due

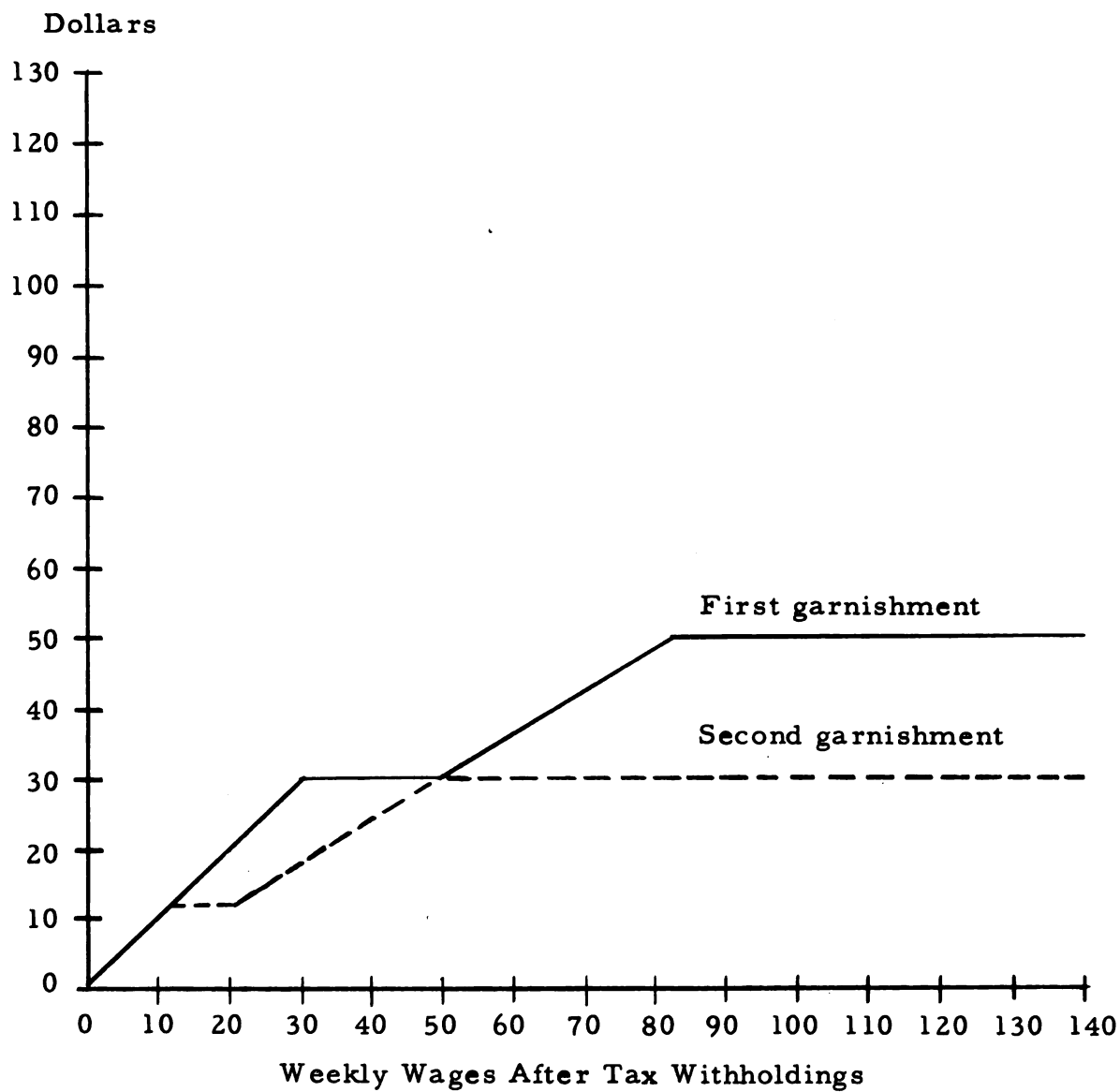
The following two charts indicate the amount of an individual's wages that are exempt at various wage levels. For example, a householder, individual with a family, is entitled to an exemption of \$48 if he earns \$80 per week and is paid weekly if it is his first garnishment (Chart 2-1). The exemption is \$30 if it is a second garnishment. An individual who is not a householder and earns \$80 on a weekly basis is entitled to an exemption of \$32 if it is the first garnishment (Chart 2-2). For a second garnishment the exemption is \$20. The charts do not show exemptions for pay periods of more than one week. In addition to the exemptions, described in the charts, money paid for

¹¹Jaffe, p. 69.

¹²Milton J. Huber, "The Wage Earners Plan," Paper presented at the Eighth Annual Conference, Council on Consumer Information (Sarah Lawrence College, 1962), p. 4. (Mimeographed.)

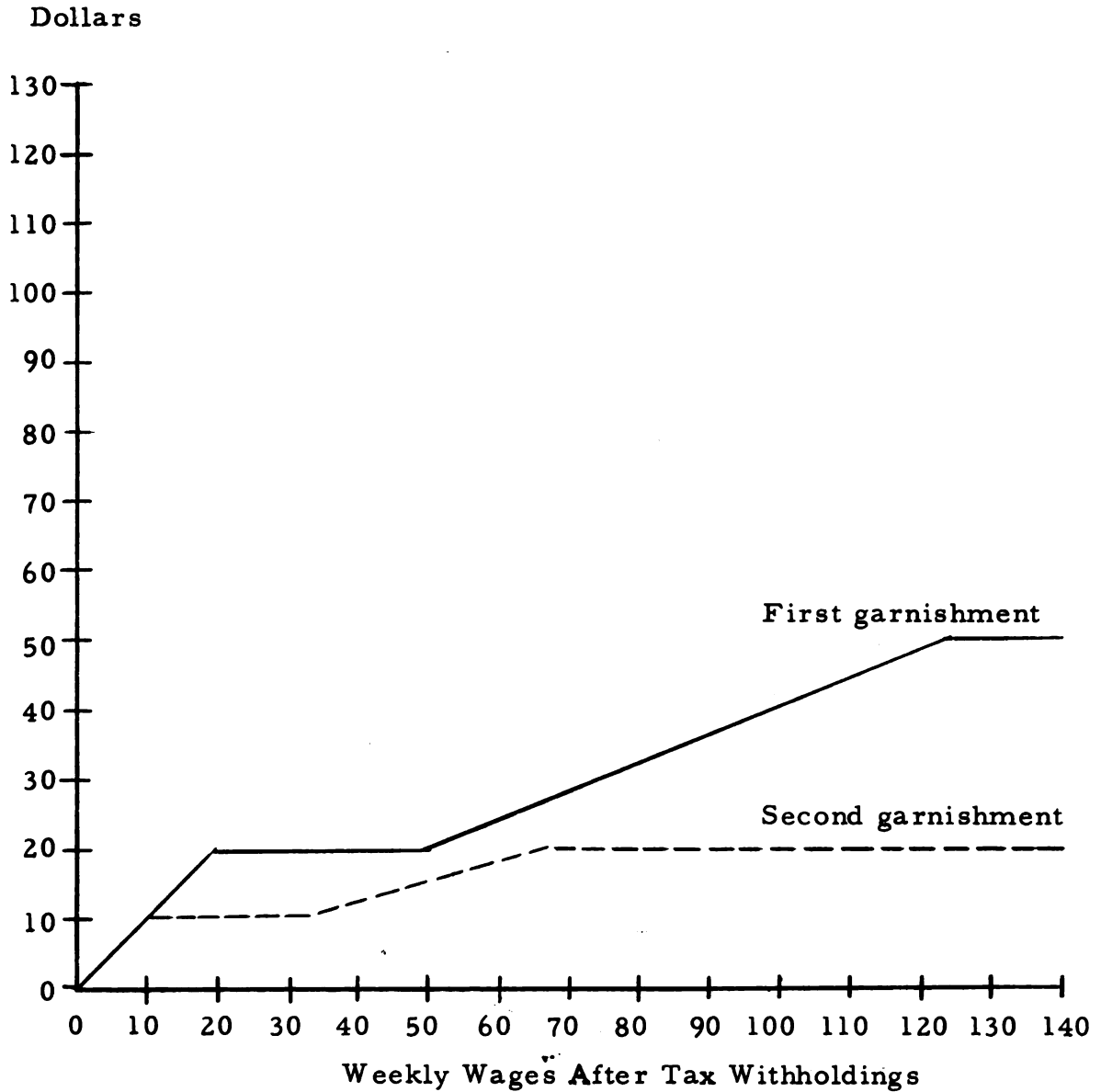
¹³Michigan, 23 Michigan Statutes Annotated (1962), sec. 27A.7511.

Chart 2-1. Amount of Householders Weekly Wages Exempt from Garnishment



Source: Michigan, 22 Mich. Stat. Annot., sec. 27A.7511.

Chart 2-2. Amount of Non-Householders Weekly Wages Exempt from Garnishment



Source: Michigan, 22 Mich. Stat. Annot., sec. 27A.7511.

alimony, separate maintenance or child support are exempt. However, if an individual is living with his family, there is no provision for the number of his dependants.¹⁴ Consult Appendix A for full details of the exemption provisions as set forth in the exemption statute.

Garnishment in Practice

An interesting and important aspect of garnishment law in Michigan is the limitation of a garnishment to one pay period. Thus, it is necessary for a creditor with a loan of any size to use a series of garnishments (multiple garnishment) to collect the loan. In addition to the possible loss of job because of the relationship between the number of garnishments and discharge by an employer, the debtor has additional court costs for each garnishment.¹⁵ Wage earners garnisheed through the Municipal Court in Flint pay a charge of \$5.50 plus a mileage fee if the employer is out of the city.¹⁶ It should be noted that the creditor must pay the charge even if the employer holds no wages of the debtor. This may occur when a garnishment is filed while a debtor is on vacation, sick leave, etc. Multiple garnishments are a burden on the debtor, creditor, employer and the court.¹⁷

The restriction of garnishment to only one pay period appears to be harsh on the debtor due to the cost factor and due to the

¹⁴Huber, p. 4.

¹⁵Ibid., pp. 4-5.

¹⁶It is interesting to note that during the Christmas season there is a two week moratorium on garnishment in the Flint Municipal Court. The moratorium is a mutual agreement between the Court and the creditors and was in effect from December 9 through December 25 during 1963.

¹⁷Huber, p. 4.

relationship between discharge from his job and the number of garnishments, the latter being of greater importance. However, the law restricting garnishment to only one pay period is harsh on debtors only if creditors resort to multiple garnishment. During 1963, few debtors going into bankruptcy were victims of multiple garnishments. Less than one per cent of the bankruptcies studied had been garnisheed more than once by a creditor within six months preceding bankruptcy. Apparently multiple garnishment is not a significant problem to those individuals resorting to bankruptcy in Flint during 1963, but there is the possibility that threat of a second garnishment could be used as leverage. Interviews with the bankrupts indicate that creditors do not often do this.

The major discrepancy between garnishment in theory and in practice is the interpretation of the exemption statute. As described above (see charts) the exemption statute provides the garnisheed debtor with take-home pay ranging from a maximum of \$50 to a minimum of \$12 for a week's work. However, in practice the amount is often less than the indicated exemptions. Rather than sending the employee's entire pay check to the court, the employer usually pays the exemptions and sends the remainder. The employer may withhold certain payroll deductions from the exemptions or from the amount to be sent to the court. This is due to the differing interpretations of whether exemptions are after or before various payroll deductions. The procedure used is generally set arbitrarily by the employer. Considering the meager amount provided for by the statute, it would appear that authors of the legislation wanted to provide the wage earner with a take-home pay of the amounts indicated in the statute.¹⁸ Cases have been reported where the wage

¹⁸Interview with Ray Bugbee, Recording Secretary UAW, CIO Local 599, November 27, 1963.

earner has received as little as one dollar. Many bankrupts employed by General Motors have indicated that they received amounts far below the amounts stated in the exemption statute if the statute is interpreted to mean that the indicated exemptions should be available as take-home pay.

Garnishment in Bankruptcy

How important is garnishment in bankruptcy? In the Flint area during 1963, only ten per cent of the individuals had been garnisheed within four months before filing for bankruptcy. However, of the bankrupts interviewed 80 per cent indicated that they had been threatened with garnishment. For many debtors, garnishment may mean short-term or long-term loss of income. Often the exemptions do not provide enough take-home pay to live on until the next pay check. Furthermore, if garnishment causes loss of employment many debtors find it difficult to find new jobs due to age and education. Faced with such bleak possibilities, debtors may find the threat of garnishment as frightening as actual garnishment. Of the bankrupts interviewed, 75 per cent indicated that garnishment or threat of garnishment was the reason for their filing for bankruptcy.

Given the harshness of garnishment many people conclude that garnishment is a primary or secondary cause of bankruptcy. For example, Mr. Twinem says;

Even though an individual may be overloaded with debts he may not be propelled into bankruptcy in the absence of some final triggering cause. . . . To protect his income for the benefit of his family, or to protect his employment, the debtor may feel forced to resort to bankruptcy where he will be shielded from garnishment or suit. The garnishment laws in New York and New Jersey are much more moderate and considerate from the standpoint of the debtor. . . . Certainly,

there is a much lower per capita rate of bankruptcies in those 2 States than in California and Ohio.¹⁹

There is little doubt that an individual in Michigan undergoes severe financial strain when garnisheed. If bankruptcy is the best way to prevent garnishment, the conclusion that garnishment is an important factor in bankruptcy may be warranted. However, this assumption is not valid in Flint. There are other alternatives, that is, ways of preventing garnishment. Briefly, garnishment may be prevented by instalment orders, receivership in the Municipal Court, composition of extension under Chapter XIII of the Bankruptcy Act. If there are adequate ways to avoid garnishment, the Michigan law is not as harsh as it appears when viewed out of context. Before many conclusions are drawn, the debtor's alternatives must be examined. Debt prorating is one of several aspects of the legal environment which may be of importance to the debtor.

Protection of the Debtor

Debt Prorating

A debt prorater²⁰ acts as a middle man between the financially distressed wage earner and his creditors. For a fee, he transfers money from the debtor to the creditor. The debt prorater gives financial advice and attempts to work out a budget that will both provide the wage earner with enough funds for necessary living expenses and satisfy the creditors. Debt prorating is an alternative, good or

¹⁹Linn K. Twinem, "The Bankruptcy Problem and What Can Be Done About It," Paper presented before the Credit Management Division of the National Retail Merchants Association, Miami, Florida, September 24, 1962, p. 8. (Mimeographed.)

²⁰Debt prorating is known by a variety of names, such as: debt managing, credit counseling, budget assistance, debt liquidating, budget planning and debt lumping.

bad, available to the wage earner of Flint and Michigan, which is sanctioned by the statutory law of Michigan.

Legislation

States have taken three approaches to debt prorating. Through its statutes, the state can prohibit, regulate or ignore the business of debt prorating.²¹ Until recently there was some question about the constitutionality of state prohibition of debt prorating. Proponents of debt prorating claimed prohibition of debt prorating was in violation of the due process clause of the 14th Amendment. However, "On April 22, 1963, the United States Supreme Court in a case entitled Ferguson v. Skrupa, 372 U. S. 726 (1963) upheld the constitutional validity of a Kansas statute prohibiting debt adjusting except where incidental to the lawful practice of law."²² Sixteen states have outlawed debt prorating but a few, including Michigan, have passed regulatory statutes.²³

Michigan chose to regulate debt prorating with the passage of Public Act 135 in 1961 effective January 1, 1962.²⁴ Anyone operating as a debt prorater must obtain a licence annually and post a \$5,000 bond. Requiring of a bond is commendable, but the size of the bond

²¹Arthur H. Northrup, "Indiana's Governor Welsh Vetoes Debt Pooling Act as Sanctioning Unauthorized Practice of Law," Personal Finance Law Quarterly Report, XVII (Summer, 1963), p. 85.

²²William M. Ferguson, "The United States Supreme Court Unanimously Upholds the Kansas Law Prohibiting the Business of Debt Adjusting," Personal Finance Law Quarterly Report, XVII (Summer, 1963), p. 80.

²³Robert Gorman, "Debt Adjusters Continue False Advertising Despite Regulation," Personal Finance Law Quarterly Report, XVII (Fall, 1963), p. 130.

²⁴Michigan, 17 Michigan Statutes Annotated, sec. 23.630 (1-18).

may be insufficient to provide adequate protection for the wage earner.²⁵

There is no provision in the Act for regulation of the charge which the debt prorater may make for his service. However, the Act provides that, "The fee of the licensee shall be agreed upon in advance and stated in the contract. . . . Fees shall be amortized equally each month over the length of the contract and no more than the monthly amortized amount may be applied to charges while the contract is in full force and effect. . . ." ²⁶ There are almost no data available for the Flint area concerning the actual charges levied by the local debt proraters. Discussion with individuals in the debt prorating business indicates that the charges are set on the basis of what the prorater believes the public will pay. The only evidence available on charges is one case in which a wage earner was charged \$50 for the prorating of \$105 over a four month period (see Appendix B).

Misleading advertising is forbidden. According to the Act, a debt prorater shall not:

Advertise his services, display, distribute, broadcast or televise . . . his services in any manner whatsoever wherein any false, misleading or deceptive statement or representation [shall be made] with regard to the services to be performed by the licensee [debt prorater] or the charges to be made therefore.²⁷

Regulation

Investigation indicates an almost complete lack of regulation of debt prorating in Michigan. The Michigan Corporation and

²⁵Northrup, Personal Finance Law Quarterly Report, p. 86.

²⁶Michigan, 17 Michigan Statutes Annotated (1962), sec. 23.630 (15) (f).

²⁷Ibid., sec. 23.630(1-18).

Securities Commission is responsible for administering the provisions of the debt prorating act. However, there are no annual reports prepared such as are prepared for the small loan companies. Apparently, the Commission does not know a great deal about the present operations of debt proraters since it was unable to provide any material concerning debt proraters or suggest anyone familiar with the proraters' operations. The Honorable Alex M. Petrovic in reviewing Michigan's experience with its debt prorating law came to the following conclusion:

. . . I was unable to find any encouragement for this type of legislation. If anything, I found a greater problem in that licensing and regulation were interpreted as recognition by the state that the services of the debt adjusters were needed and helpful. I was further informed that enforcement was almost impossible because of the tremendous expense in supervising the fly-by-night, quick buck operators, which this business seems to attract.²⁸

Mr. Barnes, General Counsel of the Michigan Credit Union League says, "Flagrant abuses by many debt adjustment firms have been prevalent in Michigan as elsewhere."²⁹ The effect of the legislation seems to have been limited to the creation of a licensing agency.

Flint Experience with Debt Proraters. -- Even though there is a general lack of regulation and even though there are abuses in Michigan, one is not warranted in concluding that extensive abuses will be found in all areas of the state. The Flint Chamber of Commerce received no complaints and only six inquiries concerning debt proraters during 1963. In 1962, two complaints were received.

²⁸Honorable Alex M. Petrovic, "Debt Adjusters Outlawed in Missouri, Scheming Efforts to Forestall Prohibitory Legislation Are Overcome," Personal Finance Law Quarterly Report, XVII (Fall, 1963), p. 126.

²⁹Sidney C. Barnes, "Michigan Credit Union League Sets Up Non-Profit Debt Counseling and Pro-Rate Service," Personal Finance Law Quarterly Report, XVII (Fall, 1963), p. 128.

However, they involved misunderstandings between the prorater and the wage earner rather than malpractice on the part of the prorater. Discussions with various civic leaders indicated an awareness of debt prorating in Flint, but they were not aware of many abuses.

Nationally, there are many abuses in the use of advertising media by debt prorating companies.³⁰ Often, misleading advertisements will influence the wage earner to think that the debt prorater can stop garnishments and repossessions. The debt prorater has no more power to do this than has the wage earner. What constitutes misleading and/or false advertising is difficult to determine. An example of an advertisement appearing in The Flint Journal will indicate the type of advertising done in this area (Fig. 1-1).³¹

MONEY PROBLEMS?--

ONE SIMPLE, easy weekly payment
pays all your bills and overdue debts.

NOT A LOAN!

IF YOU OWE PAY AS LOW AS

\$750-----\$10 per week

\$1,500-----\$17 per week

\$2,500-----\$25 per week

NO SECURITY OR ENDORSERS

CONSOLIDATE and arrange to pay all
your bills, past due or not with one
easy weekly payment. Stop garnish-
ments, repossessions and lawsuits.
Save worry and your credit standing.

Fig. 1-1. Sample Debt Prorating Advertisement.

³⁰Gorman, Personal Finance Law Quarterly Report, p. 130.

³¹The Flint Journal, December 9, 1963, p. 24.

The reader may decide whether or not this advertisement is mid-leading.

Bankrupts' Experience with Debt Proraters. --All bankrupts who were interviewed were asked, "Have you used a debt pooler, debt adjustor, or budgeting service?" Of the 84 interviewed, only eight had used the services of the prorater. Many of those who had not used the service expressed surprise that they would be asked such a question. A frequent reply to the question was, "Why should I pay someone else to pay my debts?" Most bankrupts seemed to be aware of the true nature of the service and thought that it was too expensive. None of the bankrupts who had used the service was satisfied. However, this should not be considered a blanket indictment of the prorater. Quite often the debtor fails to keep his payments current to the prorater, payments that the debtor thought he could make. The important point for analysis of bankruptcy is that not many bankrupts have used the services of debt proraters.

Instalment Orders

A wage earner debtor can easily obtain protection from garnishment by asking the court to allow him to pay a set amount each week on the judgment. The court will set the amount to be paid and issue an injunction preventing the judgment holder from garnisheeing the debtor's wages.³² However, once a garnishment suit has been started, the debtor cannot avoid garnishment through an instalment order. In the Municipal Court of Flint, all that the debtor must do to obtain an instalment order is go to the Clerk of the Court and request it.³³ An attorney is not required and there is no charge.

³²Michigan, 23 Michigan Statutes Annotated (1962), sec. 27A.6201.

³³The following discussion of instalment orders is based on information obtained from Goldie Irwin, Deputy Municipal Court Clerk, Flint, Michigan.

Instalment orders may be obtained easily, but flexibility of the order is limited. The amount to be paid is based on a pre-determined schedule rather than on the needs of each debtor.

Payments are determined according to the following schedule:

<u>Amount of Payment Per Week</u>	<u>Amount of Judgment</u>
\$ 5.00	Less than \$250
\$ 7.50	\$250 - \$375
\$10.00	\$376 - \$500
As determined by judge	More than \$500

Notice that when an instalment order is requested on a judgment of more than \$500 the judge will set the payments. Requests for instalments on judgments of less than \$500 may be taken before a judge if the judge thinks the circumstances warrant special consideration.

There is no time limit on the instalment order. The life span of an instalment order is a function of the amount of the weekly payments and the size of the judgment. If an individual fails to keep up his payments the order will be stopped and the creditor can begin garnishment. During the first eleven months of 1963 a debtor was allowed to reinstate the order three times following failure to pay. However, in December due to a policy change there was no limit on the number of reinstatements.

A count of the number of instalment orders in October of 1963 indicates that 201 were allowed. This month was chosen as a representative sample for the year on the recommendation of the court clerk. Projection to an annual basis indicates that approximately 2,400 instalment orders were used in 1963. Unfortunately, data are not available on the number of judgments; therefore, it is difficult to determine the significance of the use of instalment orders.

State Receivership

Any wage earner living in or working in Genesee County may seek assistance and protection through receivership from the Flint Municipal Court. The statute provides that:

Any person employed by any person, firm or corporation, who is or may be working for wages or for a salary for others, including those paid on a commission basis, who are paid through any combination of the above, who has debts which he is unable to pay, may file a full and complete list of such creditors with the clerk of the court, . . . and upon making an assignment of all his future wages to the clerk of said court to continue during the pendency of the proceedings as hereinafter set forth, shall be entitled to have a notice served upon each of said creditors, . . . such notice to act as an immediate stay of proceedings by every creditor so served as against the wages, salary or commission so assigned.³⁴

Application Procedure

The debtor does not have to be represented by an attorney in petitioning for receivership in the Municipal Court. However, in all probability the debtor will have to have the petition prepared by an attorney. A debtor can usually get the petition prepared for \$15 or less. The petition is presented to the Court, by the petitioner, under oath and under the penalties of perjury. It must contain the following:

1. List of all creditors.
2. Whether or not the petitioner is married.
3. Name, age, and relationship of each person depending on him for support.
4. Name and address of each creditor:
 - a. The amount of the indebtedness and nature of the claim.
 - b. Whether or not the claim is disputed by either party as to amount.

³⁴Michigan, 22 Michigan Statutes Annotated (1962), sec. 27A.5301.

c. If disputed, the amount of claim by the creditor and the amount of the claim by the debtor.³⁵

In addition to the legal fees, there is a fifty cent filing fee and a fifty cent charge for every creditor listed on the petition.³⁶ The charge per named creditor is an annual charge. Each year there is a fifty cent charge for each creditor listed and not paid in full.³⁷

Payments

There is little flexibility in the receivership plan. Noticeably missing from the above mentioned information required on the petition is a budget for the debtor. He is not required to think through his financial problem and work out a feasible plan of repayment. Instead, he must submit himself to a common plan set up by the court. There are only two variations of the plan, one for the family man and one for the single man. The man having a family retains 60 per cent, but not less than \$15, of his weekly take-home pay, that is, pay after all employer deductions such as income tax withholdings, social security, credit union payments and similar items. In addition, he gets \$2 per week for each dependent except his wife. If there is no family to support, he retains 40 per cent of his weekly take-home pay, but not less than \$10.³⁸

The financial impact of receivership may be briefly illustrated by looking at a family having three dependent children. If the husband receives a take-home pay of \$110 the family will retain \$72. The 60

³⁵Ibid., sec. 5305.

³⁶Ibid., sec. 5371.

³⁷Ibid.

³⁸Ibid., sec. 5311.

per cent exemption provides \$66 and the exemption of \$2 per child provides an additional \$6 making a total of \$72.

Of 172 bankrupts examined by Referee Bobier in the fall of 1963, 28 had been in receivership in the Municipal Court. All those bankrupts interviewed who were asked why they had failed to pay their debts while in receivership replied that they did not have enough to live on after paying the court. Also, there is no provision for emergencies. The debtor's employer sends the debtor's check to the court clerk who deducts the court's portion. If the debtor, let us assume, has unusual medical expenses and needs more than the allowed amount he cannot get the needed money unless he is willing to ask the court to drop the plan. In that case he would get his entire check. However, he also loses any protection from his creditors. Unless the debtor asks to withdraw from the plan, due to an emergency or for any other reason, the plan will continue until all debts are paid.³⁹ There is no time limit.

Protection

Receivership protects the debtor against garnishment of his wages.⁴⁰ Creditors are free to take any other action which is not in violation of any of the laws pertaining to the normal creditor-debtor relationship.⁴¹ For example, a secured creditor could not garnishee the debtor's wages, but could repossess the security while the debtor was in receivership.

The receivership plan will cover only those obligations existing at time of initiation of the plan. Any debts incurred after filing

³⁹Ibid., sec. 5345.

⁴⁰Ibid., sec. 5341.

⁴¹Ibid., sec. 5331.

Petition for receivership cannot be brought into the plan. As will be seen in the following section, a debtor in Chapter XIII does not have this problem. A court injunction prevents him from even incurring the debts.

Chapter XIII

For the individual with a genuine desire to pay all or part of his debts, there is an alternative in addition to those previously discussed. Anyone who is a wage earner may file a petition under Chapter XIII of the Bankruptcy Act.⁴² Chapter XIII, commonly called the wage earner plan, was introduced in 1938 by the Chandler Act as an amendment to the Bankruptcy Act to be administered by the referees in bankruptcy of the federal court system and in many respects is similar to a receivership.

Chapter XIII provides two forms of debtor relief, namely extension of debts and composition of debts. Extension occurs where the debtor in his plan of payment liquidates his debts in full. Composition occurs when the debtor proposes in his plan to pay his creditors in part.⁴³

Chapter XIII is a voluntary action by an individual desiring to pay his debts rather than to discharge them under the Bankruptcy Act. Creditors cannot force a debtor into this form of debtor relief. Until 1959 there was an income limitation that restricted Chapter XIII to those individuals with an income of not more than \$5,000. However,

⁴²Harold H. Bobier, "How to File a Wage Earner Case Under Chapter XIII of the Bankruptcy Act," United States District Court in the Eastern District of Michigan, Northern Division in Bankruptcy, 1963, p. 2. (Mimeographed.)

⁴³Ibid., p. 1.

in 1959, the Bankruptcy Act was amended so that all individuals whose principal income is derived from wages, salary or commissions could petition for Chapter XIII.⁴⁴ In the Flint bankruptcy court an individual may go into an extension but not a composition, in less than six years after bankruptcy.⁴⁵ Some courts require a six year waiting period.⁴⁶ Also, in the Flint court composition acts as a bar to filing of a bankruptcy petition within six years of filing a composition.

Before beginning a discussion of the operation of Chapter XIII it may be worth-while to consider the combinations in which Chapter XIII and bankruptcy may be used within the six year limitation. An individual in financial difficulty may go into extension and, upon failing to keep up his payments, may switch to bankruptcy and discharge the remaining debts upon approval by the court, or he may start with bankruptcy and discharge his debts and then after getting into more financial difficulty may come back to court for protection under extension until he can pay the debts.

Preparation of a Budget

Of all of the alternatives available to an individual seeking financial rehabilitation Chapter XIII provides for the most adequate financial planning. To enter into Chapter XIII the individual, with the assistance of his attorney, must prepare a cash budget, that is, he must estimate his living expenses and subtract them from his

⁴⁴U. S., Bankruptcy Act, sec. 606 (8); 11 U. S. C. sec. 1006-1007.

⁴⁵Bobier, p. 2.

⁴⁶Ibid.

projected income.⁴⁷ The remainder, if any, is the amount available for paying the creditors, attorney fees and court costs. If this amount is enough to pay the creditors and cover the expenses involved within a three-year period, an extension under Chapter XIII is feasible; otherwise a composition may be possible. A composition provides for a partial payment over an extended period of time.⁴⁸ If neither of the above provide an adequate solution, the individual may turn to bankruptcy.

In addition to the cash budget the individual must prepare the ordinary bankruptcy schedules and a statement of affairs.⁴⁹ The three documents, along with a petition for Chapter XIII, are then submitted to the federal court clerk in triplicate, along with a \$15 filing fee. The purpose of requiring the bankruptcy schedules and the statement of affairs is to have the full information before the court if bankruptcy later ensues.⁵⁰

Successful Chapter XIII Proceedings

For Chapter XIII to be successful, "Probably the most essential factor is the need for a referee dedicated to the concept of rehabilitation of debtors."⁵¹ The mere existence of Chapter XIII is not enough to ensure its availability to the individual. The attorneys must understand the operation of Chapter XIII and must make the individual aware

⁴⁷Wesley E. Brown, "A Primer On Wage-Earner Plans Under Chapter XIII of the Bankruptcy Act," The Business Lawyer, XVII (April, 1962), p. 684.

⁴⁸Bobier, p. 2.

⁴⁹Ibid., p. 1.

⁵⁰Ibid., p. 4.

⁵¹Reginald W. McDuffe, "Wage Earner (Chapter XIII) Proceedings in the Bankruptcy Court," The Business Lawyer, XVII (April, 1962), p. 679.

of its advantages and disadvantages; otherwise, the individual may never have the choice of apying debts rather than discharging them. There is a surprising lack of knowledge about Chapter XIII among attorneys. This may be explained in part by the fact that few law schools offer courses in bankruptcy and that it has seldom been the topic of Bar Seminars.⁵²

There is an extreme concentration of Chapter XIII proceedings in certain districts of the federal court system. In 1963, 73 per cent of all such proceedings were in five of the fifty states. Such concentration may be due largely to the efforts of referees in the various districts. Flint provides an excellent example of the results which may be obtained by a referee desiring to establish Chapter XIII as an alternative available to individuals. Until the last year, Flint was primarily a bankruptcy city. Few Chapter XIII plans were filed. However, during the last year there has been a substantial increase in the number of these plans filed, with approximately 175 confirmed plans at present. This is the result of an intensive educational program of speeches, special meetings, and printed material, instigated by Referee Bobier. This is combined with urging the attorneys to discuss Chapter XIII with each individual before petitioning for bankruptcy. In some cases where it has not been discussed with the individual petitioning in bankruptcy, the examination has been adjourned so that the attorney can explain Chapter XIII to the individual and petition to convert the proceedings to Chapter XIII if the individual so desires.

The following excerpt from a bankruptcy hearing clearly illustrates Referee Bobier's attitude toward Chapter XIII:

⁵²Harold H. Bobier, "Chapter XIII, Mecca or Mirage," The Detroit Lawyer, XXXII (February, 1964), p. 26.

The Court: Does this plan [extension in Chapter XIII] sound to you like something you would like to investigate with your attorney?

Answer: Yes, it would.

The Court: . . . one of the most valuable aspects of it to you personally is that you do preserve the right to go into bankruptcy, you see, at a later time, if you have a financial calamity. You probably couldn't buy insurance for the amount of the debts here that would insure you against financial calamity for six years. The premium would cost too much. And you might have a real tragedy where you owe fifteen or twenty thousand dollars. . . . Of course the biggest beneficiary of Chapter XIII is yourself because you preserve your own personal integrity. If you want to look the possibility over with your attorney, I'll adjourn this matter for a week.⁵³

Attorney Support. --Attorneys often criticize Chapter XIII as being too involved and complex. One can only speculate as to how much of this criticism is the result of a lack of full understanding of the proceedings. An interesting conversation with a Flint attorney revealed that until recently he had considered Chapter XIII too time consuming. However, after going through a few such proceedings he found that they involved little if any more work than bankruptcy proceedings.⁵⁴ Obviously, if an attorney does not understand the Chapter XIII proceedings, he will not give the proceedings the support he would otherwise give. This underscores the need for education in this area of the law.

Creditor Acceptance. --Creditors are classified as unsecured or secured. A majority of the unsecured creditors both in numbers and amount of debt who have filed provable claims which have been

⁵³Transcript of proceedings in Re, Docket NO. BK-63-247-1, U. S. District Court, Northern Division, in Bankruptcy, Bay City, Michigan.

⁵⁴Interview with Douglas, H. P. Hall, Attorney, Flint, Michigan, November 27, 1963.

allowed must accept for the plan to be approved.⁵⁵ All secured creditors whose rights are affected by the plan must consent.⁵⁶ There is little difficulty in obtaining the cooperation of unsecured creditors since the individual who fails to obtain approval for a Chapter XIII plan usually petitions for bankruptcy and discharges his debts. From the unsecured creditor's viewpoint it is a choice between meager payments over a period of time or a bad debt write-off.

The debtor can deal with the secured creditor outside the plan and pay the debt according to the terms of the original contract.⁵⁷ In this case, consent of the secured creditor is not required since his rights are not affected by the plan. The debtor has the right to reject the contract and let a secured creditor come in and plan as an unsecured creditor for the amount of the deficiency resulting from sale of the chattel.⁵⁸ Secured creditors are in a strong bargaining position if the security held is essential to the debtor's livelihood.⁵⁹ If the debtor loses the property, he has no way of replacing it. His future wages are under control of the court and he is under a court injunction not to buy anything on credit.⁶⁰ Therefore, if he needs the

⁵⁵U. S. Bankruptcy Act, sec. 651, 652. Bobier, "How to File a Wage-Earner Case Under Chapter XIII of the Bankruptcy Act," p. 3.

⁵⁶Ibid.

⁵⁷Ibid.

⁵⁸Ibid.

⁵⁹Brown, p. 691.

⁶⁰Paragraph No. 14 of Standard Order Confirming Plan for Wage Earner Under Chapter XIII of Bankruptcy Act in U. S. District Court, Eastern District, Northern Division, 1963.

property, he must arrange payments which are satisfactory to the secured creditor, if the plan is to succeed. As an inducement to get the secured creditor to consent to the plan, the debtor can provide for the secured creditors to be paid before the unsecured creditors.⁶¹

Employer Acceptance. -- Payments to the trustee may be made by the debtor, or the employer may pay all or part of the debtor's check to the trustee. The court prefers that the employer forward either the debtor's check or the payments due to the plan to the trustee and may order the employer to do so. However, the effectiveness of the power is limited by the employer's power to discharge the debtor.⁶² Most employers are cooperative and will agree to forward the pay check to the trustee who then splits the check. The portion to be contributed to the plan is retained and the remainder is given to the debtor. If the employer is not favorable to the plan, the court can order the debtor to pay so much of each pay check to the trustee or issue an injunction requiring that the debtor's pay check must be cashed by the trustee and no one else.

The trustee cashes the check and pays the remainder, after deducting the portion due to the plan, to the debtor. The amount contributed to the plan is normally a set percentage of the check so that if the size of the check varies over time the plan will not have to be amended.

Operation of the Plan

After the plan is approved by the court, a trustee is appointed. He receives and distributes to the creditors all money to be paid

⁶¹Bobier, "How to File a Wage Earner Case Under Chapter XIII of the Bankruptcy Act, " p. 3.

⁶²Ibid., p. 6.

into the plan by the debtor.⁶³ In the Flint court one trustee is appointed for all Chapter XIII proceedings. This insures uniformity of the proceedings and provides economies resulting from processing a large volume of plans. Note that the trustee is an administrator of the plan, not a collection agent. Chapter XIII is strictly voluntary and, if the debtor does not make the agreed payments, the trustee files a Petition to Dismiss the plan.⁶⁴ If the debtor resumes payments before the hearing or requests that time be extended, the plan will be continued. The petition for dismissal will be denied if he keeps up the payments.⁶⁵

During the life of the plan the debtor is protected from all creditor actions. However, "Secured creditors can petition the Court to reclaim their security if they have not waived it or agreed to other arrangements in the Plan."⁶⁶ The protection provided from garnishment is a very important aspect of Chapter XIII. A creditor cannot successfully garnishee the debtor's wages while a Chapter XIII plan is in operation. With the protection provided by the court the debtor must accept some restrictions. He cannot assign his future wages to anyone.⁶⁷ Also, in the Order Confirming Plan issued by the referee, it is ordered that:

Said debtor is hereby restrained and ordered not to incur any debts or obligations, secured or unsecured, during the consummation of the Plan and these proceedings in any amount in excess of ten (\$10) Dollars and that he shall not

⁶³Ibid.

⁶⁴Brown, p. 738.

⁶⁵Ibid., p. 687.

⁶⁶Bobier, "How to File a Wage Earner Case Under Chapter XIII of the Bankruptcy Act," p. 6.

⁶⁷Ibid.

permit or become liable for any debt by or through his order and direction in any amount is [sic] excess of said sum, except it be upon proper application to this Court for that purpose. . . .⁶⁸

Cost and Distribution of Funds

In Chapter XIII the debtor pays his attorney fees plus all of the costs involved in bringing the proceeding to its completion, such as Court and trustee expenses; whereas, in bankruptcy the debtor pays his attorney and the court pays the remaining costs unless there are funds resulting from liquidation of the bankrupt's assets which may be applied to the costs. The costs of Chapter XIII are as follows:

1. A fifteen dollar filing fee.
2. Referee's Expense Fund charge of fifteen dollars unless the liability is less than \$200, in which case the charge is ten dollars.
3. A charge of eight per cent of the payments made by or for the debtor; Three per cent is for expenses and five per cent is the trustee's compensation for the service he provides.
4. A court system charge of one per cent of the payments by or for the debtor.
5. An attorney's fee of not less than \$150 or more than \$250.⁶⁹

Normally the \$15 filing fee is paid at the time of filing, but it may be paid by the trustee, as are all of the other charges, from payments made into the plan by the debtor.⁷⁰

Six months after the date of the first meeting for examination of the debtor, by the referee and any interested creditors, the trustee

⁶⁸Paragraph No. 14 Standard Order Confirming Plan.

⁶⁹Ibid.

⁷⁰Ibid.

may begin to make distributions of the accumulated funds. This waiting period is required in the Flint Court, because only those creditors who file claims may participate in the distribution of funds and they are allowed six months for filing claims.⁷¹ Before distribution to creditors begins, all of the expenses discussed above must be paid. Note that this includes the attorney fee. Next, the debts due creditors who have priority are paid. These usually are taxes and/or wages.⁷² After these initial payments the remaining creditors are paid. A disbursement will be made to creditors having claims filed and allowed whenever a pro-rate dividend of ten per cent can be made from the accumulated funds.⁷³ However, if the balance of any claim is less than ten dollars it may be paid in full.⁷⁴

Flexibility of Chapter XIII

Chapter XIII provides the debtor with a tool for paying his creditors which is very flexible. He can mold it to fit his circumstances and then modify it as his circumstances change. If, during the established payment period, the debtor's income drastically changes either for the better or worse he can have the court adjust the payment schedule to fit his needs.⁷⁵ If the debtor has faithfully performed his obligations and has not entirely paid his debts at the end of the three-year period, the time period can be extended, or

⁷¹Bobier, "How to File a Wage Earner Case Under Chapter XIII of the Bankruptcy Act," p. 7.

⁷²U. S., Bankruptcy Act, sec. 64.; 11 U.S.C. sec. 104.

⁷³Bobier, "How to File a Wage Earner Case Under Chapter XIII of the Bankruptcy Act," p. 7.

⁷⁴Paragraph No. 14, Standard Order Confirming Plan.

⁷⁵Bobier, "How to File a Wage Earner Case Under Chapter XIII of the Bankruptcy Act," p. 1.

he may petition to have the remainder of the debts discharged.⁷⁶

The debtor may also default, thereby letting the trustee seek dismissal of the plan, and obtain a discharge in bankruptcy.

Bankruptcy

If the debtor cannot be rehabilitated by the use of debt poolers, instalment orders, state receivership or Chapter XIII, he can seek relief in bankruptcy. Whereas, the purpose of the remedies discussed above was to enable the debtor to pay his creditors,⁷⁷ the purpose of bankruptcy is to discharge the debts. Bankruptcy proceedings are provided for by Chapters I through VII of the Bankruptcy Act. They seek the liquidation and distribution of the bankrupt's assets to his creditors, and are initiated by the filing of a voluntary petition by the debtor. Any wage earner may file a voluntary petition in bankruptcy.⁷⁸ Protection provided by the Bankruptcy Act may be obtained easily and quickly. Briefly, all that the debtor must do to obtain such protection is have an attorney fill out the prescribed forms and file them with the Clerk of the Federal Court of proper venue. Once the petition is filed no further action may be taken by the creditors until the petitioner has been discharged or denied discharge by the referee in bankruptcy.

Upon receipt of the petition, in triplicate, the Federal Court Clerk will record it and forward two copies to the Chief Clerk in Bankruptcy. The Chief Clerk in Bankruptcy will then schedule a first meeting of creditors for the examination of the bankrupt by the referee and those creditors desiring to do so. All creditors will be

⁷⁶Ibid., pp. 1-2.

⁷⁷In some wage earner plans part of the creditors are paid while the remainder are discharged.

⁷⁸U. S., Bankruptcy Act, sec. 4; 11 U. S. C. sec. 22.

notified of the meeting. At this meeting a trustee will usually be appointed. The debtor will meet with the trustee at a later date for further examination to determine what assets are available for distribution to the creditors. After the creditors are given proper time to prove their claims and make objections to discharge of the debtor's liabilities, the referee will discharge the debtor from all dischargeable debts and close the case. Even though the proceedings are complex, note that the debtor in most cases has only to see his attorney, make a short appearance in court, and in some cases, appear before a trustee in order to relieve himself of his debts. Due to the complexity of the bankruptcy proceeding, consideration of the various aspects of bankruptcy is needed.

Petitioning for Bankruptcy

A debtor petitioning for bankruptcy must prepare and file a debtor's petition and a statement of affairs.

Debtor's Petition. -- The debtor's petition contains a listing of all the debtor's creditors and a listing of all his property on schedules A and B respectively. The petition contains the following statement pertaining to creditors:

The schedule hereto annexed, marked Schedule A, and verified by your petitioner's oath, contains a full and true statement of all his debts, and, so far as it is possible to ascertain, the names and places of residence of his creditors, and such further statements concerning said debts as are required by the provision of said Act.

It should be added that even those creditors whose claims are disputed, contingent, or doubtful should be listed. In the Flint Court of the Sixth Circuit the bankrupt is always reminded during the examination that he is under oath and then asked if he has listed all of his creditors. Thus, there is great emphasis put on having a

complete and accurate petition. Students of bankruptcy have often pointed out that the bankrupt frequently feels favorable toward a particular creditor and does not want to discharge his debt to this creditor. To avoid discharging the debt the petitioner does not list it. Due to the stress placed on having accurate and complete schedules in the Flint Court the failure to list all creditors is most likely an infrequent occurrence rather than a frequent occurrence.

The bankrupt must also make a full disclosure of property owned. Pertaining to property, the petition contains the following statement, "The schedule hereto annexed, marked Schedule B, and verified by your petitioner's oath, contains an accurate inventory of all his property, real and personal, and such further statements concerning said property as are required by the provisions of said Act." In listing his assets the bankrupt must place a dollar value on them. Determining the value of personal property such as clothes, furniture and appliances is difficult. In addition, the bankrupt must indicate which property he claims exempt. The valuation problem will be of interest when considering the exemptions to which the bankrupt is entitled.

Statement of Affairs. -- Accompanying the debtor's petition there must be a statement of affairs. It is attached to the debtor's petition to form the document which is filed. The debtor is required to supply a variety of information. He must provide information about his residence, occupation, income, filing of tax returns, bank accounts and safe deposit boxes, financial records, property held in trust, prior bankruptcy proceedings within the past six years, assignments for benefit of creditors, any legal actions as plaintiff or defendant, loans repaid, transfer of property during the past year and any losses during the last year.

Item 2c of the statement is important to both the bankrupt and the student of bankruptcy. It pertains to occupation and asks, "Have you been in partnership with anyone, or engaged in any business, during the six years immediately preceding the filing of the original petition herein? (If so, give particulars, including names, dates and places.)" If the bankrupt has been engaged in any type of business using a business name different from his own and the business name does not appear on the bankruptcy petition the debts of that business will not be discharged. Therefore, it is important to the bankrupt to disclose this information carefully. This information is of importance to the student of bankruptcy because it indicates which bankruptcies are business involvements. In the Flint Court each petition is carefully examined to see if it is a business involvement. If item 2c indicates that the bankruptcy is a business involvement and the petition is filed as an individual bankruptcy rather than a business bankruptcy, the petitioner is required to file an amended petition indicating that it is being filed as the petitioner doing business as a certain company. Furthermore, if item 2c fails to indicate a business involvement when there actually is one, the referee will usually discover the error during the examination of the debtor and order an amended petition to be filed. No information is available as to what extent other courts pursue the distinction between bankruptcies resulting from business and non-business involvements.

Filing of the Petition. -- With completion of the petition and statement of affairs the debtor may file for bankruptcy. As previously mentioned, the petition is filed with the Clerk of the Federal Court of proper venue. The Court of the district in which the debtor has resided for the preceding six months or for a larger portion of the preceding six months than any other place processes the bankruptcy

proceeding.⁷⁹ A \$50 filing fee is required and must be paid when the petition is filed with the Clerk unless the petitioner requests that he be allowed to pay the fee in instalments.⁸⁰ In most instalment cases, he pays only \$20 at date of filing and pays the remainder in two instalments of \$15 within ninety days. However, this is by the Referee's order and may vary. The usual attorney fee is \$250 or \$253 of which the attorney uses \$50 to pay the filing fee and three dollars to pay the court reporter's fee at the first meeting of creditors. The petitioner usually pays his attorney the \$50 filing fee before the petition is filed and pays the remainder in instalments after the proceedings have commenced. It has been said that the debtor substitutes his large burden of debts for one small debt to his attorney.⁸¹

As stated earlier, relief in bankruptcy can be obtained quickly. The debtor is adjudged a bankrupt when the petition is filed.⁸² From this moment to his discharge in bankruptcy, the adjudication generally insulates the debtor from creditor harassment. Additional protection in the way of creditor restraint, is provided by section 152 of the United States Criminal Code which says;

. . . Whoever knowingly and fraudulently gives, offers, receives or attempts to obtain any money or property, remuneration, compensation, reward, advantage, or other promise thereof, for acting or forbearing to act in any bankruptcy proceeding; . . . shall be fined not more than \$5,000 or imprisoned not more than five years, or both.⁸³

The seriousness of the consequences of applying any kind of pressure to the bankrupt is indicated by the position taken by the consumer

⁷⁹U. S., Bankruptcy Act, sec. 2a (1); 11 U. S. C. sec. 11.

⁸⁰U. S., Bankruptcy Act, sec. 40c (1); U. S. C. sec. 68.

⁸¹Landon L. Chapman, "Bankruptcy is a Blessing," Speech before the Reatil Credit Association of Cook County, Illinois, (March 26, 1963). (Mimeographed.)

⁸²U. D., Bankruptcy Act, sec. 1 (12-13); 11 U. S. C. sec. 1.

⁸³18 U. S. C. sec. 152 (1959).

finance industry. The following comment appears in the National Consumer Finance Association's Bankruptcy Handbook:

. . . Any discussion before discharge with the bankrupt or his attorney in respect to the signing of new loan papers or otherwise is bound to be fraught with danger. For this reason the Operating Instructions for Bankruptcy recommended by the National Consumer Finance Association directs managers to cease at once all collection efforts against the bankrupt on learning of the bankruptcy. Some companies extend this injunction to codebtors dependent on the bankrupt and without independent means of payment. The possibility of over-zealousness on the part of the manager or other representative of the finance company and possible misunderstanding or misconstruction, feigned or otherwise, on the part of the bankrupt, normally require this.⁸⁴

Examination of the Bankrupt. -- Prior to the Chandler Act the bankrupt was not forced to appear in court for examination, or if required to appear he was not examined unless the creditors insisted in examining him.⁸⁵ However, the 1938 amendment provided that "the judge or referee shall preside, and . . . shall publicly examine the bankrupt or cause him to be examined, and permit creditors to examine him."⁸⁶ There appears to be wide divergence among referees as to the manner in which the first meeting is conducted. In some instances the referee does not even attend the first meeting.⁸⁷ Since many of the bankrupts are young and are coming into bankruptcy for

⁸⁴Committee on Bankruptcy, Law Forum National Consumer Finance Association, Bankruptcy Handbook for Consumer Finance Company Attorneys (Washington: National Consumer Finance Association, 1954), p. 43.

⁸⁵Estes Snedecor, "The Importance of Referee's Examinations of the Bankrupt," Journal of the National Association of Referees in Bankruptcy, XXXVI (April, 1962), pp. 45-46.

⁸⁶U. S., Bankruptcy Act, sec. 55b; 11 U. S. C. sec. 91.

⁸⁷Snedecor, p. 46.

the first time, "The impression they gain from the conduct of the court and the thoroughness of the examination will determine in a large measure their future action with reference to debt involvement."⁸⁸ The examination in the Flint Court is always conducted by Referee Bobier.

The first meeting of creditors begins with the swearing in of the bankrupt by the referee. Counsel for the bankrupt usually begins the examination by asking his client to state his place of residence, followed by questions such as, "Have you carefully read and studied these schedules?" and, "Do they contain a true and complete statement of your assets and liabilities to the best of your knowledge?" After the attorney finishes examining his client, the referee reminds the bankrupt that he is under oath, with penalty of perjury, and asks if all creditors have been listed. In cases where all creditors are not listed an amended schedule is ordered. After other questions pertaining to the schedules and to reasons for the bankrupt getting into financial difficulty, creditors are asked if they would like to examine the bankrupt. Most creditors are not present and those who are usually do not examine the bankrupt. Except in those cases where there are indications of possible violations of the Bankruptcy Act, the examination lasts from five to ten minutes. As many as ten to fifteen bankrupts may be examined in two hours. Unless there is an adjournment asked for by the creditors or bankrupt or requested by the Referee the meeting will be closed.

Appointment of Trustee. --If the Referee thinks that there is any chance of the bankrupt having assets which may be recovered for the creditors he will appoint a trustee before closing the meeting.⁸⁹

⁸⁸Ibid., p. 45.

⁸⁹The creditors have the right to elect a trustee but they normally do not exercise the right. See George J. Hirsch, Bankruptcy (Practicing Law Institute: New York, 1960), p. 28.

Trustees are appointed in approximately 90 per cent of the cases. The trustee will schedule a meeting with the bankrupt which will be held within a few days after the first meeting. At this meeting the trustee will examine the bankrupt's estate to determine what assets are available.⁹⁰ About 65 per cent of the cases are no-asset cases, that is, they have no assets which may be liquidated and distributed to the creditors or used for court expenses.⁹¹ After the trustee liquidates those assets to which he has claim or determines that the bankrupt has no assets, he will file a report with the referee and the case will be closed by the court. The bankrupt is discharged at the time of closing of his proceeding. This takes six months except for no-asset cases which are sometimes closed after three months. In discussion of the bankruptcy proceedings no consideration has been given to what assets the bankrupt may retain and what debts he may discharge. Exemptions and dischargeability of debts will now be considered in that order.

Exemptions of the Bankrupt

Allowance of exemptions to bankrupts which are prescribed by the laws of various states is provided for in the Bankruptcy Act.⁹² Michigan statutes provide for several exemptions, some of which are antiquated and no longer of much significance for the bankrupt. The exemptions are as follows:

1. All family pictures, all arms and accoutrements required by law to be kept by any person, all wearing apparel of

⁹⁰The duties of the trustee are set forth in the U. S., Bankruptcy Act, sec. 47 (1-14).

⁹¹Interview with Esther Esra, Chief Clerk in Bankruptcy, Flint, Michigan, December 4, 1963.

⁹²U. S. Bankruptcy Act sec. 6; 11 U. S. C. sec. 24.

every person or family, and provisions and fuel for comfortable subsistence of each householder and his family for 6 months;

2. All household goods, furniture, utensils, books, and appliances, not exceeding in value \$1,000.00;
3. A seat, pew or slip occupied by the judgment debtor or his family in any house or place of public worship, and all cemeteries, tombs, and rights of burial while in use as repositories of the dead of the judgment debtor's family or kept for burial of himself;
4. To each householder, 10 sheep, 2 cows, 5 swing, 100 hens, 5 roosters and a sufficient quantity of hay and grain, growing or otherwise, for properly keeping such animals and poultry for 6 months;
5. The tools, implements, materials, stock, apparatus, team, vehicle, motor vehicle, horses, harness, or other things to enable a person to carry on the profession, trade, occupation or business in which he is principally engaged, not exceeding in value \$1,000.00;
6. Any moneys or other benefits paid, . . . by any stock or mutual life or health or casualty insurance company, on account of the disability due to injury or sickness of any insured person . . . ;
7. The shares held by any member, being a householder, of any association incorporated under the provisions of Act No. 17 of the Public Acts of 1901, relating to mutual building and loan associations to the amount of \$1,000.00 in such shares, . . . ;
8. A homestead . . . not exceeding in value \$2,500.00;
9. An equity of redemption. . . .⁹³

Of the exemptions only wearing apparel, household goods and tools of trade are of major importance. Few bankrupts have real estate and those who do are purchasing it and have little, if any, equity. Of 482 bankruptcies examined, only 129 were purchasing real estate and only 47 of those had an equity value of over \$500.

⁹³Michigan, 23 Michigan Statutes Annotated sec. 17A.6023.

However, many bankrupts have household goods. As noted above, \$1,000 of these goods can be exempted. Given the present prices of furniture and other household goods, the \$1,000 restriction appears to severely limit the amount of goods that the bankrupt can retain after bankruptcy. However, the statute is not as restrictive as it appears. The limitation is that household goods not exceeding \$1,000 in value may be exempted. Therefore, the amount of goods which may be retained depends to some extent on the method of valuation used. There will be a substantial variation in values based on use value and resale value. Due to the forced sale situation and the imperfections of the resale market for personal property, the resale value may be substantially below the worth of the goods to the bankrupt. Examination of the schedules filed in bankruptcy reveals that exempt property is valued in terms of the dollar amount for which it can be sold. Thus, with the \$1,000 limitation the bankrupt can exempt a large amount of personal property in terms of resale value. Historically, this position is supported by the Michigan judiciary who seem to construe exemption provisions in the statutes very liberally and beneficially for the debtor.⁹⁴

But there is a very practical limitation on the amount of personal property that can be exempted with no obligations attached. It is the lack of much personal property that is not pledged to various financial and retail institutions. If the bankrupt claims as exempt his property on which creditors hold liens, he must pay for it.⁹⁵ The rate of payment is determined through negotiation between the debtor and the creditor. If the bankrupt does not have the ability to pay for the

⁹⁴Fisher v. McIntyre, 66 Michigan 681, 33 N.W. 762 (1887).

⁹⁵Committee on Bankruptcy, Bankruptcy Handbook, pp. 32-33.

goods he must return them. However, he may retain the goods, if exempt, obtained from unsecured creditors and discharge his debts to them. The exemption provisions of Michigan appear to be adequate for most bankrupts, since they allow the bankrupt to retain a thousand dollars worth of household goods at market value, his clothes and an automobile in addition, if it is needed for transportation to and from work. Although the amount of exemptions is important to any one considering bankruptcy as a solution to his problems, the type of debts is also important.

Debts of the Bankrupt

Since all debts are not dischargeable in bankruptcy it is of primary importance that the individual contemplating bankruptcy determine whether or not his principal debts are dischargeable.⁹⁶

Dischargeable Debts. -- A general rule is that debts which are provable are dischargeable except for those particular provable debts cited in section 17 of the Bankruptcy Act as being non-dischargeable.⁹⁷ Briefly stated, provable debts are those owing at the time of filing of the petition in bankruptcy. Provable debts should not be confused with dischargeable debts, for not all debts owing at time of bankruptcy are dischargeable.

Provable debts as stated by the Bankruptcy Act include:

. . . (1) a fixed liability, as evidenced by a judgment or an instrument in writing, absolutely owing at the time of the filing of the petition, . . . whether then payable or not; . . . (2) costs taxable against a bankrupt who was . . . plaintiff in a cause of action which would pass to the trustee and which the trustee

⁹⁶Hirsch, p. 5.

⁹⁷Ibid., pp. 5-6.

declines to prosecute after notice; (3) a claim for taxable costs incurred in good faith by a creditor before, the filing of the petition in an action to recover a probable [sic] debt; (4) an open account, or a contract express or implied; (5) provable debts reduced to judgments; . . . (6) awards of workmen's compensation in case of injury or death from injury; . . . (7) the right to recover damages in any action for negligence instituted prior to and pending at the time of the filing of the petition in bankruptcy; (8) contingent debts and contingent contractual liabilities; or (9) claims for anticipatory breach of contracts, executory in whole or in part, including unexpired leases of real or personal property. . . .⁹⁸

Non-dischargeable Debts. -- There are certain debts of which the debtor cannot be relieved in bankruptcy. Those creditors holding provable debts which the bankrupt cannot discharge participate in the distribution of the bankrupt's assets and can pursue the bankrupt for the unpaid portion of the debt after the bankruptcy proceedings have been closed. The debts that cannot be discharged are as follows:

1. Some taxes, such as are collected as a trustee or fiduciary.
2. Liabilities for obtaining money or property under false pretenses; injuries which are willful and malicious; maintenance or support of family; seduction of an unmarried female; breach of promise of marriage accompanied by seduction; and for criminal conversation.
3. Unscheduled debts.
4. Liabilities for breach of fiduciary responsibility.
5. Wages earned within three months of filing for bankruptcy.
6. Money retained by employer to secure faithful performance by employees.⁹⁹

⁹⁸U. S., Bankruptcy Act, sec. 63 (1-9); 11 U. S. C. sec. 103.

⁹⁹U. S., Bankruptcy Act, sec. 17; 11. U. S. C. sec. 35.

When the creditor, subsequent to bankruptcy, seeks to enforce his claim the bankrupt may plead his discharge as a defense.¹⁰⁰ The creditor can bring suit in a state or federal common law or equity court to determine whether or not his claim against the bankrupt was discharged in bankruptcy.¹⁰¹ The Bankruptcy Act specifies those debts which cannot be discharged¹⁰² through bankruptcy but determination of whether or not a particular debt is non-dischargeable is left to a common law or equity state or federal court.¹⁰³ The absence of determination by the bankruptcy court of whether or not a debt is dischargeable makes it possible for some creditors to harass debtors in the state courts.

One abuse of creditors' superior economic position was recently brought to the attention of the referees in bankruptcy by the Administrative Office. After discharge in bankruptcy the creditor will take the bankrupt to court and sue for judgment on the discharged debt. The bankrupt has the defense of discharge in bankruptcy but he has to obtain the services of an attorney. This may cost approximately \$150. The bankrupt wins the case but the creditor will sue again at a later date in a different court. This forces the bankrupt again to hire an attorney. Two or three of these suits costs more than the debt owed by the bankrupt, so he reaffirms the debt.¹⁰⁴ Thus, the Bankruptcy Act, in this case, has been thwarted. There is no indication of the extent to which such practices prevail, but

¹⁰⁰Hirsch, p. 8.

¹⁰¹James A. MacLachlan, Handbook of the Law of Bankruptcy St. Paul: West Publishing Co., 1956), p. 110.

¹⁰²U. S., Bankruptcy Act, sec. 17; U. S. C. sec. 35.

¹⁰³MacLachlan, p. 110.

¹⁰⁴Administrative Office of the United States Courts, Memorandum to the Court (September 14, 1963).

apparently it is not limited to one or two isolated cases.

If the bankrupt fails to appear for the hearing of a suit, the court will assume that he has waived defense and issue a default judgment. In the Flint Court injunctions are issued enjoining creditors from bringing suits in the state courts on dischargeable debts, if requested by the bankrupt through his attorney. This injunction will also set aside default judgments already given in the state courts. This ruling of the Referee in the Flint Court has not been appealed. It has been used six or eight times during the past year and a half.

Debate as to whether the state courts or the federal court should decide if a debt is actually one of those debts dischargeable in bankruptcy has existed for several years. In the 1934 Local Loan v. Hunt¹⁰⁵ case, Hunt asked the bankruptcy court to enjoin Local Loan from further prosecuting an assignment of wages. The court granted the injunction. However, all courts have not interpreted Local Loan in this manner.¹⁰⁶ Bills have been introduced to provide legislation making it clear that the bankruptcy court has the authority to determine whether or not debts are dischargeable.¹⁰⁷ Currently there is a bill pending before the Senate Judiciary Committee to authorize bankruptcy courts to determine whether or not a provable debt is dischargeable.¹⁰⁸

¹⁰⁵292 U. S. 234, 54S. Ct. 695 (1934).

¹⁰⁶See: footnote 108 infra. See also: MacLachlan, pp. 108-109.

¹⁰⁷Asa S. Herzog, "Bankruptcy Law - Modern Trends," Journal of the National Association of Referees in Bankruptcy, XXXVI, (July, 1962), pp. 87-90.

¹⁰⁸H. R. 1047 and 5772, 88th Cong., 1st Sess. (1963).

Discharge

In addition to being denied discharge from particular debts, the bankrupt may be denied discharge from all of his debts. Section 14c of the Bankruptcy Act sets forth the grounds for denial of discharge from all debts as follows:

The court shall grant the discharge unless satisfied that the bankrupt has (1) committed an offense punishable by imprisonment as provided under title 18, United States Code, section 152 or (2) destroyed, mutilated, falsified, concealed, or failed to keep or preserve books of account or records, from which his financial condition and business transactions might be ascertained, unless the court deems such acts or failure to have been justified under all the circumstances of the case; or (3) while engaged in business as a sole proprietor, partnership, or as an executive of a corporation, obtained for such business money or property on credit or as an extension or renewal of credit by making or publishing or causing to be made or published in any manner whatsoever a materially false statement in writing respecting his financial condition or the financial condition of such partnership or corporation; or (4) at any time subsequent to the first day of the twelve months immediately preceding the filing of the petition in bankruptcy, transferred, removed, destroyed, or concealed, any of his property, with intent to hinder, delay, or defraud his creditors; or (5) in a proceeding under this Act commenced within six years prior to the date of the filing of the petition in bankruptcy had been granted a discharge, or had a composition or an arrangement by way of composition or wage earner's plan by way of composition confirmed under the Act; or (6) in the course of a proceeding under this Act refused to obey any lawful order of, or to answer any material question approved, the court; or (7) has failed to explain satisfactorily any losses of assets or deficiency of assets to meet his liabilities. . . .¹⁰⁹

It is important to note that if the debtor does not violate any of the above provisions the court must adjudge him a bankrupt, and, thus, discharge him from his debts except for those debts designated as non-dischargeable. The referee has no power to deny discharge on

¹⁰⁹Committee on Bankruptcy, Bankruptcy Handbook, p. 42.

the economic grounds that the individual petitioning for bankruptcy should be able to meet his obligations given his income. Future income is not considered in adjudicating an individual a bankrupt.

The wording of item three in the above cited section 14c is important. Notice that it refers to business men only. Prior to 1960 the wording was all inclusive, and individual debtors could be denied discharge of all debts in bankruptcy if they had falsified in writing any information in obtaining credit. The law was amended so as not to provide so severe a penalty. However, as pointed out earlier, an individual can be denied discharge on the particular debt resulting from the giving of false information.

To the extent that creditors can persuade bankrupts to make new promises to pay their discharged debt, the creditors avoid the consequences of the bankruptcy proceeding. It has been reported that in some cases the creditor has visited the bankrupt after bankruptcy with an offer to lend him money to "tide you over the rough period you are having." The bankrupt thinks that the creditor is trying to help him and he mistakenly signs a new note for the latest loan plus the old discharged loan.¹¹⁰ When the bankrupt reaffirms his debt the creditor is placed in a very favorable position. The bankrupt cannot exercise his rights under the Bankruptcy Act for six years after the last adjudication.¹¹¹ Also, most, if not all, of the other creditors have been eliminated through the bankruptcy proceeding. The creditor has the bankrupt all to himself, at least until new creditors appear. However, it should be remembered that the bankrupt still has recourse to instalment orders or receivership in the Municipal Court if the creditor garnishees his wages.

¹¹⁰Wesley Harms, p. 63.

¹¹¹U. S., Bankruptcy Act sec. 14(c)(5). See also: MacLachlan, p. 95.

If after discharge in bankruptcy the bankrupt does not reaffirm his discharged debts there are only three actions available to the creditor. He may bring action against a non-bankrupt codebtor, foreclose a mortgage on exempt property or bring action in a state court on non-dischargeable debts.¹¹² The first two of these actions may induce the bankrupt to reaffirm his debt.

Summary and Conclusions

Examination of the individuals legal environment in the Flint area indicates that of the various legal actions available to the creditor, garnishment is by far the most important to the debtor. However, only ten per cent of the bankrupts had been garnisheed within four months preceeding bankruptcy, but this does not mean that garnishment is not important. Discussion with a random sample of bankrupts revealed that the threat of garnishment was as distressing, in most cases, as the actual garnishment. Nearly all of the bankrupts interviewed indicated that they had been threatened with garnishment within a few weeks before filing for bankruptcy. The fear of garnishment stemmed from the possible loss of entire income, through loss of job, or partial loss of income.

Due to the harshness of the garnishment law, many people conclude that it is a significant contributor to bankruptcy. An apparent correlation between garnishment laws, or lack of them, and the number of bankruptcies in various states tends to indicate that garnishment is a precipitating cause if not a primary cause of bankruptcy. However, bankruptcy is not the only way in which an individual can protect himself from garnishment. In Genesee county, he has

¹¹²Committee on Bankruptcy, Bankruptcy Handbook, p. 13.

several alternatives: Instalment payments, Municipal receivership or extension or composition under Chapter XIII may be used. With such legal protection, garnishment should not be a problem.

However, wage earners do receive garnishments. Thus, they either do not have knowledge of the protective provisions of the law or are unwilling to discipline themselves enough to follow the relatively easy requirements for avoiding garnishment. An important conclusion to be drawn from this review of the wage earners' legal environment is that the role of garnishment in bankruptcy cannot be generalized to the nation. Garnishment must be viewed in context with the law pertaining to that community in which bankruptcy occurs.

Although protection from garnishment is provided by the statutes, little, if any, financial counseling is available. Debt proraters may provide some financial counseling, but the cost is prohibitive. While Municipal receivership and instalment orders are inexpensive, they fail to provide the needed financial planning and counseling. The individual is not forced to think through his financial problem and devise a plan for meeting his obligations. The court simply demands that a certain amount be turned over to it for payment to the creditors. Instead of going through the learning experience of preparing a solution to the problem which he thinks is feasible, he follows another rule.

Financial counseling is almost nonexistent except for that received in Chapter XIII proceedings. Extension or composition provide more financial training than any other legal process available. The debtor must estimate his expenses and income and decide what he can pay, then attempt to follow his plan. During this period no creditor action may be taken and the debtor is forced to live on a cash basis.

If the debtor thinks he cannot pay all of his debts he can ask for a composition. It allows him to pay part of his debt and discharge the

remainder. Chapter XIII, both extension and composition, is not widely used. Most courts have few Chapter XIII proceedings. This may be due to the lack of knowledge on the part of lawyers, referees and the public or the unwillingness of lawyers, referees and debtors to use it. Chapter XIII is not available to the debtor unless both lawyers and referees are willing to use it. It also must have the support of the debtors and their creditors.

If all debtors going into bankruptcy, in Flint, during 1963, had made use of these legal actions it is conceivable that most would not have needed to file for bankruptcy. A complete discharge of debts may be obtained in bankruptcy. A debtor can obtain the benefits of bankruptcy by having a lawyer file a petition in bankruptcy on his behalf. As mentioned earlier, 75 per cent of the bankrupts interviewed indicated that garnishment or threat of garnishment caused them to file for bankruptcy. Assuming that this is their true reason for filing for bankruptcy, many of the bankruptcies could have been avoided. Even if it is assumed that garnishment was not the problem and it really was financial strain, the debtors with less severe strains could have used receivership in the Municipal Court or extension under Chapter XIII. Those debtors with more severe strain could have used the composition plan under Chapter XIII, leaving only a few debtors having to resort to bankruptcy. Apparently a great deal of bankruptcy results from the debtor's lack of knowledge of possible alternatives or lack of the desire to pay his debts.

CHAPTER III

PERSONAL AND ECONOMIC CHARACTERISTICS OF THE BANKRUPT

Who are the people who seek to discharge their debts through the bankruptcy provisions of the Bankruptcy Act? Are they representative of the community in which they live or are they from a particular segment of the population? Are bankrupts the unemployed, the uneducated, the minority groups, the young, the divorced - who are they? To identify the bankrupt, various personal and economic characteristics of the bankrupt and of the community are described and analyzed.

Profile of the Bankrupt

A summary view of the typical bankrupt may be obtained by constructing a table with the averages of his characteristics. As shown in Table 3-1, he is a white male thirty years old who has completed the second year of high school. In addition, he has a family of five which he supports with an income of \$4656 per year earned as a blue collar worker, most likely in a factory. As a picture built on averages it indicates only the central tendencies of the various characteristics and says nothing about their dispersion. Each of the characteristics needs to be considered in greater detail before generalizations are drawn.

Table 3-1. Profile of Bankrupt's Personal and Economic Characteristics^a

Characteristic	Average
Age	30
Sex	Male
Marital status	Married
Size of family	5
Education	Tenth grade
Occupation	Blue collar
Income	\$4,656
Race	White

^a Age, education, size of family and income are median scores while sex, marital status, occupation and race are modal scores.

Sex

Bankruptcy provides the same advantages to both male and female; however, 97 per cent of the filings in Genesee county were male (Table 3-2). This seems to indicate that women seldom become financially distressed to the point where they have to turn to the Act for help. If most bankruptcies represented the financial failure of an individual only such a conclusion might be warranted. Before concluding that bankruptcy is strictly a man's problem consider that 94 per cent of the bankrupts are married (Table 3-3). The data indicate that most of the bankruptcies represent more than the failure of an individual. In 94 of every 100 cases women are involved to varying degrees. It may be that single women have less financial difficulty, but due to the small number of cases, the category of unmarrieds was

Table 3-2. Bankrupt Population and Total Population Over Twenty Years Old by Sex (Percentage distribution of individuals)

Sex	Bankrupt Population	Total Population ^a
Male	97	49
Female.	<u>4</u>	<u>51</u>
All Individuals.	100	100

Source: U. S. Department of Commerce, Bureau of the Census, U. S. Census of Population: 1960. General Population Characteristics, Michigan (Washington: U. S. Government Printing Office), Final Report PC (1) - 24B; the data pertaining to the bankruptcies are based on questionnaires administered by the Referee at the first meeting of creditors.

Sample size: 172

Note: Percentages may not add to totals due to rounding.

^aSince bankruptcy is limited to individuals 21 and over (except in special cases), the population proportions are calculated for people 20 years old and over in the Flint metropolitan area.

Table 3-3. Marital Status of the Bankrupt Population and the Total Male Population (Percentage distribution of individuals)

Marital Status	Bankrupt Population	Total Male Population
Married	94	84
Single	1	10
Divorced.	3	3
Separated	12	1
Widowed	1	3

Source: See Table 3-2.

Sample size: 172

Note: Percentages may not add to totals due to rounding.

not tabulated to show the proportion of single women versus single men. In the case of the married man the financial trouble may well be the result of both husband's and wife's lack of frugality. Most of the family's purchases are usually made by the wife. She does the shopping for groceries, for her self, for the children and, in addition, often buys the husband's clothes. Furthermore, she exercises some influence in many of the big-ticket durable items ranging from stoves to automobiles. With both the husband and wife participating in the process which eventually leads the family to financial failure, the high proportion of men going into bankruptcy should not be surprising.¹ The husband in effect represents the family in bankruptcy.

Data from other geographical areas indicate that men predominate, but probably not to the extent that they do in Genesee county. During 1958, in the Louisville, Kentucky area 84 per cent of the bankrupts were male.² The male also predominated in Maryland from 1958 through 1961 where 78 per cent of the bankruptcies filed were by men.³ Given the geographical dispersion of these data and the lack of indication of the possible variance of the Louisville data, it cannot be fairly concluded that there is a trend toward greater male participation, but it does indicate that men are the primary candidates for bankruptcy.

Marital Status

The marital composition of the bankrupts is significantly different from that of the community. While 94 per cent of the bankrupt

¹Evidently most of the family's affairs are conducted in the husband's name since there was only one case in which both the husband and wife filed for bankruptcy.

²Schaber, p. 27.

³Myers, p. 14.

population is married, only 84 per cent of the community is married⁴ (Table 3-3). The greater incidence of bankruptcy among the married probably is the result of the additional burdens which marriage thrusts upon the individual. As he transcends to married life the need for additional funds arises, but the marriage has no effect on his occupation or his income level. Thus, he is faced with reducing his and his family's standard of living or using more credit in anticipation of higher income. This, in turn, may lead to financial difficulty and eventual insolvency. Another factor is that credit grantors are very cautious about extending credit to single men, especially those 20 to 25 years old. The knowledge among credit grantors that they are a poor credit risk leads to a screening process that may tend to limit the number of single bankrupts.

Marital composition is of interest, but of more importance is the marital condition, since marital difficulties may be a contributing cause of bankruptcy (and are often cited as such). A pending divorce or separation often leads to financial difficulties. There is little coordinated effort to control expenses and in some cases the spouse will incur bills that would not have otherwise been incurred, knowing that the husband will have to settle the account. Some interviewees indicated that they are filing for bankruptcy as a result of marital difficulties. It is not sufficient to point out that a few individuals cited marital difficulties as the problem. A measure to indicate which individuals may have experienced such difficulties is needed.

An approximate indicator might be divorces, pending divorces and separations. Comparing the divorce rate of the bankrupts with

⁴Since the bankrupt population consists of 97 per cent males (Table 3-2), it is compared to the male population 20 years old and over of the community rather than the entire population.

that of the population suggests no problem. The proportion of divorces in the community and in the bankrupt population is three per cent (Table 3-3). The proportion of bankrupts separated is significantly higher than the proportion of the separated groups in the community, 12 per cent versus one per cent. Since a large proportion of the bankrupts are 25 to 34 years old, one age group with a high rate of marital difficulty, the differential between the population and the bankrupts may not be as great as indicated. Also it may be the transition out of married life which causes the great strain that may end in bankruptcy. An alternative explanation would be that inability to handle personal credit causes the marital difficulty. In any case separation may likely come at the period of maximum strain with the divorce occurring at a later date. If this is correct, it would seem reasonable to have a higher separation rate at time of filing for bankruptcy, but a normal divorce rate.

If traumatic experiences such as separation and preparation for divorce are causes of bankruptcy, they should occur reasonably near the bankruptcy filing date, not two or more years before bankruptcy. The time relationship between bankruptcy and marital difficulty is indicated in Table 3-4. Because of the few cases in each category a numerical distribution was used rather than percentage distribution.⁵ There were only two divorces within a year preceding bankruptcy, but there were 12 pending divorces. Also, there were at least 14 separations, six of which were also pending divorces. In addition, there were six other pending divorces. If divorces, pending divorces and separations within a year preceding bankruptcy are considered indicators of marital difficulty which may cause

⁵Note that the numerical distribution is for the subsample of 172 cases filed from September through December. The figures are not indicators of the total of divorces, pending divorces and separations for the year, only for the fall.

Table 3-4. Bankrupts by Number of Years Divorced, Separated or Widowed (Numerical distribution of individuals)

Marital Status	Number in Each Group	Years				
		Divorced, Separated or Widowed				
		N.A.	1	2	3	Over 3
Divorced ^a	10	. .	2	5	1	2
Divorce Pending ^b	12	. .	12
Separated	19	11	8	3	. .	2

Source: See Table 3-2.

Sample size: 172

N.A., not available.

^aIncludes five individuals who were divorced and remarried.

^bSix cases had divorces pending and were also separated; therefore, the total number of cases represented in the categories "Divorce Pending" and "Separated" is 25.

bankruptcy, there are 16, or 9 per cent, of the total cases possibly due to this cause. There are two reasons for interpreting this figure with caution. First, it could vary from 4.5 per cent to 13.5 per cent at the .05 level of confidence. Second, there is no indication of the burden of the debt in these cases.

In addition to the above mentioned marital difficulties, two cases, representing one per cent of all filings, involved the death of the wife leaving the husband a widower (Table 3-3). These cases had large medical debts due to extended illness. Although not marital difficulties in the usual sense these cases were brought in at this point because they are part of the marital composition of the bankrupt population.

Family Size

Given an income level, the financial wellbeing of a family is directly related to its size--the larger the family, the lower its relative income. If the bankrupts and the general population have the same absolute level of income per year, the bankrupts' relative income will be lower if they have larger families. The importance of family size is indicated by the high proportion of families represented in bankruptcy, 94 per cent.

The mean number of people per bankrupt family is 4.9 as opposed to a mean of 3.8 for the community (Table 3-5). Thus, the average bankrupt family has one more person than the others. However, the average does not show the true difference. Note that only eight per cent of the bankrupt families had two members as compared to 30 per cent for the general population. Also, 23 per cent of the bankrupt families had seven or more members while only seven per cent of all families were this large. The nature of the difference in family size is more strikingly illustrated by considering the percentage of families with five or more members. Fifty per cent of the bankrupts had families of five or more while only 29 per cent of all families were this large.

Age

Bankruptcy is apparently the ailment of the young man. His median age is 30 years versus 40 years for the general population (Table 3-6). The extent of the concentration is illustrated in Table 3-7 which shows that 84 per cent of the bankrupts are less than 40 years old whereas only 48 per cent of the general population is less than 40. Notice that the 25-29 and the 30-34 age groups have an extremely large proportion of the bankrupts in relation to the population of these ages (Chart 3-1). Sixty per cent of the bankrupts are of ages 25-34

Table 3-5. Size of Family Being Supported (Percentage distribution of families)

Size of Family ^a	Bankrupt Population	Total Population
Two	8	30
Three	17	20
Four	24	20
Five	19	14
Six	8	8
Seven and over	23	7
All families	100	100

Mean	4.9	3.8

Source: See Table 3-2.

Sample size: 172

Note: Percentages may not add to totals due to rounding.

^aSize of family is defined as the number of people being supported including the bankrupt.

while 25 per cent of the population is in this age group. The relationship between the bankrupt population and the community changes sharply between the 20-24 and 25-29 age groups and between the 30-34 and 35-39 age groups. The proportion of bankrupts of ages 20-24 and 35-39 should be expected by observing the population figures; however, there are significantly fewer bankruptcies over 40 years of age than would be expected.

Why should there be proportionately more young bankrupts and fewer older bankrupts than would be indicated by the population data? The amount of credit used by each age group should be considered. Ideally, the proportion of all consumer credit held by each

Table 3-6. Age of Individuals Filing for Bankruptcy Contrasted with the Male Population (Percentage distribution of individuals)

Age	Bankrupt Population	Male Population
Under 20	0	a
20 - 24	11	10
25 - 29	37	12
30 - 34	23	13
35 - 39	12	13
40 - 44	6	10
45 - 49	5	9
50 and Over	5	32
All individuals	100	100

Median age	30.2	40.0 ^b

Source: See Table 3-2.

Sample size: 172

Note: Percentages may not add to totals due to rounding.

^aSince bankruptcy is limited to individuals 21 and over (except in special cases), the per cent of bankrupts in each age group is compared to the per cent of the population 20 and over in each age group. Of the total population 42 per cent are under 20.

^bThis figure is the median age for the male population 20 and over. The median age for the total male population is 32.6 years.

age group should be compared to the proportion of bankrupts in each age group. Unfortunately, such data are not available. However, the frequency of instalment indebtedness will serve as an indicator of the level of instalment credit purchases and, in turn, of the level of overall credit use. During 1962 a higher proportion of spending units

Table 3-7. Age of Individuals Filing for Bankruptcy Contrasted with the Male Population, Cumulative Distribution (Cumulative Percentage Distribution)

Age	Bankrupt Population	Male Population
Under 20	0	a
Under 25	11	10
Under 30	49	22
Under 35	72	35
Under 40	84	48
Under 45	90	58
Under 50	95	68
All ages	100	100

Source: See Table 3-2.

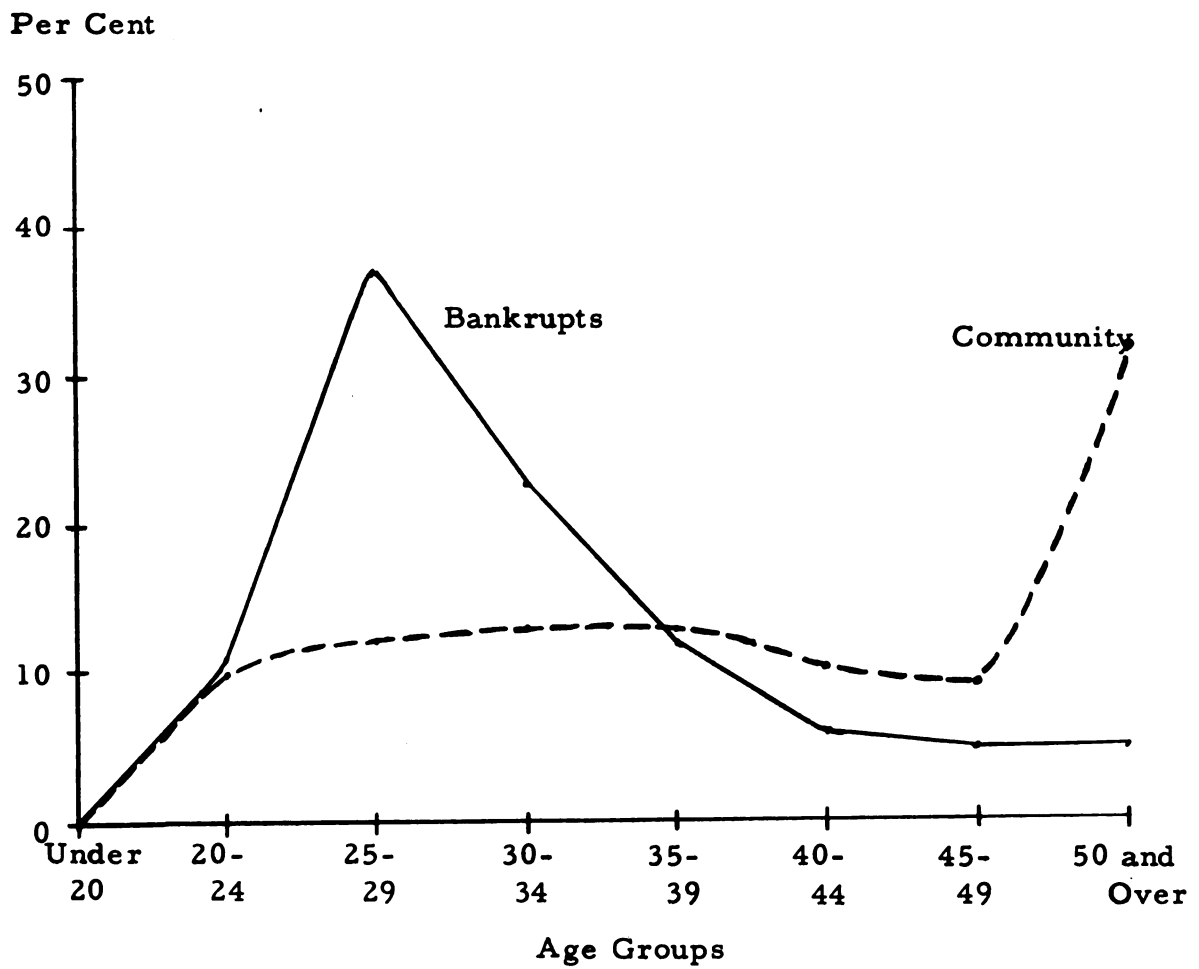
^aSee footnote a, Table 3-6.

under 35 years of age used instalment credit than any other age group. Credit was used by 61 per cent of them.⁶ This is also the age group which had the highest bankruptcy rate. Even though the data do not indicate what the rate of bankruptcy should be for this group, they do show that a higher rate than indicated by the population data is not unreasonable.

The use of more credit by the 25 to 34 age group is explained by marriage and formation of families during this part of the life cycle. The newlyweds are used to enjoying the use of durable items and have a strong desire to continue using them. Often, as children are born, expenses increase while the family income decreases due to the wife's discontinuance of work. Thus, the family finances are subjected to

⁶George Katonga, Charles A. Liniger and Richard F. Kosabud, 1962 Survey of Consumer Finances (Survey Research Center, University of Michigan), p. 69.

Chart 3-1. Age of Individuals Filing for Bankruptcy Contrasted with the Male Population.



Source: See Table 3-2.

strain. The availability of credit provides an easy means of acquiring the desired goods. Under this line of reasoning the bankrupt population 25 to 34 years old will use proportionally more credit than the community which is 25 to 34 years old due to its higher marriage rate and larger families (see Tables 3-3 and 3-5).

Forty-one per cent of the individuals in the nation 45 to 54 years old used instalment credit during 1962. Only 32 per cent of the people 55 to 64 used instalment credit.⁷ As indicated earlier, older people also have fewer bankruptcies than would be expected by observing the population data. As people age and children marry or depart for other reasons, there is less need for the types of goods bought on credit. In addition, their income becomes established and more stable. Another factor is attitude toward the use of credit. According to the 1956 Survey of Consumer Finances, older people had a less favorable attitude toward instalment debt than younger people.⁸ Also, credit grantors are wary of extending credit to older people. Thus, a combination of reduced need for durable goods, an unfavorable attitude toward credit and screening by the credit grantors may explain the observed differences between the proportion of bankruptcies in the older age groups and what is indicated by the population data.

Data from other studies tend to indicate that the average age of individuals filing for bankruptcy is approximately the same in various localities. The Maryland median age, 1958-61, was 34; however, it should be noted that this is based on a sample of 24.⁹ The Louisville

⁷Ibid.

⁸Consumer Instalment Credit Growth and Import, Part I, Volume I (Board of Governors of the Federal Reserve System, 1957), pp. 106-107.

⁹Myers, p. 14.

data based on a sample of 70 in 1958 shows an average age of 32.¹⁰

Race

The racial composition of the petitioners is of interest due to the problems that minority groups often face. Apparently there is a tendency to think that the colored races will be more than proportionally represented. Data developed in this study show that racial minority groups are not overly represented. As shown in Table 3-8, eighteen per cent of the general population is non-white, while only 9 per cent of the general population is non-white. These statistics are computed for all of Genesee county and show that 9 per cent of the population is non-white; however, approximately 90 per cent of the petitioners are from Flint where 18 per cent of the population is non-white.¹¹ Thus the non-white segment of the community probably does not have a more than proportional number of bankruptcies.

Due to the extremely low level of unemployment in Flint for the past two years (see page 12) the non-white group may well have fared better than similar groups in other geographical areas or better than it will over a longer period in Flint. This makes any sweeping generalizations exceedingly precarious and probably unwise. There are no similar data available for other geographical areas.

Mobility

Is the bankrupt the long-time resident of the community or has he recently moved into the community? Data on mobility of the

¹⁰Schaber, p. 26.

¹¹U. S. Department of Commerce, Bureau of the Census, U.S. Census of Population: 1960. General Population Characteristics, Michigan (Washington: U. S. Government Printing Office), Final Report PC (1) - 24B, pp. 155-56.

Table 3-8. Race of Individuals Filing for Bankruptcy Contrasted with the Male Population (Percentage distribution of individuals)

Race	Bankrupt Population	Male Population
White	82	91
Non-white.	18	9
All individuals	100	100

Source: See Table 3-2 .

Sample size: 172

Genesee county bankrupt indicates that he is a permanent resident of long standing. Sixty-five per cent of the petitioners had lived in the city of Flint during the six years preceding filing for bankruptcy (Table 3-9). Ninety-three per cent had not lived outside Michigan. Thus, the bankrupt in Genesee county is not the worker migrating from the south to the industrialized community looking for work.

Although a resident of the community for several years, the bankrupt tends to move frequently. As shown in Table 3-10, seventy-one per cent of the bankrupts had moved two or more times in the six years preceding bankruptcy. Twenty-five per cent, moved four or more times during the same period. Since most bankrupts do not own real estate or a great deal of property it is relatively easy for them to move. Moving may have certain advantages such as making avoidance of the creditors easier.

Education

Given the emphasis being placed on education as a prerequisite for employment by Flint employers, and given the assumption that there is some relationship between lack of adequate employment and

Table 3-9. The Bankrupt's Exclusive Geographic Area of Residence in the Six Years Preceding Bankruptcy (Percentage distribution of individuals)

Area of Residence	Bankrupts
Flint	65
Genesee county	79
Michigan	93
United States	100

Source: Bankruptcy petitions filed in Genesee county, Michigan during 1963.

Table 3-10. Mobility of the Bankrupt in Six Years Preceding Bankruptcy (Cumulative percentage distribution of individuals)

Number of moves	Bankrupts
0 or more	100
1 or more	87
2 or more	71
3 or more	44
4 or more	25
5 or more	11
6 or more	5

Source: See Table 3-9.

rate of bankruptcy, individuals filing for bankruptcy might be expected to have a lower level of education than the general population. Also, many people assume that the level of education determines how well an individual can manage his financial affairs. However, in Genesee county there seems to be little relationship between formal education and bankruptcy. The bankrupt has as much formal education as the average member of the community. In both groups more than 50 per cent have spent ten years or more in school (Table 3-11). The similarity of education is shown in Chart 3-2. The data indicate that more bankrupts have had elementary and early high school training; whereas, the reverse is true for later high school and college, but the level of significance is so low that the evidence is not conclusive for either elementary or college education.

A significant difference does occur at the high school level. Proportionately more bankrupts have attended the first, second and third years of high school than have the general population. There is a drop out between the third and fourth years. Twenty per cent of the bankrupts attended the fourth year compared to 24 per cent of the community (Table 3-11). A difference of four per cent is not statistically significant at the .05 level of confidence, a level often considered a minimum by social scientists; however, the difference is understated, due to a difference in questions asked the two groups. The petitioners were asked to give the highest grade attended whereas the census data indicates the highest grade completed. Therefore, it is possible that there is a significant difference. The higher proportion of bankrupts completing the early years of high school may be a reflection of the general upward trend of education. Since a proportionately larger number of bankrupts are 25 to 34 years old, the bankrupt group would reflect the increase in education more than the general population. The older males probably exert a downward influence on the community educational level.

Table 3-11. Education of Bankrupts and Male Population^b
(Percentage distribution of individuals)

Number of Years	Bankrupt Population	Male Population
<u>Elementary</u>		
None	0	a
1 and 2	a	a
3 and 4	1	3
5 and 6	9	6
7	5	7
8	16	20

<u>High School</u>		
1	14	8
2	18	9
3	13	7
4	20	24

<u>College</u>		
1	1	3
2	a	3
3	1	1
4	a	3
Over 4	0	3
All individuals	100	100
Median	10	10.4

Source: See Table 3-2.

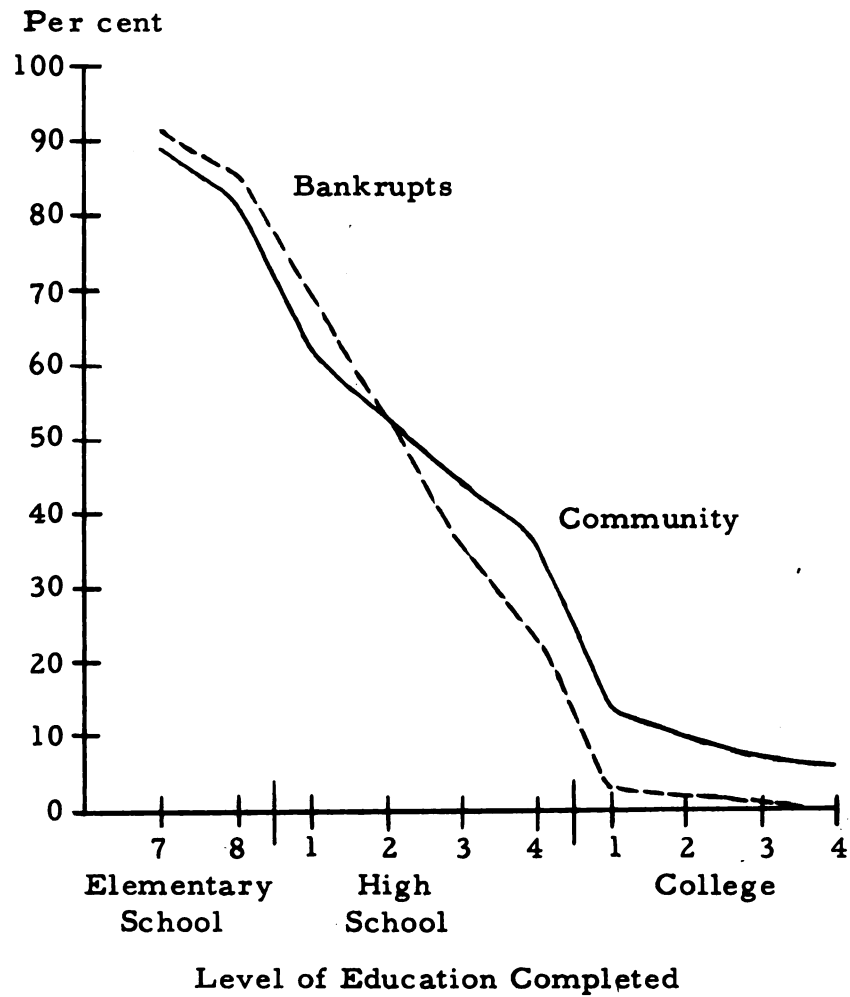
Sample size: 172.

Note: Percentages may not add to totals due to rounding.

^aLess than one per cent.

^bMale population of individuals 25 years old and over was used because the next lower age group, 14 to 24, includes people in school and thus not comparable to the bankruptcy group.

Chart 3-2. Education of Bankrupts and Male Population, Cumulative Distribution.



Source: See Table 3-2.

Occupation

Ninety-four per cent of the bankrupts are blue collar workers compared to 69 per cent of the male population (Table 3-12). Although the differential between the two groups is substantial, it may not be as unreasonable as it appears. Blue collar workers appear to be more frequent users of instalment credit than white collar workers. The Survey of Consumer Finances reported that 59 per cent of the skilled and semiskilled workers used credit whereas 41, 42 and 44 per cent of the managerial, clerical and sales and professional and semiprofessional workers used credit.¹² However, it appears that blue collar workers have a higher bankruptcy rate than their proportional use of credit.

In the Louisville area four per cent of the bankrupts were classified as white collar workers, this is similar to the Flint findings.¹³ However, there is a substantial difference between the midwest and Maryland. In Maryland, apparently 45 per cent of the bankrupts were white collar, based on a sample of 134 cases.¹⁴ This difference between localities may be normal due to a different structure of the work force in each area or it may be a real difference due to some unknown variable.

Income

There are several aspects of income that are of interest in studying bankruptcy. The dollar amount of income is important, but the value of this income is relative to the size of family being supported.

¹²Board of Governors of the Federal Reserve System, p. 113.

¹³Schaber, p. 31.

¹⁴Myers, p. 20.

Table 3-12. Occupation of Bankrupts and Male Population (Percentage distribution of individuals)

Occupation	Bankrupt Population	Male Population
White collar ^a	5	27
Blue collar	94	69
Not available	b	4
All individuals	100	100

Source: See Table 3-2.

Sample size: 172

^aWhite collar workers are defined as professional, managerial (except farm), clerical and sales personnel. All others make up the blue collar category.

^bLess than one per cent.

In addition, any change in income is important since the change may often not be anticipated. This may bring on financial strain if not crisis. Also, income should be related to the periodic payments of debt which it must provide for in addition to current living expenses. Income relative to family size and debt payments will be considered in Chapter V, while the dollar amount of income and changes in income will be discussed in this section.

Total family income is important, but data are available only for the petitioner's income. Income figures to be used are for 1962. The petitions were filed in 1963, but since few of the debts were incurred in 1963, the income figures are relevant. Income data for that portion of 1963 preceding the filing for bankruptcy are not available, but the direction of any change in income that may have occurred is available for both the petitioner and spouse. The difference between

the bankrupt's income and the community income is less than might be expected. Bankrupts had a median income of \$4,656 compared to \$5,078 for the male population (Table 3-13). There was a difference in income significant at the .05 confidence level in the following income categories: none, \$2,000 to \$2,999, \$3,000 to \$3,999, \$7,000 to \$9,999 and \$10,000 and over.¹⁵ About the same proportion of bankrupts and male population were in the \$4,000 to \$6,999 income range.

It is clear that bankruptcy is not limited to the lower income groups. As shown in Chart 3-3, sixty-three per cent of the petitioners had income of \$4,000 or more while 43 per cent had \$5,000 or more. However, 37 per cent have less than \$4,000 (Table 3-13). This group's family finances surely are strained by the lack of income, even if they are frugal.

Although there is considerable variation in income among bankrupts, the income level appears to be fairly stable in most cases. Forty-eight per cent of the petitioners reported no change in income from 1962 until time of bankruptcy in 1963 and 28 per cent had an increase (Table 3-14). Thus, only 24 per cent experienced a decline in income. A better picture of the family's income position can be obtained by also considering the spouse's change in income. Surprisingly few reported a decline, four per cent, while 87 per cent remained the same (Table 3-14). The maximum proportion of families which could have had a decline in income is 28 per cent, the combined decrease of both petitioners and spouses. Probably the proportion of families whose income declined is less than 28 per cent since some families may be represented twice in Table 3-14. Only 21 per cent of the spouses were employed;¹⁶ therefore, no more than 21 per cent of the families could

¹⁵The significance of the data in this table was computed for each item, since the Appendix does not have an applicable table for approximating the significance.

¹⁶A spouse was considered employed if she worked at any time during the year.

Table 3-13. Income Level of Bankrupts and Male Population
(Percentage distribution of individuals)

Income Level	Bankrupt Population	Male Population
None	1	3
Under \$2, 000	10	12
\$2, 000 - \$2, 999	10	7
\$3, 000 - \$3, 999	16	8
\$4, 000 - \$4, 999	20	17
\$5, 000 - \$5, 999	22	20
\$6, 000 - \$6, 999	15	12
\$7, 000 - \$9, 999	5	17
\$10, 000 and over	1	5
All Individuals.	100	100
Median Income	\$4, 656	\$5, 078

Source: See Table 3-2.

Sample size: 482.

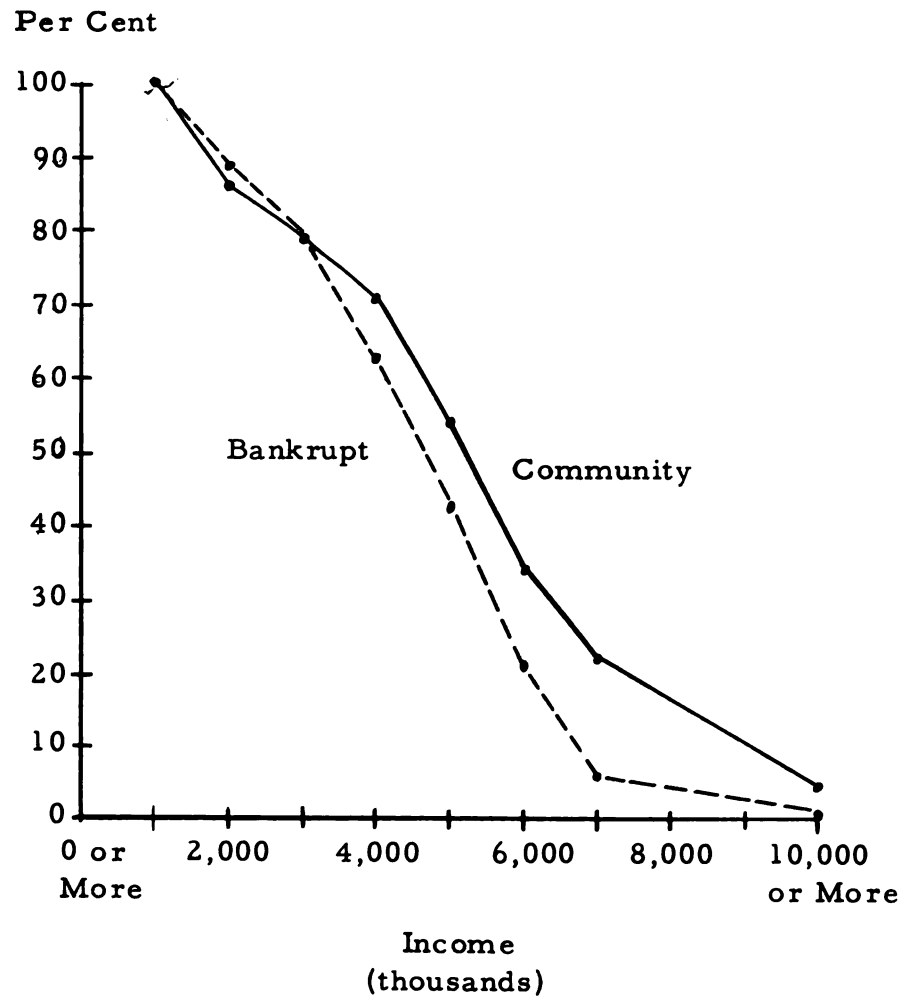
Note: Percentages may not add to totals due to rounding.

have had a decline in income due to a decline in the spouse's income (Table 3-15). The median income of the Genesee county bankrupts is very close to the median income of the Maryland Bankrupts, \$4, 656 and \$4, 752 respectively.¹⁷ Data from the Louisville area study are not comparable since the average used is a mean rather than median. The mean was \$2, 987.61 based on a sample of 173.¹⁸ The data do

¹⁷Myers, p. 21.

¹⁸Schaber, p. 37.

Chart 3-3. Income Level of Individuals Filing for Bankruptcy and Male Population (Cumulative percentage distribution)



Source: See Table 3-2.

Table 3-14. Changes in Earnings of Bankrupt and of Spouse in Year Preceding Bankruptcy (Percentage distribution of individuals)

Change in Earnings	Bankrupt	Spouse
Same	48	87
More	28	9
Less	24	4
All individuals	100	100

Source: See Table 3-2.

Sample size: 172

Table 3-15. Employment Status of Spouse in Year Preceding Bankruptcy (Percentage distribution of individuals)

Employment Status	Spouse
Employed	21
Unemployed	79
All individuals	100

Source: See Table 3-2.

Sample size: 172

not indicate conclusively that there is a significant similarity between the income of petitioners in this study and the Maryland study but the closeness of the medians does suggest a similarity.

Summary and Conclusions

While the individual going into bankruptcy does not represent a cross section of the general population in every detail, he is representative of a large part of contemporary society. Most bankrupts are men, and most bankrupts are also married. This means that women, although not filing for bankruptcy, are involved. They are part of the family which the husband represents in bankruptcy. Families of these individuals filing for bankruptcy tend to have one more member than do families of the community. The divorce rate for bankrupts is the same as that of the community, but the separation rate is somewhat higher. However, considering that most bankrupts are young, the separation rate may be similar to that of the community.

The young are more than proportionally represented in bankruptcy. However, it must be remembered that it is the young who use the most credit. They may not be overly represented in relation to the amount of credit they use, but there is no conclusive evidence. Bankruptcy is proportionately distributed between the white and non-white segments of the population. Although a permanent resident of the community, the bankrupt appears to be fairly mobile. Compared to the community, the bankrupt does not have a deficiency in education. Most bankrupts are manual workers and have an income that is slightly below the average of the community. Individuals filing for bankruptcy appear to be representative of the young married families of the community whose income is earned by the husband as a manual worker, while the wife is occupied as a mother.

CHAPTER IV

FINANCIAL STRUCTURE OF THE BANKRUPT

Now that the bankrupt has been identified, his financial structure will be analyzed. His liabilities will be considered first followed by a discussion of his assets.

Debt Structure

To obtain an overall view of the bankrupt's liabilities a profile will be used. This will be followed by a discussion of the relative importance of various groups of creditors with a detailed analysis of the more important creditors. Next the age of the debt, as of the filing date of the petition in bankruptcy, will be considered.

Debt Profile

The debt profile describes two aspects of the bankrupt's debt. First, it shows his financial condition in terms of the average amount of debt owed to all creditors and the average number of creditors owed (Table 4-1, "All Creditors"). It also shows when the debt was acquired in relation to the filing dates of the bankruptcy petitions. Second, the debt profile shows the nature of the debt, that is, what proportion of the bankrupts owed each type of creditor, the average amount owed to each type of creditor, the average number of each type of creditor owed, the average size of all debts owed to each type of creditor and when the debt was acquired in relation to the filing dates of the bankruptcy petitions (Table 4-1, "Small Loan Licensees, " etc.).

Table 4-1. Debt Profile of the Bankrupt

	Per Cent Owing Each Type of Creditor	Median Amount Owed ^a	Median Number of Creditors Owed ^a	Median Size of Debt Owed Each Creditor ^a	Age in Months			
					1-12	13-24	Over 24	Per Cents
All creditors	100 ^d	\$3,184 ^c	14	b	50	22	28	
Small Loan Licensees	72	452	2	\$348	50	25	25	
Sales Finance Companies . .	55	808	2	437	53	21	26	
Banks	51	858	1	330	59	31	10	
Credit Unions	17	500	1	485	33	13	54	
Medical Services	85	383	4	44	40	20	40	94
Retail	91	347	4	47	45	23	33	
Service Other Than Medical .	74	187	2	57	41	26	33	
Individual Personal Loans . .	28	311	1	255	13	25	62	
Co-signed Notes	12	500	1	389	45	23	32	
Non-debt Judgments	10	500	1	300	53	24	23	

Source: Survey of petitions filed in bankruptcy from Genesee county, Michigan, 1963.

^aAll medians in columns entitled "Amount" and entitled "Number" are computed for the number of individuals owing each type of creditor, while medians in the column entitled "Size" are for the total number of debts in each category.

^bNot computed.

^cThe median does not include real estate debt.

^dThis column is based on a sample of 482.

Looking at the bankrupt's financial condition as summarized in Table 4-1, "All creditors" indicates that the petitioners had a median debt of \$3,184,¹ a median of 14 creditors and had acquired 50 per cent of the debt within 12 months preceding filing for bankruptcy (see also Tables 4-2 and 4-3). As shown in Chart 4-1, ten per cent of the bankrupts had indebtedness of less than \$1,500 while 19 per cent had less than \$2,000 and 47 per cent owed less than \$3,000. Although these figures are interesting, they have little economic meaning unless supplemented by other knowledge. They may or may not represent an oppressive amount of debt. The financial burden is a function of several factors in addition to the amount of debt. Two important factors, income and size of family, will be analyzed in Chapter V to determine the economic impact of various amounts of debt.

Data available on averages from other geographical areas are usually shown as means rather than medians. However, medians are used primarily in this study due to the skewness introduced by a few large items. Therefore, where other data are available means will be computed for comparative use. The mean amount of debt for Flint bankrupts, excluding real estate indebtedness, was \$3,877 or \$693 above the median. In the Wichita area the mean was \$3,582.² If real estate indebtedness is included there are comparative data available for Wichita³ and Nashville⁴ showing means of \$4,716 and \$4,636 respectively as compared to \$4,983 for Flint. Although the evidence is skimpy and not conclusive, it indicates that the amount of debt

¹This is exclusive of real estate debt.

²Harms, p. 33.

³Ibid., p. 32.

⁴Ralph D. Wright, "Consumer Bankruptcy Survey," Commercial Law Journal, LXIII (November, 1963), p. 334. This survey of bankruptcy statistics in the Nashville area is based on a sample of 46 cases.

Table 4-2. Amount of Debt Owed by Individuals Filing for Bankruptcy
(Percentage distribution of bankrupts)

Amount	Bankrupts
Under \$1,000	1
\$1,000-\$1,999	<u>18</u>
\$1,000-\$1,499	9
\$1,500-\$1,999	9
\$2,000-\$2,999	<u>28</u>
\$2,000-\$2,499	16
\$2,500-\$2,999	12
\$3,000-\$4,999	<u>36</u>
\$3,000-\$3,999	20
\$4,000-\$4,999	16
\$5,000-\$6,999	<u>9</u>
\$5,000-\$5,999	6
\$6,000-\$6,999	3
\$7,000-\$8,999	4
\$9,000 and over	<u>4</u>
All bankrupts	<u>100</u>
Median	\$3,184

Source: See Table 4-1.

Sample size: 482

Note: Percentages do not add to total due to rounding.

Table 4-3. Number of Creditors Owed by Individuals Filing for
Bankruptcy (Percentage distribution of all bankrupts)

Number	Bankrupts
Under 10	20
10 - 14	32
15 - 19	21
20 - 29	16
30 - 39	6
40 and over.	<u>4</u>
All bankrupts	<u>100</u>
Median	14

Source: See Table 4-1.

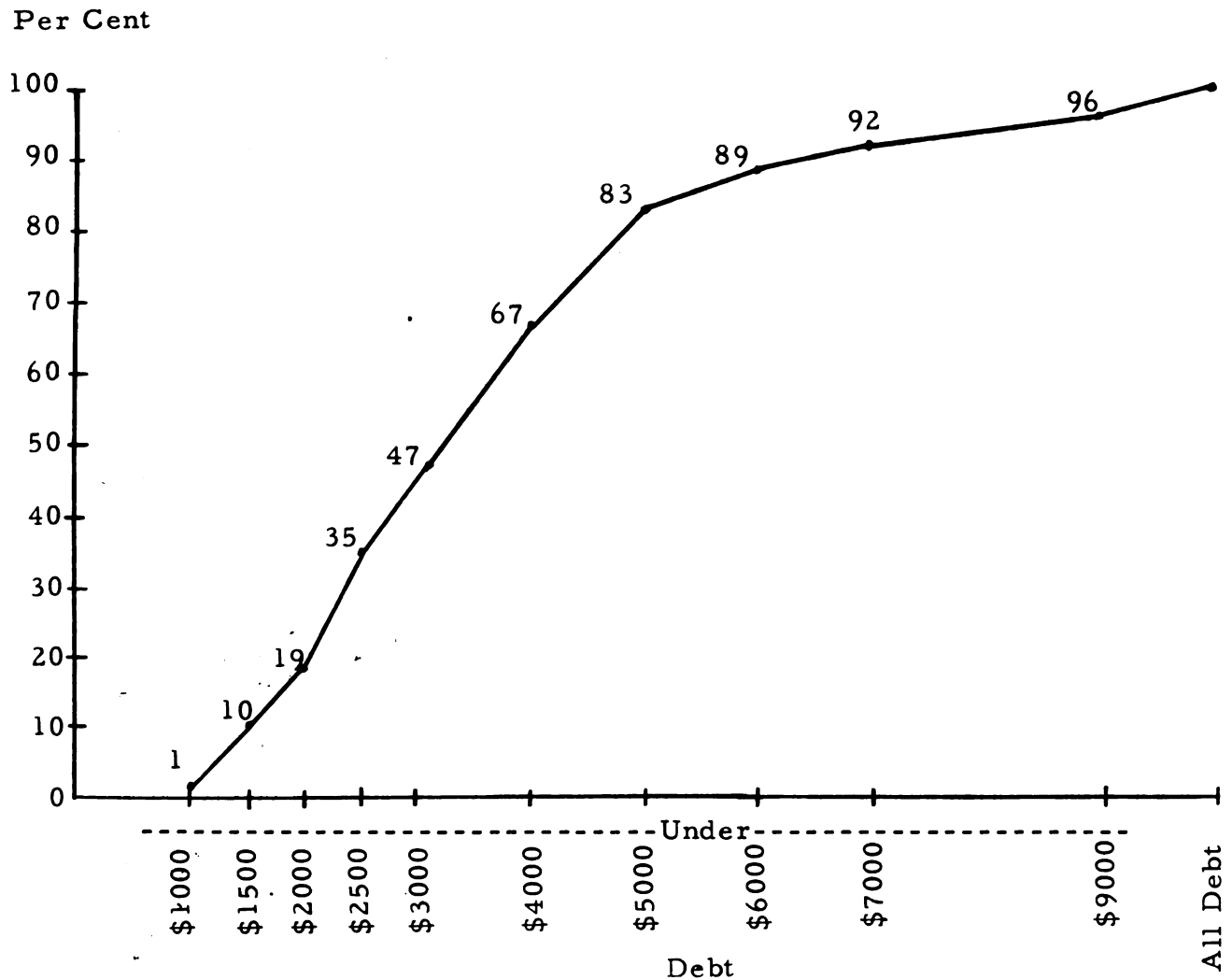
Sample size: 482

Note: Percentages do not add to total due to rounding.

declared by individuals entering bankruptcy may be similar among various regions.

In addition to the financial burden accompanying debt there may be a psychic burden. This is not a function of the amount of debt so much as it is the number of creditors. There are many collection tactics used by creditors which may put the debtor under considerable strain. A few respondents in this study indicated that they had been under considerable pressure due to threatening calls to the wife while the husband was at work, calls late at night, calls and letters to the employer and sometimes visits to the employer. No attempt has been made in this study to determine the extent to which harassing

Chart 4-1. Amount of Debt Owed by Individuals Filing for Bankruptcy, Cumulative Distribution (Cumulative percentage distribution of individuals).



Source: Table 4-2.

collection tactics have been used, but the larger the number of creditors, the more likely it is that the bankrupt will be subjected to them. Although the median number of creditors was 14, over one-fourth of the bankrupts had twenty or more creditors (Table 4-3).

The mean number of debts is 16, or two greater than the median. The higher mean is due to a few individuals with an extremely large number of creditors. One petitioner had 75 creditors. Although the median is distorted less by large items than is the mean, the mean must be used here for comparative purposes. The Nashville,⁵ Wichita⁶ and Louisville⁷ surveys indicate means of 17, 15, and 13 respectively. The Maryland survey shows a median of 12, a mean is not given.⁸ However, the mean would probably be higher. Although data are not available to allow statistical comparison of these averages the similarity is meaningful, especially considering their geographic dispersion. These data indicate that the true mean number of debts for most areas of the nation probably lies within the range of 12 to 17 debts.

In addition to the profile for the aggregate amount of debt, Table 4-1 shows a profile of the debt owed to each type of creditor group. A complete picture is not obtained by looking only at the total debt and its distribution among bankrupts. Not all bankrupts owe all creditors; therefore, the proportion of bankrupts owing each type of debt holder must be considered. The proportions vary from 91 per cent for retailers to ten per cent for nondebt judgments. Given such

⁵Ibid.

⁶Harms, p. 32.

⁷Schaber, p. 35.

⁸Myers, p. 24.

a wide variation in the proportion of individuals owing various creditors it would not be meaningful to show the average amount of debt owed to each creditor by the total group of bankrupts. Thus, the averages (medians) are for only those individuals owing a given creditor, for example, 51 per cent of the bankrupts had an average indebtedness of \$858 to one bank. The median size of all bank loans outstanding at time of bankruptcy was \$330. Also, those individuals owing banks had acquired 59 per cent of the debt within 12 months preceding bankruptcy and 31 per cent within 13 to 24 months preceding bankruptcy; only ten per cent of the debt was over two years old. As was the case in the previous chapter, the profile shows only the averages and says nothing about the dispersion of the data. Thus, each of the major creditor groups must be examined in greater detail to provide additional knowledge of the bankrupt's financial position and to show the role of the various creditors in bankruptcy. Also, the profile provides no way of ranking the creditors according to the amount of credit each supplied or the number of debts owed to each.

Importance of Various Creditor Groups

Before proceeding to an analysis of the various types of creditors, their importance in terms of amount of debt owed and number of debts⁹ owed to each by the bankrupts will be considered. All indebtedness of bankrupts is classified on the basis of who made the credit decision rather than the use made of the credit. In all but the category called nondebt judgments, the creditor made the decision to extend the credit. Nondebt judgments, as defined here, result from an individual's decision to prove damages through the courts rather than from a

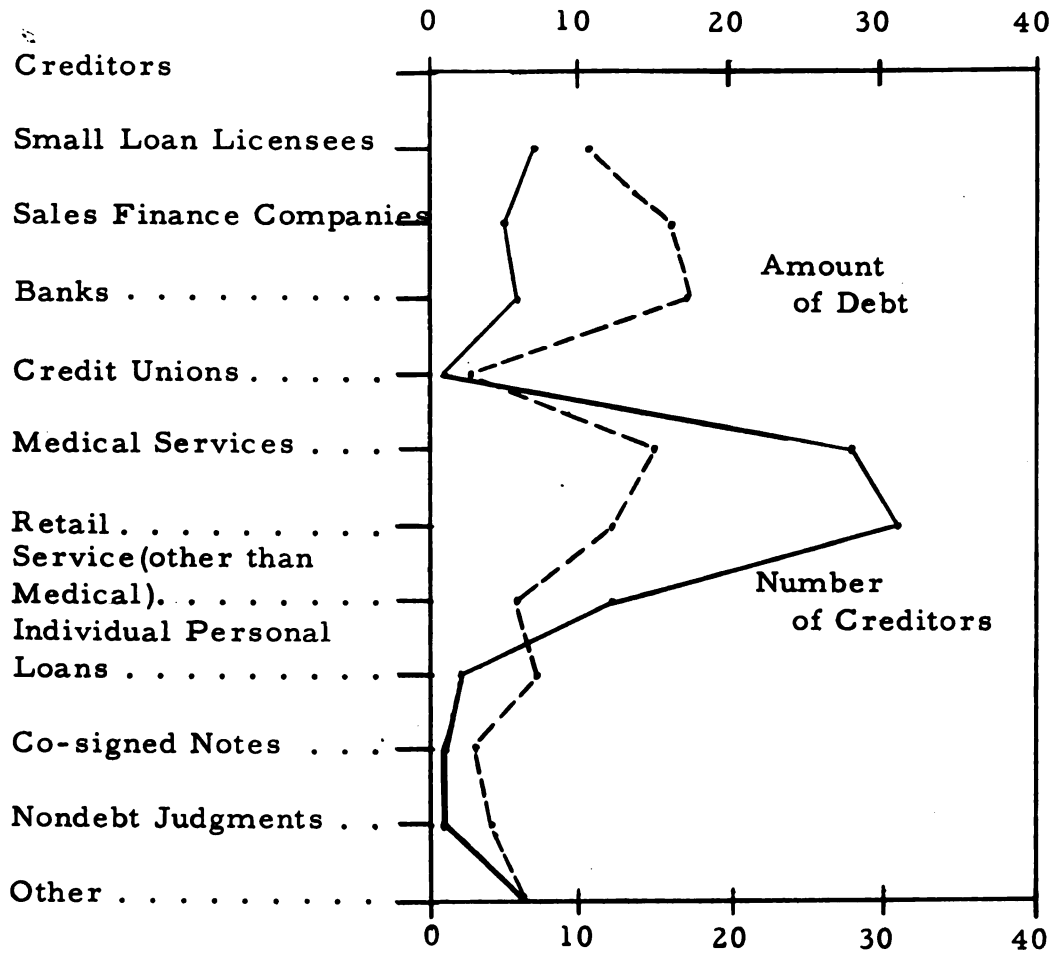
⁹The number of debts is also the number of creditors since all amounts owing by each bankrupt to one creditor were counted as one debt for the bankrupt.

decision to extend credit. In the co-signed note category a decision was made to extend credit or a loan. Even though it was not extended to the bankrupt, he has been held responsible for the debt. See Appendix C for definitions of each category.

Mortgage debts have been omitted in this study except where otherwise indicated. There are two reasons for this: First, the inclusion of mortgages would substantially increase the amount of debt but not increase the financial burden equally, since a few individuals have mortgages or land contracts. Only 26 per cent of the bankrupts were purchasing real estate. These debts measure in the thousands of dollars each, whereas most of the other debts are in a range of \$10 to a few hundred dollars. Real estate debt is the one type of secured debt in which the value of the security usually is sufficient to cover the outstanding balance of the debt. This type of debt should cause little financial burden, since the security can usually be liquidated to cover the unpaid balance. In effect, the liability and the asset can be cancelled out without significantly changing the bankrupt's financial position. Second, there is enough inaccuracy and variation in the recording of the unpaid balance of the mortgage and the value of the property that few conclusions could be drawn.

As shown in Chart 4-2, banks and sales finance companies held the largest amount of the bankrupts debt, 17 and 16 per cent respectively. Banks, sales finance companies and small loan businesses combined to account for 44 per cent of the debt. Another financial institution, credit unions, holds three per cent of the debt. Thus, all the financial institutions hold 47 per cent or nearly one-half of all the debt. Although banks and sales finance companies make personal loans, a large proportion of the debt which they hold is instalment payment contracts purchased from auto dealers and appliance and furniture dealers.

Chart 4-2. Debts Owed to Various Groups of Creditors by Amount and Number (Percentage distribution of debts)



Source: See Table 4-1.

Medical services and retailers rank third and fourth in terms of amount of debt held, with 15 and 12 per cent respectively.

In terms of number of creditors, retailers rank first, followed closely by the medical group. By comparing the number and the amount lines on Chart 4-2 it is apparent that the debt held by the retail and medical creditors consists of many small debts, while the debt held by small loan licensees, sales finance companies and banks consists of a smaller number of larger debts. This difference is also indicated in the profile (Table 4-1) which shows an average debt per creditor of \$47 and \$44 for the retail and medical service groups. Small loan licensees, sales finance companies and banks show an average debt per creditor of \$348, \$437 and \$330 respectively. Retail and medical creditors make up 59 per cent of all creditors but hold only 27 per cent of the debt, whereas, small loan licensees, sales finance companies and banks comprise only 18 per cent of all creditors but hold 44 per cent of all the debt. In terms of collection pressure, retailers and medical creditors may equal or possibly rank above financial creditors due to their number. . -

Financial Institutions as Creditors

Some conception of the atmosphere in which credit is granted is useful for interpretation of the data depicting the various creditors of the bankrupt. Discussions with various individuals in the consumer credit industry, who wish to remain anonymous, indicate that consumer lending in Flint is extremely competitive. There is strong competition in both the sales financing and the personal loan segments of the market. In the sales financing segment, three large banks and sales finance companies, independent and captive, compete. Within the last two years at least two captive finance companies have attempted to enter the Flint market. To establish themselves they

have had to extend loans that would not otherwise have been made, or they have had to capture a portion of the market from the established lenders. As a result, competition for the financing of the consumer's durable purchases has become fierce. One example of the pressure is a switch from "checked" credit reports to "file" credit reports. The former report shows the amount owed by the potential borrower at time of request for financing while the latter is not brought up to date and thus, will not indicate the amount presently owed.

The personal loan segment is also extremely competitive. A manager of a local office of one of the national finance companies expressed the attitude of many lenders when saying, "We feel that if you can operate a credit office in Flint you can operate one any place." A manager of a consumer finance company with offices throughout Michigan said that most of the firm's offices had a bad debt loss of about three per cent of credit outstanding, but in Flint they were "lucky to get by with five per cent." Some credit men thought that the consumer in Flint is very credit wise. One loan officer upon hesitating to grant a loan was told by the applicant who had been in bankruptcy that he was a better credit risk now than before the bankruptcy since he could not go into bankruptcy again for six years and that the company could garnishee his wages without fear of bankruptcy. This along with other comments from people in the credit business tends to show that in Flint granting credit to those individuals involving a high risk is growing increasingly difficult to avoid. Apparently this is the result of two factors: first, extreme competition among lenders and, second, failure in many cases of the borrower to abide by the terms of the credit agreement.

Small Loan Licensees as Creditors

Many finance companies make personal loans under the small loan laws and do sales financing. In Michigan both may be done from the same office. Sales financing compliments the personal loan business by providing a source of customers. Often the bankrupts related in the interview that the personal loans listed in their petitions resulted from the refinancing of instalment sales contracts. With finance companies extending both types of credit, personal loans cannot be distinguished from sales financing simply by noting the company holding the debt. To determine what proportion of the debt was personal loans and what proportion was instalment sales contracts 172 bankrupts were questioned. Although this sample is not large, it appears to be representative. As a check on the sample's representativeness the author used judgment to classify the finance company debt listed on the 482 petitions filed during 1963. The proportions obtained were the same as those of the smaller sample.

The consumer loan companies (small loan licensees) have often been criticized for being the largest creditors of the bankrupt and, thus, being a major cause of his troubles. Much of this criticism may have resulted from the overstatement of the relative importance of consumer loans due to a failure to distinguish between personal loans and sales financing. If debt owing to finance companies is not segregated according to type of financing (personal loans versus sales financing) it is impossible to tell the relative importance of personal loans in the bankrupt's debt structure. With 11 per cent of the debt the small loan licensees rank fifth in terms of importance behind banks, sales finance companies, medical services and retailers which have 17 per cent, 16 per cent, 15 per cent, and 12 per cent of the debt respectively.

In defense of the criticism of being a major contributor to bankruptcy the consumer loan companies frequently cite the extent to which personal loans are used to consolidate existing debts. During 1960, the borrowers of 44 per cent of the personal loans made in Michigan indicated that they were used for consolidation purposes.¹⁰ To see how this reported use by all borrowers compared to the use made by bankrupting individuals, the bankrupts interviewed were asked to relate the use made of all personal loans. The response indicated that slightly more than 50 per cent of the loans were used for consolidation of existing debts. However, due to differing maturities among the various types of debt, the conclusion that only five or six per cent of the outstanding debt at time of bankruptcy was originated by small loan licensees is not warranted. The true proportion of debt originated by this group is in between five and eleven per cent of the total debt.

The relationship of small loan licensees to other types of creditors in terms of the total amount of debt and total number of creditors is important but the proportion of bankrupts availing themselves of finance company credit must not be overlooked. Although 72 per cent of the bankrupts were indebted to small loan licensees, only 55 per cent had obtained sales financing and only 51 per cent had obtained bank credit (Table 4-4). The more frequent use of personal loans may stem from the consolidation aspect of this type of credit.

There are three aspects of each bankrupt's debt to be considered: the total amount owed to each type of creditor, size of each debt and the number of creditors. An example should clarify the three aspects. An individual owes small loan licensees the following amounts:

¹⁰Thomas G. Gies et al., "Consumer Finance Companies in Michigan," Michigan Business Studies (Ann Arbor, 1961), p. 37.

Table 4-4. Debt Owed to Small Loan Licensees, Sales Finance Companies and Banks (Percentage distribution of bankrupts)

Amount of Debt	Small Loan Licensee Personal Loans	Sales Finance Company Instal- ment Sales Contracts	Bank Debts
None	28	45	49
\$1 - \$250.	15	6	9
\$251 - \$500	29	16	9
\$501 - \$750	8	9	6
\$751 - \$1,000	9	7	7
\$1,001 - \$1,500	9	8	7
\$1,501 and over	a	10	15
All bankrupts	100	100	100
Medians for individuals having finance debt	\$452	\$808	\$858

Source: Bank Debt, see Table 4-1; Personal Loans and Sales Finance Contracts, data supplied at first meeting of creditors by petitioners in bankruptcy from Genesee county, Michigan, 1963.

Sample size: Bank Debts 482; Personal Loans and Instalment Sales Contracts 172.

Note: Percentages may not add to totals due to rounding.

^aLess than one per cent.

ABC Co. \$300, DEF Co. \$450 and GHI Co. \$600. The total amount owed to the creditor group called small loan licensees is \$1,350, the size of the debts range from \$300 to \$600 and the number of creditors owed is three. Note that the size of the debts reflects the amount outstanding at time of bankruptcy and not the size of the loan extended.

Each of the three aspects of the debt will be shown on separate tables throughout the discussion of all types of creditors. To facilitate comparison, small loan licensees, sales finance companies and banks are shown on the same set of tables while retailers, medical services and services (other than medical) are each shown on a different set of tables.

The role of the small loan licensee may be illustrated by considering the amount, size and number of personal loans owed by the bankrupt to this lender. Table 4-4 shows that approximately 18 per cent of the bankrupts owed more than \$750. Since less than five per cent¹¹ of the personal loans at time of bankruptcy were over \$500 (Table 4-5), the large proportion of bankrupts owing more than \$750 to small loan licensees must be due to multiple loans. Almost all of the total personal loan indebtedness of over \$500 per bankrupt is due to multiple loans. Approximately 29 per cent of the bankrupts had more than one personal loan (Table 4-6). Sixteen per cent had two loans and 12 per cent had three loans. Although 29 per cent had multiple loans only about nine per cent owed more than \$1,000 (Table 4-4). This tends to indicate that the new personal loan ceiling of \$1,000 should greatly reduce the number of multiple loans to bankrupts in the future, everything else being equal.¹²

¹¹Although Table 4-5 shows that five per cent of the personal loans are over \$500, the true proportion is much less. The data on personal loans are based on a sample taken in the months of September, October, November and December and, thus, overstate the number of personal loans of over \$500 in relation to the total number of personal loans since personal loans of over \$500 could not have occurred before September 6, due to a loan ceiling of \$500, except where the principal plus accrued interest amount to over \$500. See Appendix.

¹²Gies, pp. 42-43. This survey reports that 50 per cent of the customers of personal loan companies had loans with more than one company. This fact was used by the small loan industry as one of its arguments for a higher ceiling in Michigan.

Table 4-5. Size of Small Loan Licensee Loans, Sales Finance Company Instalment Sales Contracts and Bank Debts at Time of Bankruptcy (Percentage distribution of debts)

Size	Small Loan Licensee Personal Loans	Sales Finance Company Instal- ment Sales Contracts	Bank Debts
Under \$101	9	6	15
\$101 - \$200	17	7	13
\$201 - \$300	17	15	12
\$301 - \$400	17	9	9
\$401 - \$500	34	27	9
\$501 - \$1,000	5	21	20
\$1,001 and over	0	14	22
Total Debts	100	100	100
Medians,	\$348	\$437	\$330

Source: Bank Debts, see Table 4-1; Personal Loans and Instalment Sales Contracts, see Table 4-4.

Sample size: Bank Debts, 434; Personal Loans, 155; and Instalment Sales Contracts, 117.

Note: Percentages may not add to totals due to rounding.

Table 4-6. Number of Debts Owed to Small Loan Licensees, Sales Finance Companies and Banks (Percentage distribution of bankrupts)

Number of Debts	Small Loan Licensee Personal Loans	Sales Finance Company Instal- ment Sales Contracts	Bank Debts
None	28	45	49
1	43	34	27
2	16	16	15
3	12	6	6
4	1	0	2
5 and over	a	0	1
All bankrupts . .	100	100	100
Medians for individuals having finance debt	2	2	1

Source: Bank Debt, see Table 4-1; Personal Loans and Instalment Sales Contracts, see Table 4-4.

Sample Size; Bank Debt 482; Personal Loans and Instalment Sales Contracts, 172.

Note: Percentages may not add to totals due to rounding.

^aLess than one per cent.

Sales Finance Companies as Creditors

While approximately 18 per cent of the bankrupts owed more than \$750 in personal loans to small loan licensees, 25 per cent owed more than \$750 on instalment sales contracts (Table 4-4). The large amount of instalment sales financing indebtedness is reasonable considering that 35 per cent of the instalment sales contracts were for more than \$500 (Table 4-5). In addition, 16 per cent of the bankrupts held two

instalment finance contracts and six per cent held three (Table 4-6). The large multiple instalment sales contracts explain why many bankrupts had more than \$500 of sales financing debt.

The role of instalment sales financing may further be illustrated by comparing it to personal loans extended by small loan licensees. Instalment sales contracts represent a larger total dollar amount but a smaller number of debts. Thus, the average instalment sales finance contract outstanding at time of bankruptcy must be larger than the average personal loan. The median sales finance contract outstanding at time of bankruptcy was \$437 while the median small licensee personal loan outstanding at bankruptcy was \$348 (Table 4-5). There is a concentration of 34 per cent of the personal loans in the \$401 to \$500 range as compared to 27 per cent of the instalment sales contracts. The concentration of personal loans in this range does not seem to be reasonable considering the age of the small loan licensee debt. Fifty per cent of this debt was over 12 months old (Table 4-1). The probable explanation is that most of these loans are "interest only" loans. That is, the loan has been rewritten for \$400 to \$500 and the debtor has been paying just enough to cover the interest on the loan. This occurs because local managers of multiple office loan companies receive a better efficiency rating by at least collecting the "interest."

Notice the sharp decrease in the proportion of small loan licensee personal loans above \$500 as compared to the slight decrease in the proportion of instalment sales contracts (Table 4-5). Less than five per cent of the personal loans are above \$500 as compared to 35 per cent of the sales finance contracts. This reflects the \$500 ceiling for loans made by small loan licensees.¹³ Given the \$500 ceiling and

¹³All but one of the loans with an unpaid balance of over \$500 were acquired after September 5. The ceiling became operative on September 6, 1963. One debt of \$560 acquired while the \$500 ceiling was in effect

the substantial role of the automobile in sales financing, the foregoing relationship appears to be reasonable.

Banks as Creditors

Banks have a prominent role in the Flint consumer credit market. They compete vigorously with sales finance companies (independent and captive) for sales financing business both on a direct and an indirect basis.¹⁴ In addition one bank has a very active charge-account banking plan. The combined banking activities account for 17 per cent of the bankrupt's declared indebtedness as compared to 16 per cent for instalment sales credit extended by finance companies. Thus, bank credit and instalment sales credit extended by finance companies are the two largest types of credit.

It would be desirable to classify credit extended by banks as sales financing and direct loans, but this was impossible given the limitations of the data. However, examination of selected data and discussions with members of the banking community indicate that most of the bank credit is the result of sales financing. Very little of the debt listed in the petitions was direct loans. This appears reasonable in view of the characteristically conservative lending policies followed by commercial banks.

Although banks represent a sizable portion of the bankrupt's debt only 51 per cent of the petitioners owed banks at time of filing for bankruptcy (Table 4-4). This is similar to the proportion who owed

apparently was a \$500 loan plus accrued interest. It is interesting to note the lag between the introduction of a higher ceiling and the appearance in the bankruptcy petitions of loans made under the new ceiling. Most of the loans appeared in petitions filed in December, approximately a three month lag.

¹⁴Under a direct financing plan the lender transacts the loan directly with the borrower; whereas, in indirect financing the dealer transacts the loan for the lender.

sales finance debt, 55 per cent (Table 4-4). There is a larger proportion of small bank debts than might be expected, considering the amount of bank debt owed by each individual (Tables 4-4 and 4-5). Comparison of the size of sales finance debts of finance companies with the size of bank debts reveals significant differences. Twenty-eight per cent of the bank debts are for \$200 or less versus 13 per cent for instalment sales contracts (Table 4-5). This difference is explained in part by the charge-account plan being operated by one of the local banks. Merchants using the plan are allowed to grant up to \$25 of credit. For larger amounts they must seek the bank's approval of the borrower. Thus, by limiting his purchases to \$25 or less an individual could shop all the merchants using the plan and accumulate a substantial amount of debt. No attempt was made to determine how frequently this occurred with the bankrupts, but it did occur to some extent. Also, part of the difference may be due to differing collection rates as well as differing amounts of debt extended. As would be expected a larger part of the bank debts outstanding at time of bankruptcy are for higher dollar amounts than is the case with personal loans of small loan licensees. The distribution of bank debts is more similar to the distribution of instalment sales debts of finance companies than to the distribution of personal loans of small loan licensees. Forty-two per cent of the bank debts are over \$500 and 35 per cent of the sales finance contracts are over \$500 while less than five per cent of the personal loans are over \$500 (Table 4-5).

In terms of the amount of debt owed rather than the size of each debt, Table 4-4 shows a concentration of 15 per cent of the bankrupts with over \$1,500 indebtedness to banks as compared to ten per cent for sales finance debt to finance companies. If the repayment rate is the same, they obtained larger credits from banks or a larger number of credits. Since there is not too great a difference in the number of

multiple credits owed for banks and sales finance debt (Table 4-6), the credits must be larger for bank debt as indicated in the preceding paragraph. About the same proportion of bankrupts have \$500 to \$1,500 indebtedness with banks as with small loan licensees for personal loans (Tables 4-4). Seven per cent owe banks \$1,001 to \$1,500 as compared to nine per cent owing personal loans. To owe this much in personal loans required at least three loans, given the restraint of the \$500 ceiling under which most of the loans were made. The data show that this was the case. Twelve per cent of the bankrupts owed three personal loans as compared to six per cent owing three bank loans (Table 4-6).

Comparing the number of debts per individual shows that 24 per cent of the bankrupts have more than one bank debt and almost the same proportion have more than one sales finance debt with finance companies (Table 4-6). Fifty-one per cent of the bankrupts had bank debts and 27 per cent of them were indebted to only one bank while 15 per cent each owed two banks. The number of individuals who were able to obtain credit from four or five different banks is surprising. Twelve had debts with four banks and seven had debts with five or more banks.

The competitive nature of the consumer credit market in Flint appears to show up in the relative age of the bank and small loan licensee debt declared in the petitions. Theoretically, the banks would be expected to have less debt of recent origin than the small loan licensees. As an individual's credit situation deteriorated over time, those institutions willing to assume the least risk would be the first to deny credit. Thus, the banks should drop the individual first, followed by the small loan licensees. In Flint, during 1963, this apparently did not happen. Fifty-nine per cent of the bank credit was extended during the twelve months preceding bankruptcy as compared

to 50 per cent of the small loan licensees credit (Table 4-1). Due to the smallness of the sample for which both personal loan credit and dates could be obtained, the proportions of the debt lenders should not be considered to be significantly different. Nevertheless, banks did not drop out as would be expected. However, this appears to be consistent with the extremely competitive situation previously described. By not using "checked" credit reports the lender does not have knowledge of the borrowers' current financial condition and will not be able to tell to what extent it has deteriorated.

Credit Unions as Creditors

Of the major credit groups, small loan licensees, sales finance companies, banks and credit unions, the credit unions held the least amount of the bankrupts' debt, only three per cent of the total (Chart 4-2). In terms of number of creditors, credit unions represented only one per cent of all creditors. Apparently credit unions were more successful in avoiding the marginal credit risk which the bankrupt represents. This may be due in part to the fact that credit unions are not accessible to all the people as are banks, sales finance companies and small loan licensees. Only 17 per cent of the bankrupts had credit union debt as compared to 72 per cent for small loan licensees, 55 for sales finance companies and 51 per cent for banks (Table 4-1). Also, only 33 per cent of the credit was extended during the year preceding bankruptcy versus 59 per cent for banks (Table 4-1). Either individuals do not seek credit from credit unions when in financial difficulty, or they are denied such credit. The most important groups of creditors in terms of the dollar amount of debt, representing 47 per cent of all the debt, have been discussed; however, if the number of creditors is considered another important group remains. Retailers, service organizations (other than medical) and the medical services represent

71 per cent of all the bankrupt's creditors. They will be discussed in the following sections in that order.

Retailers as Creditors

Nine of every ten bankrupts had obtained some credit from retail outlets for which they still owed at time of bankruptcy (Table 4-1). Although retailers had extended credit to most bankrupts, the credit amounted to only 12 per cent of the total amount owed to all creditors (Chart 4-2). Retail concerns were the most numerous in terms of number of times each creditor was listed, followed by medical services. Thirty-one per cent of all creditors listed were retailers and 28 per cent were members of the medical services group, mostly doctors (Chart 4-2). These two groups combined represent 59 per cent of all the creditors.

About one-fifth of the petitioners were indebted for less than \$100 to retailers. Notice that nine per cent were not indebted to retailers. Slightly more than one-third owed less than \$200 (Table 4-7). Fifty per cent owed less than \$347. However, 32 per cent owed \$500 or more with seven per cent owing \$2,000 or more. These large amounts of debt owed by a third of the bankrupts could have resulted from large credit extensions by a few creditors or from the accumulation of many small bills.

While Table 4-7 shows the distribution of bankrupts by total amount owed to retailers, Table 4-8 shows the distribution of all the debts by size. For example, if the bankrupt owed each of three retailers \$100 he would be included in the nine per cent of the individuals owing \$300 to \$399 to retailers in Table 4-7 while in Table 4-8 his three debts would be part of the 15 per cent of the debts in the \$100 to \$199 range. Thirty per cent of the debts outstanding at time of bankruptcy are for less than \$25 and 52 per cent are for less than \$50

Table 4-7. Amount of Debt Owed to Retailers (Percentage distribution of bankrupts)

Amount of Debt	Bankrupts
None	9
\$1 - \$99	13
\$100 - \$199	14
\$200 - \$299	14
\$300 - \$399	9
\$400 - \$499	8
\$500 - \$599	21
\$1,000 and over	11
All bankrupts	100
Median for individuals owing retail debt	\$347

Source: See Table 4-1.

Sample size: 482.

Note: Percentages do not add to total due to rounding.

Table 4-8). The distribution of those debts under \$25 is even more revealing of the nature of a large portion of the retail indebtedness. Sixteen per cent of the debts were for less than \$15 and 24 per cent were under \$20. Thus, there is almost a uniform distribution of debts for less than \$25. Also, notice that only slightly more than 12 per cent of the debts were for \$200 or more.

As would be expected, given the preceding data, many of the bankrupts had a large number of retail creditors. Sixteen per cent of the bankrupts had 9 or more creditors while 26 per cent had seven or more (Table 4-9). One individual had a total of 37 retail creditors and each of 13 individuals had 21 or more creditors. The small amounts

Table 4-8. Size of Debts Owed to Retailers at Time of Bankruptcy
(Percentage distribution of debts)

Size of Debts	Distribution of Debts
Under \$25	30
\$25 - \$49	22
\$50 - \$99	20
\$100 - \$199	15
\$200 - \$499	10
\$500 - \$999	2
\$1,000 and over	<u>a</u>
All debts	<u>100</u>
Median	\$47

Source: See Table 4-1.

Sample size: 2,341.

Note: Percentages do not add to the total due to rounding.

^aLess than one per cent.

of many of the debts and the large number of creditors per bankrupt indicate that the large amounts of retail indebtedness of many of the bankrupts resulted from obtaining credit from several creditors rather than large amounts of credit from a few.

It is sometimes suggested that individuals who resort to bankruptcy buy merchandise and spend their money on things that are not needed. This is a natural conclusion and an easy accusation to make, but a difficult proposition to support empirically due to the problems of defining what are necessary or frugal purchases. However, there is one type of merchandise which would not seem to be warranted by anyone having financial difficulties. The purchase of jewelry would seem to indicate an unwise use of funds. Indebtedness to jewelry

Table 4-9. Number of Debts Owed to Retailers (Percentage distribution of bankrupts)

Number of Debts	Bankrupts
None	10
1 and 2.	25
3 and 4.	25
5 and 6.	13
7 and 8.	10
9 and over.	16
All bankrupts	100
Median for individuals owing retail debt	4

Source: See Table 4-1.

Sample size: 482.

Note: Percentages do not add to total due to rounding.

companies was segregated from other retail debts to analyze the foregoing proposition. Twenty-nine per cent of the bankrupts owed some debt to jewelry stores, but this indebtedness accounted for only one-tenth of their retail debt and only one-tenth of all retail creditors listed. Of more significance is the fact that jewelry debt accounted for only one per cent of the total debt. Another quite interesting fact is that 70 per cent of the jewelry debt was acquired more than 12 months before bankruptcy. Even though in the aggregate jewelry debt does not indicate a significant unwise use of funds, individual cases of unwise use occur. For example, one individual purchased a \$150 watch within two months of filing for bankruptcy. This discussion should not indicate that funds can only be used unwisely for the purchase of jewelry. There are many ways, but jewelry is an extreme example

for which data were available. An example of another unwise use should suffice. An individual who had worked only one out of the preceding six years bought a 1962 Cadillac three months before filing for bankruptcy in 1963. A group of creditors closely related to the retailers in the sense that they provide some of the everyday necessities are the service creditors.

Service Organizations (other than Medical) as Creditors

Service creditors (other than medical) hold approximately the same amount of the total debt as do individuals who have extended loans to the bankrupt six percent versus seven per cent (Chart 4-2). Small loan licensees, sales finance companies, banks, retailers and medical services all hold larger proportions of the debt than do the service creditors. However, only retailers and medical services are more frequently listed as creditors. The low ranking in amount of debt owed and the fact that 74 per cent of the bankrupts owed service debt explains why they owed less to service creditors on the average, median of \$187, than any other type of creditor (Table 4-1).

Although 74 per cent of the bankrupts owed service debt, almost one-half owed less than \$100 and 36 per cent owed less than \$50 (Table 4-10). The fact that 14 per cent owed \$500 or more may be surprising (considering the nature of the service industry). However, this is substantially less than the retail creditor group, in which 32 per cent owed \$500 or more (Table 4-7). The large service debts resulted in most cases from accumulation of bank rent sometimes combined with utility bills for several months. A small number of individuals owed school tuition fees ranging from about \$500 to \$1,200. The schools represented were usually trade schools.

The distribution of service debts by size is very similar to the distribution of retail debts. Thirty per cent of the retail debts were

Table 4-10. Amount Owed to Service Creditors other than Medical
(Percentage distribution of bankrupts)

Amount of Debts	Bankrupts
None	26
\$1 - \$99	23
\$100 - \$199	16
\$200 - \$299	11
\$300 - \$499	10
\$500 - \$999	11
\$1,000 and over	3
All bankrupts	100
Median for individuals owing service creditors	\$187

Source: See Table 4-1.

Sample size: 482.

under \$25 (Table 4-8), whereas, 24 per cent of the service debts were for less than \$25 (Table 4-11). A little over 14 per cent of the service debts were for \$200 or more. Given the similarity in size of service debts and the lack of similarity in the amount of debt per bankrupt, the distribution of number of service debts and retail debts per bankrupt should be different. Only one of every ten bankrupts has five or more service debts (Table 4-12); whereas, four of every ten bankrupts have five or more retail debts (Table 4-9). Looking at the low end of the distribution, 68 per cent of the bankrupts had less than three service debts versus 35 per cent for retail. In summary, fewer bankrupts owe service creditors than owe retail creditors, and the amount owed to service creditors on the average is less than the amount owed to retail creditors.

Table 4-11. Size of Debts Owed to Service Creditors other than Medical at Time of Bankruptcy (Percentage distribution of debts)

Size of debts	Distribution of Debts
Under \$25	24
\$25 - \$49	21
\$50 - \$99	23
\$100 - \$199	17
\$200 - \$499	12
\$500 - \$999	2
\$1,000 and over	a
All debts	100
Median	\$57

Source: See Table 4-1.

Sample size: 983

Note: Percentages do not add to total due to rounding.

^aLess than one per cent.

Table 4-12. Number of Debts Owed to Service Creditors other than Medical (Percentage distribution of bankrupts)

Number of Debts	Bankrupts
None	26
1 and 2	42
3 and 4	21
5 and 6	6
7 and over	5
All bankrupts	100
Median for individuals owing service debt . . .	2

Source: See Table 4-1.

Sample size: 482.

Medical Services as Creditors

The last of the major creditor groups to be discussed in detail are those individuals and firms supplying medical service on credit. This group ranks third and second in amount of the total bankruptcy debt held and number of creditors respectively. It accounted for 15 per cent of the debt and 28 per cent of the creditors (Chart 4-2). Eighty-five per cent of the bankrupts had medical debt (Table 4-1). Only to retailers was a larger proportion of the bankrupts indebted.

As shown in Table 4-13, thirty per cent of the bankrupts owed less than \$100 to medical creditors and 41 per cent owed less than \$200. Some individuals had substantial medical debts with 35 per cent of them indebted for \$500 or more. The composition of the 17 per cent who owed over \$1,000 shows that ten of them owed from \$2,000 to \$2,999 and eight owed \$3,000 or more. There is no doubt but that several of these cases were overburdened with medical debt. However, in general, medical debt was not the result of one large bill for an emergency or an illness of recent origin. This is shown by the large number of small debts. Also, note that each debt is to a different supplier of medical service. Rather than being large debts to one doctor or hospital, most of the amounts owed by bankrupts are the result of the accumulation of debts for service from many different doctors.

Although doctors are not the only medical service suppliers in the medical category, they are by far the most numerous. It appears that the bankrupts used a doctor's service until pressure of some sort was brought to pay and then changed to another. Most individuals do not have five or six different doctors as did many of the bankrupts. If a large number of the bankrupts had migrated into the region recently before bankruptcy it might be reasonable for them to owe several doctors. They might well owe doctors in their former community and

Table 4-13. Amount of Debt Owed to Medical Service Creditors
(Percentage distribution of bankrupts)

Amount of Debt	Bankrupts
None	15
\$1 - \$99	15
\$100 - \$199	11
\$200 - \$299	10
\$300 - \$399	9
\$400 - \$499	6
\$500 - \$999	18
\$1,000 and over	17
All bankrupts	100
Median for individuals owing medical debt	\$383

Source: See Table 4-1.

Sample size: 482.

Note: Percentages do not add to total due to rounding.

in their new community. However, it will be recalled that 79 per cent of the bankrupts had lived in Genesee county for six years preceding bankruptcy (Table 3-9). Also, notice that 40 per cent of this debt is over two years old (Table 4-1).

Notice that only four per cent of the medical creditors held debts of \$500 or over (Table 4-14). At the other extreme, 38 per cent of the debts are for less than \$25. Most of the debts are small and yet several bankrupts have substantial amounts of medical debt; therefore, many bankrupts must have owed several medical creditors.

Table 4-15 indicates that 40 per cent of the bankrupts have five or more medical debts while 15 per cent have none or more. The largest number of medical debts for an individual was 41. Another

Table 4-14. Size of Debts Owed to Medical Service Creditors at Time of Bankruptcy (Percentage distribution of debts)

Size of Debts	Distribution of Debts
Under \$25	38
\$25 - \$49	15
\$50 - \$99	14
\$100 - \$199	18
\$200 - \$499	10
\$500 - \$999	3
\$1,000 and over	1
All debts	100
Median	\$44

Source: See Table 4-1.

Sample size: 2,220.

Note: Percentages do not add to total due to rounding.

Table 4-15. Number of Debts Owed to Medical Service Creditors (Percentage distribution of bankrupts)

Number	Bankrupts
None	15
1 and 2	23
3 and 4	22
5 and 6	17
7 and 8	8
9 and over	15
All bankrupts	100
Median for individuals owing medical debt	4

Source: See Table 4-1.

Sample size: 482.

person had 30 and two had 23. Although there were some extremes, 38 per cent of the bankrupts had less than three medical debts.

Miscellaneous Creditors

Individuals who have extended personal loans, holders of co-signed notes and nondebt judgment holders are the three remaining groups to whom the bankrupts are indebted to be considered. Their element in common is their lack of importance in the overall debt structure of the bankrupt. Only 28 per cent of the bankrupts were indebted to individuals for personal loans and only 12 per cent and ten per cent for co-signed notes and nondebt judgments respectively (Table 4-1). Not only were relatively few bankrupts indebted to these creditors, the amount of debt involved was small. Personal loans from individuals were seven per cent of the total debt, co-signed notes were three per cent and nondebt judgments were four per cent (Chart 4-2). Furthermore, only individual personal loans accounted for more than one per cent of all the creditors. One point of interest is a comparison of the relative ages of the debt held by the various groups of creditors (Table 4-1). The striking thing here is the small proportion of debt obtained from individuals in the year preceding bankruptcy, only 13 per cent. This is the lowest amount of debt obtained from any group.

Age of Debt at Time of Bankruptcy

An important question in consumer bankruptcy is when did the individual petitioning to the court acquire the debts from which he wishes to be released. How can a referee in bankruptcy determine when there is likely fraud involved in a bankruptcy, or how can the socio-economic analyst fully understand the behavioral characteristics

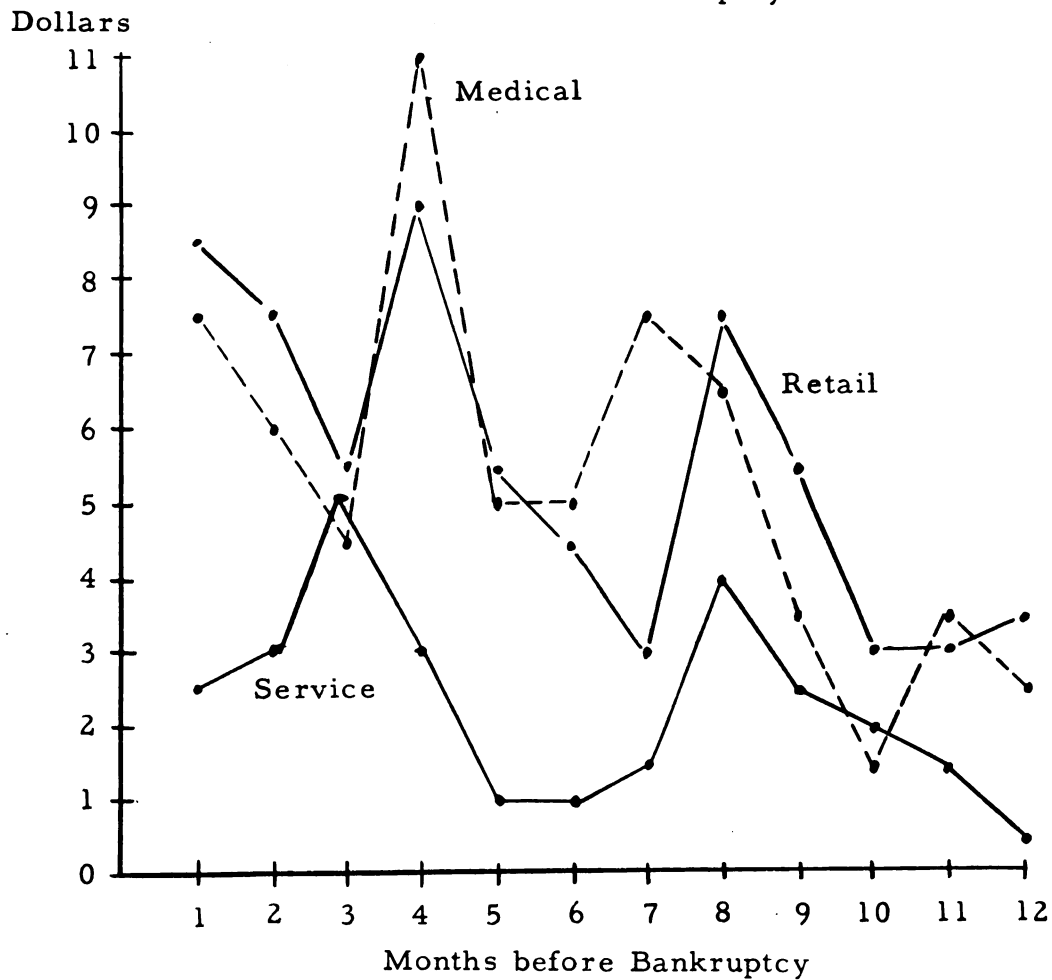
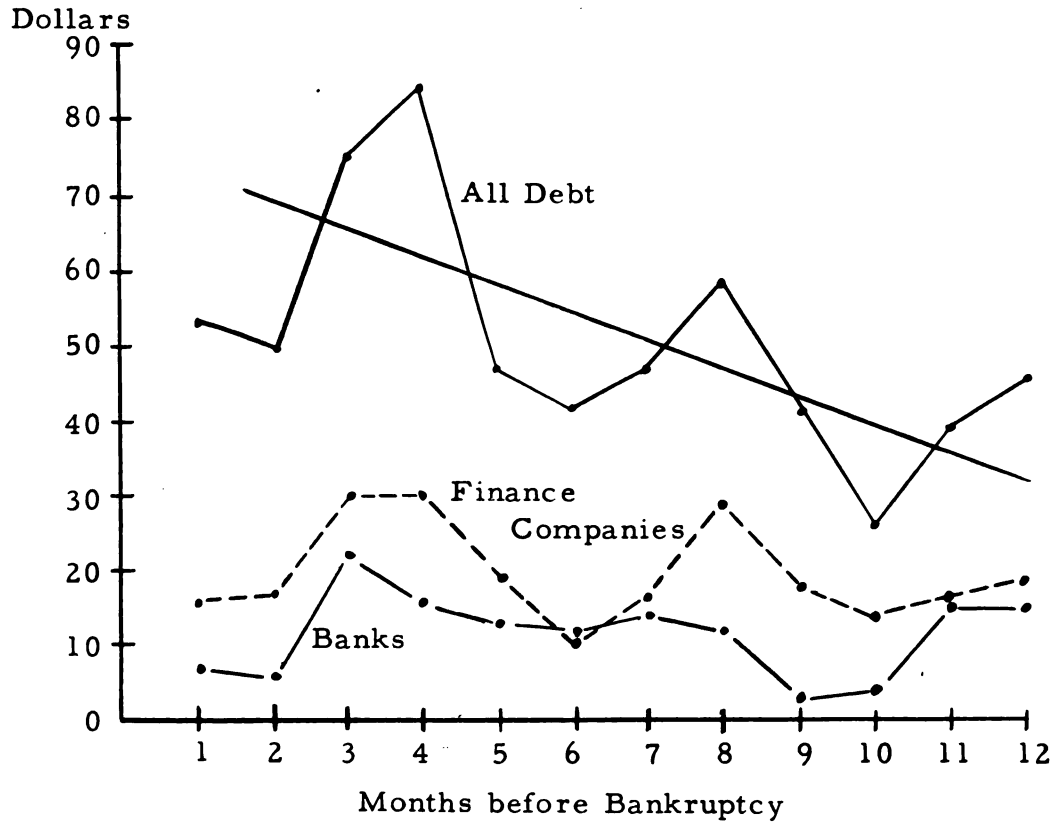
which may lead to bankruptcy unless the age of the various debts is known? Unless the debts are dated, a referee reviewing the schedules cannot tell whether the petitioner acquired the debts the day before or three or four months before filing for bankruptcy. The implications of the time periods are quite different.

The schedules which must be filed with a Federal Court clerk ask for the dates on which all listed debts originated. Many referees do not force the petitioners to supply dates. However, due to the efforts of Referee Bobier and his staff, there were a substantial number of petitions filed from Genesee county during 1963 which had adequate dates. Sixty-six per cent of the petitions were acceptable for determination of debt age (see Appendix C for a description of the data).

The data relating to age of debt are shown in Table 4-1 and Chart 4-3. The per cent of debt acquired in 1 to 12 months, 13 to 24 months and over 24 months before filing for bankruptcy is shown in Table 4-1, while the dollar amounts of debt acquired in each of the 12 months preceding bankruptcy is shown in Chart 4-3. Twenty-two per cent of the total debt was acquired 13 to 24 months before bankruptcy and 28 per cent was over two years old (Table 4-1). Examination of the data indicates that this distribution is not the result of a few unique cases. It seems to be a fair representation of almost all the petitions. These people are continuously in debt. It should be remembered that the period in which most of these debts were contracted was one of high employment and vigorous economic activity (see Chapter I).

Several interesting behavioral patterns are revealed by the age data in the 12 months preceding bankruptcy. There are two peaks observed in the total amount of debt acquired, a primary peak occurring eight months before bankruptcy (Chart 4-3). To determine whether or not this pattern was typical of various types of creditors several different credit groups were examined. Note that finance companies

Chart 4-3. Age of Debt as of the Date on which Individuals Filed for Bankruptcy (In thousands of dollars)



Source: See Table 4-4.

(small loan licensees and sales finance companies) also peak in the same months and that banks peak in the third month and increase from the ninth to the eighth months. The lower part of Chart 4-3 shows retailers peaking in the fourth and eighth months. Although medical service's primary peak is in the fourth month, its secondary peak occurs in the seventh month. The service group peaks in the third and eighth months. Thus, the primary and secondary peaks usually occurring in the third or fourth months and the eighth month respectively must be a general behavioral pattern of the bankrupting individual rather than a pattern dependent on particular types of creditors.

Do the data reflect a possible seasonal pattern of purchases or bankruptcy? Any seasonal effect such as Christmas or Easter on purchases and, thus, indebtedness in particular months should cancel out in a large number of cases. Petitions in bankruptcy were filed in each month of the year; therefore, three months before bankruptcy in one case would reflect purchases in December while in another case purchases in May and in another purchases in September or any other month. Notice that the horizontal scale in Chart 4-3 is in months before bankruptcy. If an unusually large number of petitions had been filed any given month, a seasonal factor could have been introduced. However, this was not the case. There was only a small variation in the number of petitions filed per month.

Another possible source of distortion is cases with unusual amounts of debt. Close review of the individual cases indicates that there was little distortion due to unusual cases. The petitions appear to represent a randomly distributed group. Now that the data have been shown to be representative, consideration can be given to the behavioral patterns revealed by the data.

In Chart 4-3 ("All debt"), it should be realized that some individuals are represented in both peaks while others are represented in

only one of the peaks and still others are not represented in either peak. Individuals represented in only the primary peak progress over the time span with a substantial but manageable amount of debt and meet with one of many possible calamities such as sickness, loss of employment or destruction of a partially paid for automobile with a resulting deficiency balance to name only a few. In the following three to four months they struggle along and turn to bankruptcy. Others face the same financial problems and struggle along for eight months before giving up and turning to bankruptcy. They are part of the secondary peak. As previously mentioned, the most important question is: Did they try hard enough or long enough, or was the helping hand of bankruptcy too tempting? The primary peak also indicates those individuals who have used the Bankruptcy Act to their advantage to defraud their creditors. To cite one case, a petitioner who had a \$50 credit limit at Sears, Roebuck & Company went to every department and charged his limit during one day, thus accumulating several hundred dollars of debt. His solution was bankruptcy.

Quite often the potential bankrupt incurs a substantial amount of debt in the eighth month, the secondary peak, and then reduces his credit use or at least pays off more of it until the third or fourth month, the primary peak. During this period between peaks, the potential bankrupt is probably under increased creditor pressure; in this period he decides to seek relief. However, he also sees an opportunity to profit a little and goes on a spending spree, thus creating the primary peak.

Still other individuals gradually accumulate debt over the entire time span and eventually end with bankruptcy. Although several different behavioral patterns are in evidence there is one pattern of behavior that is applicable to almost all potential bankrupts. The hand fitting of a trend line on the "All Debt" line of Chart 4-3 is very revealing.

Greater and greater amounts of debt are contracted as the potential bankrupt approaches his filing day. Since consolidation loans are often used, it is possible that they would cause an upward trend due to the individual trying to restructure his financial position. However, looking again to Chart 4-3 indicates that finance companies and banks contributed little, if any, to the trend. Retail debt contributed substantially to the overall trend. Notice how the amount of retail debt acquired each month increases as bankruptcy nears. This behavior is contrary to what would be expected. An individual gradually buying more and more on credit as he moves along the time span will eventually realize that he has over extended himself. Upon realizing this, he would at least reduce the amount of credit purchases, if not go on a cash basis. However, the potential bankrupt increases his use of credit.

These behavioral patterns have important policy implications. The general trend to acquire greater and greater amounts of debt until bankruptcy and the magnitude of the primary peak indicate a need for legislation which would restrict the availability of bankruptcy to certain individuals in addition to a need for programs such as consumer counseling, rather than stricter credit control. Restricting the availability of bankruptcy would reduce the primary peak as well as the level and the upward trend of debt by helping to prevent individuals from buying on credit with the intention of going into bankruptcy. Also it could reduce the number of individuals going into bankruptcy who could economically afford to pay their creditors.

Asset Structure

A profile of the bankrupt's assets showing the various kinds and amounts of each would be desirable. However, there are not sufficient data on the petitions submitted to the courts to allow a meaningful

statistical tabulation. An alternative source of information is the interview. Due to the limited interview time a complete picture could not be obtained, but information on purchases within the year preceding bankruptcy was acquired.

The schedules filed with the court contain a brief listing of all assets, but the description does not permit identification of particular assets, in most cases, beyond asset groups such as household goods and wearing apparel except for cars and real estate. Assets such as cash, securities or other financial assets can be identified, but most bankrupts do not have or reveal any financial assets. Even insurance is noticeably absent, and where it occurs there is seldom a cash value. Thus, most of the assets can be classified only as wearing apparel, household goods and automobiles. In addition, it is difficult to compare bankrupts with each other or with non-bankrupt consumers due to the method used to place a value on the assets. The individual petitioning for bankruptcy with his attorney or, as quite often is the case, with the attorney's secretary decides what his assets are worth. This allows for a considerable variation among petitions. However, there is a surprising similarity of dollar valuations from petition to petition even though the amount of assets vary. Wearing apparel usually is valued at \$100 while housegoods are set at \$300. The only comparison that seemed justified, considering the nature of the data, was the amount of assets claimed exempt versus the amount declared. It should be recalled that all clothing, up to \$1,000 of household goods, an automobile and other less important assets may be exempted. Approximately 65 per cent of the petitioners claimed all of the listed assets as exempt. Most of the remainder exempted 50 to 90 per cent of their assets. A frequent item not exempted was books, usually encyclopedias, on which money was still owed. Also, new cars with most of the original price still owing were often turned back to the

creditor. It should be remembered that only those goods not secured by a creditor lien can be kept without having to pay the unpaid balance. To summarize, the individual going through bankruptcy usually retains his wearing apparel and a large portion, if not all, of his household goods and his car.

To obtain some additional insight into the potential bankrupt's spending habits and behavioral characteristics, each respondent was questioned about his purchases of certain items within the year preceding bankruptcy. The items used were cars, boats, television sets, hi-fidelity record sets, jewelry and furniture and appliances. These goods require a sizable commitment of funds and are things which the purchase of could conceivably be postponed or avoided by the debt-ridden family. A participation in this type of purchasing may indicate a lack of effort to control the family budget. Cars, new and used, were purchased by approximately 60 per cent of the bankrupts in the year preceding bankruptcy. Most of these cars were five or more years old. Part of these purchases were to replace cars lost through repossession. However, others resulted from an apparent interest in tinkering with automobiles. In one case, the man had bought six cars, most of which he claimed were ready for the junk yard. There were a few other cases of multiple purchases and most were similar to the one described. Of all the automobiles listed in the petitions 30 per cent were less than five years old with most of the rest between five and eight years old. In determining the age of the bankrupt's car by observing the listings on the petitions, it is possible that the age will be understated. This is due to the repossession of late model cars and their replacement with older cars. However, the interviews indicated that this did not happen often enough to have an appreciable effect on the age for the group as a whole.

Only one individual had purchased a boat and only eight per cent purchased television and hi-fidelity record sets. Although it is impossible to determine what a reasonable level of purchases would be, eight per cent is surely not unreasonable. Jewelry purchases were not so limited. Thirty-eight per cent of the bankrupts had purchased jewelry. The last type of purchase, furniture and appliances, was made by 40 per cent of the petitioners in the year preceding bankruptcy.

The data indicate that individuals approaching a condition of financial insolvency or individuals in such a condition continue to indulge in the purchase of durable goods and luxuries such as jewelry. These are the types of expenditures which are the most postponable. Their appearance in the year before bankruptcy supports the position that individuals going into bankruptcy fail to control and plan their spending. This seems self evident, but people also may become insolvent as a result of a financial calamity which they could not solve. Greater discipline, either self imposed or legislated, would probably be more effective for the first group. Individuals in the first group may not need the aid of bankruptcy; whereas, some of those in the second group may need it.

Summary and Conclusions

Individuals from the Flint metropolitan area going into bankruptcy during 1963 owed a median of \$3,184 to a median of 14 creditors. These figures appear to be descriptive of bankruptcy in general throughout a large part of the nation. They are similar to figures obtained for several other geographical areas.

Participation in the consumer bankrupt's financial plight is not restricted to any particular class of creditor. If creditors were ranked by amount of bankruptcy debt held, banks had 17 per cent, sales finance

companies had 16 per cent, medical services had 15 per cent, retailers had 12 per cent and small loan licensees had 11 per cent. No particular creditor group dominates unless all financial lenders are considered as a single group. In that case they hold 47 per cent of the debt. However, if creditors are ranked by number of times each type of creditor was listed by all the petitioners, there are dominant groups. Retailers are first representing 31 per cent of all creditors and medical services are second as 28 per cent of creditors, followed by service (other than medical) at 12 per cent, small loan licensees at seven per cent and banks at six per cent. Since it is difficult, if not impossible, to determine whether the amount of debt or the number of creditors is the most important in the consumer's financial troubles, no particular creditor group can be justifiably accused of having more influence than another.

The contention of the small loan licensees that they are not as influential in bankruptcy as the data indicate appears to be correct. Although they held 11 per cent of the debt at time of bankruptcy, they originated less than that amount. Respondents in the interviews indicated that fifty per cent of the loans were used to consolidate existing debts.

The rate of acquisition of debt during the 12 months preceding bankruptcy reveals an interesting behavioral pattern. Individuals not only accumulated more debt during the twelve months preceding bankruptcy, they accumulated it at a faster rate as they approached the filing of their petition in bankruptcy. Fitting in with this pattern of credit use is the type of purchases made during the twelve months before bankruptcy. Many of the individuals purchased durable goods and jewelry during this period. Forty per cent bought furniture and appliances, sixty per cent bought cars and 38 per cent purchased jewelry. The purchase of goods which in most cases could have been

postponed shows that these people fail to recognize the development of financial trouble or do not heed it. This pattern of credit use and purchases indicates the lack of financial planning and/or self restraint.

Although no particular class of creditors may be fairly accused of being a primary cause of the consumer's financial difficulty and resultant bankruptcy, all creditors, as a group, have some responsibility for the situation. The extremely competitive nature of the Flint area consumer credit market has led to a relaxation of credit standards, resulting in the extension of credit to individuals unable to repay in an orderly fashion. Of course, there are the shady merchants who make their profit by charging exorbitant rates, but although they operate in Flint they are not of any great importance in bankruptcy. Thus, the debt declared by Flint area bankrupts in 1963 is in most cases the result of poor financial planning and lack of self restraint and a very competitive consumer credit market. The burden of this debt will be analyzed in the following chapter.

CHAPTER V

OTHER CONSIDERATIONS

Three aspects of consumer bankruptcy which do not conveniently fit into the pattern of the previous chapters will be analyzed in this chapter. First, the debt of each bankrupt will be related to his income and family size to determine his ability to pay. Second, three groups, fellow workers, neighbors and friends and relatives, will be used in a sequential analysis to reveal whether a relationship exists between the dissemination of bankruptcy knowledge and the rate of bankruptcy. Third, and last, the bankrupt's attitude concerning his obligation to pay and society's reaction to his bankruptcy will be discussed.

Economic Necessity of Consumer Bankruptcy

In the extremely complex economic system of contemporary society consumer credit has an important role. It provides the means by which individuals can easily and conveniently invest in durable goods and obtain funds for the purchase of services and for emergencies. The manufacture and marketing of durable goods and services in turn provide a large share of the income and employment necessary for a high level of economic activity.

Suppliers of consumer credit, in many cases, rely on the consumer's future income for payment of the debt in accordance with the terms of the contract. Most individuals must rely on their future income in order to repay their borrowings in an orderly manner. Thus, it is important to both the creditor and the debtor that the debtor's

future wages in excess of his needs be available for debt repayment. If the credit grantor cannot rely on future wages he must cut back his lending or increase the charge to cover the additional risk. For the debtor this means the reduction in the availability of funds or an increase in their cost, since normally the only asset on which he can borrow is his future income. Following this line of reasoning it is undesirable for society to allow the debtor to deny the creditor any claim on that portion of his future income in excess of his needs for an adequate level of living. To allow this is to allow the debtor to profit from bankruptcy. Bankruptcy legislation was designed to rehabilitate the debtor, not to allow him to profit through discharge of debts which he could pay.

Individuals going into bankruptcy can be categorized as those with a desire to pay and those with no desire to pay. The former group consists of persons who are economically unable to pay their debts because they have no excess income with which to pay debts after minimum normal living expenses. Also in this group are those who cannot pay on schedule but have sufficient income to pay over an extended period. Those who cannot pay on schedule usually have succumbed to creditor pressure, given up and turned to bankruptcy for help. The latter group contains some individuals who do not want to pay debts that they have honestly acquired and contains others who acquire debt with the intention of obtaining its discharge in bankruptcy. A question of primary importance to society is how many of the bankrupting individuals had sufficient income to pay all of their debts and how many could have paid various portions of their debt.

Debt burden consists of two principal parts--the psychic burden and the financial burden. Since there are no known units of measurement for determining the psychic burden of debt, it is necessary to minimize or to eliminate this burden before considering the financial

burden, that is, the adequacy of the debtor's income to pay his debts. The Bankruptcy Act through Chapter XIII provides an excellent instrument for the minimization, if not the elimination, of the psychic burden. A debtor under Chapter XIII receives complete protection from his creditors (see Chapter XIII or Wage Earner Plan section of Chapter II).

In determining the ability of individuals going into bankruptcy to pay their debts it will be assumed that Chapter XIII is used to provide protection from the creditor and to provide for an orderly repayment of the debt over a three-year period. An estimate will be made of the proportion of petitioners who could have paid all of their debt and of the proportions who could have paid various percentages of their debt over a three-year period with the help of Chapter XIII. To make such a determination the question of adequate level of income must be answered. The difference between the adequate income and the actual income, if positive, is available for debt repayment.

There is no one level of income which all authorities will accept as being adequate; however, there are some authoritative estimates available. For this study two levels of income were chosen. One, based on data developed by Robert Lampman in Study Paper number 12 for the Joint Economic Committee of Congress,¹ is considered an adequate income but no more, while the other, based on the author's experience as a resident of the Flint community is considered a comfortable, but not lavish, income level. It is of interest to note that the Lampman figures are very similar to those used as a guide by Referee Bobier in the Flint court in considering an individual's ability to pay his debts under a Chapter XIII proceeding.

¹Robert Lampman, Study of Employment, Growth, and Price Levels, Study Paper No. 12, Joint Economic Committee, 1958, p. 5.

Living costs vary in relation to the size of family. Some vary directly with the number and ages of family members while others do not. Therefore, the adequate level and comfortable level of income will vary with family size and age of the members. The after-tax incomes considered adequate are \$1,270 for one person, \$1,799 for two persons, \$2,312 for three, \$2,763 for four, \$3,171 for five, \$3,553 for six and \$4,118 for seven or more.² To obtain the comfortable level of income the author made estimates based on the expenses of a family of four and computed the income for other size families on the basis of the percentage variation among the incomes used in the Lampman estimates. The after-tax incomes considered comfortable are \$1,652 for one person, \$2,344 for two persons, \$3,013 for three, \$3,600 for four, \$4,133 for five, \$4,630 for six and \$5,364 for seven or more.

Since there are costs involved in processing a Chapter XIII case which must be paid by the petitioner it is necessary to estimate these costs and add them to the debt to obtain the total amount that must be paid. The two principal costs are attorney and court fees. Attorney fees average about \$250. Normally an attorney requires his client to pay in \$50 before the proceedings are commenced and collects the remainder afterward. Thus, \$50 of the required \$250 has been paid by the petitioner, therefore, only \$200 need be added to his debt. Court fees consist of a \$15 filing fee, which has been covered by initiation of the bankruptcy proceeding, and a trustee fee of eight per cent of all the funds discharged. The amount to be paid is the debt plus a \$200 attorney fee and an eight per cent trustee fee.

²These figures are those used in the Lampman study adjusted for price change with the Consumer Price Index. See Lampman, p. 5 for original figures. Note that the income is not adjusted for age variance among families. However, since most families in this study are young, the income needed should be overstated rather than understated.

These estimates indicate that 49 per cent of the bankrupts from Genesee county during 1963 could have paid all of their debt within three years or less using the Chapter XIII proceedings and retained enough of their earnings to have an "adequate" standard of living (Table 5-1). Using the writer's higher level of after tax income, the "comfortable" income, 28 per cent of the bankrupts could have paid (Table 5-1). Thus, depending on the desired standard of living, approximately 28 to 49 per cent of the individuals going into bankruptcy could have paid 100 per cent of their debts within three years or less. The true proportions who could have paid are higher since only the bankrupt's income was used in making the calculations, rather than the entire family's income. However, the difference between the true proportion and the estimated proportion should not be great since most of the spouses were not employed. Referee Bobier and others have often stated that they thought that approximately 50 per cent of the bankruptcies could have been successful Chapter XIII proceedings. Data in this study indicate that these estimates may be a little high, but are reasonable if the income remaining after debt payment provides an acceptable standard of living.

Consider the meaning of these figures in dollar savings to creditors. If the average amount of debt per bankrupt is \$3,500, there is a potential saving of from over \$200 million to approximately \$113 million nationally depending on whether the individual lives on the lower or higher level of income previously discussed. In the Flint area alone the range of saving is from \$930,000 to \$520,000 per year based on the 1963 bankruptcies.

The benefits of these savings are not limited to the credit grantors. Since bad debt loss is built into the rate structure, the reduction of loss through bankruptcy should reduce the borrowing rates, thus benefiting all credit users. In addition to this saving there is a

saving in court costs which are currently being paid with tax revenues. In Chapter XIII the petitioner must pay the court costs; whereas, it will be recalled, in bankruptcy he usually does not pay these costs. To the extent that the court costs are reduced all tax payers will benefit.

Table 5-1. Proportion of Bankrupts Financially Capable of Paying Their Debts Under a Hypothetical Chapter XIII Proceeding (Percentage Distribution of individuals)

Per Cent of Debt Paid	Comfortable Income Level	Adequate Income Level
100	28	49
85	6	5
70	7	3
55	6	7
Less than 55	55	36
All bankrupts .	100	100

Sample size: 172

Note: Percentages may not add to totals due to rounding.

Dissemination of Bankruptcy Knowledge

To what extent is the increasing number of bankruptcies the result of dissemination of information throughout the community concerning the ease with which debts can be discharged in bankruptcy? Such knowledge can be quickly disbursed through a number of groups such as workers, neighbors and friends and relatives. Each of these groups will be examined.

Worker Groups as Sources of Knowledge

If knowledge of bankruptcy is passed through worker groups there should be some tendency for a bunching of bankruptcies in these groups over time. For example, if a worker goes bankrupt in January and comes back to the shop and reports his newly discovered means of ridding himself of his debt burden, there would likely be a rash of bankruptcies from this shop within a few weeks. For the four companies employing the largest number of bankrupts, all the bankruptcies were placed on a scale according to the month in which the petition was filed (Table 5-2).³ Although there is a variation in the number of bankruptcies among months, there is no definite pattern indicating a bunching resulting from anything other than a possible seasonal influence. There seems to be some concentration in the spring and early summer months. This might possibly be the result of Christmas spending, but the time lag may be a little long. Supporting the conclusion that there is a little tendency for an individual to come back to the shop and brag about discharging his debts, which in turn leads to a rash of bankruptcies from that shop, is the attitude toward discussing bankruptcy revealed by respondents during the interviews. Bankruptcy is discussed over coffee but not in the first person, and few people brag about their bankruptcy. An individual's own bankruptcy is thought to be a personal matter which is not to be discussed freely with fellow workers. However, this does not mean that the ease of discharging debts through bankruptcy is not common knowledge.

³Although only the largest four organizations are included in Table 5-2, all organizations employing more than one bankrupt was analyzed to determine if there was a bunching of bankruptcies over time. As was the case in the larger organizations, there is no definite time pattern in the firms with few bankruptcies.

Table 5-2. Bankruptcy Filings by Months and by Employers, 1963

Employer	Number of Bankruptcies Filed											
	J	F	M	A	M	J	J	A	S	O	N	D
Chevrolet	15	8	16	14	18	17	20	5	6	17	7	10
Buick	3	5	8	5	4	5	5	1	2	6	4	0
Ternstedt	1	4	6	3	1	3	2	3	2	1	3	1
Fisher Body.	5	3	3	5	2	2	5	1	1	2	2	5

Source: See Table 4-1, Chapter IV.

In addition to the absence of a definite time pattern for the organizations with few bankruptcies, few attorneys represented more than one of these cases. Only in three plants is more than one bankrupt represented by the same attorney, and these plants are large enough so that this may have resulted from a coincidence rather than a recommendation.

Although no one attorney was overly represented in any work group checked, it is apparent that most consumer bankruptcy work is done by a particular group of lawyers. The bankruptcy cases of 1963 were represented by 45 per cent of the Genesee county attorneys, and the cases were not distributed evenly among these attorneys. The highest concentration was 12 per cent of the cases represented by one attorney. It should be remembered that only those bankruptcies from Genesee county are being considered. If all bankruptcies were considered a few of the attorneys would have more cases, but not enough to change their relative position. One attorney had six per cent of the cases and two others each had five and four per cent respectively. Three attorneys each had three per cent of the cases while one had two

per cent. The remaining attorneys all had less than two per cent of the cases. Thus, seven, or less than three per cent, of the lawyers handled 36 per cent of the cases filed during 1963.

Friends and Relatives as Sources of Knowledge

Bankruptcy is not something the debt-ridden person discovers for the first time when he goes to a lawyer for help. He may not know exactly how bankruptcy works but he knows that it exists and that he can use it. During the interview, almost all the respondents admitted that they know someone who had been in bankruptcy. However, they indicated that they had known of bankruptcy for most of their lives and that it was "general" knowledge rather than information obtained from a bankrupting individual.

Although no tabulation was made, many bankrupting individuals had friends and relatives who had been in bankruptcy. Only one of the respondents interviewed did not know someone, either a fellow worker, friend, relative or neighbor, who had been through bankruptcy. Those who knew of workers and neighbors said that they knew of the bankruptcy but did not know the details and had not discussed it with them. Once an individual considers bankruptcy, discussion of his problem seems to be limited to his wife, close relatives, usually the parents, and his lawyer.

The respondents were asked to describe the reaction of their friends and relatives, or whoever they had confided in, to their decision to file for bankruptcy. As would be expected, the reactions ranged from very favorable to complete disapproval. However, only two respondents reported disapproval and this was by their parents. In most cases, reaction was passive approval as exemplified by "Bankruptcy is not a good thing, but in your case it may be the only way out."

Most bankrupts thought that they had tried to meet their obligations but for one reason or another were not able to and were now justified in seeking a new start through bankruptcy. However, several were concerned about the effect of the bankruptcy on their credit records. Many of these people see credit as an integral part of their life style. Credit per se was seldom cited as the reason for their financial difficulty. If the respondent accepted responsibility for his situation, it was usually due to mismanagement of the family budget; otherwise, his problem was due to some unexpected financial need brought on by various types of calamities.

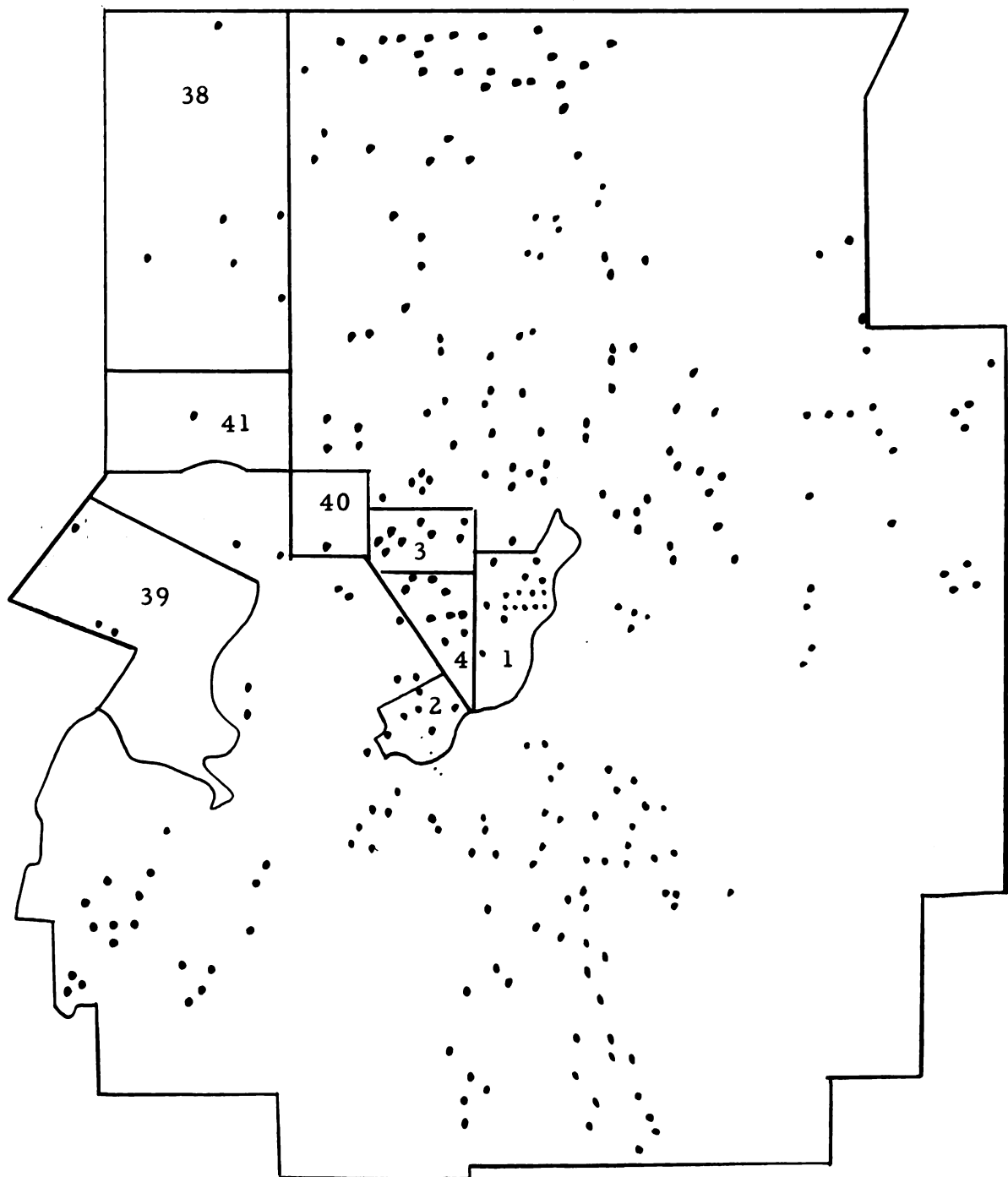
Neighbors as Sources of Knowledge

Is bankruptcy concentrated in certain geographical areas of the community? Are individuals who go into bankruptcy neighbors? The home addresses of all the individuals of Flint who filed for bankruptcy during 1963 were located on a map.⁴ A reproduction of the map is shown in Figure 5-1, but it cannot be used to determine whether these individuals are neighbors. Due to the size of the map, persons living two blocks apart would appear to be next-door neighbors. Table 5-3 was prepared from the original full-size map to show the geographical dispersion of the residences. Forty-eight per cent of the bankrupts lived within one block of another bankrupt and several of these people were only one or two houses apart. An additional twenty-eight per cent of the bankrupts lived within two blocks of each other.

The crucial question is whether or not a significant number of these people went into bankruptcy after observing a neighbor use the Bankruptcy Act to discharge his debts. Such observation is probably

⁴This task was greatly eased by the use of census tract indexes provided by the research department of the Council of Social Agencies of Flint and Genesee County.

Figure 5-1. Residence of Bankrupts in Flint and Selected Census Tracts^a



Source: See Table 4-1, Chapter IV; map provided by Research Department, Council of Social Agencies of Flint and Genesee County.

^aEach dot represents one bankruptcy; tract numbered 1 has highest number of bankruptcies per thousand people and tract numbered 41 has the lowest.

limited to those individuals living within a few houses of each other. Thus, only 48 per cent of the bankrupts could have observed their neighbors going into bankruptcy. It is quite possible in densely populated areas for people to be next-door neighbors and not be aware of each other's activities. Also, respondents indicated that people usually do not tell others of their bankruptcy.

Nevertheless, the bankruptcies are not randomly distributed throughout the city. It is strange to find almost half of the bankrupts living within one block of one another. However, part of this concentration may be explained by the social-economic group to which these individuals belong. As members of the manual-working class group (see Chapter III), they will tend to live in certain types of housing and to concentrate in particular parts of the community. The map in Figure 5-1 shows the concentration in certain areas of Flint. Eight census tracts are shown to illustrate the concentration. The number on each tract indicates its rank in number of bankruptcies per thousand persons with one being the highest. Tracts 38 through 41 have the fewest bankruptcies per thousand persons.⁵ A comparison of the median incomes and per cent of persons completing high school in the various tracts with the same characteristics of the bankrupts and the city in total indicates the tendency for bankrupting individuals to come from particular parts of the city. The bankrupt's median income was \$4,656 compared to a range of \$4,352 to \$5,825 for the highest bankruptcy tracts and a range of \$7,158 to \$8,271 for the lowest tracts (Table 5-4). Notice that the city median income, \$6,340, lies in between these two ranges.

⁵See Table 5-4 for the actual census tract number used by the Census Bureau.

Table 5-3. Proximity of Residence of Bankrupts to One Another in Flint During 1963

Number of Blocks Between Residence	Bankrupts
1 or less	48
2	28
More than 2	<u>24</u>
All bankrupts	100

Source: See Table 4-1, Chapter IV.

There is also a sharp contrast among some census tracts and bankrupts in the per cent who have completed high school. Twenty-two per cent of the bankrupts have completed high school as compared to a range of 21 to 38 per cent for the highest bankruptcy tracts and a range of 57 to 59 per cent for the lowest bankruptcy tracts. Forty-one per cent of all the individuals in the city completed high school. Although these examples are extremes, they definitely show that the bankruptcies are not randomly distributed throughout the community. Bankruptcies tend to be higher in the lower income and less well educated areas of the community. However, the characteristics revealed in Chapter III indicate that there is a cross-section of the manual working class population going into bankruptcy. Bankruptcy is not limited to the impoverished. Although there is evidence indicating that a few individuals going into bankruptcy are neighbors, they are probably neighbors in most cases due to the economic and social class to which they belong rather than because one emulates the other.

In summary, it appears that most individuals have a long-standing knowledge of bankruptcy. Bankruptcy is not a newly discovered legal

Table 5-4. Median Income and Per Cent of Population Completing Four Years of High School, for Bankrupts, City of Flint and Selected Census Tracts

Census Tracts ^a		Median Income	Per Cent Completing High School
Rank	Tract Number		
1	7	\$4,352	21
2	28	\$5,138	28
3	25	\$5,825	38
4	26	\$4,521	26
Bankrupts		\$4,656	22
City of Flint		6,340	41
Census Tracts		Median Income	Per Cent Completing High School
Rank	Tract Number		
38	40	\$7,399	57
39	37	8,271	59
40	22	7,158	59
41	39	7,765	57

Source: Council of Social Agencies of Flint and Genesee County, Michigan, "Census Tract Project Flint and Genesee County," 1960, pp. 74-81.

^aThe 41 census tracts of Flint are ranked according to number of bankruptcies per 1,000 persons. The tract ranked number one has the greatest number of bankruptcies per 1,000 persons.

gimmick which they eagerly try for avoiding payment of debt. It is discussed, in the third person, as a means of getting out of trouble. With this knowledge in the background, these individuals carry on their life styles. As debt accumulates and they begin to feel the resultant pressure, they remember that the debts can be discharged and some

of them give up and turn to bankruptcy. Of course there are individuals who use credit freely knowing that they will go into bankruptcy if they get into financial trouble. Also, some individuals commit fraud by borrowing with the intention of discharging the debt in bankruptcy. Although, in the writer's opinion, individuals knew of bankruptcy before getting into financial trouble, most of them did not anticipate going into bankruptcy until the debt had been accumulated. However, as indicated in Chart 4-3, Chapter IV, most of the bankrupts failed to recognize their financial difficulty or to do something about it before turning to bankruptcy.

Attitude Toward Debt

Does the bankrupt think that his debts are just and that he should pay them, or does he think that because he has been cheated he need not pay them? Given the limitations of the interviews this question cannot be answered completely, but some insight was gained.

Many bankrupts who had listed deficiency balances said that they should not have to pay them since the creditor had repossessed the merchandise. They usually thought that the creditor had profited by allowing them less toward the reduction of their unpaid balance than the car was worth. Table 5-5 shows that 36 per cent of the bankrupts had deficiencies and that 31 per cent were deficiencies on automobiles. Only 22 per cent of the bankrupts owed deficiencies of \$500 or more (Table 5-6). A large number of these deficiencies were owed to local banks and sales finance companies but a few were owed to some of the less reputable merchandisers.

Lawyers often are sympathetic toward individuals with deficiencies. Some will not recommend Chapter XIII if there is a large deficiency, while others use the Bankruptcy Act as a legal tool for

Table 5-5. Deficiency Balances of Bankrupts by Type (Percentage distribution of individuals)

Type of Deficiency	Bankrupts
Automobile	31
Miscellaneous.	5
None	<u>65</u>
All bankrupts.	100

Source: See Table 4-1, Chapter IV.

Note: Percentages do not add to total due to rounding.

Table 5-6. Deficiency Balances of Bankrupts by Amount (Percentage distribution of individuals)

Amount of Deficiency	Bankrupts
None	65
Under \$500.	13
\$500 - \$999	12
\$1,000 - \$1,499	6
\$1,500 and over	<u>4</u>
All bankrupts	100

Source: See Table 4-1, Chapter IV.

avoiding what they consider unjust deficiencies. This latter practice is most unfortunate, since it uses the Act as a substitute for remedies through the state courts and since innocent creditors are almost always involved. The innocent creditors are those credit grantors holding just claims that are discharged in bankruptcy along with the deficiency balance.

Medical debt is the other type of debt for which there seems to be a great reluctance to pay. This is evidenced primarily by the age and size of many of these debts (see Chapter IV). Forty per cent of these debts were over two years old and 38 per cent were for less than \$25. Apparently the bankrupt was least inclined to pay these debts. This is probably the explicit expression of the idea that doctors and hospitals charge too much. However, in some cases the bankrupt feels obligated to pay notwithstanding the discharge in bankruptcy and reaffirms the debt. Except for deficiencies and medical bills there was no indication that the debts were thought to be unjust.

Summary and Conclusions

Allowing for an adequate standard of living in one case and a comfortable level in another case, 49 to 28 per cent of the bankrupts respectively could have paid 100 per cent of their debts within three years in a Chapter XIII proceeding. The higher of these two estimates compares closely to a 50 per cent estimate made by several people working with bankruptcy.

Although most people do not accumulate debt with the intention of using bankruptcy to discharge their obligations, they apparently turn to bankruptcy in many cases where there is no real need. They know that bankruptcy exists and, when their financial condition worsens, they petition for bankruptcy rather than first exhausting all other means of working out a solution to the problem. Passive acceptance of the bankruptcy alternative by those who are looked to for guidance encourages its use.

Most debts owed by the bankrupt are considered just and fair. Two exceptions are deficiency balances resulting from repossessed property and medical debts. The bankrupt has little desire to pay

for property which he no longer has. Also, he is reluctant to pay medical bills as evidenced by the age of those bills.

CHAPTER VI

CONCLUSIONS AND RECOMMENDATIONS

From 1950 through 1963, a period of unsurpassed economic well being, the number of personal bankruptcies increased from 19,033 to 114,861 annually, or by 503 per cent. However, this growth is not as astounding as it appears. As a proportion of consumer credit outstanding personal bankruptcy debt has doubled, not increased five fold and the amount of debt involved is still small in relation to consumer credit outstanding. In 1950, the proportion was three-tenths of one per cent compared to six-tenths of one percent in 1963. Nevertheless, during 1963 there was approximately \$400 million of non real estate debt declared on petitions filed in bankruptcy. Two conclusions can be drawn from the growth and size of personal bankruptcy. First, there are possibilities of substantial savings if the rate of bankruptcy can be reduced. These savings will benefit the credit grantor, the credit user and the tax payer. Second, the past growth rate should be viewed as a danger signal of the development of an important problem of potentially immense magnitude.

Identification of the Bankrupt

For significant progress to be made in curbing personal bankruptcy it is necessary to identify that segment of the population relying on bankruptcy to solve its problems. To begin with, most individuals going into bankruptcy are permanent residents of the community, but few have any equity in property. They are renters, or buyers of

property under land contracts, and move frequently within the community. Also, their families are somewhat larger on the average than other families and their income is slightly below average. However, they are by no means financially impoverished. Their education is a little below average resulting from a higher than average drop out rate after the second year of high school.

Bankruptcy appears to be a problem of equal magnitude to both the white and nonwhite members of the community. Neither is overly represented. However, there appears to be a definite social-cultural-economic class of society generating most of the personal bankruptcies. This class is made up of the young married families whose income is earned by the husband as a manual worker, while the wife is occupied as a mother. Thus, the average bankrupt is representative of those individuals who are in that difficult period of the life cycle in which the families are young and economic security is still to be realized in the future.

Financial Condition of the Bankrupt

Identification of the bankrupt is only a first step in understanding the bankruptcy problem. In addition, knowledge is needed of his financial condition and his creditors' financial behavior. The average bankrupt owes \$3,200 to \$3,800 to 12 to 16 creditors. These figures are applicable to those geographical areas on which data are available and appear to be representative of personal bankruptcy throughout the nation.

Role of the Creditor

What is the role of the creditor in the bankrupt's financial distress? This distress may not be due just to a large amount of debt, it may also

be due to a large number of creditors. Therefore, it is necessary to look at creditor participation in terms of amount of debt held by each type of creditor and the number of times each type of creditor is listed by the bankrupts. In terms of the amount of debt held there were no dominant types of creditors. However, all financial lenders as a group held 47 per cent of the debt.

It may be worth-while to single out one type of creditor, the consumer loan (small loan licensee) company, for further discussion since it quite frequently is accused of supplying a substantial part of the bankrupt's debt. Personal loan companies held 11 per cent of the debt. Four groups of creditors held larger proportions of the bankrupt's debt. Banks held 17 per cent, sales finance companies 16 per cent, medical services 15 per cent and retailers 12 per cent. Moreover, fifty per cent of the debt held by consumer loan companies at the time of bankruptcy had been used to consolidate previous debts.

In terms of number of creditors listed by each bankrupt there were dominant creditor groups. Retailers accounted for 31 per cent of all creditors, medical services 28 per cent, service renderers 12 per cent, personal loan companies seven per cent and banks six per cent. Given the difficulty of determining whether the amount of debt or the number of creditors is the most important in the consumer's financial troubles, no particular creditor group can be justifiably accused of having more influence than another.

Even though no particular group of creditors may be held primarily responsible for the consumer's financial difficulty and resultant bankruptcy, all creditors, as a group, share some responsibility for the situation. Due to extreme competition in the Flint consumer credit market the credit standards have been relaxed. This has resulted in the extension of some credit to individuals unable to repay in an orderly manner. However, it is easy to obtain a distorted picture of

the creditor's role in bankruptcy. Activities of the few shady credit operators make headlines, while the continued activities of the fair and honest are buried in consumer credit statistics. Although the shady operator exists in Flint, he is insignificant in the bankrupt's financial trouble.

Financial Behavior of the Bankrupt

What is the nature of the bankrupt's financial behavior? It is very revealing to look at the bankrupt's purchasing pattern. During the year preceding bankruptcy 40 per cent of the bankrupts bought furniture and appliances, 60 per cent bought automobiles and 38 per cent purchased jewelry. Moreover, during this same period many of these individuals not only accumulated more debt, but they used larger and larger amounts of credit each month as they approached the filing of their petition in bankruptcy. The purchase of goods, which in most cases could have been postponed, and the increased use of credit as bankruptcy neared indicates either failure to recognize the development of financial trouble or failure to heed it, or a lack of financial planning and self restraint.

The Bankrupt's Ability to Pay His Debt

Is the bankrupt financially unable to pay his debt? Since there are no requirements as to the amount of debt needed in order to go into bankruptcy, bankruptcy per se is not an indicator of any given amount of financial burden. The burden may be little or great. Moreover, in addition to the financial burden, there is the burden caused by the creditor's efforts to collect. By using a hypothetical Chapter XIII proceeding the bankrupt's financial ability to pay may be determined. Chapter XIII protects the debtor from collection pressure and allows him to take up to three years to pay. To determine the proportion of

bankrupts who could have paid their creditors, the difference between the income needed for living expenses and the after-tax income earned is applied to payment of each bankrupt's debt. Given an "adequate" standard of living, 49 per cent could have paid 100 per cent of their debts, and given a "comfortable" level of living 28 per cent could have paid 100 per cent of their debts. This represents a potential saving of from \$113 million to \$200 million depending on the standard of living allowed the debtor. Why should the creditor lose all rights to that portion of the bankrupt's income in excess of that needed to provide an adequate standard of living?

Legal Environment of the Community

The social, economic and financial characteristics of the bankrupt provide a great deal of insight into the general bankruptcy problem, but interpretation of these characteristics must be within the context of the legal environment of the bankrupt. Seventy-five per cent of the Flint area bankrupts indicated that actual garnishment or threat of garnishment caused them to file for bankruptcy. In most cases it was threat of garnishment, since only ten per cent had been garnisheed within four months of their filing for bankruptcy. Most of them did not claim inability to pay as the reason for bankruptcy. This is in line with the findings that many could have paid their debts if given additional time.

Bankruptcy apparently is used as a tool for avoiding garnishment. However, in the Flint area there are three other effective tools for preventing garnishments. First, there are instalment payment orders. These are set by the Municipal Court and allow the debtor to pay over a period of time. They are effective because the payments are small and not many orders are needed, since few creditors obtain judgments. Second, a receivership plan operated by the Municipal Court provides

that the debtor's employer send the debtor's checks to the Court, where the debtor gets a portion and the rest is distributed to the creditors.

Third, Chapter XIII of the Bankruptcy Act provides for the full or partial payment of the debtor's creditors over a three year period.

Each of these three alternatives protects the bankrupt from garnishment.

Given these alternatives why does the individual use the Bankruptcy Act to avoid garnishment? He may not have knowledge of the alternatives or he may have knowledge but no desire to pay. If he does not have knowledge of the alternatives, his attorney in effect chooses bankruptcy for him. Although most individuals probably do not know the legal details of these alternatives, they seem to know that they exist and that they can be used to prevent garnishment. This conclusion is supported by two facts. First, the local unions have an active information program consisting of literature and meetings to discuss legal problems of importance to the worker and to answer his questions. Second, discussions with several bankrupts revealed that they were aware of instalment orders and Municipal receivership. Since garnishment can be avoided in the Flint area without resorting to bankruptcy and this is known to a large number of individuals, the use of bankruptcy for avoiding garnishment must indicate a lack of desire to pay in many cases.

Although there is an apparent lack of desire to pay, this study indicates that most individuals do not accumulate debt with the intention of going into bankruptcy. They appear to live their particular life styles giving little consideration to the amount of credit they are using until something happens to upset the delicate balance between solvency and insolvency. When the financial strain increases they recall that many people go into bankruptcy. They usually know of a fellow from the shop or a relative who has been in bankruptcy. With this thought in mind they discuss their difficulty with someone, usually their parents. The parents usually say that bankruptcy is not a good solution, but in this

case it may be the only solution. Thus, they have obtained passive acceptance. It is interesting to note that there is little, if any, financial counseling available to these individuals. By the time they go to an attorney, they have usually considered bankruptcy and have tentatively decided to use it.

Recommendations

A significant step toward the reduction in the rate of growth of bankruptcy can be made through the combined efforts of the business community and Congress. The establishment of community counseling services by the business leaders and the amendment of the Bankruptcy Act to allow the Referee to deny bankruptcy to those individuals capable of paying their debts will significantly reduce the number of bankruptcies, while providing the financial counseling needed. Each of these suggestions is being considered independently by many groups throughout the nation. However, there is a need to realize that these suggestions are complementary. Both are needed.

Credit counseling services on a free or nominal fee basis which would be available to all financially distressed individuals should be established by businessmen in all communities. Such a service was pioneered by Capital Finance Company of Columbus, Ohio and has recently been established in several cities as a cooperative effort of the business community. The counseling service provides the individual with financial help which just is not available otherwise. This help may vary from advice to actual arrangement with the creditor for reduced payments over an extended period of time in more severe cases. Many individuals who otherwise go into bankruptcy could solve their problems with this type of assistance. Detailed information on the operations and methods of establishing a credit counseling service is available through the National Foundation for Consumer Credit.

However, there are also many who could pay with help of the counseling service but who would prefer to discharge their debts in bankruptcy. For this group access to bankruptcy needs to be denied. The referee should be given the authority to dismiss a bankruptcy petition or let the petitioner convert to Chapter XIII in those cases where the petitioner can pay and maintain an adequate standard of living. It has been shown that up to 49 per cent of the Flint area bankrupts during 1963 could have paid. An often cited objection to this proposal is that the referee should not be allowed to decide whether an individual is able to pay. Referee Bobier of the Flint court in reply to this objection says:

State courts throughout the nation decide, in divorce and paternity cases, if a man is able to pay and how much. Probate Courts have similar duties. Federal courts perform a like function in cases of restitution. In each case the court must decide as to ability to pay. The right of the court to do so stems from an obligation to society on the party before the court.¹

Examination of the cases in this study indicates that it should not be too difficult for a Referee to establish guide lines for determining an individual's ability to pay.

It should be emphasized that the credit counseling service alone may not substantially reduce the number of bankruptcies. Many people lack the desire to pay. Denial of bankruptcy will reduce the number of bankruptcies, but will not provide the needed financial counseling. Although Chapter XIII is available, the financial counseling it provides is limited. Individuals need a readily available, inexpensive source of adequate financial counseling. The combination of denial of bankruptcy where not financially needed and financial counseling should be an effective way of curbing the rapid growth of personal bankruptcy.

¹Bobier, p. 29.

BIBLIOGRAPHY

Administrative Office of the United States Courts. Tables of Bankruptcy Statistics, Ending June 30, 1962.

Barnes, Sidney C. "Michigan Credit Union League Sets Up Non-Profit Debt Counseling and Pro-Rate Service," Personal Finance Law Quarterly Report, XVII (Fall, 1963).

Bobier, Harold H. "Chapter XIII, Mecca or Mirage," The Detroit Lawyer, XXXII (February, 1964).

_____. "How to File a Wage Earner Case Under Chapter XIII of the Bankruptcy Act," United States District Court in the Eastern District of Michigan, Northern Division in Bankruptcy, 1963. (Mimeographed.)

Brewster, Stanley F. Legal Aspects of Credit, New York: Ronald Press, 1924.

Brown, Wesley E. "A Primer On Wage-Earner Plans Under Chapter XIII of the Bankruptcy Act," The Business Lawyer, XVII (April, 1962).

Bugbee, Ray. Recording Secretary UAW, CIO Local 599, Personal interview, November, 1963.

U. S. Bureau of the Census. U. S. Census of Population: 1960. General Population Characteristics, Michigan, Washington, D. C.

_____. Statistical Abstract of the United States: 1963. Washington, D. C.

Chapman, Landon L. "Bankruptcy is a Blessing," Speech before the Retail Credit Association of Cook County, Illinois, March 26, 1963. (Mimeographed.)

Committee on Bankruptcy, National Consumer Finance Association. Bankruptcy Handbook for Consumer Finance Company Attorneys, Washington, D. C., 1954.

Consumer Bankruptcy Committee of the American Bar Association.
 "The Hue and Cry," submitted to Section of Corporation,
 Banking and Business Law of the American Bar Association,
 February, 1961. (Mimeographed.)

Consumer Instalment Credit Growth and Import, Part I, Volume I
 (Board of Governors of the Federal Reserve System, 1957).

Council of Social Agencies of Flint and Genesee County, Michigan.
 "Census Tract Project Flint and Genesee County," 1960.

Esra, Esther. Chief Clerk in Bankruptcy, Flint, Michigan, Personal
 interview, December, 1963.

Ferguson, William M. "The United States Supreme Court Unanimously
 Upholds the Kansas Law Prohibiting the Business of Debt Adjust-
 ing," Personal Finance Law Quarterly Report, XVII (Summer,
 1963).

Fusfeld, Daniel R. Don't Get Garnished, Michigan State University:
 Labor Program Service, Labor and Industrial Relations Center,
 n. d.

Gies, Thomas G., et al. "Consumer Finance Companies in Michigan,"
Michigan Business Studies, Ann Arbor, 1961.

Gorman, Robert. "Debt Adjusters Continue False Advertising
 Despite Regulation," Personal Finance Law Quarterly Report,
 XVII (Fall, 1963).

Hall, Douglas H. P. Attorney, Flint, Michigan, Personal interview,
 November, 1963.

Harms, Wesley D. "Some Aspects of Business Policies and Procedures
 in Relation to Personal Bankruptcy in the Wichita Area," Unpub-
 lished thesis: University of Wichita, Kansas, 1961.

Herzog, Asa S. "Bankruptcy Law - Modern Trends," Journal of the
National Association of Referees in Bankruptcy. XXXVI (July,
 1962).

Hirsch, George J. Bankruptcy, Practicing Law Institute: New York,
 1960.

- Hoover, John H. Crime in the United States, Uniform Reports 1962, Federal Bureau of Investigation, United States Department of Justice, July, 1963.
- Huber, Milton J. The Wage Earners Plan, Eighth Annual Conference, Council On Consumer Information, Sarah Lawrence College, 1962. (Mimeographed.)
- Jaffe, Adrian. Civil Procedure Manual for Michigan Justices of the Peace, Okemos, Michigan: Published by Adrian Jaffe, 1960.
- Kaplan, Herman. Labor Market Analyst, Michigan Employment Security Commission, Flint, Michigan, Personal interview, March, 1964.
- Lampman, Robert. Study of Employment, Growth and Price Levels, Study Paper No. 12, Joint Economic Committee of Congress, 1958.
- Loube, William T. Bankruptcy Act, New York, Collier Pamphlet Edition, Matthew Bender and Co., 1962.
- Lusk, Harold F. Business Law Principles and Cases, Homewood, Illinois: Richard D. Irwin, 1955.
- MacLachlon, James A. Handbook of the Law of Bankruptcy, St. Paul, West Publishing Co., 1956.
- Meyers, Samuel L. "The Consumer Bankrupt in Maryland," Unpublished paper: Morgan State College, Baltimore, Maryland, 1961.
- Michigan Law and Practice, St. Paul, West Publishing Co., 1959.
- Michigan, State Banking Department. Abstract of Reports of Small Loan Licensees, 1962.
- Moore, James W. (ed.). Collier on Bankruptcy, 14th edition, I, Matthew Bender and Company, 1962.
- Northrup, Arthur H. "Indiana Governor Welsh Vetoes Debt Pooling Act as Sanctioning Unauthorized Practice of Law," Personal Finance Law Quarterly Report, XVII (Summer, 1963).

- Petrovic, Honorable Alex M. "Debt Adjusters Outlawed In Missouri, Scheming Efforts To Forestall Prohibitory Legislation Are Overcome," Personal Finance Law Quarterly Report, XVII (Fall, 1963).
- Remington, Harold. A Treatise on the Bankruptcy Law of the United States, 5th edition by James M. Henderson, I. Rochester, The Lawyers Co-operative Publishing Co., 1950.
- Rice, John F. (ed.). Michigan Statutes Annotated, Mundelein, Illinois, Callaghan and Co., 1962.
- Rush, Francis M., Jr. Assignment, Garnishment, and Consumer Credit in Illinois, Bulletin 26, University of Illinois: Institute of Labor and Industrial Relations, 1958.
- Schaber, George L. "Voluntary Bankruptcy - A Growing Consumer Banking Problem," Unpublished thesis: School of Consumer Banking, University of Virginia, Charlottesville, Va.
- Snedecor, Estes. "The Importance of Referee's Examination of the Bankrupt," Journal of the National Association of Referees in Bankruptcy, XXXVI (April, 1962).
- Twinem, Linn K. "The Bankruptcy Problem and What Can Be Done About It," Paper presented before the Credit Management Division of the National Retail Merchants Association, Miami, Florida, September 24, 1962. (Mimeographed.)
- Wright, Ralph D. "Consumer Bankruptcy Survey," Commercial Law Journal, LXVIII (November, 1963).

APPENDICES

APPENDIX A

Exemption Statute of Michigan

Michigan Statute Annotated (1962):

Sec. 27A 7511 Wage exemptions

1. First garnishment and head of household:
60 per cent of wages exempt
 - a. Wages for one week or less Maximum exemption \$50, minimum exemption \$30
 - b. Wages for more than one week Maximum exemption \$90, minimum exemption \$60
2. First garnishment and not head of household:
40 per cent of wages exempt
 - a. Maximum exemption \$50
 - b. Minimum exemption \$20
3. All other cases (all garnishments after first) and head of household: 60 per cent of wages exempt
 - a. Wages for one week or less Maximum exemption \$30, minimum \$12
 - b. Wages for more than one week but not exceeding 16 days Maximum \$60, minimum \$24
 - c. Wages for more than 16 days Maximum \$60, minimum \$30
4. All other cases and not head of household:
30 per cent of wages exempt
 - a. Maximum exemption \$20
 - b. Minimum exemption \$10

Additional exemptions:

If under order of court to pay temporary or permanent alimony in a divorce proceeding or for separate maintenance, or moneys for support of children the defendant can exempt such payments in addition to the above exemptions.

APPENDIX B

There is little documented evidence on the charges made by debt proraters. Most information obtainable is by word-of-mouth, heresay. The following schedule was submitted with bankruptcy petition 63-321 filed on August 8, 1963:

DISTRIBUTION OF FUNDS PAID TO
FINANCIAL ADJUSTMENT CO., INC.
403 Kresge Building, Flint, Michigan

Petitioner contributed \$155 from the 23rd of April, 1962 until the 11th of August, 1962 and said funds were disbursed by Financial Adjustment Co., Inc. as follows:

St. Joseph's Hospital	Flint, Michigan	\$30.00
Grand Blanc Oil Co.	Grand Blanc, Michigan	15.00
Hill Funeral Home	Grand Blanc, Michigan	10.00
Goodrich Clinic	Goodrich, Michigan	10.00
Edgecomb's Standard Service		12.00
Dr. Murphy	Grand Blanc, Michigan	9.00
Edgecomb's Pure Service	G-7520 Fenton Rd., Flint, Michigan	10.00
Allied Adjustment Bureau	Flint, Michigan	9.00
	Sub-Total	<u>\$105.00</u>
	Fee charged by Financial Adjustment Co., Inc.	<u>50.00</u>
		\$155.00

The balance between those amounts listed and \$155 is the fee charged by Financial Adjustment Company, Inc.

APPENDIX C

Study Design

General Design of the Study

Data describing the characteristics of the individuals using the Bankruptcy Act to discharge their debts were obtained from petitions filed with the United States District Court, from the referee's examination during the first meeting of creditors and from personal interviews with individuals in bankruptcy. Petitions required in bankruptcy list and describe the amount of debt and the amount of assets of the petitioner. In addition, the origination date of the debt, what the debt was used for and to whom it is owed should be shown. However, the only information consistently given is the amount of debt and to whom it is owed. The petition also shows the petitioner's occupation, income in each of the two preceding years, all addresses for the preceding six years, attorney's name, employer's name, and various legal matters. No social characteristics such as age, race, education and size of family are given. Most of the social characteristics used in this study were obtained through a questionnaire administered by Referee Bobier during the first meeting of creditors. The remaining data on social characteristics plus additional economic data and indications of attitude were obtained by interviewing the bankrupts.

A general understanding of the competitive condition of the Flint area consumer credit market was gained through interviews with loan officers and other people in various phases of consumer credit. The interviews included people from consumer loan (personal loan) companies, sales finance companies, banks, a utility company and retailers.

Also, interviews with several attorneys doing both bankruptcy and general credit work provided additional insight into credit practices in the community.

The Sampling Plan

Selection of samples. --The scope of the sample was restricted to Genesee county in order to obtain a high degree of homogeneity among the population. The county is highly industrialized and most of the people are employed by the auto industry or related enterprises. Also, Genesee county is designated as a Standard Metropolitan Statistical Area; thus, there are more complete and detailed census data available than for other counties. This is important for comparative purposes. The sampling plan consists of three stages. First, data from the petitions of all those individuals from Genesee county filing for bankruptcy in 1963 were tabulated. There were 482 cases. Second, a questionnaire was administered by the Referee to 172 individuals. Third, 84 bankrupts were interviewed.

Representiveness of subsamples. --As indicated, this study is based on three samples, a major sample of 482 petitions and two subsamples of 172 respondents to questionnaires and 84 respondents in interviews. While the sample of petitions represents all of the individuals filing for bankruptcy during 1963, a restraint of the experimental design required cases completing the questionnaires and interviews to be selected only from individuals filing for bankruptcy during the fall of 1963.

There was no reason to believe that the characteristics of those individuals filing in the fall were different from those filing earlier. To check this empirically two different variables were chosen, number of debts and income. Two random samples of fifty petitions were

selected, one from the fall and one from the earlier part of the year. For each of these samples the mean number of debts and the mean income were calculated. The specific hypothesis tested was that any observed differences in the means on these variables might be attributed to sampling error and, inferentially, that the two samples of fifty were from the same population. The hypothesis held at the one per cent level of confidence with respect to each of the descriptive variables. The mean number of debts for the fall sample was found to be 17.46; mean number of debts for the sample drawn from the earlier part of the year was 16.20, an insignificant difference. Similarly the mean income for the fall sample was \$4,422.69; the mean income for the other sample was \$4,730.16, an insignificant difference. This finding gave reasonable assurance that a research study based on the fall petitioners would be representative of the petitioning group generally.

The Data Obtained from the Petitions

Recording errors. --A certain amount of error always occurs when data are manually recorded and tabulated. To minimize the error in this study cross checks and rechecks were often made. An example should suffice. To check the accuracy in recording the debts listed on the petitions, the total debt as recorded was compared to the total secured, unsecured and priority debt listed in the petition. These figures will be equal unless a recording error has been made or unless there has been an adjustment made in the recording process to correct an error in the petition. In either case a check is obtained.

Dating of debts. --In addition to being classified by types of creditors the debts were classified by date. The origination date of the debt was compared to the date on which the petition was filed to determine the age of the debt. Approximately 65 per cent of the debt had an adequate

origination date indicated on the petition. To be usable in this study the date had to indicate the month and year. Most of the dates also indicated the day. Most of the petitions listed the year if the month was not given. The petitions usually either contained adequate dates for all the debts or contained no dates. Thus, the chance of obtaining a biased result due to individuals not listing those debts recently acquired is minimal. In those cases where the exact date was not given, the date was assumed to be the middle of the month. Where a debt was shown as a "running account" with a beginning and ending date the amount was distributed equally among the months involved. If the debt was an open account with no ending date it was classified as no date.

Many of the debts owed to financial institutions were the result of refinancing. In these cases there are two possible dates. A date of the original financing and the refinancing date. A check of the respondents indicated that the refinance date is the date given in almost all cases. In analyzing creditor participation in consumer bankruptcy, this date is quite important since it shows the decision to grant credit in relation to the breaking point of the borrower's budget as evidenced by his bankruptcy.

The Referee's Examination

Figure C-1 shows the questionnaire used by the Referee at the first meeting of creditors. The Referee examined each petitioner and filled out the questionnaire before closing the meeting. At the beginning the additional time required for the examination seemed to annoy a few of the lawyers, but after the initial adjustment they apparently accepted the procedure. Excellent cooperation was obtained from all parties.

Figure C-1

PERSONAL BANKRUPTCY DATA - QUESTIONNAIRE

CASE No.: _____

Race: _____

Sex: M: _____ F: _____

Age of Applicant: _____

Level of education attained: (1-12) _____ College: (1-4) _____

Marital Status:Married: _____ Widowed: _____ Divorce Pending: _____
How Long: _____ How Long: _____

Divorced: _____ Separated: _____

How Long: _____

No. of Children Supporting: _____

Amount you pay: _____

Are payments current: No: _____ Yes: _____

Number of people being supported in addition to self: _____

Earnings:

How will your earnings this year compare with last year?

Same: _____

More: _____

Less: _____

Have you been unemployed at any time during the last 12 months?

No: _____

Yes, How Long: _____

Wife's (Husband's) earnings, 1962: _____ Not Employed: _____

How will her (his) earnings this year compare with last year?

Same: _____

More: _____

Less: _____

Previous Remedies:

Have you ever been in receivership in local courts?

No: _____ Yes: _____ When: _____

Number of previous bankruptcies: _____ None: _____

Date of previous bankruptcy: _____

Reason for being in this difficulty:

The Personal Interview

A major problem in study the bankrupt is finding a way in which he can be interviewed. There is no easy solution to this problem. Interviews for this study were conducted at the court immediately following the examination of the petitioner by the Referee. Every other petitioner was selected. Referee Bobier upon finishing his examination would direct the petitioner to room 121 for the interview. Cooperation of the attorneys was obtained through a letter written by Mr. Bobier to each attorney practicing through the court (see Figure C-2). In no case did a respondent fail to cooperate.

An obvious limitation is that the respondent felt that he was still in court. Under such conditions the interviewer must rely mostly on factual questions. The answers will likely be quite guarded. Although such a limitation existed, many respondents talked freely in the interviews, revealing their attitude.

The interview was limited to fifteen minutes so that five to six petitioners could be interviewed during each court session. Court was only in session for first meetings from 9:30 A.M. to 11:00 A.M. three days every other week. This explains the need for such short interviews. Figure C-3 shows the questionnaire used as a guide in the interview. All of the questions were asked in each interview, and when additional time was available the interview was continued on a semi-structured basis. These longer interviews often proved to be very rewarding.

Limitations on Findings

The data resulting from any research design that relies on sampling are subject to some sampling error.

Figure C-2

Letter to Genesee County Lawyers

United States District Court
Eastern District of Michigan

Office of
REFEREE IN BANKRUPTCY
210 Federal Building
Flint 3, Michigan

September 4, 1963

DEAR FELLOW ATTORNEY:

Robert Dolphin Jr., Michigan State University student majoring in finance work and preparing his Doctoral Thesis on Business Administration, is going to spend the next several weeks as a guest of this Court. The purpose of his visit will be to accumulate data for his thesis which will cover the Economic and Personal Characteristics of the Personal Bankrupt. The objective of the study will be to identify and accumulate the major causes of the debtor's financial distress.

Although his project is aimed at discovering and delineating the factual circumstances surrounding the debtors insolvency, a by-product of the work will be to discover reasons for the insolvency, if possible, and make remedial suggestions.

I would appreciate it if you would cooperate with Mr. Dolphin in accumulating his data. He will select, for interviews, several debtors from the daily list that goes to Court. The interview will be conducted in the Attorneys Room at 121 of this building immediately after the debtor has been examined on the stand. This office will attempt to notify you in advance if your client has been selected for an interview. I would appreciate it very much if you would notify your client that Mr. Dolphin will interview him immediately after his court appearance. The interview will take approximately fifteen minutes.

No embarrassing questions will be asked and the information elicited will be pertinent to the object of the study.

Thank you for your cooperation.

Yours fraternally,

HHB/jc

Harold H. Bobier, Referee

Figure C-3

INTERVIEW QUESTIONNAIRE

1. Could you describe the events which led to your filing for bankruptcy?
Reason for unemployment?
What actually made you decide to file for bankruptcy?
2. Who do you know who has gone bankrupt?
Family? _____ Friends? _____ People you work with? _____
Neighbors? _____
3. Who suggested bankruptcy?
4. Have you used a debt pooler, debt adjustor, budgeting service?
5. Are any of the loans listed on your petition personal loans, i. e.,
for money you borrowed at a loan company?
Did you use any of this money to pay off other debts? _____
What type of debts did you pay off? _____
When did you first borrow to pay off these debts? _____
What did you use the funds for? _____
5. Consumption information:
 1. Car owned during last year? _____ Year purchased _____
 2. Kind of boat owned during last year? _____ Year purchased _____
 3. T.V. set owned during year? _____ Color _____ noncolor _____
Year purchased _____
 4. Do you own a Hi-Fi? _____ Year purchased _____
 5. What jewelry have you purchased during the year?
6. Have you purchased any furniture or appliances during the
past year? _____
7. Who have you told that you are filing bankruptcy?

What did they say when you told them?

Proportions obtained in this study are subject to such error. A given proportion may differ from the parameter due to a true difference or it may differ due to the sampling error.

Significance of a difference between sample proportion and population parameter. --Data from the sample study are to be related to the general population data; therefore, the population figures are accepted as parameters. Parameters of the population are those provided by the census bureau. There are two possible errors introduced in using census data as parameters. One is the possible difference between the census data and the true parameters; however, this is minimized by the large size of the sample from which the census data are derived. The other error is due to the age of the census data. Data on the bankrupt population of 1963 are being compared with data on the general population of 1960. This error is probably insignificant, since the characteristics of the population are unlikely to change markedly in three years.

The probability that an observed difference between a statistic computed on a sample and a corresponding population parameter is due to sampling error which can be tested by accepting the parameter as error free and noting the significance of the difference in terms of the sigma of the sample. Rather than computing the level of significance for each entry in every table, the level of significance was computed for various proportions and used to construct Table C-1 which the reader may use in approximating the level of significance. The table is derived from the following formula, where:

Z = number of standard errors of the sample from the parameter

p = sample proportion

P = parameter

n = sample size

$$Z = \frac{p - P}{\frac{p(1-p)}{n}}$$

The figures in Table C-1 are the Z scores as computed above. To illustrate the use of Table C-1 consider the proportion of bankrupts and the proportion of the population 30 to 34 years old (Table 3-6).

Twenty-three per cent of the bankrupts are 30 to 34 while thirteen per cent of the population is 30 to 34. To determine at what level of confidence the difference is statistically significant, find the difference, 23% - 13%, of ten under "sample difference" on Table C-1 and read the entry in this row under the column of the nearest "Reported Percentage." In this case the nearest column is 25-75, indicating a "Z score" of 3.03. The normal curve table indicates that the difference is significant at the .0024 level of confidence. For readers not familiar with the area under the normal curve, the "Z scores" for three commonly used levels of significance are:

<u>Z score</u>	<u>Level of Confidence</u>
1.96	.05
2.33	.02
2.58	.01

Interval estimate for sample proportions. -- The interval within which the true proportion will lie may be computed with the formula shown on page 178. Table C-2 set forth on page 181 reflects ranges within which percentages as computed may vary due to sampling error. These are reflected for two levels of confidence, one per cent and five per cent and are for a subsample, $n = 172$. To illustrate the use of this table, refer to Table 3-6. Note that 37 per cent of the bankrupts are 25 to 29 years old. Under "Reported Percentage," in Table C-2, the nearest percentage is 35; reading under the .05 level of confidence, a range of plus or minus 7.13 per cent is indicated. Thus, the interval that contains the "true proportion" at the .05 level of confidence is 29.87 - 44.13.

Table C-1. Number of Standard Deviations Between Sample Proportion and Population Proportion

Sample Difference	Reported Percentage									
	5-95	10-90	15-85	20-80	25-75	30-70	35-65	40-60	50-50	
.01	.602	.437	.366	.328	.303	.287	.275	.267	.262	
.02	1.205	.873	.733	.656	.606	.573	.549	.535	.525	
.03	1.807	1.310	1.099	.984	.909	.850	.824	.802	.787	
.04	2.410	1.724	1.465	1.312	1.212	1.146	1.099	1.070	1.050	
.05	3.012	2.183	1.832	1.639	1.515	1.433	1.374	1.337	1.312	
.06		2.620	2.198	1.967	1.818	1.719	1.648	1.604	1.575	
.07		3.057	2.564	2.295	2.121	2.006	1.923	1.872	1.837	
.08			2.930	2.623	2.424	2.292	2.198	2.139	2.100	
.09			3.297	2.951	2.727	2.579	2.473	2.406	2.362	
.10				3.278	3.030	2.865	2.747	2.673	2.624	
.11						3.152	3.022	2.941	2.887	
.12								3.209	3.150	

Table C-2. Interval Estimates for $n = 172$

Reported Percentage	Level of Confidence	
	One Per Cent	Five Per Cent
	Percentage Intervals	
5 - 95	4.28	3.25
10 - 90	5.91	4.49
15 - 85	7.04	5.35
20 - 80	7.87	5.98
25 - 75	8.51	6.47
30 - 70	9.00	6.84
35 - 65	9.39	7.13
40 - 60	9.65	7.33
45 - 55	9.78	7.43
50 - 50	9.83	7.47

Table C-3 has been constructed for the sample of petitions which includes all of the bankruptcy petitions filed during 1963, $n = 482$. This group is being referred to as a sample for purposes of making generalizations as to the characteristics of bankrupts outside Genesee county. The sample of 482 used in this study is not a random sample for the United States; therefore, Table C-3 is only inferentially applicable to all bankrupts.

Definition of Creditor Groups

A classification system for the bankrupt's debt may be based on the purpose for which the debt was acquired or it may be based on who

Table C-3. Interval Estimates for n = 482

Reported Percentage	Level of Confidence	
	One Per Cent	Five Per Cent
	Percentage Intervals	
5 - 95	2.56	1.94
10 - 90	3.51	2.67
15 - 85	4.18	3.18
20 - 80	4.70	3.57
25 - 75	5.08	3.86
30 - 70	5.37	4.08
35 - 65	5.60	4.25
40 - 60	5.75	4.37
45 - 55	5.83	4.43
50 - 50	5.86	4.45

made the decision to extend credit. All debt in this study is classified by type of creditor. In many cases the nature of the creditor's business will indicate the purpose or use for which the credit was extended, but not always. For example, debts listed as medical services will be some type of doctor, dentist, drug or hospital bill; whereas, retail debts could be for anything from groceries to clothes.

Small Loan Licensees and Sales

Finance companies.--This group includes both captive and independent sales finance companies and personal loan companies. These companies range from giants such as General Motors Acceptance

Corporation and Household Finance Corporation to small locally owned companies such as Flint Loan Company. Many of them extend both sales financing and personal loans under state small loan laws. Thus, it is impossible in many cases to determine by the name of a company whether a particular debt is a sales finance contract or a personal loan. To obtain this information which would enable classification by instalment sales financing and personal loans, 172 respondents were questioned.

Banks. -- The bank creditor group includes commercial banks and industrial banks. One bank operates a charge-account service. Most of the bank debt was either direct or indirect instalment sales financing. However, a classification by direct and indirect sales financing could not be obtained. A tabulation of the debt by sales financing or loans to individuals was not obtained.

Credit Unions. -- This category is self-explanatory. It includes only employee credit unions.

Medical services. -- Included in this group are doctors, dentists, hospitals, clinics and drug suppliers. Several veterinary medical debts which were listed were classified as miscellaneous. Most of the debts were to doctors and almost all the large debts were to hospitals.

Retail. -- Retail creditors include all concerns selling merchandise on credit with one exception. The sellers of used automobiles on credit were classified as miscellaneous. All new car purchases were ultimately financed through the banks or finance companies. Debts listed as owing to collection agencies were classified according to who extended the debt unless it could not be determined. In that case, they were considered miscellaneous. In most cases the debtor could be determined.

Service. --A few examples will indicate the nature of this category. It included landlords, utility companies, schools, diaper service companies, lawyers, insurance companies and repair service companies such as television. The school debt in all cases was unpaid tuition fees.

Individuals making personal loans. --These creditors are friends, relatives and others who have made loans to the bankrupt.

Non-creditor judgments. --This group includes individuals or firms who have obtained judgments for damage and negligence claims. It excludes judgments for unpaid debts. Deficiency judgments occur frequently and were classified according to who extended the credit and not as judgments.

Co-signed notes. --This category deviates somewhat from the classification criteria, but does not result in double counting. Debt due to co-signed notes was thought to be sufficiently important to be a separate category. These are all debts resulting from the bankrupt's use of his credit standing to enable someone else to borrow by co-signing for them. This type of debt is often confused with secured debt by attorneys. It will be found listed in the schedules as secured debt, unsecured debt and accommodation paper (co-signed notes), and sometimes as all three in the same petition. It is quite often listed as both secured debt and accommodation paper. The Act defines it as accommodation paper and explicitly states that it is not to be considered a secured debt.

Miscellaneous. --The nature of this category needs no explanation. Some of the items included are debts to companies selling grave markers, cemetery lots, used cars and debt adjustment counseling (debt poolers). Also included were a few debts where the debtor was not given.