

GARNISHMENT IN KANSAS, 1969

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INTRODUCTION

Personal debts, mounting sharply for the last twenty-five years, are threatening the financial stability of American family life. Debt delinquencies are becoming more prevalent. In many cities personal bankruptcies parallel the rise in debt delinquencies. In 1970, \$22.40 of every \$100.00 of personal income after Federal income tax, went toward debt payments. And creditors appear to be resorting to every legal means at their disposal to collect delinquent debts (U.S. News and World Report, June 22, 1970).

One of the legal tools put in the hands of creditors is wage garnishment. It is also considered one of the harshest since it is an invasion of a person's human rights,

the right to be left alone; the right to be treated with dignity; the right to earn a wage; the right to preserve the sanctity of their home; and the right to maintain integrity with family, friends, neighbors, and employer (Feldman, 1970, p. 3).

Wage garnishment, at best, may diminish the debt owed to a creditor; at worst, the host of side effects may serve to negate any further possibility for the debtor to meet his financial obligations. Inherent in the use of wage garnishment is a threat of discharge from employment, humiliation in the eyes of family, friends, and employer, a severely reduced paycheck, and the potential responsibility of the sum of the remaining debt on the shoulders of the employer if he does not proceed correctly.

Garnishment means any legal or equitable procedure through which earnings of an individual are required to be withheld for the payment of any debt. It refers to a court proceeding through which a creditor seeks to reach an employee's earnings before they are paid to him so that they may be applied to the satisfaction of a claim against the employee (U.S. Department of Labor, October, 1970, p. 1).

Garnishment is distinguished from a payroll deduction or wage assignment plan since the earnings of the individual are required to be withheld for the payment of debt. In the payroll deduction or wage assignment plan, the action is voluntary, initiated by the employee-borrower signing a written request for his employer to deduct a certain amount from his wages, which is paid directly to the creditor. Wage garnishment, however, is initiated by a court order to the employer-garnishee, requiring a certain portion of the employee's earnings be withheld and paid into the court. Eventually this amount will be paid out of court to the creditor (Bruce, 1970).

Since wage garnishment is a statutory proceeding, a creation of state law, the procedures followed and the terms of garnishment vary from state to state. This variation was reduced considerably on July 1, 1970, when Title III of the federal Consumer Credit Protection Act became effective. This act set some minimum protections for wage earners to which all states must conform or surpass (Mader, 1969).

Even with the passage of the federal Consumer Credit Protection Act, the terms used to describe garnishment vary, although the effect of the proceeding is basically the same. Kansas uses the term "wage garnishment," Connecticut calls it "execution," in Delaware it is "mesne attachment" before judgment and "execution attachment" after judgment, in Illinois the term is "wage deduction procedure," in Massachusetts "trustee process," and in New York "income execution" (Commerce Clearing House, 1970, Sec. 130.30, p. 1054).

No matter what term is used, very simply wage garnishment is a court proceeding in which a creditor of an employee seeks to reach the employee's wages before the employer pays them to the employee (UAW Union, 1969).

Statement of the Problem

Even though it is acknowledged that garnishment is a powerful instrument at the disposal of creditors, little is known, at least in Kansas, about the phenomenon as it is actually employed by Kansas creditors.

A comprehensive study of the phenomenon of garnishment, as it functions in Kansas, necessitates resolution of a battery of questions: Is garnishment even practiced in Kansas? Is it a city phenomenon only, or is it used in the rural counties as well? Who uses garnishment? Is it primarily used by doctors, hospitals or other medically oriented persons or institutions? Or do the retailers or financial institutions make use of this method, recognized in law, for the collection of debts?

Another set of functions relate to the cost of using the courts to collect debts. How much time is taken by the sheriff to serve the papers? Are his costs fully covered? Does the debtor appear in court when the judgment is made? Is the creditor's claim even challenged? Over how long a period of time is the garnishment order in force?

And, a final set of questions relate to the effect of garnishment on the debtor. Is the debtor aware he is being garnisheed? Is his relationship

with his employer affected? What effect if any does garnishment have in the family relations? How was the credit obtained that led this family into difficulty? What was the family's financial situation at the time their debts became delinquent? What is their attitude toward debt, creditors, and the law?

To answer all of the preceding questions is beyond the scope of this study. The purposes of this preliminary research of garnishment in Kansas cover eight areas:

1. To see if it was possible to obtain data on garnishment.
2. To document the existence of garnishment in Kansas and its extent.
3. To see if the extent of garnishment usage varied with the population size of the county.
4. To document which creditors used garnishment as a means of collection on default debts in Kansas.
5. To answer the question of whether garnishment was a self-supporting collection device or whether it was subsidized by Kansas taxpayers.
6. To develop and test a technique whereby students may be employed as responsible researchers within a flexible framework such as the Field Study in Family Economics course.
7. To bring some insight into the nature of the garnishment process and the laws that govern it.
8. To summarize the research of various authorities on credit remedies to illustrate the probable affects of garnishment on both the debtor and society.

Social Significance of Garnishment

The section on the social significance of garnishment was included in the Introduction of this paper not so much because it pertains directly to the actual results of the research study, as to illustrate the implications of garnishment on individuals and families who have experienced garnishment and on society as a whole.

To facilitate understanding of certain legal terms concerning garnishment used throughout this paper, a glossary of selected terms has been included in Appendix A.

In his testimony before the National Committee on Consumer Finance, Ralph Nader requested that the committee "Evaluate the impact of abolishing

garnishment of wages and the costs of not abolishing this system. I repeat the costs of not abolishing this system" (Feldman, 1970, p. 16).

The use of garnishment as a collection device does have a cost, a cost to the individual debtor and his family, a cost to society through increased social problems, and a monetary cost to taxpayers for processing the garnishments. Only after careful scrutiny of these costs can it be determined whether garnishment is truly helpful to any segment of society, or whether the ills inherent in the system make it too costly a method of collection.

The "why" of garnishment

Garnishment statutes originated in an era when consumer credit was almost nonexistent. Until recently, individual debt was something "devoutly to be avoided." Going into debt was akin to sin, definitely immoral. To let creditors "jeopardize a man's job by garnisheeing his wages is a manifestation of this attitude." The exemption of a certain percentage of the debtor's wages from garnishment was a rough compromise between regarding the debtor as sinful and his family as unfortunate (Brunn, 1970, p. 299).

The picture has changed. Personal debt is not only encouraged but merchandised as intensely and artfully as many commodities. Consumer debt has become part of the American way of life. Why, then, has the law concerning some of the harsher creditor remedies not changed along with this attitude? Very simply, though the American public has changed its attitude toward debt it has not changed its stereotyped image of the default debtor.

Nader contended there was actually a public hostility toward default debtors that resulted in the public's image of this default debtor as a "deadbeat." He emphasized that the picture of the default debtor as a deadbeat was a false one ". . . to depict anything but a minority of debtors." He claimed that "probably less than 10% of the defaulting consumers can be so categorized" (Feldman, 1970, p. 12-13).

Nader's opinion was that the "representative" default debtor had stopped payment on his debt "either because he was overcommitted by improvident loans or because his economic condition had changed due to unemployment, sickness, or family emergency" (Feldman, 1970, p. 13).

John Spanogle stated there were basically two types of consumer problems when it came to credit. One involved the consumer who was "overcommitted and could not pay his debts"; the other involved the consumer who was "abused, defrauded, misled, or otherwise taken advantage of in his dealings

with a creditor" (Spanogle, 1970, p. 304).

Spanogle contended that the whole of society suffers from an improvident loan. The debtor suffers financially and psychologically. The creditor suffers financially but passes his loss on to the general public through higher prices or higher interest rates. It takes "two willing parties to create a loan, and two mistaken parties to create an improvident loan." In blaming the overcommitted consumer, one forgets that the creditor bears part of the responsibility, "both for inducing the consumer to borrow through advertising and unsolicited credit cards, and for failing to ascertain the consumer's ability to repay" (Spanogle, 1970, p. 304-305).

When a consumer buys goods on credit he expects to pay only if the goods are delivered and perform within reasonable expectation. If the goods do not perform as warranted, the consumer may feel he is within his right to withhold payment until the seller "makes good" on his product. But the average consumer may not be aware that if his contract has been sold to a third party, such defenses have been cut off. The third party has become a holder-in-due-course and is not legally responsible to him for the quality of the merchandise, though the debtor is still responsible for the amount of the contract. In this particular case the law provides a vehicle for more unscrupulous creditors to evade any responsibility for the quality of their merchandise. And, more seriously, all of the creditor remedies, including wage garnishment, are available to the holder-in-due-course if the debtor refuses to pay.

Garnishment and discharge

One of the greatest flaws of garnishment, as a creditor remedy, is that it often leads to the dismissal of the worker. This was certainly true before the enactment of the federal law which now prohibits discharge because of garnishment for any "one indebtedness," but it is true even now. If an employer dislikes garnishment he may easily look for, and find, other reasons to discharge the employee whose wages have been garnisheed (Brunn, 1967).

Before the federal law it was quite common for a company to include in its employment policy a notice that garnishment of any employee's wages would result in automatic dismissal. Even labor unions have been unsuccessful in protecting their members by trying to write specific clauses into

contracts to the effect that employers may not take disciplinary action against an employee whose wages have been garnisheed (Mader, 1969).

Garnishment is so detested as a nuisance, that most union contracts, instead of prohibiting dismissal for garnishment, either tacitly or specifically recognize the right of the employer to discharge an employee whose debts result in a prescribed number of garnishments within a specified time period (Brunn, 1967).

Since the federal law, many employers have changed their policy concerning the number of garnishments allowed before dismissal of an employee. But, nevertheless, the threat is still very real (Mader, 1969).

According to Caplovitz's study of default debtors, "some 8%" of the debtors interviewed had lost their jobs because of garnishment. And worse, the worker who had been dismissed because of garnishment had a stigma on his work record which made it difficult to obtain new employment (Caplovitz, 1970).

Employers, in fact, have a good point in their right to discharge for garnishment. The garnishment process is definitely a nuisance. The processing entails extra work and expense for the employer. And he is constantly under the threat that if he or his bookkeeper slips up in any way in processing the garnishment, he can be held liable for the full amount of the employee's judgment. Another legitimate argument is that employers have a real interest in the financial responsibility of their employees; "an employee in deep financial trouble may not be a very productive one" (Brunn, 1967, p. 289).

A family's financial crisis may have far-reaching effects:

. . . effects on creditors, effects on the legal machinery of society, effects often in terms of unemployment insurance, welfare payments, personal tensions, and even family breakup. Employers are not automatically exempt from these effects.

In fact a no-discharge-for-garnishment rule could well have the healthy effect of encouraging more employers to take an active interest in the debts problems of their employees (Brunn, 1967, p. 289).

The threat of garnishment

Because garnishment carries with it the very real possibility of unemployment, the mere threat of garnishment may be considered a collection device of itself. The employee's fear of discharge collects at least as much money for creditors as the actual process, indeed it may collect

more (Brunn, 1967).

Some 44% of the default debtors in Caplovitz's study reported that their employers had been contacted by their creditors about pending garnishment proceedings if the debt was not settled. Such prejudgment communications between creditor and employer raise a variety of legal issues "ranging from unfair coercion and denial of due process, to invasion of privacy." Some debtors were coerced into resuming payments even though they believed they had been cheated, simply because of the fear of garnishment (Caplovitz, 1970, p. 11).

In California, such harassment with the threat of garnishment was so great that one collection agency was taken to court over the matter. The collection agency in question was permanently enjoined by a consent judgment from threatening:

(1) a debtor with wage garnishment in regard to a claim of indebtedness that is not, either because of the amount or nature of the claimed indebtedness, subject to garnishment, (2) to disclose or publicize the indebtedness to an employer or to any other person or organization in any manner other than through proper legal action or measures, or (3) to inform an employer that the debtor has been unreasonable in his dealings with the collection agency (People of State of California v. Petroleum Collection Inc., California Superior Court, Los Angeles County, No. 944249, Filed Dec. 23, 1968) (Commerce Clearing House, 1970, Sec. 9259, p. 10493).

What the court records show as being collected through garnishments is not an accurate picture of garnishment's effectiveness. The threat of garnishment may induce a defendant to pay off a debt or make payments on account. These payments will not show up on court files (Brunn, 1967).

Therefore, a release from garnishment does not null the effectiveness of garnishment. To the contrary, so real is the threat of garnishment, that a multitude of releases reflects the effectiveness of the threat itself as a collection device.

Bankruptcy and garnishment

Bankruptcy is one example of the self-defeating aspects of garnishment. The employee who is threatened with discharge because of garnishment, who cannot pay, sometimes chooses bankruptcy as a means of saving his job. The expansion of consumer credit in postwar years was paralleled by an amazing increase in personal bankruptcies (Brunn, 1967).

In one study on bankruptcy in the Flint, Michigan, area during 1963, 75% of the bankrupts interviewed indicated that garnishment or the threat of

garnishment was their reason for filing bankruptcy proceedings (Dolphin, 1965).

Mr. Linn K. Twinem, the Chairman of the Consumer Bankruptcy Committee of the American Bar Association has written extensively on bankruptcy. He contends that harsh collection laws tend to increase the number of bankruptcies in the states where these laws exist. He feels that the incidence of bankruptcy increases in those states having harsh garnishment or wage assignment laws (Twinem, date unknown).

Among the ten states with the highest rate of bankruptcies per capita in 1962, only Illinois had an exemption of wages from garnishment as high as 85%. Among the 11 states with the lowest bankruptcy rate per capita, all had very high or 100% exemptions, except Maryland where garnishment was severely limited (Brunn, 1967).

In 1961, Illinois raised its garnishment exemption from \$45.00 to \$85.00. Between 1961 and 1964 nonbusiness bankruptcies in Illinois declined 9%; nationally during the same period they rose 18%. In 1957, Iowa moved in the opposite direction, abolishing its 100% exemption in favor of an exemption of \$35.00 per week plus \$3.00 per dependent. From 1957 to 1963 Iowa bankruptcies more than quadrupled, almost double the national rate (Brunn, 1967).

The Honorable Estes Snedecor, Referee in Bankruptcy of Portland, Oregon, believes that "the one and only primary cause (of bankruptcy) is garnishment or the threat of garnishment coupled with an inadequate wage exemption law" (Snedecor, 1960).

A Chicago attorney explains why a debtor would resort to bankruptcy to avoid wage garnishment:

The "wage earner" bankrupt does not file his voluntary petition in bankruptcy for the purpose of distributing his assets among his creditors. He is not the object of involuntary proceedings . . . the wage earner has filed his petition in bankruptcy, in part to escape indebtedness which never should have been incurred, but also in order to free his week's wages from garnishment or attachment by a creditor. He seeks a "restraining order" for the twin purpose of collecting his wages and to spare his employer from involvement in his wage difficulties (Satter, 1961, p. 50).

Garnishment may be tolerated in preference to bankruptcy. One of the students involved in the field study interviewed a man who had been garnisheed for 10 years on the same debt. The man related his consideration of bankruptcy as a way out. He stated he had not filed bankruptcy because

"of the little people who had helped him out along the way." He was afraid that when everything was divided up, the big guys would get it all and the little guys he owed money to would be left out (Anonymous Interview, p. 5).

The costs of garnishment

In Caplovitz's study the interviewers inquired whether the debt problem and the harassment from creditors had affected the debtor's personal life. Virtually half replied that their health had been seriously affected. Ten percent of the debtors who were married claimed that the debt problem had led to the breakup of their marriage (Caplovitz, 1970).

Another side effect of the garnishment system is that the courts often become "the enemy" in the eyes of the debtor, especially if he is poor. They consider the courts as just one more part of the establishment seeking to "grind them down" (Wagner, 1968). For instance, Mary Gardiner Jones, FTC Commissioner, reported that in an FTC study of credit sales practices of District of Columbia merchants, low income retailers used the court system to collect their debts on a basis of "one out of every \$2,500 worth of sales. Sixty per cent of this court action resulted in garnishment--about 1,568 garnishments" (Feldman, 1970, p. 47).

Who pays for the use of the courts as a collection agency? If, in fact, the courts are ever completely reimbursed, it is the debtor who bears the costs. The debtor also pays all the sheriff's fees for serving of papers unless the judgment is entered in his favor. He who cannot afford to pay his debt has his debt problem compounded with additional legal fees. If the debtor is released from garnishment by a creditor, the creditor assumes certain of these costs, but he passes them on to the debtor again, as a stipulation in the agreement for the release.

The San Francisco Sheriff's Office is an example of society's subsidy of the courts as a collection bureau. In this office there is a civil department with eleven field deputies and sixteen other persons who do nothing but serve papers. In January and February of 1965, the deputies made over 5,900 services, among them over 3,700 writs of attachment or execution. Most of these latter levies, 75-80%, were wage garnishments. The sheriff collects over a million dollars a year for creditors, but society subsidizes this collection because the cost of operating the civil department runs more than twice the amount it collects in fees (Brunn, 1967).

Mr. Paul Wagner, UAW spokesman, stated in his testimony during the

National Consumer Protection Hearings in 1968,

The law should not be so blind that it cannot see that it is being used as a footstool, not in the implementation of justice--but rather in the extraction of the last ounce of economic resource of a person or family (Wagner, 1968, p. 50).

The dominoe effect

When a person's wages are garnisheed it is often because he has not had money to pay a particular debt. If his wages are then reduced by 25%, what happens? Though it cannot be proved, it is contended that a "dominoe effect" occurs. When one creditor takes 25% of the debtor's wages, the debtor must make another creditor wait for his money. Soon the second creditor becomes disgruntled and seeks some satisfaction, perhaps through garnishment. So aside from causing immediate hardship, the sharp reduction in income resulting from wage garnishment may also acutely aggravate the debt problems of the family, bringing action by other creditors in a chain reaction which could lead to family economic disaster (Brunn, 1967).

Lack of civil representation

Even though the precise data are lacking, wage garnishment seems to be predominantly used against "debtors in the low-to-middle income groups; 'garnishee' is one word that is better known among the poor than among those who are economically well off" (Brunn, 1967).

And so in effect the system denies a certain group of consumers the right to a defense. It is not the law which denies them legal counsel, but the system itself. A debtor, already in financial trouble, can hardly be expected to afford legal counsel to represent him in court.

According to Caplovitz's study the reason for so many default judgments among the debtors interviewed was that hardly any of them could afford to hire a lawyer. Not only were many of them too poor, but the amount in dispute was usually less than the debtor would have to pay a lawyer. Therefore, only 21% of the debtors in his sample obtained the assistance of an attorney, and most of those who did, were being sued for large amounts--in excess of \$1000 (Caplovitz, 1970).

Free legal counsel must be offered in the case of criminal actions for anyone who cannot afford his own attorney. Are the results from criminal action so much more devastating to society or the individual and his family than the results of civil action?

Caplovitz's suggested solution is the use of consumer class action suits and some arrangement whereby "the creditor pays for the debtor's legal fees when the debtor wins." He was not in favor of having the debtor pay the creditor's legal fees should the creditor win, for two reasons: One, the creditor's lawyer is often on a retainer; and, two, debtors would be less willing to contest a suit if they ran the risk of having to pay all the legal costs (Caplovitz, 1970).

Still another solution might be a system similar to the one operated in criminal courts, whereby every citizen would have a right to counsel in a civil suit and thus be able to have his day in court. One can only guess how such a system would influence the number of default judgments in civil actions.

Such legal services might well have another advantage. They might also serve as a force in generating legislation to improve the consumer's legal rights (Katz, 1968).

Society's responsibility

To the sheriff or marshall, a garnishment is just part of his job; to the creditor, a type of insurance against a poor risk; to the employer, a genuine nuisance, expense, and even threat; and to the debtor a humiliating experience that could spell financial disaster.

Society has a major stake in the garnishment process, which is not only a creature of law but an activity of the government. Society has a legitimate concern that legal debts be paid; society also has a legitimate concern that the collection tools it fashions, and whose use it sanctions, do not cause undue distress and hardship (Brunn, 1967, p. 270-71).

How well, Brunn asks, does garnishment serve these various competing interests?

Process of Garnishment

General

State garnishment laws generally follow one of three patterns:

(1) The first, Pattern I, allows garnishment only after a judgment has been entered, i.e., a court finds that a debt in a particular amount is owed. This affords the greatest protection to the wage earner (Mader, 1969).

(2) Under Pattern II, the debtor's wages may be tied up before judgment is entered, under special circumstances. Once a creditor initiates a suit

to collect a debt, if he can show that certain circumstances exist which might make the collection of the debt difficult or impossible following the judgment, he can request a court order for the debtor's employer to hold or to pay into court a part of the debtor's wages, pending the outcome of the suit (Mader, 1969).

The kinds of special circumstances normally recognized include things done to defraud the creditor, or a showing that the debtor plans to leave the state to avoid paying the debt (Mader, 1969).

If the creditor goes on to win the suit, the legal portion of the wages withheld are paid to him toward fulfillment of the judgment. If the alleged creditor loses the suit, the wages are "unfrozen" and paid to the debtor (Mader, 1969). If the creditor loses the suit, there is no means for the debtor to seek retribution for having his wages withheld for the period of time it took to settle the case.

(3) Pattern III provides virtually no protection to the wage earner. Proceedings may be brought and wages tied up before judgment and without the creditor giving proof of any special circumstances. Merely by beginning a suit alleging a delinquent debt, a creditor could have a worker's wages tied up for a long period of time pending the suit's outcome (Mader, 1969).

Pattern III is no longer in use in most states since the U. S. Supreme Court decision in the Wisconsin case of *Sniadach v. Family Finance Corp.* The Supreme Court ruled that the Wisconsin law deprived a debtor of due process by permitting garnishment of his wages solely at the request of the creditor. The Court made it clear that garnishment ordinarily may not be had until the debtor has had both notice and a hearing (Reuther, 1969).

A prejudgment garnishment of the Wisconsin type was considered by the Court as the taking of property without procedural due process, and, as such, not in accordance with the 14th Amendment of the U. S. Constitution. They considered that it might impose a tremendous hardship on wage earners with families to support. As a practical matter it could drive a wage earning family to the wall (Commerce Clearing House, 1970, Sec. 131.20).

This decision does not mean that prejudgment garnishment is now unlawful. It does mean, in effect, that an attorney for a defendant who has had his wages garnished prior to judgment, may raise the *Sniadach* decision as a defense in the judgment trial.

At the time the appeal to the U. S. Supreme Court was made, the NAACP

Legal Defense and Educational Fund, Inc., said that this was the first time the U. S. Supreme Court was asked to consider the legality of wage garnishment. They also commented that if the appeal was successful it would affect garnishment in 17 states (Commerce Clearing House, 1970, Sec. 130.201).

Though Kansas was not included in the list of 17 states, prior to July 1, 1970, it followed generally Pattern III in wage garnishment laws. Kansas did allow the creditor to attach a person's wages prior to judgment "simply by stating that he had a right to attach wages and by posting a bond for the procurement of an order of attachment" (Fasse, 1970, p. 1).

With the July 1, 1970, change in Kansas law, the procedure for garnishment now follows more closely Pattern II. According to Sec. 3 K.S.A. 60-701, the special circumstances under which the law allows attachment of property prior to judgment are when the person whose property is to be attached:

- (1) is a nonresident of the state, or a foreign corporation, or
- (2) has absconded or concealed himself so that summons cannot be served on him, or is about to move out of this state with the intent of changing his domicile, or
- (3) is about to move his property or effects out of this state, or
- (4) is about to convert his property or part thereof into money for the purpose of placing it beyond the reach of his creditors, or
- (5) has concealed, removed, assigned, conveyed or otherwise disposed of his property or effects so as to hinder or delay his creditors, or is about to do so, or
- (6) fraudulently contracted the debt, or fraudulently incurred the liability, or
- (7) is liable for damages for injuries arising out of the commission of some felony or misdemeanor, or the seduction of a female, or
- (8) has failed to pay the price or value of any article or thing delivered which by contract he was bound to pay upon delivery.

The question of prejudgment garnishment is one of the greater controversies in the whole garnishment issue. Judge George Brunn, in his study of garnishment contended that,

Those states which do not allow garnishment prior to judgment reflect the recognition that garnishment, with its possible serious consequences for the debtor, is less justifiable before the merits of the creditor's claim are established than once the judgment has been obtained (Brunn, 1967, p. 280).

Kansas

The procedure by which a creditor uses garnishment is regulated by the individual states. In Kansas the procedure extends through several steps under normal circumstances (not including prejudgment garnishment):

- (1) The plaintiff's attorney files a recovery of money suit in the

office of the appropriate clerk of the court and requests a judgment trial be set.

(2) The judgment trial is entered on the court docket thus setting the date, time, and place for the trial.

(3) A summons is issued to the defendant in the case, notifying him of the coming trial.

(4) The service of the summons is made by the sheriff if it issues from County or District court, or by the marshall if it comes from the Magistrate Court or Court of Common Pleas. Resident service is all that is required in all cases except those issued from District court. Personal service is mandatory from District court unless special permission for resident service is obtained from the District Judge. In Kansas, personal service is unimpeachable. No matter what the defendant may claim about not receiving service of the summons, no matter what proof he might show the court, once the sheriff has signed the notice of service acknowledging personal service, the notice of service cannot be set aside (Kritikos, 1970).

(5) The case is heard by the judge. Under ideal circumstances, the plaintiff, defendant and their respective attorneys would be present. However, Judge Kritikos, Magistrate Judge for Shawnee County, estimated at the very most, 25% of the defendants are present at the judgment trial (Kritikos, 1970).

At the trial, if the defendant is not present to challenge the plaintiff's claim, the plaintiff need only state the amount owing to him and from whom. No proof need be shown of the actual indebtedness. The plaintiff need not even swear under oath that such a debt is owing to him by the defendant. Later, if the defendant feels he does not owe such a debt, he may file a countersuit.

In the case where the defendant is not present for the trial, the judge is given no choice but to enter a judgment in favor of the plaintiff by default.

A study of consumer credit systems conducted under a federal research grant by Columbia University, revealed that of the 1070 cases sampled in New York, Chicago, Philadelphia, and Detroit, 94% came to judgment. Of the cases that came to judgment, fully 95% were default judgments (Caplovitz, 1970). In Kansas, using Judge Kritikos' estimate as a base, a minimum of 75% of the cases which come to judgment end in default judgments.

(6) After judgment has been rendered, the plaintiff has several choices of methods of recovery open to him under the law. Garnishment is just one.

(7) If the choice is garnishment, the plaintiff's attorney files a praecipe with the appropriate clerk of the court.

(8) The clerk then makes out an order of garnishment and sends it to the sheriff or marshall for service. The clerk records the order of garnishment in the Appearance Docket under the case number of the judgment trial.

An order of garnishment may be issued on any judgment that was entered in the past five years. This ability to issue a garnishment on a past judgment may be renewed for another five year period as often as is necessary to recover the amount of the judgment.

(9) The sheriff or marshall then serves the order of garnishment, first on the garnishee, along with two copies of the official answer form, and then on the defendant if he can be found.

(10) When the garnishee receives the order of garnishment, he must, under law, withhold all wages or other moneys owing to the defendant. These moneys owing to the defendant are "frozen" until the answer is made and the garnishee receives an order of payment.

(11) The garnishee has 10 or 20 days in which to complete and return the answer to the court. Ten days are allowed if the garnishee is within the city limits and 20 days if outside. During this time the total moneys owing the defendant remain "frozen."

If the garnishee fails to answer in the specified time or appropriate manner, then the court may make the garnishee responsible for the full amount of the plaintiff's judgment. In the answer, the garnishee must state the following:

(a) The amount of money owed by the garnishee to the defendant up to the date the answer is made.

(b) The estimated value of other personal property owing to the defendant such as goods, chattels, stocks, rights, credits, or other effects.

(c) The pay period of the defendant, whether weekly, bi-weekly, semi-monthly, or monthly.

(d) The length of time worked by the employee in order to earn the money owed to him.

(e) The total gross earnings owed to the defendant for the above

time period.

(f) The amounts required by law to be withheld.

(g) The total disposable earnings covered by the time period in question (gross earnings minus the amount required by law to be withheld).

(h) The average gross earnings for the normal pay period.

(i) The average disposable earnings for a normal pay period (K.S.A. 60-718, p. 193).

The answer of the garnishee must include all of the information above to be declared legally sufficient.

If the garnishee uses the form provided for the purpose of answering, he is also requested to compute the amount which will later be paid into the court (25% of the employee's disposable earnings).

(12) When the answer is returned to the court it is checked as to the accuracy of the calculations. The judge then signs the order of payment instructing the garnishee how much of the "frozen" money to pay into the court and how much to release to the debtor-employee.

(13) Once the garnishee pays the money into the court, the judge signs an Order of Payment Out of Court, and the money is paid to the plaintiff.

If the first garnishment does not satisfy the amount of the judgment, the creditor is allowed to garnishee again the following month and again until he receives the amount of the judgment. The creditor does not seek a new judgment but begins with step seven outlined above, and the process is duplicated from there on.

It should be understood that not all orders of garnishment are carried to fruition. In many instances when the order of garnishment is served on the defendant, he then contacts the plaintiff and works out an arrangement to pay the amount owed. If the plaintiff and defendant reach a satisfactory agreement, the plaintiff has his attorney file a release from garnishment. This release is served to the garnishee and the "frozen" money is released to the employee. If the defendant should renege on the agreement a new judgment is not needed. The plaintiff is still free to file a garnishment order on the original judgment at any time within five years that the debtor becomes deficient in his payments.

In this situation the court must obtain from the plaintiff or his attorney information about the amount the defendant has paid, on his own, to

the plaintiff and subtract that amount from the original judgment. It is not a legal requirement that this amount be reported to the court until it is requested.

Garnishment Law

Federal law

Title III of the federal Consumer Credit Protection Act, commonly termed the federal wage garnishment law, became effective July 1, 1970. This act essentially places two restrictions on garnishment:

- (1) It excludes from garnishment 75% of a person's income or 30 times the federal minimum hourly wage.
- (2) It restricts the discharge of employees because of garnishment for any one indebtedness.

Also included is a section providing for state exemption from the federal law if the Secretary of Labor determines that a state law is "substantially similar" (Public Law 90-321, Title III, Sec. 305). Thus the last section states unequivocally that no state law will be affected by Title III if it provides for more limited garnishments (Public Law 90-321, Sec. 307).

In determining whether state regulated garnishment should be exempted from Sec. 303(a) of the federal law, concerning the restrictions on garnishment or whether such an exemption should be terminated, the Secretary of Labor examines the state law with particular regard to:

- (1) the classes of persons and transactions to which they may apply,
- (2) the formulas provided for determining the maximum part of the individual's earnings that may be subject to garnishment,
- (3) the restrictions on the application of the formula, and,
- (4) the procedural burdens placed on the individual whose earnings are subject to garnishment (Commerce Clearing House, 1970, Sec. 11596, p. 12211).

The maximum portion of the total disposable earnings which can be garnisheed is 25% or the amount by which the debtor's disposable earnings exceed 30 times the federal minimum hourly wage, whichever is less. Currently this is \$1.60 an hour or \$48.00 per week.

The following examples illustrate the statutory tests for determining the amounts subject to garnishment:

- (a) An employee's earnings may not be garnisheed in any amount where his disposable earnings in a particular week are \$48 or less. (For those paid on a monthly basis, this amount is \$208, and for those

paid semi-monthly, it is \$104.)

(b) An employee's gross earnings in a particular week are \$70; after deductions required by law, his disposable earnings are \$60. Both tests are applied to determine which is the lesser amount for garnishment purposes:

- (1) \$60.00 x 25 percent = \$15.00
- (2) \$ 1.60 x 30 hours = \$48.00
- \$60.00 - \$48.00 = \$12.00

In this week only \$12.00 may be garnisheed, since this is the lesser amount. (\$48 would be paid to the employee.)

(c) An employee's gross earnings in a particular workweek are \$115; and after deductions required by law, his disposable earnings are \$100. The lesser figure would be determined as follows:

- (1) \$100.00 x 25 percent = \$25.00
- (2) \$ 1.60 x 30 hours = \$48.00
- \$100.00 - \$48.00 = \$52.00

In this week only \$25.00 may be garnisheed, since this is the lesser amount. (\$75.00 would be paid to the employee)
(U.S. Dept. of Labor, January, 1970).

The deductions which are considered legal under the federal law are: Federal income tax withholding deductions, federal social security tax deductions, state and city tax withholding deductions, and state unemployment insurance taxes (U.S. Department of Labor, January, 1970).

Deductions not considered as required by law are, among others:

(1) deductions to purchase savings bonds, (2) contributions to religious, eleemosynary or educational organizations, (3) union dues or union initiation fees, (4) health and welfare premiums, including retirement programs, (5) board, lodging, or other facilities furnished to an employee by an employer, (6) the purchase of stock in the employer's corporation, (7) deductions pursuant to an assignment of wages, (8) deductions to repay loans or payroll advances made by the employer, and (9) deductions for merchandise purchased from the employer (U.S. Department of Labor, October, 1970).

The restrictions on the amount which can be garnisheed are applicable only to the aggregate disposable earnings of an individual. This does not prohibit the garnishment of bank accounts, or money in the possession of savings and loan associations, credit unions or other like depository. In the cases of garnishment of these types of funds, the plaintiff may garnishee the full amount in the depository up to the amount of the judgment. It is yet to be determined whether the restrictions on garnishment of disposable earnings will extend to the wages of an employee once deposited in his

bank account (Bruce, 1970).

The restrictions on the amount of disposable earnings which can be garnisheed do not apply in the case of:

- (1) any order of any court for the support of any person.
- (2) any order of any court of bankruptcy under chapter XIII of the Bankruptcy Act.
- (3) any debt due for any State or Federal tax (Public Law 90-321, Sec. 303(b), 1968).

It was the intention of the federal law that if an employee is garnisheed, the employer could apply the formula to the wages of the employee and pay the proper amount to the employee without further delay, keeping "frozen" only those moneys which would later be paid into the court (Bruce, 1970).

The second important restriction on garnishment in the federal law is that "No employer may discharge any employee by reason of the fact that his earnings have been subjected to garnishment for any one indebtedness" (Public Law 90-321, Sec. 304(a), 1968). This restriction is accompanied by a penalty, "Whoever willfully violates subsection (a) of this section, shall be fined not more than \$1000, or imprisoned not more than one year, or both" (Public Law 90-321, Sec. 304(b), 1968).

The term "one indebtedness" refers to a single debt, regardless of the number of levies made or the number of proceedings brought for its collection. Thus an important distinction is made between a single debt and the garnishment proceedings brought to collect it. If several creditors combine their debts in a single garnishment action, the joint amount would be considered as "one indebtedness." Also if a creditor joins several debts and gets a judgment and order of garnishment, the garnishment would be considered to be a single indebtedness for purposes of the federal law (U.S. Department of Labor, October, 1970). In the case of garnishments for child support each specific court order is considered a separate indebtedness even if for the support of the same child (Commerce Clearing House, 1970, Sec. 12483).

In some cases companies set a policy which prescribes disciplinary actions for violating company standards of conduct. Discharge may be the penalty for the employee who violates three of the standards a year. If one of the three violations is for wage garnishment, discharge would be prohibited by law since the discharge would result from a garnishment from

only one indebtedness. Regardless of company policy, no discharge may result wholly or in part from a first time garnishment (U.S. Department of Labor, October, 1970).

The discharge for a second garnishment depends on the binding effect of the garnishment notice. If the notice requires the employer to make deductions without first giving the employee an opportunity to satisfy the debt, then the discharge would be permissible (Commerce Clearing House, 1970, Sec. 12409).

It is considered that an individual's earnings are "subjected to garnishment," for the purposes of the federal law, when the employer-garnishee is bound to withhold earnings and would be liable to the judgment creditor if he disregarded the court order (U.S. Department of Labor, October, 1970).

Kansas law

Because of the U. S. Supreme Court decision in the Sniadach v. Family Finance of Bay View case, and the passing of the federal CCPA, the 1970 Kansas legislature felt the necessity to revise the Kansas garnishment law.

The intention of the state legislature was to enact a state garnishment law substantially similar to the federal law, so as to gain state exemption under Title III of the federal CCPA.

However, after enacting the new Kansas garnishment law, July 1, 1970, Kansas' application for exemption from Title III was denied.

It was noted that the state law provides that an order of garnishment would have the effect of attaching all property, credits, and indebtedness due the debtor and in possession of the garnishee until further court order. The state law, therefore, had the effect of garnisheeing 100% of pay due in violation of federal restrictions. In addition the state definition of the term "earnings" made no reference to periodic payments pursuant to a pension or retirement program as does the federal law (Commerce Clearing House, 1970, Sec. 12486, p. 12605).

Under the old Kansas garnishment statute, in effect prior to July 1, 1970, prejudgment garnishment was allowed. Also the statute provided that only 10% of a person's gross wages could be garnisheed. However, one loophole in this previous law allowed the attachment of a person's entire wages unless he could prove he was the head of a family dependent on his wages (Fasse, 1970).

The entire wages of a non-head of household could be attached for

garnishment purposes. For this reason it was not uncommon for a creditor to seek the signatures of both husband and wife on a contract or note. If the wife was working, her full wages would be subject to garnishment in the case of default on the debt.

When the new state garnishment law became effective, the net effect was to prohibit discharge from employment for garnishment of any one indebtedness, to place certain restrictions on the use of prejudgment garnishment, and actually to subject a greater percentage of the defendant's earnings to garnishment. Twenty-five percent of disposable earnings is, in most cases, greater than 10% of gross earnings. No distinction was made in the new law for the head of household as previously.

To illustrate the impact of the 75% exemption for disposable earnings as opposed to the previous 90% of net earnings, Fasse (1970) developed the following examples:

Case I. (Worker on low wages)

Worker's total income	\$100 per week
Worker's disposable income	\$ 80 per week
Amount that could have been garnisheed under the old Kansas law	
$\$100 \times 10\% = \underline{\$10}$	10% of total income (\$100) = \$10
Amount that can be garnisheed under present Kansas law	
$\$80 \times 25\% = \underline{\$20}$	25% of disposable income (\$80) = 20

For a worker in this salary range, the effect of the 1970 law would be a 100% increase in the amount garnisheed.

Case II. (Worker on moderate wages)

Worker's total income	\$200 per week
Worker's disposable income	\$120 per week
Amount that could be garnisheed under the old Kansas law	
$\$200 \times 10\% = \underline{\$20}$	10% of total income (\$200) = \$20
Amount that could be garnisheed under present Kansas law	
$\$120 \times 25\% = \underline{\$30}$	25% of disposable income (\$120) = \$30

For a worker in this salary range this is a 50% increase in the amount garnisheed.

Case III. (Worker at below minimum wage)

Worker's total income	\$62.50 per week
Worker's disposable income	\$61.88 per week
Amount that could be garnisheed under old Kansas law	
$\$62.50 \times 10\% = \6.25	10% of total income (\$62.50) = \$6.25
Amount that could be garnisheed under new Kansas law	
$\$61.88 \times 25\% = \15.47	25% of disposable income = \$15.47
	or if less
$\$1.60 \times 30 = \48	difference between disposable income
$\$61.88 - \$48 = \$13.88$	and 30 x minimum wage = \$13.88
Will depend on which is least:	
25% of disposable income = \$15.47	
or disposable income	\$61.88
less 30 times the \$1.60 minimum	= <u>48.00</u>
	<u>\$13.88</u>

For the worker on this salary range the amount garnisheed is \$13.88. This is 122% more than under the old law.

The Kansas statute on wage garnishment is unique among state statutes in three of its provisions. Kansas law protects the wage earner by providing in K.S.A. 60-2310 (4)(b), ". . . No one creditor may issue more than one garnishment during any one month." Thus a wage earner in Kansas may be subject to garnishment only once during any month. This is greater protection than is allowed under the federal law (Bruce, 1970). Kansas is one of seven states where only one judgment creditor may levy against wages at any one time. The first creditor to file for a garnishment in any one month is given priority. This type of provision seems most desirable to minimize the economic pressures from more than one creditor concurrently (Brunn, 1967).

Another important protection to the wage earner is that:

If any debtor is prevented on account of being sick, or on account of sickness of any member of his family, from working at his regular trade, profession or calling for any period greater than two (2) weeks and this fact is shown by the affidavit of the debtor, the provisions of this section shall not be invoked against any such debtor until after the expiration of two (2) months after his recovery from such sickness (K.S.A. 60-2310, 1970, p. 219).

Still another protection to the debtor is the fact that any creditor using a collection agency can never use wage garnishment for collecting the money on any account that has been turned over to a collection agency. The law states:

If any person, firm, or corporation sells or assigns his account to any person or collection agency, or sends or delivers the same to any collector or collection agency for collection, then such a

person, firm or corporation or the assignees of either shall not have nor be entitled to the benefits of wage garnishment (K.S.A. 60-2310, 1970, p. 219).

The federal law has no provision or restriction of this nature.

In many states collection agencies do use garnishment as one of their collection devices. In California, for instance, collection agencies are by far the most frequent users of garnishment (Brunn, 1967). Therefore, this section of the Kansas law may be considered a most beneficial provision favoring the consumer. Unfortunately, the law does not carry with it any accompanying penalty for creditors or collection agencies who violate it.

The Kansas statute does have certain provisions which favor or protect the creditor. The last sentence of Sec. 1(b) states:

Nothing in this act shall be construed as charging the plaintiff (creditor) in any action with the knowledge of the amount of any defendant's (debtor's) earnings prior to the commencement of such garnishment action (K.S.A. 60-2310, 1970, p. 219).

So a creditor garnisheeing a debtor who earned only \$48.00 per week or less cannot be held liable because he should have known that he could not get any money (Bruce, 1970).

At the present time, since Kansas was denied exemption from Title III of the federal CCPA, Kansas is bound by both the state and federal laws.

Proposed law--UCCC

The Uniform Consumer Credit Code is presently being considered in many states. If adopted as originally drafted, it would do very little to alter creditors' remedies except in the case of wage garnishment. It would increase the minimum exemption from 30 to 40 times the federal minimum hourly wage. More important it would extend job protection by prohibiting discharge from employment because of wage garnishment no matter how numerous (Spanogle, 1970).

In Kansas the original draft of the UCCC was amended in committee so that the sections on garnishment were word-for-word identical to the federal law. Therefore, adoption of the UCCC in Kansas would in no way affect any change in the existing laws.

The Court System in Kansas

District Court

Every county in Kansas is included in the jurisdiction of one of the 38 District Courts in the state. District Court is a court of record and

has general original jurisdiction over all matters, both civil and criminal that are not otherwise provided by law (K.S.A. 20-301, p. 634).

All divorce cases must be heard in District Court, and all cases regarding the recovery of money may be filed in District Court.

County Court

Most counties in Kansas operate a County Court with the Probate Judge acting as the official judge. The adoption of the resolution to establish a County Court has always been up to the discretion of the Board of County Commissioners for each county (K.S.A. 20-801, p. 649).

The county judges in their respective counties shall have and exercise the ordinary powers and jurisdiction of justices of the peace, in both civil and criminal matters and have concurrent jurisdiction with the District Court in all civil cases in any sum not exceeding \$1000, exclusive of costs . . . (K.S.A. 20-808, p. 651).

City Court

In cities where a City Court is established, that court has original jurisdiction in civil actions for the recovery of money only, where the amount does not exceed \$1000 (K.S.A. 20-1403, p. 676).

Kansas Statutory law established the City Court of Atchison. This court is limited to original jurisdiction of civil actions for the recovery of money only, in the amount of \$300 or less (K.S.A. 20-1502, p. 686).

Kansas law established the City Court of Coffeyville. This court is limited to original jurisdiction of civil actions for the recovery of money only, in the amount of \$1500 (K.S.A. 20-1603, p. 690). All claims not exceeding \$100 are defined as small claims and thus the Small Claims Court operates within the City Court (K.S.A. 20-1618, p. 692).

Kansas law established the City Court of Leavenworth. This court has the same original jurisdiction in civil and criminal cases coextensive with Leavenworth County Court except that it has original jurisdiction of civil actions for the recovery of money where the amount does not exceed \$500 (K.S.A. 20-1803, p. 696).

Magistrate Courts

A Magistrate Court is a court of record. It has the same jurisdiction, civil and criminal, as justices of the peace, and practice, pleadings and proceedings in justice courts which are not in conflict with the provisions of this act shall apply to said magistrate court and the judge thereof (K.S.A. 20-2508, p. 727).

In 1948 Kansas law established a Magistrate Court in every county which borders on or is contiguous to two cities, each having a population of 115,000. This court has original jurisdiction in civil matters for the recovery of money when the claim does not exceed \$1000 (K.S.A. 20-2508, p. 727).

Magistrate Courts have since been established in counties where they were not required by law, so did not meet the above mentioned county specifications. The law did not restrict other counties from having Magistrate Courts; it only dictated which counties must have them. In counties having a Magistrate Court it usually replaced the County Court.

PROCEDURE

At the onset of this study little or nothing was known by this researcher about garnishment as it was actually used by Kansas creditors, nor, to the best of her knowledge, was much known by state leaders in Kansas on the subject. An indication of this lack of knowledge was voiced by a leading legislator at the hearings on the UCCC held in 1970 by the Joint House-Senate Committee on Financial Institutions. This legislator stated that garnishment was not used in Kansas except in a few cases as a last resort. Further he believed that there was no way of knowing for sure about the use of garnishment in the state because records were just not available on garnishment for the state.

Throughout this study no one state leader, legislator, or other official has ever volunteered that he had any information about the use of garnishment in Kansas. Therefore, it was assumed that not only this researcher but other important persons in the state had little factual knowledge about garnishment in Kansas.

The discussion of the Joint House-Senate Committee on garnishment, and experiences with families who had been garnisheed, led to the researcher's interest in the subject. After much discussion with Dr. Richard L.D. Morse, Head of the Family Economics Department, about garnishment in Kansas as a proposed thesis topic, he did some personal checking on garnishment in Riley county. He talked with the local credit bureau, with the personnel director of a large manufacturing firm in Manhattan, and the staff in charge of civilian personnel at Fort Riley. All of these people indicated to him that garnishment was not used in Riley county. Dr. Morse thus advised this researcher to use another county for the exploratory study.

The procedure then evolved in a four-stage process. First, the exploratory study was done in Franklin county to ascertain what records were available on garnishment, what information they contained, and most important whether garnishment was being used in sufficient quantity to merit more comprehensive research. The second stage was the designing of the actual research project. The third stage was the collection of data and the working with student researchers. The final stage was the analysis of data.

Stage I--Exploratory Study

Franklin county, with a population of 20,007, was selected for the exploratory study because of the researcher's familiarity with the area and acquaintance with the employees in the courthouse. The District Judge in Franklin county was contacted and asked for direction in locating the various records and securing access to them.

The District Judge was most cooperative in showing the researcher how garnishment records were kept by the courts. Since orders of garnishment were recorded under the case number of the original judgment in the Appearance Docket, the researcher discovered that the docket books would have to be checked case by case for the five or ten years preceding the year being researched to secure an accurate count of the number of garnishments issued during that specific year. The records of each individual court within a county would have to be researched in that manner. Even then, any foreign garnishments, issued from a court in another county and served on a resident of the county being researched, would not be included.

The District Judge suggested the most appropriate place to find a complete record of garnishments served on residents of the county in any one year would be the sheriff's office rather than the courts. It was the responsibility of the sheriff and his deputies to serve all orders of garnishment from County and District Courts and all foreign garnishments.

In Franklin county the sheriff kept a complete record of all papers served, including orders of garnishment, in a record book titled "Docket of Papers." The orders of garnishment were designated as such, so could be readily identified for recording purposes.

The sheriff's records contained (1) the case number, (2) names of plaintiff and defendant, (3) court from which the garnishment order was issued, (4) date the papers were received, (5) date served, (6) who served them, (7) mileage, and (8) sheriff's fees.

In Franklin county the researcher recorded 108 cases where garnishment had been used as a means of collection in 1969. The researcher considered this to be a sufficient number of garnishments in relation to the population to merit further investigation of the garnishment phenomenon in Kansas.

The researcher further discovered that Kansas statutes provided that each sheriff keep records similar to those found in Franklin county in what

the statute termed a "fee book." This book was required, under the same statute, to be "open to public inspection during office hours" (Session Laws of Kansas. 1913, pp. 327-28).

Thus the exploratory study revealed not only the use of garnishment in a significant quantity, but records which would be somewhat consistent from county to county to document the pattern of garnishment throughout the state.

Stage II--Designing the Research Project

Scope of the study

The scope of the study was limited to the information available from sheriff's records. To obtain further information, each individual case file would have needed to be checked. The sheriff's records included all types of garnishments, not just wage garnishments, with no way to distinguish one from the other. Therefore, the data collected included all types of garnishments even though the initial proposal was concerned with wage garnishment only. Again, the way to limit the study only to wage garnishment would have necessitated checking each case file in the court records to identify the type of garnishment.

In the more populated counties in Kansas, the County Court has been replaced by a Magistrate Court, or, in Sedgwick county by the Court of Common Pleas. These counties employ a marshall to serve the papers issuing from that court. After much deliberation, it was decided by this researcher not to include the marshall's records in this study. Such a task might be overwhelming in magnitude and thus beyond the limited time and manpower of the student researchers.

In one county, Reno, research was done of the Magistrate Court and has been included in the statistics for that county. In Johnson county, garnishments issuing from all courts were served by the Civil Division of the sheriff's office. Thus the data for Johnson county included some garnishments issuing from Magistrate Court.

Time period of the study

The year 1969 was selected for the study as the most recent year to reflect the normal use pattern of garnishment. The use of data on garnishment in 1970 might have reflected the changes in the state law and the enactment of the federal garnishment law.

Use of student researchers

The Department of Family Economics offered a special course entitled: Field Study in Family Economics for one or more hours of credit to any student interested in researching his home county or another county of his choice, for records on garnishment. Students were recruited in a variety of ways. Mr. Robert Flashman, a senior who had recently learned of the challenges of graduate study in Family Economics, and was alert to the interests of students and the value of such a study, took the responsibility for recruitment of researchers. He talked to formal classes within the department and visited many of the organized living units on the campus to explain the pending project.

Originally 74 students signed up to research 68 of the 105 counties in Kansas. No criteria were set up for the selection of the counties to be researched. The counties were selected by the students volunteering to do research according to their convenience or personal preference. In the more populated counties, two or three students volunteered to work together. One student signed up for four of the less populated western counties.

Stage III--Collection of Data and Working with Student Researchers

Before leaving for Christmas vacation, the student researchers were given a set of written instructions of what records to tabulate, what data were most pertinent to tabulate, and where the records could be found. The instructions are to be found in Appendix B. Time did not permit scheduling for group meetings before the students began their research. Because the exploratory study in Franklin county and a follow-up study in Riley county revealed a hesitancy on the part of the sheriff to admit he kept such records, and a reluctance to turn them over for review once he admitted they did exist, the students were admonished to be insistent about the existence of such records and their right to see them.

Most of the students concluded their research of the records during Christmas vacation, and then enrolled in the Field Study course for the Spring semester after returning to school. This procedure was to their advantage since they did not have to pay additional fees for work done over the interim semester.

Two group meetings with the students were held during the Spring semester. At the first meeting, the students shared their experience in

gathering data, were instructed on the method for identifying plaintiffs, and asked to write a narrative of their experiences and observations from their research.

Students who had found 25 or less garnishments in the county they researched were offered three alternatives to comprise an adequate amount of work to receive credit for the class. The three alternatives were to (1) help students from larger counties to identify plaintiffs, (2) outline the court record on individual cases where garnishment had been used, and (3) interview families who had experienced garnishment. The instructions on the alternatives are given in Appendix C-1. The form for the garnishment case outline is given in Appendix C-2.

At the second group meeting, students were given feedback on the results of data which had been completed to date and compiled.

A separate study, in process at this time, was conducted by Mr. Robert Flashman which concerned itself with the significance of the Field Study as viewed by the student researchers. For this reason, a report of the students' reactions to their experiences in the collecting of data was not included as part of this study.

Identifying plaintiffs

In order to facilitate documentation of who was using garnishment, the student researchers were asked to try to identify as many plaintiffs as possible according to their professional, business, or occupational affiliation. The students were given a code sheet of creditors and asked to place a code number indicating that affiliation beside each plaintiff's name on their data sheets. Then they were to tally the cases according to the occupation of the plaintiffs on the code sheet shown in Appendix D.

The students relied on county and city directories, medical and law directories, telephone directories, the word of the sheriff or his secretary, and the Chamber of Commerce for identifying plaintiffs. Plaintiffs who could not be identified were categorized as "Unidentifiable."

Stage IV--Methods of Analysis

Division of counties

The counties of Kansas were divided into seven classes by population: under 5,000, 5,000-10,000, 10,000-15,000, 15,000-20,000, 20,000-35,000, 35,000-100,000, and over 100,000.

Within each class of counties two subdivisions were made. One was for counties from which the data were collected from the sheriff's records and thus were considered to be complete. The second division was for counties from which the data source was court records, or the complete records of the county were not recorded because of time limitations. Data obtained from court records would be incomplete because they would not include garnishments resulting from judgments of previous years, or foreign garnishments. This second subdivision was designated as counties with partial data.

Statistical analysis

The percentage of counties surveyed and population covered in the study was calculated for the whole state and for each population class of counties. The number of persons garnisheed per 1,000 population was calculated for each county surveyed, and for each population class.

The number and percentage of garnishments issued by types of plaintiffs was calculated for the whole state and for each population class of counties. The number of garnishments issued by types of creditors was calculated for each individual county in the study.

Sheriff's costs

Many of the students were able to secure information concerning the mileage of the sheriff and the fees charged for serving the order of garnishment. Three counties were randomly selected in each population class from the ones having the necessary data. For the cost analysis, the estimated time necessary for travel and the actual service of the order of garnishment was calculated for each individual case. The total time for service of garnishment within a county was calculated and multiplied by the starting hourly wage for a sheriff's patrolman in that county. The estimated cost for serving garnishments within the selected counties was contrasted with receipt from fees to determine if the sheriff's office was adequately reimbursed for its time in serving garnishment papers.

RESULTS AND DISCUSSION

Data Availability and Representation

The first objective of this preliminary study was to see if it was possible to obtain data on garnishment in Kansas. The research was successful through the use of student researchers and because records were found to exist in all the counties surveyed. In all but two counties--Lane and Smith--garnishment had been used to some degree as a means of collection in 1969.

Student researchers invaded 63 counties and obtained data on garnishment from 61 counties. Of all the counties of Kansas, 60% were included in the research and 60% of the population of the state resided in those counties. The distribution of both the counties and the persons in the counties surveyed is summarized in Table 1.

The data recorded included: The case numbers where garnishment had been used, names of plaintiffs and defendants, the court from which the garnishment was issued, and, in counties where sheriff's records were the source of data, the mileage and fees charged by the sheriff's office in serving the orders of garnishment.

The student researchers were able to record complete data in 43 counties from sheriff's records. In 20 counties only partial data were recorded for two reasons. Either the students used court records for their data, thus excluded garnishments on judgments entered in years prior to 1969 and foreign garnishments, or, the students recorded only part of the records because of time limitations. In Johnson and Wyandotte counties the records were so extensive that only a part of the records were included in the research.

The success of including counties in the research was not related to the size of the counties. Less than 50% of the counties in the under 5,000 population class were included because student researchers from the less populated counties were not available for the research project. In larger counties the volume of data overwhelmed the limited number of researchers volunteering for the project. In all population classes, except the one of under 5,000, at least 50% of the counties were included in the survey.

A list of student researchers participating in the project, the counties they surveyed, their year in school, and their academic major is contained

Table 1. Distribution of Persons and Counties Classified by Size in All and Surveyed Counties

Counties classified by population ('000's)	Counties				Population			
	Number		Percent		Number		Percent	
	All	Survey	All	Survey	All	Survey	All	Survey
State	<u>105</u>	<u>63</u>	<u>100</u>	<u>60</u>	<u>2,249,071</u>	<u>1,347,338</u>	<u>100</u>	<u>60</u>
Under 5	31	9	30	29	116,406	37,027	5	32
5 - 10	30	24	29	80	224,393	176,543	10	79
10 - 15	12	8	11	67	145,137	101,477	6	70
15 - 20	8	5	8	63	142,255	88,974	6	63
20 - 35	11	8	10	73	281,060	205,295	13	73
35 - 100	9	7	9	78	426,886	331,104	19	78
Over 100	4	2	4	50	912,934	406,918	41	45

in Appendix E. The project attracted students with a good academic standing.

The Extent of Garnishment

Objective number two of this study was to document the existence of garnishment in Kansas and its extent. The research revealed that Kansas creditors did use garnishment as a means of collection on default debts in 1969. A total of 2,618 garnishments were recorded.

The number of garnishments recorded in any one county varied from 0 in two counties to 381 for a part of the records in Johnson county.

The incidence of garnishment varied from 0 in Lane and Smith counties to 5.8 garnishments per 1,000 population in Chautauqua and Ford counties. The mean of garnishments per 1,000 population for all counties surveyed was 1.9; for all counties with complete data it was 2.2; and for the counties with partial data it was 1.8.

The number of garnishments and incidence per 1,000 population was shown for each individual county surveyed in Table 2. The number of garnishments and incidence per 1,000 population was summarized for the county population classes and the state in Table 3.

In all the population classes the incidence of garnishment was greater for counties with complete data than for those with partial data except in the 35,000-100,000 population class. In this class the counties with partial data had an incidence of 3.9 garnishments per 1,000 population and the counties with complete data had an incidence of 1.7.

Counties recording partial data

In 20 of the surveyed counties only partial data were recorded. Since the statistics derived from these data on the incidence of garnishment were from partial data only, they provided an underestimate of the actual incidence of garnishment in those counties. Thus the statistics presented for the population classes having counties with only partial data, and for the state as a whole, are less than if complete data had been recorded.

Reno county was the only county surveyed which included the complete list of garnishments issued from Magistrate Court. However, the data from Reno county did not include those garnishments issued from the City Court of Hutchinson.

To the knowledge of this researcher no county in this survey utilized a Small Claims Court except Montgomery county. In this county the student

Table 2. Number of Garnishments and Garnishments per 1,000 Population, by Counties

Counties	Population	Garnishments	Garnishments per 1,000 population
Surveyed counties of under 5,000 population			
All-Complete data	<u>37,027</u>	<u>81</u>	<u>2.2</u>
Chase	3,408	6	1.8
Chautauqua	4,642	27	5.8
Elk	3,858	9	2.3
Lane	2,707	0	.0
Lincoln	4,582	1	.2
Logan	3,814	15	3.9
Ness	4,791	4	.8
Trego	4,436	6	1.4
Woodson	4,789	13	2.7
Surveyed counties of 5,000-10,000 population			
All-Complete data	<u>109,085</u>	<u>167</u>	<u>1.5</u>
Anderson	8,501	2	.2
Ellsworth	6,146	10	1.6
Greenwood	9,141	16	1.8
Jewell	6,099	1	.2
Kingman	8,886	3	.3
Osborne	6,416	4	.6
Ottawa	6,183	12	1.9
Phillips	7,888	3	.4
Rooks	7,628	26	3.4
Rush	5,117	27	5.3
Russell	9,428	19	2.0
Scott	5,602	14	2.5
Sherman	7,792	21	2.7
Smith	6,757	0	.0
Thomas	7,501	9	1.2
All-Partial data	<u>67,454</u>	<u>51</u>	<u>.8</u>
Doniphan <u>1/</u>	9,107	10	1.1
Grant <u>2/</u>	5,961	11	1.8
Harper <u>2/</u>	7,871	8	1.0
Mitchell <u>2/</u>	8,010	2	.2
Morris <u>2/</u>	6,432	5	.8
Pawnee <u>3/</u>	8,484	2	.2
Stafford <u>3/</u>	5,943	2	.3
Wabaunsee <u>1/</u>	6,397	9	1.4
Washington <u>2/</u>	9,249	2	.2

Table 2. Continued

Counties	Population	Garnishments	Garnishments per 1,000 population
Surveyed counties of 10,000-15,000 population			
All-Complete data	<u>88,011</u>	<u>111</u>	<u>1.3</u>
Brown	11,685	7	.6
Marion	13,935	21	1.5
Marshall	13,139	7	.5
Nemaha	11,825	2	.2
Osage	13,352	24	1.8
Pottawatomie	11,755	6	.5
Rice	12,320	44	3.6
Partial data	<u>13,466</u>	<u>3</u>	<u>.2</u>
Cloud <u>3/</u>	13,466	3	.2
Surveyed counties of 15,000-20,000 population			
All-Complete data	<u>54,766</u>	<u>142</u>	<u>2.6</u>
Dickinson	19,993	64	3.2
Finney	19,029	55	2.9
Seward	15,744	23	1.5
All-Partial data	<u>34,208</u>	<u>15</u>	<u>.4</u>
Allen <u>2/</u>	15,043	6	.4
Atchison <u>4/</u>	19,165	9	.5
Surveyed counties of 20,000-35,000 population			
All-Complete data	<u>130,012</u>	<u>496</u>	<u>3.8</u>
Ford	22,587	132	5.8
Franklin	20,007	108	5.4
Geary	28,111	33	1.2
Harvey	27,236	122	4.5
Lyons	32,071	101	3.1
All-Partial data	<u>75,283</u>	<u>101</u>	<u>1.3</u>
Ellis <u>1/</u>	24,730	49	2.0
Labette <u>1/</u>	25,775	39	1.5
McPherson <u>2/</u>	24,778	13	.5

Table 2. Continued

Counties	Population	Garnishments	Garnishments per 1,000 population
Surveyed counties of 35,000-100,000 population			
All-Complete data	<u>148,786</u>	<u>249</u>	<u>1.7</u>
Butler	38,658	49	1.3
Leavenworth	53,340	160	3.0
Riley	56,788	40	.7
All-Partial data	<u>182,318</u>	<u>718</u>	<u>3.9</u>
Cowley <u>5/</u>	35,012	52	1.5
Montgomery <u>6/</u>	39,949	168	4.2
Reno <u>7/</u>	60,765	342	5.6
Saline <u>8/</u>	46,592	156	3.3
Surveyed counties of Over 100,000 population			
All-Partial data	<u>406,918</u>	<u>484</u>	<u>1.2</u>
Johnson <u>9/</u>	220,073	381	1.7
Wyandotte <u>10/</u>	186,845	103	.6
<u>1/</u>	County Court records.		
<u>2/</u>	County and District Court records.		
<u>3/</u>	District Court records.		
<u>4/</u>	District Court records only. Does not include County Court records or records of City Court of Atchison.		
<u>5/</u>	District Court records and foreign garnishments. Does not include County Court records or records of City Court of Arkansas City.		
<u>6/</u>	Small Claims Court of Independence records. Does not include District Court records, foreign garnishments, or records of City Court of Coffeyville.		
<u>7/</u>	Includes District Court and Magistrate Court records but not records of City Court of Hutchinson.		
<u>8/</u>	District Court records but not records of Magistrate Court.		
<u>9/</u>	Civil Division of Sheriff's Office's records used. Records were alphabetized by plaintiff's name. Did records from A to L. Includes garnishments issued from District and Magistrate Courts and foreign garnishments.		
<u>10/</u>	One of the eight sheriff's day books recorded. Included only records from the District Court.		

Table 3. Number of Garnishments and Garnishments per 1,000 Population
in Surveyed Counties, by County Size Classes

Surveyed counties classified by population	Population	Garnishments	Garnishments per 1,000 population
State	<u>1,347,334</u>	<u>2,618</u>	<u>1.9</u>
Complete data	567,687	1,246	2.2
Partial data	779,647	1,372	1.8
Under 5,000	<u>37,027</u>	<u>81</u>	<u>2.2</u>
Complete data	<u>37,027</u>	<u>81</u>	<u>2.2</u>
Partial data	--	--	--
5,000-10,000	<u>176,539</u>	<u>218</u>	<u>1.2</u>
Complete data	<u>109,085</u>	<u>167</u>	<u>1.5</u>
Partial data	67,454	51	.8
10,000-15,000	<u>101,477</u>	<u>114</u>	<u>1.1</u>
Complete data	<u>88,011</u>	<u>111</u>	<u>1.3</u>
Partial data	13,466	3	.2
15,000-20,000	<u>88,974</u>	<u>157</u>	<u>1.8</u>
Complete data	<u>54,766</u>	<u>142</u>	<u>2.6</u>
Partial data	34,208	15	.4
20,000-35,000	<u>205,295</u>	<u>597</u>	<u>2.9</u>
Complete data	<u>130,012</u>	<u>496</u>	<u>3.8</u>
Partial data	75,283	101	1.3
35,000-100,000	<u>331,104</u>	<u>967</u>	<u>2.9</u>
Complete data	<u>148,786</u>	<u>249</u>	<u>1.7</u>
Partial data	182,318	718	3.9
Over 100,000	<u>406,918</u>	<u>484</u>	<u>1.2</u>
Complete data	--	--	--
Partial data	406,918	484	1.2

researcher recorded only the records of the Small Claims Court of Independence. Another Small Claims Court in Montgomery county was operated within the City Court of Coffeyville, but these records were not included. At the time the study was done, the student researcher was not aware that the City Court of Coffeyville functioned within Montgomery county.

An attempt was made to survey three of the four counties in the over 100,000 population class. However, data were turned in for only two of these four counties and in both cases the data were not complete.

Sedgwick county was to be included in this survey. The three students who volunteered to research this county were overwhelmed by the number of garnishments issued from District Court alone, and thus withdrew from the research project. They reported working diligently for one day and completing only half the records for one month. An estimate made by an unnamed Wichita Judge stated that Sedgwick county issued orders of garnishment at a rate of 600 a month in 1970.

In Wyandotte county, the statistics were derived from data for 1/8 of the records of the sheriff's office, and these records covered only garnishments issuing from the District Court. Wyandotte county also has a Magistrate Court and none of the records for that court were researched.

In Johnson county the records were kept in alphabetical order by plaintiffs in the Civil Division of the sheriff's office. Three students worked on the letters A to L from these records and found 381 garnishments. These garnishments were issued from both District Court and Magistrate Court.

Garnishment and County Size

The third objective of this study was to see if the extent of garnishment usage varied with the population size of the county. Garnishment usage did vary with the size of the county as shown in Tables 2 and 3 but without any pattern. There appeared to be no direct relationship between the population size of the county and the number or incidence of garnishments in the county. It should be noted that the 105 counties of Kansas are about the same size in area, though there is a greater variance in population size.

Among the counties with complete data only, the mean number of garnishments per 1,000 population decreased in the first three population classes

from 2.2, 1.5, to 1.3. The mean increased in the next two classes from 2.6 to 3.8, and then decreased again in the sixth class to 1.7. The seventh population class was not included since the statistics were derived from partial data only.

Considering all data from the counties in the survey, the mean for persons garnisheed per 1,000 population decreased in the first three population classes from 2.2, 1.2, to 1.1, then increased in the next three classes (1.8, 2.9, and 2.9) and then dropped to 1.2 for the final population class.

No attempt was made to ascertain the reason for the extreme fluctuations in the incidence of garnishment within a population class. Only where a condition was known to exist by the researcher, which would have had an obvious effect on the incidence of garnishment, was any information cited on the individual characteristics of the counties.

Chautauqua county was one of the two counties having 5.8 garnishments per 1,000 population, the highest rate recorded among the counties surveyed. No reason can be given for this high incidence of garnishment in such a lightly populated county. However, it should be noted that Chautauqua county is located in the southeast region of Kansas, the most economically depressed area of the state. Chautauqua county borders the Ozark Region Commission of nine southeastern counties of Kansas and counties in Missouri, Oklahoma, and Arkansas considered economically underdeveloped and severely depressed.

Geary county reported the lowest incidence of garnishment in its population class of 20,000-35,000. Geary county is the home of Fort Riley and therefore had a high percentage of military personnel among its residents. Since military personnel are exempt from garnishment this could explain the low incidence of garnishment in that county.

Lyons county included in its population the students at Kansas State Teachers College of Emporia and College of Emporia. Though students are not exempt from garnishment, they are not as likely to be able to incur the debt load where garnishment would be used if they were to default.

No explanation can be given for the high incidence of garnishment in Ford county, 5.8 garnishments per 1,000 population.

Riley county recorded the lowest number of garnishments for counties with complete data in the 35,000-100,000 population class and Leavenworth the highest number even though Leavenworth had a lower population. Riley

county's population included students from Kansas State University and a high concentration of military personnel from Fort Riley. Leavenworth's population included the military personnel from Fort Leavenworth who were exempt from garnishment. The statistics from Leavenworth county did include the garnishments issuing from the City Court of Leavenworth.

Had complete data been obtained from all the counties in the survey a relationship between the size of counties and incidence of garnishment may have been revealed.

The extreme fluctuations in incidence of garnishment from county to county within a class and the variations in usage between the population classes of counties, as revealed from this research study, suggested that the pattern of garnishment usage was somewhat unique to each individual county. Possible sources of variations were the number of wage earners, the policy of creditors, the tradition of the courts, the practices of attorneys, and the attitude of judges concerning the use of garnishment. For instance, in Thomas county the student researcher found there were no garnishments for child support because child support was a "pet peeve" of the District Judge. Rather than allow garnishment of a man's wages for child support the judge generally called the defendant in and talked with him. Likewise, unknown is the extent to which garnishment of wages was an effective threat, and therefore it did not become a recorded reality.

Use of Garnishment by Plaintiffs

Percentage and number of garnishments by plaintiff categories

The fourth objective of this study was to document which creditors used garnishment as a means of collection. Of the 2,618 cases of garnishment recorded in the 63 surveyed Kansas counties for 1969, the plaintiffs were categorized as "Unidentifiable" in 575 or 22% of the cases. Of the identifiable cases the largest number of garnishments (472) were by Finance companies and Savings and Loan associations grouped together for the convenience of the writer. Savings and Loan associations actually accounted for only 13 of the garnishments in this category, so did not really use garnishment in a significant quantity. The second largest category of garnishments were those 248 cases attributed to Family support. Third was the category of Other creditors, a combination of creditors from the first seven divisions of plaintiffs on the code sheet not having an individual

listing of their own. The Other creditor category listed 188 garnishments. Next were Hospitals, Clinics and the County for the Hospital with 162 cases. And fifth were the Banks with 144 cases (Table 5b).

The code sheet was divided into eight categories of plaintiffs:

(1) Financial institutions, (2) Professionals, (3) State and Local government, (4) Retailers, (5) Public utilities, (6) Business other than retail, (7) Personal, and (8) Other cases. A copy of the original code sheet was included in Appendix D.

Financial institutions issued the largest number of garnishments, 666, or 25.4% of the total garnishments recorded. Retailers issued 363 garnishments or 13.9% of the total. Family support, Business v. business, and Collection agencies (excluding Unidentifiable cases) classed as "Other cases" had 288 cases or 12.5% of the total. Professionals issued 257 or 9.8% of the total garnishments. Business other than retail issued 119 or 4.5% of the total. State and Local government issued 112 or 4.3% of the garnishments and Public utilities issued 1% of the total recorded garnishments with 26 (Table 4).

There was no direct relationship between the percentage of garnishment in any category of plaintiffs and the county population size with the exception of Family support cases for which the percentage of garnishment varied directly with the population size classes of the surveyed counties. The percentages of garnishments by plaintiffs in each population class is given in Table 5a. The number of garnishments by plaintiffs in each population class is given in Table 5b.

The high number and percentage of garnishments issued by Finance companies and Savings and Loan associations were issued by 48 different institutions. This averages almost 10 garnishments per institution. By comparison, the 69 garnishments issued by Department stores (chain) were by 9 different firms, an average of seven garnishments each. Their main concern was the sale of commodities and not credit as with the Finance companies.

Difficulty in identifying plaintiffs

In most instances, the names of the plaintiffs were included with every case recorded by student researchers. In some cases the plaintiff was listed as a business, but in other cases the plaintiff was listed as an individual with no professional or business affiliation.

When a place of business was listed as the plaintiff, the student

Table 4. Number and Percent of Garnishments by General Plaintiff Categories, by County Population Classes

Plaintiff ^{1/} category	County population classes							
	All	Under 5,000	5,000 10,000	10,000 15,000	15,000 20,000	20,000 35,000	35,000 100,000	Over 100,000
(number of cases)								
All	<u>2,618</u>	<u>81</u>	<u>218</u>	<u>114</u>	<u>157</u>	<u>597</u>	<u>967</u>	<u>484</u>
Financial inst.	666	14	54	36	31	155	309	67
Retailers	363	18	56	22	15	67	150	35
Other cases	863	10	29	20	51	187	250	316
Professionals	257	15	11	8	17	87	112	7
Other creditor	181	9	30	12	16	28	53	33
Bus.-not retail	119	10	19	9	5	32	30	14
State/Local govt.	112	5	9	3	13	18	53	11
Personal	31	0	6	1	2	18	3	1
Public utilities	26	0	4	3	7	5	7	0
(percent of cases)								
All	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
Financial inst.	25	17	25	32	20	26	32	14
Retailers	14	22	26	19	10	11	16	7
Other cases	33	12	13	18	33	31	26	65
Professionals	10	19	5	7	11	15	12	1
Other creditor	7	11	14	11	10	5	6	7
Bus.-not retail	5	12	9	8	3	5	3	3
State/Local govt.	4	6	4	3	8	3	6	2
Personal	1	0	3	1	1	3	*	*
Public utilities	1	0	2	3	5	1	1	0

* Less than .5%

^{1/} See code sheet for complete listing, Appendix D.

Table 5a. Percent of Garnishments by Plaintiff, by County Population Classes

Plaintiff ^{1/}	County population classes							
	All	Under 5,000	5,000 10,000	10,000 15,000	15,000 20,000	20,000 35,000	35,000 100,000	Over 100,000
All	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Banks	5.5	6.2	8.3	6.1	4.5	5.9	6.2	2.5
Credit Unions	.8	.0	2.3	.9	.0	1.0	.6	.8
Fin.Co/Sav.& In.	18.0	9.9	11.5	24.6	14.6	17.4	24.6	9.5
Insurance Co.	1.0	1.2	2.8	.0	.6	1.7	.5	1.0
Doctor (M.D.)	1.7	4.9	1.4	2.6	1.9	.8	2.6	.2
Dentist (D.D.)	.6	1.2	.9	.0	1.9	.2	.8	.2
Veterinarian	.0	.0	.0	.0	.0	.2	.0	.0
Attorney	1.0	.0	.5	.0	.6	.5	2.2	.0
Optometrist	.3	.0	.0	.0	.0	.2	.7	.0
Hosp./Clinic	6.2	12.3	2.3	4.4	6.4	12.7	5.3	1.0
State Taxes	3.8	6.2	4.1	2.6	8.3	2.2	5.3	1.2
County Taxes	.2	.0	.0	.0	.0	.2	.1	.8
City Taxes	.1	.0	.0	.0	.0	.2	.1	.2
City Services	.1	.0	.0	.0	.0	.5	.0	.0
Car dealer	2.8	1.2	5.0	3.5	.0	4.4	2.9	.4
Car repair	.8	.0	2.3	.0	.6	.7	.8	.6
Gas service Co.	1.6	8.6	4.1	1.8	.6	.8	1.7	.2
Druggist	.2	1.2	.5	.0	.0	.0	.0	.6
Food	1.4	3.7	2.3	2.6	.0	1.3	1.8	.2
Dry cleaner	.2	.0	.5	.0	.0	.3	.1	.0
Clothing	.6	.0	1.4	.0	.0	.0	1.3	.0
Furn./Appliance	1.0	.0	1.4	1.8	1.3	.4	1.6	.0
Dept.Store (in.)	.2	.0	1.4	.0	.0	.3	.1	.0
Dept.Store (ch.)	2.6	2.5	3.2	4.4	2.5	2.2	2.4	3.1
Hardware/Lumber	.9	3.7	1.4	1.8	3.2	.0	.8	.6
Auto supply	1.6	1.2	2.3	3.5	1.3	.5	2.1	1.4
Telephone	.8	.0	.9	1.8	4.5	.7	.7	.0
Electric	.0	.0	.5	.0	.0	.0	.0	.0
Gas fuel	.1	.0	.5	.9	.0	.2	.0	.0
Construction	.8	.0	2.8	.0	.0	1.0	.5	.8
Serv./Repair	.8	1.2	.0	.9	.0	.8	1.3	.0
Exterminator	.3	.0	.0	.0	.0	.0	.0	1.7
Moving serv.	.0	.0	.0	.0	.0	.0	.2	.0
Realtor	.4	.0	.0	.9	.0	.5	.4	.4
Coops/Grain/Feed	1.8	9.9	5.5	6.1	2.5	1.5	.6	.0
Farm Implement	.5	1.2	.5	.0	.6	1.5	.0	.0
Home/Apt. Rent	.6	.0	2.8	.9	1.3	.7	.3	.0
Mobile home	.5	.0	.0	.0	.0	2.3	.0	.0
Recreation	.0	.0	.0	.0	.0	.0	.0	.2
Family support	9.5	2.5	3.2	5.3	8.3	9.4	10.2	13.4
Bsn. v. Bsn.	1.4	4.9	3.2	.0	8.9	.7	.7	.2
Unidentifiable	22.0	4.9	6.9	12.3	15.3	20.9	14.8	51.7
Collection Ag.	.1	.0	.0	.0	.0	.3	.1	.0
Other creditor	6.9	11.1	13.8	10.5	10.2	4.7	5.5	6.8

^{1/} See code sheet for complete listing, Appendix D.

Table 5b. Number of Garnishments by Plaintiff, by County Population Classes

Plaintiff ^{1/}	County population classes							
	All	Under 5,000	5,000 10,000	10,000 15,000	15,000 20,000	20,000 35,000	35,000 100,000	Over 100,000
All	<u>2,618</u>	<u>81</u>	<u>218</u>	<u>114</u>	<u>157</u>	<u>597</u>	<u>967</u>	<u>484</u>
Banks	144	5	18	7	7	35	60	12
Credit Unions	22	0	5	1	0	6	6	4
Fin.Co./Sav.& In.	472	8	25	28	23	104	238	46
Insurance co.	28	1	6	0	1	10	5	5
Doctor (M.D.)	44	4	3	3	3	5	25	1
Dentist (D.D.)	16	1	2	0	3	1	8	1
Veterinarian	1	0	0	0	0	1	0	0
Attorney	26	0	1	0	1	3	21	0
Optometrist	8	0	0	0	0	1	7	0
Hosp./Clinic	162	10	5	5	10	76	51	5
State taxes	100	5	9	3	13	13	51	6
County taxes	6	0	0	0	0	1	1	4
City taxes	3	0	0	0	0	1	1	1
City services	3	0	0	0	0	3	0	0
Car dealer	72	1	11	4	0	26	28	2
Car repair	21	0	5	0	1	4	8	3
Gas service co.	41	7	9	2	1	5	16	1
Druggist	5	1	1	0	0	0	0	3
Food	37	3	5	3	0	8	17	1
Dry cleaner	4	0	1	0	0	2	1	0
Clothing	16	0	3	0	0	0	13	0
Furn./Appliance	26	0	3	2	2	4	15	0
Dept.store (in.)	6	0	3	0	0	2	1	0
Dept.store (ch.)	69	2	7	5	4	13	23	15
Hardware/Lumber	24	3	3	2	5	0	8	3
Auto supply	42	1	5	4	2	3	20	7
Telephone	22	0	2	2	7	4	7	0
Electric	1	0	1	0	0	0	0	0
Gas fuel	3	0	1	1	0	1	0	0
Construction	21	0	6	0	0	6	5	4
Serv./Repair	20	1	0	1	0	5	13	0
Exterminator	8	0	0	0	0	0	0	8
Moving service	2	0	0	0	0	0	2	0
Realtor	10	0	0	1	0	3	4	2
Coops/Grain/Feed	46	8	12	7	4	9	6	0
Farm implement	12	1	1	0	1	9	0	0
Home/Apt. rent	16	0	6	1	2	4	3	0
Mobile home	14	0	0	0	0	14	0	0
Recreation	1	0	0	0	0	0	0	1
Family support	248	2	7	6	13	56	99	65
Bsn. v. bsn.	37	4	7	0	14	4	7	1
Unidentifiable	575	4	15	14	24	125	143	250
Collection ag.	3	0	0	0	0	2	1	0
Other creditor	181	9	30	12	16	28	53	33

^{1/} See code sheet for complete listing in Appendix D.

researchers had little difficulty making an identification. In the cases where the plaintiff was an individual person, the student researchers relied on telephone directories, medical and law directories, city and county directories, the Chamber of Commerce, or the word of the sheriff or his secretary in making the identification.

The plaintiff was sometimes found to have more than one business or professional affiliation. In these cases the student researchers were forced to make a subjective judgment as to the occupational role of the plaintiff from which he most likely was in a position to garnishee someone's wages.

It is believed by this researcher that there were more cases of a business garnisheeing a business than were identified as such. However, if the records showed the defendant listed as an individual rather than a business, it was not listed as a Business v. business case.

In cases where the surnames of the plaintiff and defendant were the same, the students were instructed to assume the case was a Family support case and to categorize it as such.

The identification of plaintiffs should not be assumed entirely correct. In Riley, Rooks, and Leavenworth counties, only the surname of the plaintiff was contained in the records. In Harvey county, no defendants' names were given, so there was no way of determining Family support cases. In Phillips county no plaintiffs' names were contained in the records. Because of the difficulty in identifying some of the plaintiffs, due to the condition of the records and the procedure used in identification of plaintiffs, there would likely be some degree of error.

However, where students were unsure of the identification of the plaintiff, they were instructed not to guess as to that identification. Where there was uncertainty, or the name of the plaintiff was not given, the students classified the plaintiff as "Unidentifiable."

An abridged edition of the original code sheet was used for Tables 6a through 6g to summarize on one page the number of garnishments for each individual county by occupation of the plaintiff. All of the Other creditor categories were combined into one category by that title for the sake of brevity.

Table 6a. Garnishments by Plaintiffs in Counties Under 5,000 Population Class

Plaintiff	Counties ^{1/}								
	All	CH	CQ	EK	LC	LG	NS	TR	WO
All plaintiffs	<u>81</u>	<u>6</u>	<u>27</u>	<u>9</u>	<u>1</u>	<u>15</u>	<u>4</u>	<u>6</u>	<u>13</u>
Banks	5	-	3	1	-	1	-	-	-
Credit unions	-	-	-	-	-	-	-	-	-
Fin.Co./Sav.& In.	8	1	3	-	-	2	2	-	-
Insurance co.	1	-	1	-	-	-	-	-	-
Doctor (M.D.)	4	-	-	3	-	1	-	-	-
Dentist (D.D.)	1	-	-	-	-	-	-	-	1
Veterinarian	-	-	-	-	-	-	-	-	-
Attorney	-	-	-	-	-	-	-	-	-
Optometrist	-	-	-	-	-	-	-	-	-
Hospital/Clinic	10	1	7	-	-	-	-	-	2
State for taxes	5	-	-	-	-	2	-	2	1
County for taxes	-	-	-	-	-	-	-	-	-
City for taxes	-	-	-	-	-	-	-	-	-
City for services	-	-	-	-	-	-	-	-	-
Car dealer	1	-	-	-	-	-	-	1	-
Car repair	-	-	-	-	-	-	-	-	-
Gas service co.	7	-	4	-	-	3	-	-	-
Druggist	1	-	1	-	-	-	-	-	-
Food	3	-	1	-	-	-	-	-	2
Dry cleaner	-	-	-	-	-	-	-	-	-
Clothing	-	-	-	-	-	-	-	-	-
Furn./Appliance	-	-	-	-	-	-	-	-	-
Dept. store (in.)	-	-	-	-	-	-	-	-	-
Dept. store (ch.)	2	2	-	-	-	-	-	-	-
Hardware/Lumber	3	-	-	-	-	2	-	-	1
Auto supply	1	-	-	-	-	-	-	-	1
Telephone	-	-	-	-	-	-	-	-	-
Electric	-	-	-	-	-	-	-	-	-
Gas fuel	-	-	-	-	-	-	-	-	-
Construction	-	-	-	-	-	-	-	-	-
Service/Repair	1	-	-	-	1	-	-	-	-
Exterminator	-	-	-	-	-	-	-	-	-
Moving service	-	-	-	-	-	-	-	-	-
Realtor	-	-	-	-	-	-	-	-	-
Coops/Grain/Feed	8	-	1	4	-	2	-	-	1
Farm implement	1	-	-	1	-	-	-	-	-
Home/Apt. rental	-	-	-	-	-	-	-	-	-
Mobile home	-	-	-	-	-	-	-	-	-
Recreation	-	-	-	-	-	-	-	-	-
Family support	2	1	1	-	-	-	-	-	-
Bsn. v. Bsn.	4	1	-	-	-	1	2	-	-
Unidentifiable	4	-	-	-	-	1	-	2	1
Collection agency	-	-	-	-	-	-	-	-	-
Other creditor	9	-	5	-	-	-	-	1	3

^{1/} The counties and official abbreviations are in Appendix F.

Plaintiffs in counties of under 5,000 population class

Nine counties from this population class were included in the survey. Only eight of the counties are listed in Table 6a since Lane county had no garnishments recorded for 1969. A total of 81 garnishments were recorded with Hospitals and Clinics issuing 10 garnishments, the greatest number. Finance companies and Coops/Grain/Feed firms issued eight garnishments each. Nine garnishments were listed in the Other creditor category. These included an oil lease service company, a chemical firm, a door-to-door cosmetic firm, and an Encyclopedia sales firm.

Plaintiffs in counties of 5,000-10,000 population class

Twenty-four counties in this class were included in the survey, but only 23 are listed in Table 6b since Smith county reported no garnishments in 1969.

Finance companies and Savings and Loan associations together issued 25 garnishments. Banks were second, issuing 18 garnishments. There were seven Business v. business cases, and 15 Unidentifiable cases.

There were 30 cases in the Other creditor category. These plaintiffs included an oil lease service company, a machine shop, an iron and supply company, an abstract company, a School of Nursing, a jewelry store, an aircraft company, an air-conditioning firm, a rest home, Wichita University, a retired teacher, a farmer, an individual v. individual over a personal loan, and one case to collect damages resulting from an automobile accident.

Plaintiffs in counties of 10,000-15,000 population class

Eight counties from this class were included in the survey. A total of 114 garnishments were recorded from these counties (Table 6c).

Finance companies issued the greatest number of garnishments in this class with 28. Banks and Coops/Grain/Feed firms each issued seven. There were 14 cases in the Unidentifiable category, and 12 in the Other creditor category. The plaintiffs in the Other creditor category included a School of Nursing, a steel company, a broadcasters' company, a news corporation, a neon sign company, a farmer, and an electrician.

Plaintiffs in counties of 15,000-20,000 population class

Five counties in this population class were included in the survey. The number of garnishments recorded in this class was 157 (Table 6d).

Among the identifiable cases, Finance companies and Savings and Loan

Table 6b. Garnishments by Plaintiffs in Counties of 5,000-10,000 Population

Plaintiff	Counties							
	All	AN	DP	EW	GT	GW	HP	JW
All plaintiffs	<u>218</u>	<u>2</u>	<u>10</u>	<u>10</u>	<u>11</u>	<u>16</u>	<u>8</u>	<u>1</u>
Banks	18	-	-	-	2	1	-	-
Credit unions	5	-	-	-	-	-	-	-
Fin.Co./Sav.& In.	25	1	4	2	3	-	1	-
Insurance co.	6	-	-	-	-	2	-	-
Doctor (M.D.)	3	-	-	-	-	1	1	-
Dentist (D.D.)	2	-	-	-	-	-	-	-
Veterinarian	-	-	-	-	-	-	-	-
Attorney	1	-	-	-	-	-	-	-
Optometrist	-	-	-	-	-	-	-	-
Hospital/Clinic	5	-	-	1	1	-	-	-
State for taxes	9	-	-	1	-	-	-	-
County for taxes	-	-	-	-	-	-	-	-
City for taxes	-	-	-	-	-	-	-	-
City for services	-	-	-	-	-	-	-	-
Car dealer	11	-	-	-	-	2	1	-
Car repair	5	-	-	2	-	1	-	-
Gas service co.	9	-	4	-	-	2	-	-
Druggist	1	-	-	-	-	-	-	-
Food	5	-	-	1	-	-	1	-
Dry cleaner	1	-	-	-	-	-	-	-
Clothing	3	-	-	-	-	-	-	-
Furn./Appliance	3	-	-	-	1	-	-	-
Dept. store (in.)	3	-	-	-	-	2	-	-
Dept. store (ch.)	7	-	-	-	-	-	1	-
Hardware/Lumber	3	-	-	-	-	-	-	-
Auto supply	5	-	-	-	-	-	-	-
Telephone	2	-	-	-	1	-	-	-
Electric	1	-	-	-	-	-	-	-
Gas fuel	1	-	-	-	-	-	-	-
Construction	6	-	1	1	-	-	-	-
Service/Repair	-	-	-	-	-	-	-	-
Exterminator	-	-	-	-	-	-	-	-
Moving service	-	-	-	-	-	-	-	-
Realtor	-	-	-	-	-	-	-	-
Coops/Grain/Feed	12	-	-	-	-	-	-	-
Farm implement	1	-	-	-	-	-	-	-
Home/Apt. rental	6	-	1	-	1	1	-	-
Mobile home	-	-	-	-	-	-	-	-
Recreation	-	-	-	-	-	-	-	-
Family support	7	-	-	-	-	-	2	1
Bsn. v. bsn.	7	-	-	-	-	-	-	-
Unidentifiable	15	-	-	-	-	-	-	-
Collection agency	-	-	-	-	-	-	-	-
Other creditor	30	1	-	2	2	4	1	-

Table 6b. Continued

Plaintiff	Counties							
	KM	MC	MR	OB	OT	PN	PL	RO
All plaintiffs	<u>3</u>	<u>2</u>	<u>5</u>	<u>4</u>	<u>12</u>	<u>2</u>	<u>3</u>	<u>26</u>
Banks	-	-	1	-	2	-	-	-
Credit unions	-	-	-	-	-	-	-	-
Fin.Co./Sav.& In.	-	-	2	-	6	-	-	-
Insurance co.	-	-	-	-	-	-	-	2
Doctor (M.D.)	-	-	-	-	-	-	-	-
Dentist (D.D.)	-	-	-	-	-	-	-	-
Veterinarian	-	-	-	-	-	-	-	-
Attorney	-	-	-	-	-	-	-	-
Optometrist	-	-	-	-	-	-	-	-
Hospital/Clinic	-	-	-	-	-	-	-	2
State for taxes	-	-	1	-	-	-	-	-
County for taxes	-	-	-	-	-	-	-	-
City for taxes	-	-	-	-	-	-	-	-
City for services	-	-	-	-	-	-	-	-
Car dealer	-	-	-	-	-	1	-	1
Car repair	-	1	-	-	-	-	-	-
Gas service co.	-	-	-	-	-	-	-	1
Druggist	-	-	-	-	-	-	-	1
Food	1	-	-	-	-	-	-	-
Dry cleaner	-	-	-	-	-	-	-	-
Clothing	1	-	-	-	-	-	-	-
Furn./Appliance	-	-	-	1	-	-	-	1
Dept. store (in.)	-	-	-	-	-	-	-	1
Dept. store (ch.)	-	-	-	2	-	-	-	1
Hardware/Lumber	-	-	-	-	-	-	-	-
Auto supply	1	-	-	-	-	1	-	-
Telephone	-	-	-	-	-	-	-	-
Electric	-	-	-	-	-	-	-	-
Gas fuel	-	-	-	-	-	-	-	1
Construction	-	-	-	-	-	-	-	4
Service/Repair	-	-	-	-	-	-	-	-
Exterminator	-	-	-	-	-	-	-	-
Moving service	-	-	-	-	-	-	-	-
Realtor	-	-	-	-	-	-	-	-
Coops/Grain/Feed	-	-	-	-	2	-	-	4
Farm implement	-	-	-	-	-	-	-	1
Home/Apt. rental	-	-	1	-	-	-	-	-
Mobile home	-	-	-	-	-	-	-	-
Recreation	-	-	-	-	-	-	-	-
Family support	-	1	-	-	-	-	-	-
Bsn. v. bsn.	-	-	-	-	-	-	-	1
Unidentifiable	-	-	-	-	2	-	3	-
Collection agency	-	-	-	-	-	-	-	-
Other creditors	-	-	-	1	-	-	-	5

Table 6b. Continued

Plaintiff	Counties							
	RH	RS	SC	SH	SF	TH	WB	WS
All plaintiffs	<u>27</u>	<u>19</u>	<u>14</u>	<u>21</u>	<u>2</u>	<u>9</u>	<u>9</u>	<u>2</u>
Banks	6	2	-	2	-	-	2	1
Credit unions	-	2	-	2	-	-	1	-
Fin.Co./Sav.& Im.	1	-	1	4	-	-	1	-
Insurance co.	-	2	-	-	-	-	-	-
Doctor (M.D.)	-	-	-	-	-	-	1	-
Dentist (D.D.)	1	-	-	1	-	-	-	-
Veterinarian	-	-	-	-	-	-	-	-
Attorney	-	1	-	-	-	-	-	-
Optometrist	-	-	-	-	-	-	-	-
Hospital/Clinic	-	-	1	-	-	-	-	-
State for taxes	-	-	4	2	-	1	-	-
County for taxes	-	-	-	-	-	-	-	-
City for taxes	-	-	-	-	-	-	-	-
City for services	-	-	-	-	-	-	-	-
Car dealer	6	-	-	-	-	-	-	-
Car repair	1	-	-	-	-	-	-	-
Gas service co.	2	-	-	-	-	-	-	-
Druggist	-	-	-	-	-	-	-	-
Food	-	-	-	-	-	-	2	-
Dry cleaner	-	1	-	-	-	-	-	-
Clothing	-	-	-	-	-	-	-	-
Furn./Appliance	-	-	-	-	-	-	-	-
Dept. store (in.)	-	-	-	-	-	-	-	-
Dept. store (ch.)	-	2	-	1	-	-	-	-
Hardware/Lumber	-	-	1	-	-	-	1	1
Auto supply	-	-	2	-	-	1	-	-
Telephone	-	-	-	1	-	-	-	-
Electric	-	-	-	1	-	-	-	-
Gas fuel	-	-	-	-	-	-	-	-
Construction	-	-	-	-	-	-	-	-
Service/Repair	-	-	-	-	-	-	-	-
Exterminator	-	-	-	-	-	-	-	-
Moving service	-	-	-	-	-	-	-	-
Realtor	-	-	-	-	-	-	-	-
Coops/Grain/Feed	4	-	1	-	-	1	-	-
Farm implement	-	-	-	-	-	-	-	-
Home/Apt. rental	-	-	-	-	-	-	-	-
Mobile home	-	-	-	-	-	-	-	-
Recreation	-	-	-	-	-	-	-	-
Family support	2	-	-	1	2	-	-	-
Bsn. v. bsn.	-	3	-	-	-	3	-	-
Unidentifiable	2	2	-	4	-	2	-	-
Collection agency	-	-	-	-	-	-	-	-
Other creditors	2	4	4	2	-	1	1	-

Table 6c. Garnishments by Plaintiffs in Counties of 10,000-15,000 Population

Plaintiff	Counties								
	All	BR	CD	MN	MD	NM	OS	PT	RC
All plaintiffs	<u>114</u>	<u>7</u>	<u>3</u>	<u>21</u>	<u>7</u>	<u>2</u>	<u>24</u>	<u>6</u>	<u>44</u>
Banks	7	1	-	-	-	-	1	2	3
Credit unions	1	-	-	-	-	-	-	1	-
Fin.Co./Sav.& In.	28	-	1	6	1	-	4	-	16
Insurance co.	-	-	-	-	-	-	-	-	-
Doctor (M.D.)	3	-	-	1	-	-	-	-	2
Dentist (D.D.)	-	-	-	-	-	-	-	-	-
Veterinarian	-	-	-	-	-	-	-	-	-
Attorney	-	-	-	-	-	-	-	-	-
Optometrist	-	-	-	-	-	-	-	-	-
Hospital/Clinic	5	-	-	3	-	-	2	-	-
State for taxes	3	-	-	-	-	-	1	-	2
County for taxes	-	-	-	-	-	-	-	-	-
City for taxes	-	-	-	-	-	-	-	-	-
City for services	-	-	-	-	-	-	-	-	-
Car dealer	4	-	-	-	-	-	-	-	4
Car repair	-	-	-	-	-	-	-	-	-
Gasoline service co.	2	-	-	-	-	-	-	-	2
Druggist	-	-	-	-	-	-	-	-	-
Food	3	-	-	-	1	-	1	-	1
Dry cleaner	-	-	-	-	-	-	-	-	-
Clothing	-	-	-	-	-	-	-	-	-
Furn./Appliance	2	-	-	1	-	-	-	-	1
Dept. store (in.)	-	-	-	-	-	-	-	-	-
Dept. store (ch)	5	3	-	-	-	-	1	1	-
Hardware/Lumber	2	-	-	-	-	-	-	-	2
Auto supply	4	1	-	1	1	-	-	-	1
Telephone	2	-	-	-	-	-	-	-	2
Electric	-	-	-	-	-	-	-	-	-
Gas fuel	1	-	-	-	-	-	1	-	-
Construction	-	-	-	-	-	-	-	-	-
Service/Repair	1	-	1	-	-	-	-	-	-
Exterminator	-	-	-	-	-	-	-	-	-
Moving service	-	-	-	-	-	-	-	-	-
Realtor	1	-	-	-	-	-	-	-	1
Coops/Grain/Feed	7	-	-	5	-	-	1	-	1
Farm implement	-	-	-	-	-	-	-	-	-
Home/Apt. rental	1	-	-	-	1	-	-	-	-
Mobile home	-	-	-	-	-	-	-	-	-
Recreation	-	-	-	-	-	-	-	-	-
Family support	6	-	-	-	-	2	2	2	-
Bsn. v. bsn.	-	-	-	-	-	-	-	-	-
Unidentifiable	14	-	1	4	3	-	4	-	2
Collection agency	-	-	-	-	-	-	-	-	-
Other creditors	12	2	-	-	-	-	6	-	4

Table 6d. Garnishments by Plaintiffs in Counties of 15,000-20,000 Population

Plaintiff	Counties					
	All	AL	AT	DK	FI	SW
All plaintiffs	<u>157</u>	<u>6</u>	<u>9</u>	<u>64</u>	<u>55</u>	<u>23</u>
Banks	7	-	-	5	-	2
Credit unions	-	-	-	-	-	-
Fin.Co./Sav.& Ln.	23	2	5	9	3	4
Insurance co.	1	-	-	1	-	-
Doctor (M.D.)	3	-	-	-	-	3
Dentist (D.D.)	3	-	-	-	3	-
Veterinarian	-	-	-	-	-	-
Attorney	1	-	-	-	1	-
Optometrist	-	-	-	-	-	-
Hospital/Clinic	10	-	-	1	9	-
State for taxes	13	-	-	4	6	3
County for taxes	-	-	-	-	-	-
City for taxes	-	-	-	-	-	-
City for services	-	-	-	-	-	-
Car dealer	-	-	-	-	-	-
Car repair	1	-	-	-	-	1
Gas service co.	1	1	-	-	-	-
Druggist	-	-	-	-	-	-
Food	-	-	-	-	-	-
Dry cleaner	-	-	-	-	-	-
Clothing	-	-	-	-	-	-
Furn./Appliance	2	-	1	-	1	-
Dept. store (in.)	-	-	-	-	-	-
Dept. store (ch.)	4	-	-	-	3	1
Hardware/Lumber	5	2	-	-	3	-
Auto supply	2	-	-	1	-	1
Telephone	7	-	-	4	-	3
Electric	-	-	-	-	-	-
Gas fuel	-	-	-	-	-	-
Construction	-	-	-	-	-	-
Service/Repair	-	-	-	-	-	-
Exterminator	-	-	-	-	-	-
Moving service	-	-	-	-	-	-
Realtor	-	-	-	-	-	-
Coops/Grain/Feed	4	1	2	1	-	-
Farm implement	1	-	-	-	1	-
Home/Apt. rental	2	-	-	-	-	2
Mobile home	-	-	-	-	-	-
Recreation	-	-	-	-	-	-
Family support	13	-	1	2	8	2
Bsn. v. bsn.	14	-	-	8	6	-
Unidentifiable	24	-	-	23	1	-
Collection agency	-	-	-	-	-	-
Other creditors	16	-	-	5	10	1

associations combined issued 23 garnishments, the greatest number for any one group of plaintiffs. There were 24 Unidentifiable cases, 14 cases of Business v. business, and 13 Family support cases and 13 issued by the State for taxes. There were 16 cases in the Other creditor category. These plaintiffs included a feed lot, a trucking company, an embalmers' supply company, a funeral home, an air-conditioning company, a jewelry store, and the State Labor Commission.

Plaintiffs in counties of 20,000-35,000 population class

Eight counties in this population class were surveyed. A total of 597 garnishments were recorded for these counties (Table 6e).

Of the identifiable cases, Finance companies and Savings and Loan associations issued 104 garnishments. The Hospitals and Clinics combined with the County for the County Hospital issued 76 garnishments, the second greatest number. Twenty-seven of these were in Ford county and 32 in Franklin county. Family support cases resulted in 56 garnishments. Banks issued 35 garnishments and Car dealers another 26. In the case of Banks, 16 were issued in Harvey county alone. Fifteen of the garnishments by Car dealers were in Ellis county.

Harvey county was the only county in the survey where Mobile home dealers were known to issue garnishments. They issued 14.

Because the records for Harvey county did not contain the names of the defendants, there were 55 Unidentifiable cases and no Family support cases identified. It is the opinion of this researcher that many of the Unidentifiable cases were probably Family support cases.

Two garnishments in Franklin county were issued in the name of the individual who operated the Collection agency in that county. There was no way of proving that the garnishments were issued on cases assigned or sold to the agency for collection. However, no other explanation could be given, so they were attributed to the Collection agency. The Kansas garnishment law specifically prohibits Collection agencies from using garnishments in the collection of any debt either assigned or sold to that agency for collection. However, the law does not have an accompanying penalty automatically evoked for a wrongful garnishment. An attorney for the defendant, if he had one, would have to file a wrongful garnishment suit to challenge the legality of the garnishment.

Table 6e. Garnishments by Plaintiffs of Counties of 20,000-35,000 Population

Plaintiff	Counties								
	All	EL	FO	FR	GE	HV	LB	LY	MP
All plaintiffs	<u>597</u>	<u>49</u>	<u>132</u>	<u>108</u>	<u>33</u>	<u>122</u>	<u>39</u>	<u>101</u>	<u>13</u>
Banks	35	3	4	3	-	16	5	3	1
Credit unions	6	-	1	-	-	-	3	2	-
Fin.Co./Sav.& In.	104	7	16	33	8	-	20	18	2
Insurance co.	10	3	2	-	-	1	-	4	-
Doctor (M.D.)	5	1	2	2	-	-	-	-	-
Dentist (D.D.)	1	-	-	1	-	-	-	-	-
Veterinarian	1	-	-	-	-	-	-	-	1
Attorney	3	1	2	-	-	-	-	-	-
Optometrist	1	-	-	1	-	-	-	-	-
Hospital/Clinic	76	-	27	32	11	2	-	4	-
State for taxes	13	-	3	1	1	-	-	8	-
County for taxes	1	-	-	-	-	1	-	-	-
City for taxes	1	-	-	-	-	1	-	-	-
City for services	3	-	-	-	-	3	-	-	-
Car dealer	26	15	3	-	1	4	-	3	-
Car repair	4	-	1	-	-	1	-	1	1
Gas service co.	5	-	2	1	-	1	-	1	-
Druggist	-	-	-	-	-	-	-	-	-
Food	8	-	-	-	-	3	1	4	-
Dry cleaner	2	1	-	-	-	-	-	1	-
Clothing	-	-	-	-	-	-	-	-	-
Furn./Appliance	4	-	-	1	-	3	-	-	-
Dept. store (in.)	2	-	-	-	-	-	2	-	-
Dept. store (ch.)	13	1	5	4	1	-	2	-	-
Hardware/Lumber	-	-	-	-	-	-	-	-	-
Auto supply	3	-	-	-	-	-	-	2	1
Telephone	4	1	-	2	-	-	-	1	-
Electric	-	-	-	-	-	-	-	-	-
Gas fuel	1	-	-	1	-	-	-	-	-
Construction	6	-	-	1	2	3	-	-	-
Service/Repair	5	-	-	-	1	4	-	-	-
Exterminator	-	-	-	-	-	-	-	-	-
Moving service	-	-	-	-	-	-	-	-	-
Realtor	3	1	1	-	1	-	-	-	-
Coops/Grain/Feed	9	2	1	2	-	3	-	-	1
Farm implement	9	-	1	1	-	5	-	2	-
Home/Apt. rental	4	-	-	-	-	-	1	2	1
Mobile home	14	-	-	-	-	14	-	-	-
Recreation	-	-	-	-	-	-	-	-	-
Family support	56	-	39	8	3	-	-	6	-
Bsn. v. bsn.	4	3	-	-	-	-	-	1	-
Unidentifiable	125	3	15	10	3	55	2	35	2
Collection agency	2	-	-	2	-	-	-	-	-
Other creditors	28	7	7	2	1	2	3	3	3

Twenty-eight cases of garnishment were in the Other creditor category. These plaintiffs included an auctioneer, a breeder service, a carpet and tile firm, a farmer, a railroad, a newspaper, a jewelry store, a medical company, a land developer, a pump and supply company, a music company, a drapery and upholstery shop, the Associated Growers, a soft drink bottler, an electric company, a transport company, a pots and pans sales firm, two cases to collect damages resulting from an automobile accident, and one case of a personal loan between two individuals.

Plaintiffs in counties of 35,000-100,000 population class

Seven counties in this class were included in the survey. A total of 967 garnishments were recorded for these counties (Table 6f).

Again the greatest number of garnishments were issued by Finance companies with 238. Reno county alone accounted for 122 of these garnishments. The 99 Family support cases were the second largest number of garnishments. Banks issued 60 orders of garnishment, and 51 each were issued by the State for taxes and by Hospitals and Clinics.

In Reno county an instance of garnishment by a Collection agency was recorded. The plaintiff was listed as the Collection agency itself.

The Other creditor category had 53 cases listed. These plaintiffs included an oil lease service company, a fence and iron supply firm, a jewelry store, a barber, a contractor, a welding and machine shop, a country club, a heating and refrigeration company, an aerial photographic service, a leather shop, a florist, a scale and equipment company, a sign company, a flooring company, the V.A. Complex, the Board of Regents and two cases of garnishment to collect damages resulting from an automobile accident.

In another county the Board of Regents issued a garnishment representing K.U. Medical Center and that case was classified under Hospitals and Clinics. In this case no such designation was made so the case was included in the Other creditor category.

Plaintiffs in counties of over 100,000 population class

The partial records of two counties were included in this survey with 484 garnishments recorded (Table 6g).

Family support cases resulted in 65 garnishments being issued, the greatest number for any one type of plaintiff. It should be recognize that any Family support case must be filed in District Court. In Wyandotte county

Table 6f. Garnishments by Plaintiffs in Counties of 35,000-100,000 Population

Plaintiff	Counties							
	All	BU	CL	LV	MG	RN	RL	SA
All plaintiffs	<u>967</u>	<u>49</u>	<u>52</u>	<u>160</u>	<u>168</u>	<u>342</u>	<u>40</u>	<u>156</u>
Banks	60	-	5	1	23	17	7	7
Credit unions	6	-	-	-	-	6	-	-
Fin.Co./Sav.& Im.	238	9	13	20	6	122	4	64
Insurance co.	5	-	2	-	-	2	1	-
Doctor (M.D.)	25	1	2	1	6	15	-	-
Dentist (D.D.)	8	-	-	-	1	7	-	-
Veterinarian	-	-	-	-	-	-	-	-
Attorney	21	-	-	11	3	6	-	1
Optometrist	7	-	-	6	-	1	-	-
Hospital/Clinic	51	31	6	4	-	8	1	1
State for taxes	51	-	6	27	-	9	3	6
County for taxes	1	-	1	-	-	-	-	-
City for taxes	1	-	-	-	-	1	-	-
City for services	-	-	-	-	-	-	-	-
Car dealer	28	-	-	2	10	14	1	1
Car repair	8	3	-	-	3	-	1	1
Gas service co.	16	-	-	1	11	3	1	-
Druggist	-	-	-	-	-	-	-	-
Food	17	-	-	4	11	2	-	-
Dry cleaner	1	-	-	-	1	-	-	-
Clothing	13	-	1	-	6	6	-	-
Furn./Appliance	15	-	2	2	2	7	2	-
Dept. store (in.)	1	-	-	1	-	-	-	-
Dept. store (ch.)	23	-	2	7	11	1	2	-
Hardware/Lumber	8	2	-	1	3	1	1	-
Auto supply	20	-	-	4	4	12	-	-
Telephone	7	-	-	-	7	-	-	-
Electric	-	-	-	-	-	-	-	-
Gas fuel	-	-	-	-	-	-	-	-
Construction	5	-	1	-	1	1	2	-
Service/Repair	13	-	-	6	5	-	2	-
Exterminator	-	-	-	-	-	-	-	-
Moving service	2	-	-	1	-	-	1	-
Realtor	4	-	-	-	2	-	-	2
Coops/Grain/Feed	6	-	1	1	1	2	-	1
Farm implement	-	-	-	-	-	-	-	-
Home/Apt. rental	3	-	-	-	2	-	1	-
Mobile home	-	-	-	-	-	-	-	-
Recreation	-	-	-	-	-	-	-	-
Family support	99	-	4	19	-	24	4	48
Bsn. v. bsn.	7	-	-	-	-	6	-	1
Unidentifiable	143	-	4	35	31	56	4	13
Collection agency	1	-	-	-	-	1	-	-
Other creditors	53	3	2	6	18	12	2	10

Table 6g. Garnishments by Plaintiffs in Counties of Over 100,000 Population

Plaintiff	Counties		
	All	JO	WY
All plaintiffs	<u>484</u>	<u>381</u>	<u>103</u>
Banks	12	7	5
Credit unions	4	2	2
Fin.Co./Sav.& Ln.	46	36	10
Insurance co.	5	3	2
Doctor (M.D.)	1	1	-
Dentist (D.D.)	1	1	-
Veterinarian	-	-	-
Attorney	-	-	-
Optometrist	-	-	-
Hospital/Clinic	5	5	-
State for taxes	6	5	1
County for taxes	4	4	-
City for taxes	1	1	-
City for services	-	-	-
Car dealer	2	-	2
Car repair	3	3	-
Gas service co.	1	1	-
Druggist	3	3	-
Food	1	1	-
Dry cleaner	-	-	-
Clothing	-	-	-
Furn./Appliance	-	-	-
Dept. store (in.)	-	-	-
Dept. store (ch.)	15	15	-
Hardware/Lumber	3	2	1
Auto supply	7	5	2
Telephone	-	-	-
Electric	-	-	-
Gas fuel	-	-	-
Construction	4	3	1
Service/Repair	-	-	-
Exterminator	8	8	-
Moving service	-	-	-
Realtor	2	2	-
Coops/Grain/Feed	-	-	-
Farm implement	-	-	-
Home/Apt. rental	-	-	-
Mobile home	-	-	-
Recreation	1	1	-
Family support	65	8	57
Bsn. v. bsn.	1	-	1
Unidentifiable	250	241	9
Collection agency	-	-	-
Other creditors	33	23	10

only the records from District Court were researched so that the data were weighted in favor of Family support cases. In Wyandotte county 103 cases of garnishment were recorded and 57 were Family support cases.

There were 250 cases in the Unidentifiable category. The students doing the research in Johnson county found the case numbers, court listings, and mileage data in one file and the names of the plaintiff and defendant in another file. Though the students recorded the first part of the information needed for all the cases A to L, in 231 of these cases the names of the plaintiffs and defendants were never recorded because of a lack of time. All of these cases were categorized as "Unidentifiable."

There were 33 cases listed in the Other creditor category. These plaintiffs included an auditing service, a drapery service, a meat company, a turf farm, a roofing company, a concrete firm, a country club, a house-moving firm, a marble company, a barber shop, and the Board of Regents.

Cost of Serving Orders of Garnishment

Objective number five of this study was to answer the question of whether garnishment was a self-supporting collection device or whether it was subsidized by Kansas taxpayers. The data available upon which to estimate costs were obtained from the garnishment records as to the miles driven; the data available as to receipts were obtained by noting the amount charged by the sheriff's office for the service of orders of garnishment. Therefore, the cost analysis of garnishment compared the cost in car mileage and time to serve garnishment papers with the amount charged in fees.

Calculating the cost of service

To calculate the cost of service of an order of garnishment, the amount of time necessary to serve the papers was estimated. This time included both traveling time and the time required for the actual service of the papers.

Travel time was estimated by assuming an average driving speed of 30 miles an hour for the first 15 miles and 60 miles an hour for the mileage after the first 15.

The time for service of the papers was estimated at 10 minutes for service of each person. According to Sheriff Joe Ferns of Franklin county and Undersheriff Roy Markwald of Riley county, the time for service varies between 10 and 15 minutes. The minimum time was selected for this analysis.

The number of services on separate individuals was reflected in the amount charged in fees. The fees charged by all Kansas sheriffs for the service of orders of garnishment was set by Kansas statute. The charge was \$1.00 for the service on the first person, and \$.50 for each additional person (K.S.A. 28-110). Thus the amount of the fee charged reflected the number of persons served.

The sheriff was also required to charge mileage at the rate of \$.09 a mile, provided more than one mile was traveled in serving the order of garnishment (K.S.A. 28-110). For the purposes of this analysis, the amount charged for mileage was considered to cover the cost of operating the vehicle only. The cost of the mileage was subtracted from the fees charged, leaving the remainder as reimbursement for the law official's time in serving orders of garnishment.

The total time necessary for service of each individual case was calculated. The time necessary for serving all orders of garnishment within a county was determined. This time was then multiplied by the starting hourly wage of a sheriff's patrolman. The League of Kansas Municipalities provided the researcher with the monthly starting salary for sheriff's patrolmen in each of the 105 Kansas counties, in 1969. These are tabulated in Appendix F. Their source of information was Kansas Law Enforcement Inventory, Vol. II. This researcher considered a sheriff's patrolman to work an average of a 40-hour week, or 173.2 hours per month, and estimated the minimum hourly wage.

Thus the cost of the law official's time in serving the orders of garnishment was obtained by using the minimum salary of a law official in each county and the minimum time necessary for the service of garnishment papers. The minimum cost of serving the papers was then contrasted with the amount charged by the sheriff's office in fees to ascertain if that law office was being fully reimbursed for the employee time used in serving orders of garnishment.

Counties included in the cost analysis

Three counties were randomly selected in each population class from those having the necessary data to make the cost analysis. The necessary information included the miles traveled or mileage charged, and the total fees charged.

None of the counties in the 35,000-100,000 population class had the necessary data in a usable form, therefore this population class was

excluded from the cost analysis. The population class of over 100,000 had only two counties, so both were included in the study.

Cost analysis for counties by population class

The three counties randomly selected for the cost analysis in the under 5,000 population class were Chase, Elk, and Logan counties. None of these counties employed a full-time sheriff's patrolman in 1969. The sheriff's salary was set by Kansas statute in 1969 at \$5,963.00 per year or \$2.87 per hour for counties of under 10,000 population (K.S.A. 28-80). This was the salary used for the cost analysis in these three counties.

None of these three counties received sufficient fees to cover costs. The deficit ranged from \$.60 in Logan county to \$8.29 in Chase county. In 10 out of the 15 cases in Logan county, no charge was made for mileage, so no calculations could be made for traveling time in the service of the papers. Therefore, no time was considered for traveling in 10 of the cases even though some time would necessarily have been used by the sheriff.

The three counties randomly selected for the cost analysis in the 5,000-10,000 population class were Doniphan, Ottawa, and Russell counties. The only county for which receipts for fees exceeded the estimated costs was Russell county, which also had the highest base salary for a sheriff's patrolman.

The three counties randomly selected for the cost analysis from the 10,000-15,000 population class were Brown, Pottawatomie, and Rice. All three counties received less in revenue than the estimated cost of issuing the garnishments.

The three counties randomly selected from the population class of 15,000-20,000 were Atchison, Dickinson, and Finney. All three received less in revenue than the estimated cost of issuing garnishments, the highest in Dickinson county.

Only three counties from the population class of 20,000-35,000 had the necessary data to make the cost analysis. They were Ford, Geary, and McPherson. In all three of these counties the revenue received from fees exceeded the estimated cost of issuing garnishments.

Both Johnson and Wyandotte counties had the necessary data to compute the cost analysis so both counties were included. The difference between the estimated cost and money received from fees was a cost to Johnson county of \$594.21 and \$9.83 to Wyandotte county.

Summary of cost analysis

It took an estimated 670.50 hours to serve 919 garnishments in the 17 selected counties. The estimated cost for the law official's time in serving these garnishments was \$1,784.26. The fees charged were \$1,174.70. The difference between the total estimated cost and total money received from fees was a cost of \$609.56 to these counties (Table 7).

From this analysis it appears that the taxpayers do indeed subsidize garnishment as a collection device of private creditors.

In reviewing data on the costs of servicing orders of garnishment, it would appear that the fees would generally cover the cost or exceed the cost when the traveling time was kept to a minimum and 10 minutes was a realistic estimate of the time required to serve the order. As traveling time increased, so did the estimated cost for serving the garnishment papers, even though the fee remained stationary.

According to the Monthly Labor Review of the U. S. Department of Labor, the average hourly wage of production and nonsupervisory workers for 1969 was \$3.04 an hour. Had the cost analysis been based on this hourly wage, the cost of serving these garnishments would have been \$2,038.32. The difference between this cost and the money received from fees would have been a cost of \$863.62 to these 17 counties.

Perhaps the reason the difference between the estimated cost for serving orders of garnishment and the fees charged for such service was so low was that the salaries for sheriff's patrolmen in Kansas is lower than that paid average production and non-supervisory workers. Furthermore, since many of these garnishments would have been served by the sheriff or one of his deputies receiving greater than the base salary for a sheriff's patrolman, the actual cost of serving orders of garnishment in these counties was probably much greater than indicated in this cost analysis.

Student Researchers' Experiences

K.S.A. 28-123 provides that every sheriff keep a record of all fees charged, and K.S.A. 29-110 provides that every sheriff charge a fee for service of all papers. Yet some student researchers were unable to secure access to these records for various reasons.

One difficulty may have been the students' inability to communicate to the sheriff just what records they needed. The students were supplied with

Table 7. Cost of Law Official's Time in Contrast to Fees Charged for Serving of Garnishment Papers in Selected Counties

Counties	Total time in hours	Total cost for sheriff patrolman's time	Fees charged	Difference + or -
TOTAL	<u>670.5</u>	<u>\$ 1,784.26</u>	<u>\$ 1,174.70</u>	<u>-609.56</u>
Under 5,000				
Chase	5.5	15.79	7.50	- 8.29
Elk	4.8	13.78	9.50	- 4.28
Logan	7.7	22.10	21.50	- .60
5,000-10,000				
Doniphan	10.6	18.02	17.20	- .82
Ottawa	6.6	14.72	13.00	- 1.72
Russell	8.7	20.07	26.00	+ 5.93
10,000-15,000				
Brown	5.4	12.97	7.00	- 5.97
Pottawatomie	8.1	18.18	7.00	- 11.18
Rice	22.3	56.41	50.50	- 5.91
15,000-20,000				
Atchison	5.4	12.35	9.00	- 3.35
Dickinson	39.2	89.05	66.00	- 23.05
Finney	35.5	92.33	80.50	- 11.83
20,000-35,000				
Ford	77.7	156.89	215.70	+ 58.81
Geary	11.6	26.57	32.80	+ 6.23
McPherson	5.4	12.49	13.00	+ .51
Over 100,000				
Johnson	338.7	978.71	384.50	-594.21
Wyandotte	77.5	223.83	214.00	- 9.83

written instructions as shown in Appendix B. Generally, those students who refused to be referred to the court records for their data and were insistent were usually able to obtain the sheriff's records. However, even the most insistent students had difficulty or unusual experiences as reported by the students in their narratives.

The names of the individual counties have been withheld because of the procedure used and lack of defensible evidence that these events did occur as stated. Problems were encountered at the outset, in the preliminary study. The sheriff denied having any records of service of orders of garnishment until the researcher explained she was requesting access to these records at the suggestion of the District Judge. This researcher later checked a second county, to be certain that the records researched in the first county were not unique to that one county, and again, the existence of such records was denied. After much insistence that some type of records must be kept, the secretary and the undersheriff produced the Quarterly Fee Report Book. Later, when the student researcher went to the same sheriff's office, the secretary denied having any records on garnishment and sent the student to the Clerk of the District Court.

In 18 counties students were informed by the sheriff, or his secretary, that the sheriff kept no records on service of garnishment in his office. These students were forced to use the court records as the source of their data.

The sheriff in another county admitted having such records, but said he had kept them incorrectly for the auditor's purposes in 1969. He then directed the student to the court records.

In still another county, the sheriff acknowledged having such records and the student's right to see them, but denied her this right on the grounds that the defendants had "gone through enough embarrassment and if the information ever got out it would be like a retrial." The County Attorney concurred with the sheriff even after the student researcher assured them these records would be kept confidential. Finally, the County Attorney agreed to read the names of the plaintiffs to the student and allowed her to record them.

Of the students who obtained their data from the sheriff's records, some did so only through stubborn persistence. In one county the student was sent to the court, but after seeing the magnitude of the task of

gathering the data from court records he returned to the sheriff's office. Finally, the sheriff did recall that he might have the records and turned them over to the student.

In one county the undersheriff was most helpful, but the student spent two days in the sheriff's office while the less cooperative sheriff tried to locate three months of records which had been misplaced.

In one county the sheriff told the researcher she had been "lied to" and the records were not public information. Since this was the fourth county the student had researched she was insistent and volunteered to call the County Attorney to verify her right to access to the records. After being notified by the County Attorney that the records were indeed public information, "he promptly lost them." When the records were finally located, the researcher noticed one case number occurring repeatedly with the name of the defendant missing. This intrigued the student so she checked the court records for this particular case. She discovered the defendant was the sheriff himself.

In one county the researcher was sent to the Magistrate Court where the Marshall was especially cooperative. After researching the files of the Magistrate Court, the marshall accompanied the student back to the sheriff's office and helped her get the records there.

In one metropolitan county the researcher spent several days just trying to locate records she could use. She was sent from one person to another, from one office to another, from sheriff to Clerk of the District Court and back again. She was repeatedly ignored, insulted, and interrogated about her purpose in wanting the records. Finally, a relative who was an attorney in the city happened into the office where she was trying to get the records. Once he had interceded for her, she was given the Appearance Dockets to check. Later one helpful person suggested she use the sheriff's Day Book, but only after another hassle with the sheriff's secretary was she able to use it. When she returned two months later to complete her research she had to go through the whole process again. Finally, after completing the sheriff's Day Books, the student prepared to leave thinking she had completed her work. It was only then that the sheriff's secretary informed her there were Day Books just like the ones she had just used for each of the seven deputies in the county.

In still another county the researcher had to have the County Attorney

verify his right to see the records kept by the sheriff. But instead of giving the student the records, the deputy took him promptly to the County Court office to check the records there. The student believed his problem in obtaining the correct records was caused by his appearance, especially his long hair. He suffered several insults about his hair from the deputy even in his brief encounter with the law official.

Admittedly most of the students were able to obtain sheriff's records for their research. Those students having the least difficulty usually knew the sheriff personally, or the sheriff knew the student's parents. Some students found the sheriff to be genuinely interested in the study and cooperative in every way. In Johnson county this researcher made the initial contacts via telephone to facilitate location of the records by the students. In this case the records were waiting for the students when they arrived and every courtesy was extended to them. They even set up an office for the students to work in.

The State of the Sheriffs' Records

K.S.A. 28-123 provides that the records be kept by the sheriff in a "Fee Book" and in a specified manner. This was not always the case.

The sheriff's record of papers served was kept in a book, the name of which varied from county to county. It was called Docket of Papers, Quarterly Report Book, Quarterly Fee Report Book, Fee Book, Daily Records and Expense Book, and Quarterly Summary. In one instance the records were kept on individual sheets of yellow legal paper bundled together in a file drawer. Usually these books were compiled from the sheriffs' Day Books.

In two counties, the last names of the plaintiffs were the only ones in the records. In another county the records did not give the names of the defendant. In yet another county the plaintiffs' names were not given. In many of the counties the records lacked the name of the plaintiff or defendant in one or two cases. In at least one county none of the services of papers issuing from any court outside the county were identified as to the type of paper. Therefore, no foreign garnishments could be recorded for that county.

In some counties, usually the larger ones, part of the needed information was kept in a card file system and part in the Fee Book. In these counties the student researchers had to look up each case in two separate places to get the needed information.

CONCLUSIONS

Garnishment was a subject which could be researched because records were available. But the ability to research this subject depended to a great extent on the cooperativeness of local officials and (in some cases) the persistence of the researchers. Much more detailed information was available in individual court files of cases than was used in this study. With the use of student researchers, the subject of garnishment, as outlined in the set of questions in the Introduction of this presentation, could be researched.

Garnishment was employed by Kansas creditors as a collection device on default debts in 1969. A total of 2,618 cases of garnishment were recorded in the 63 counties included in the survey. The incidence of garnishment per 1,000 population was 1.9 for all the counties in the survey and 2.2 for the counties with complete data.

The use of garnishment was not limited to or concentrated in any one area of the state, to any one population size of county, or to rural or urban areas. It was used in all but two of the 63 counties researched. The two counties with the highest incidence of garnishment were from two different population classes and different areas of the state; neither were urban centers.

Garnishment appeared to be a phenomenon unique to the situation in each county. A number of circumstances existing in any one county or area contributed to the quantity of usage of garnishment in that area.

From the data obtained, Financial institutions, particularly Finance companies, were responsible for a high percentage of the total garnishments issued. Individual medical practitioners comprised a small percentage of the garnishments, but surprisingly hospitals and clinics used garnishment frequently to collect overdue bills. Possibly the illnesses that eventually resulted in garnishment were unexpected and not covered by insurance. And the added financial burden took the family over the brink from financial solvency to financial disaster. If so, this suggests the advisability of studying the relationship between insurance availability and coverage in relation to credit illness.

The cost analysis made in 17 counties revealed that the taxpayer did subsidize to some extent, the use of garnishment by private creditors in

1969. In some counties this subsidy was small, but in others it was quite significant. It is important to note that the very minimum costs for serving orders of garnishment were assumed in making these estimates. In all probability the actual costs were much greater.

Students proved to be an excellent source of willing and conscientious researchers. Use of students in collecting data allowed for expansion of this study beyond the normal resource limitations of one researcher. Also many of the students developed a real concern for the financial plight of families, and an awareness of their own county and local government functions. None of the students had had any experience with garnishment prior to this study.

The majority of local officials were most cooperative. However, in numerous cases they were hostile and uncooperative. In many cases records were kept in a haphazard order. And the form of record keeping varied greatly from county to county.

RECOMMENDATIONS

1. The research of the records of Wyandotte and Johnson counties should be completed and the records of the other two metropolitan counties, Sedgwick and Shawnee, should be researched. Having complete data from these counties would give a better picture of the situation presently in larger cities. This information would allow for a contrast between the usage of garnishment in urban as opposed to rural areas.
2. If the objective of future studies is just to obtain data, a sample of counties should be used and more time should be spent in pre-survey training of the researchers and preliminary introduction within the county. However, in this study one of the most important results was the insight gained by the student researchers about their own local and county government. This would have been eliminated if all barriers to their access to the records had been removed.
3. A study should be designed concerning families who have been garnisheed. Information to be obtained would pertain to the type of debt, the situation of the family at the time they defaulted, and the effect of garnishment on their personal and financial life. This information is crucial to the whole issue of garnishment.
4. Another study should be designed concerning the creditors. Both the creditors who do garnish as a matter of policy and those who do not should be included. Much is still unknown about the creditor's viewpoint in the issue of garnishment.
5. From the data available from this study of 63 counties, a check of the repeatability of garnishment of the same defendant by several plaintiffs could support or disprove the theory that one garnishment of a defendant often leads to other garnishments of the same defendant by other creditors (dominoe effect as discussed in the Introduction, p. 10).
6. As an extension of this study, a check of the number of garnishments issued by individual plaintiffs might reveal the differences in practices of individual firms within a category of plaintiffs.
7. Continued efforts should be made to obtain funds from the National Commission on Consumer Finance for the studies as outlined in these Recommendations.

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The cooperation and persistence of the 62 student researchers who participated in this study are gratefully acknowledged.

APPENDICES

Glossary of Selected Terms

- Answer--"A reply to interrogatories; an affidavit in answer to interrogatories. The declaration of a fact by a witness after a question has been put, asking for it" (Black, 1968, p. 118).
- Default Judgment--"A judgment rendered in consequence of the non-appearance of the defendant" (Black, 1968, p. 948).
- Defendant--"The person defending or denying; the party against whom relief or recovery is sought in an action or suit" (Black, 1968, p. 507).
- Disposable Earnings--"That part of the earnings of any individual remaining after the deduction from such earnings of any amounts required by law to be withheld" (K.S.A. 60-2310, 1970, p. 219).
- Due Process--"The essential elements of 'due process of law' are notice and opportunity to be heard and to defend in an orderly proceeding adapted to the nature of the case, and the guarantee of due process requires that every man have protection of day in court and benefit of general law" (Black, 1968, p. 590).
- Earnings--"Compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise" (K.S.A. 60-2310, 1970, p. 219).
- Garnishee--"One garnished; a person against whom process of garnishment is issued; one who has money or property in his possession belonging to a defendant or who owes the defendant a debt, which money, property, or debt is attached in his hands, with notice to him not to deliver or pay it over until the result of the suit is ascertained" (Black, 1968, p. 810).
- Garnishment--"A warning to a person in whose hands the effects of another are attached not to pay the money or deliver the property of the defendant in his hands to him, but to appear and answer the plaintiff's suit.
"A statutory proceeding whereby a person's property, money or credits in possession or under the control of, or owing by, another are applied to payment of former's debt to a third person by proper statutory process against the debtor and garnishee" (Black, 1968, p. 810).
- Judgment--"The official and authentic decision of a court of justice upon the respective rights and claims of the parties to an action or suit therein litigated and submitted to its determination" (Black, 1968, p. 977).
- Plaintiff--"A person who brings action; the party who complains or sues in a personal action and is so named on the record" (Black, 1968, p. 1309).

Praecipe--"In practice an original writ, drawn up in the alternative, commanding the defendant to do the thing required, or show the reason why he had not done it.

"A slip of paper upon which the particulars of a writ are written. It is lodged in the office out of which the required writ is to issue. Also an order, written out and signed, addressed to the clerk of the court and requesting him to issue a particular writ (Black, 1968, p. 1335).

Recovery--"In its most extensive sense, the restoration or vindication of a right existing in a person by the formal judgment or decree of a competent court, at his instance or suit, or the obtaining, by such judgment, of some right of property, which has been taken or withheld from him" (Black, 1968, p. 1440).

Service--"The exhibition or delivery of a writ, notice, injunction, etc., by an authorized person, to a person who is thereby officially notified of some action or proceeding in which he is concerned and is thereby advised or warned of some action or step which he is commanded to take or to forbear" (Black, 1968, p. 1533).

Personal service--"of a writ or notice is made by delivering it to the person named, in person" (Black, 1968, p. 1534).


Resident service--Leaving a copy of the writ or notice at a person's place of abode.

Trial--"A judicial examination, in accordance with law of the land, of a cause, either civil or criminal, of the issues between the parties, whether of law or fact, before a court that has jurisdiction over it" (Black, 1968, p. 1675).

DEPARTMENT OF FAMILY ECONOMICS
JUSTIN HALL

December 4, 1970

Memorandum

From: Richard L. D. Morse, Professor and Head 

To: Students interested in Field Study in Family Economics, 630-380

Re: Garnishment study

Your interest in helping discover what the garnishment situation is in Kansas is appreciated. The attached set of instructions will answer most of your questions. However, if it doesn't, please call us.

We anticipate that this field work, together with some follow-up group sessions, will be equivalent to the 45 hours normally expected of a one-hour credit course. So if you have a free elective, you can enroll for one hour of credit - 630-380.

As the instructions suggest, we plan to use the group sessions to synchronize our efforts and compare experiences. This is new territory and you will be breaking ground in this area of research in family finance in Kansas.

The Garnishment Study Team Memorandum #1

As a member of the study team on Garnishment in Kansas your first responsibility will be to record the data you find for the particular county to which you are assigned. Later your responsibilities will include categorizing your data as to the various groups of plaintiffs you find.

In smaller, less urban, counties, the papers for all Orders of Garnishment issued within a county are served by the sheriff or one of his deputies. Records are kept in the sheriff's office of all the papers he has served, and Garnishment is included.

In Franklin County these records were kept in a large ledger book marked Papers. In Riley County the records were kept in what they called the Quarterly Report Book. In other counties this set of records may be referred to as simply the Docket of Papers served. In any case we do know that the sheriff must keep a record of all papers he serves, and has them categorized as to what type of paper each was--summons, garnishment, etc.

Inquiries were made in three large metropolitan counties from which we learned that in these counties the sheriff is not the only person who serves papers on garnishment. The marshal also serves a portion of the papers for Orders of Garnishment. At the moment we are only concerned with the garnishment papers served from the sheriff's office. Subsequently, we expect to obtain a review of the records from the marshal's offices.

In Johnson County, check with Mrs. Basehor in the Civil Division of the sheriff's office in the Courthouse. She posts the records you are after in the Fee Book.

In Sedgwick County, ask for Mr. Ed Markel, Courthouse Room 250, Civil Division of the sheriff's office and ask him to see the Docket Book in which he records these data.

As for the other counties, each one keeps its records a little differently, but we do know they must be kept, and kept within the sheriff's office. Since these papers are served by the sheriff, he should know about what type of records are kept. However, from experience, we have found they are likely to suggest right away that you go to the courts and find the records you are looking for. This would not be the most efficient way to gather your data. Often the sheriff is not aware of just what information you need, so show him the data sheets we have provided you. Sometimes this will help him visualize what information you need.

The sheriff is not accustomed to having people look at his records. He may, understandably, be hesitant to put forth any effort to help you. Sometimes the secretary or bookkeeper may be of more help since she may be the one to actually keep such records.

At a later time you will be asked to tabulate the data you found as to types of plaintiffs--doctors, banks, finance companies, department stores, etc. Hopefully, the plaintiff will be listed in the records in an easily recognizable manner. However, many doctors or merchants file garnishment

proceedings under their own name rather than their professional titles (doctor) or under their store's name. As you record the initial data be on the lookout for this and make a notation when you find one listed in such a manner, to facilitate easier tabulation later.

When you return to Kansas State with your data we will meet as a group before we begin tabulation to synchronize. Whenever you have a garnishment which is an individual person vs. another individual person, unless the last names are the same (indicating a divorce or child support case), you will be asked to check the name of the plaintiff in your county's telephone directory or in a medical directory to try to identify him. If you wish to do this ahead of time it will be to your advantage to identify the plaintiff whenever possible when the plaintiff is listed in the records only as an individual.

You may find the sheriff helpful in this matter of finding the business or professional identification of an individual plaintiff.

All of this is necessary to obtain an accurate classification of plaintiffs.

TIPS TO REMEMBER BEFORE GATHERING YOUR DATA:

1. These records are in existence. They may be called by different names--Quarterly Report Book, Quarterly Fee Book, Quarterly Fee Report Book, Papers Served, or Docket of Papers Served.
2. These records are public information. You have every right to see them. You do not need the permission of any judge or court official to see them.
3. In the records the garnishment papers may be listed as either Garnishment or Order of Garnishment.
4. The sheriff will want to know why he should let you see the records. A letter has been attached, written by Dr. Morse in way of introduction or you may wish to just explain that you are part of a study team trying to find out how much garnishment is being used in the state of Kansas as part of your course work.

WHAT TO DO:

1. First of all you are interested in the records for the year 1969.
2. Try to talk to the sheriff personally, if possible. Keep trying until you find the records you want. These records should contain a listing of the plaintiff, defendant, date paper was received, date served, court from which it came, the mileage and the total cost of serving the paper. Once you have found the records your battle is half won. Avoid being diverted to the court to find these records. The sheriff served the summons, and has the necessary records in some form.

3. Sit down with the records and begin tabulating on the forms provided. You will probably need to make extra copies of these forms to complete your tabulation. The records of the garnishment papers served will be mixed in with all other papers served, so it is a matter of recording only those identified as Garnishment or Order of Garnishment. Record all the data you find, revising headings if necessary.

4. The next step is to try to identify the plaintiffs. You may wish to ask the sheriff's help on this or contact the Chamber of Commerce or do some digging on your own. For instance in a case John Jones v. Tom Smith, John Jones, the plaintiff, may own the local jewelry store or furniture store, or he may be a chiropractor or banker.

His proper business identification is vital to the validity of this study. Identify only those you are certain of and avoid guessing.

When you find a case like Mary Bond vs. Thomas Bond, you need not go further as, with both last names being the same, this is probably a family support case. Record it but you need not try to identify the plaintiff.

You may find some unusual cases such as the Board of County Commissioners vs. an individual person. Ask the sheriff why. In one county it was for past due hospital bills since the County Commissioners were in charge of the county hospital.

5. Some cases show a garnishment issued from another county on a resident of the county you are studying. The sheriff of the county in which the defendant resides serves the paper, so this will be listed in the records of the county you are studying. Record as you do the other garnishments but make a written notation of the original county in which it was issued. This will be in the record usually indicated by the abbreviation of the original county. There will probably be some of these "foreign garnishments" in every county studied.

6. If at any time you have difficulty in getting the information you need you may contact me--Carole Grigsby--after January 3 at Justin Hall, K.S.U., Ph. 532-6527 or 532-6528. Call collect person-to-person. If I am not available leave your name and number and I will return the call as soon as possible.

AFTER RETURNING TO K-STATE:

1. Soon after returning to Kansas State report to the Department of Family Economics, Justin Hall, Room 323, that you have your data.

2. Some time early in the semester we will call a meeting where we can compare our experiences. I know you will have many tales to tell and we want to hear them. At this time we will discuss how to finish categorizing the data you collected.

Good luck !

Dates from _____, 1969
to _____, 1969

Page _____ County _____

Garnishment Data Form

Case Number

Plaintiff

Defendant

Court

Date
Received

Date Served

Mileage

Cost

Garnishment Study

Memorandum #2

Many students reported finding only a few orders of garnishment issued in the county they researched for the Field Study in Family Economics. For this reason, we are offering three alternate ways of completing your work for this course, if in the county you researched there were 25 or less orders of garnishment to record for the year 1969.

The added information about garnishment which will come from these alternate choices is very necessary to our study. In many respects it may be just as important in ascertaining the full impact of garnishment on families as the original data we asked you to gather.

Three choices for students who recorded 25 or less garnishments:

1. Identifying Plaintiffs for Other Counties:

Since several counties have reported over 100 cases of garnishment one of the choices is to help with the identification of plaintiffs for these larger counties.

It will mean searching through telephone directories and possibly city directories to find out the profession or business affiliation of plaintiffs who filed orders of garnishment in their own name.

2. Case Outlines:

In order to understand the full impact of garnishment one of the choices is to outline the actual court record of some cases. This may be in any county but let me know where you plan to work before you go. You will go to the Clerk of the District Court or County Court and ask to see the file for certain cases by case number. Then record what you find in the file on the outline sheets provided.

The outline of the case record should include the following:

1. About the original note---
 - Amount of debt
 - From whom
 - For what purpose (if shown)
 - Date incurred
 - Finance or service charge
 - Monthly payment
2. About the judgment---
 - Date of judgment
 - Amount of judgment

3. About the garnishments---
Chronological listing of garnishments
Who was the garnishment on (place of employment, bank, etc.)
If answer was made what it said
Date of order of payment
If released or if carried through
How much collected
Court costs

After writing up outline fill in blanks in summary at top of page.

3. Case Studies:

This would actually be interviewing families who have been garnisheed. If interested you will have to work closely with Mr. Fasse and myself before going out for interviews.

PLEASE NOTIFY ME OF YOUR CHOICE AS SOON AS POSSIBLE!

Carole M. Grigsby

532-6527

Justin 318

Garnishment Case Outline Form

SUMMARY:

County _____ Case No. _____ Plaintiff _____ Defendant _____
Amount of original debt _____ Finance charge _____ Monthly payment _____
Amount of Judgment _____ Original creditor _____
Time span from judgment to last order of garnishment _____
Number of garnishments issued _____
Number of garnishments completed _____
Number of garnishments released _____
Total court costs for case _____
Total amount recovered _____

Outline of case record:

Code Listing of Creditors

00	Financial Institutions	60	Business Other than Retail
01	_____ Banks	61	_____ Construction
02	_____ Credit Unions	62	_____ Household service
03	_____ Finance Companies		_____ & repair
04	_____ Savings & Loans	63	_____ Exterminator
05	_____ P.C.A.	64	_____ Moving service
06	_____ Insurance Companies	65	_____ Realtors
09	_____ Other Creditor	66	_____ Coops, Grain & Feed
10	Professionals	67	_____ Farm Implement
11	_____ Doctor (M.D.)	69	_____ Other Creditor
12	_____ Dentist (D.D.)	70	Personal
13	_____ Osteopath	71	_____ Home or Apt. Rental
14	_____ Chiropractor	72	_____ Mobile Home dealer
15	_____ Veterinarian	73	_____ Recreation
16	_____ Attorney		_____ Dancing lessons
17	_____ Optometrist		_____ Health Spa
18	_____ Hospitals or Clinics		_____ Etc.
19	_____ Other Creditor	79	_____ Other Creditor
20	State and Local Government	90	Other Cases
21	_____ State for taxes	97	_____ Family Support
22	_____ County for taxes	98	_____ Business v. Business
23	_____ City for taxes	99	_____ Unidentifiable cases
24	_____ City for services		
29	_____ Other Creditor		
30	Retailers		
31	_____ Car dealers		
32	_____ Car repair		
33	_____ Gasoline service co.		
34	_____ Druggist		
35	_____ Food		
36	_____ Dry cleaner		
37	_____ Clothing		
38	_____ Furniture & Appliance		
40	_____ Department Store (independent)		
41	_____ Department Store (chain)		
42	_____ Hardware & Lumber		
43	_____ Auto supply store		
49	_____ Other Creditor		
50	Public Utilities		
51	_____ Telephone		
52	_____ Water		
53	_____ Electric		
54	_____ Gas Fuel		
55	_____ Other Creditor		

Student Researchers

<u>Student</u>	<u>County</u>	<u>Year in School</u>	<u>Major</u>
Arbuckle, Deborah	Elk	Junior	Psychology
Barta, Ellen	Ellsworth	Senior	Family Economics
Bennett, Nancy	Chase	Sophomore	Pre-Elementary Ed.
Bothell, Doug	Osage	Junior	Animal Husbandry
Bremenkamp, Charlotte	Thomas and Logan	Junior	Family Economics
Castaneda, Lynn	Geary	Sophomore	Pre-Secondary Ed.
Cauthorn, Elizabeth	Marion	Sophomore	General
Chesney, Keith	Rooks	Sophomore	General Agriculture
Chubb, Mary Beth	Wabaunsee	Senior	Home Ec.-Liberal Arts
Clark, Steve	Chautauqua	Freshman	General
Crossen, Martha	Allen	Junior	Family Economics
Culley, Mary	Harper	Junior	Home Ec.-Liberal Arts
Davis, Sheridan	Pottawatomie	Junior	Home Ec. Education
Denning, Doris	Ellis	Junior	Family and Child Dev.
Drieling, Barbara	Finney	Junior	Dietetics and Inst. Mgt.
Drinnon, Ernie	Riley	Prov.	General
Drinnon, Susan	Cloud	Junior	Clothing Retailing
Ericson, Sue	Seward	Junior	Elementary Education
Elder, Nancy	Washington	Senior	Elementary Education
Fankhauser, Jennifer	Greenwood	Junior	Clothing Retailing
Garrett, Glenda	Ottawa	Sophomore	Pre-Secondary Ed.
Goble, Rebecca	Saline	Senior	Anthropology
Goff, Jeanne	Cowley	Senior	Family and Child Dev.
Gordon, James	Anderson	Junior	Agricultural Economics
Graves, Jackie	Jewell	Freshman	Home Ec. Education
Hair, Juliana	Ness, Trego, Rush, Ford	Freshman	Home Economics
Hamilton, Leslie	Johnson	Freshman	Art
Harmon, R. D.	Phillips	Junior	Agricultural Economics
Harrod, Bruce	Leavenworth	Freshman	General
Hickock, Janice	Grant	Junior	Home Ec.-Liberal Arts
Johnson, Wendy	Morris	Senior	Computer Science
Jones, Jamey	Sherman	Junior	Clothing Retailing
Kellenberger, Randy	Nemaha	Sophomore	General
Kletchka, Kay	Brown	Junior	Music
Long, Trudie	Stafford	Sophomore	Home Ec. Education
	Pawnee		
Mahoney, Lucinda	Russell	Junior	History
Messick, Sharon	Marshall	Senior	Elementary Education
Miller, Patty	Reno	Junior	Speech
Nelson, Judy	Butler	Prov.	Dietetics and Inst. Mgt.
Nigl, J. Peter	Johnson	Junior	Accounting
Ostermann, Jerry	Lincoln	Senior	Architecture
Prusa, Donna	Osborne	Junior	Family and Child Dev.
Reeder, Mary	Doniphan	Junior	Clothing Retailing
Retrum, Richard	Johnson	Sophomore	Humanities
Sanders, Tim	Reno	Sophomore	Wildlife Conservation

<u>Student</u>	<u>County</u>	<u>Year in School</u>	<u>Major</u>
Sauerwein, Don	Kingman	Senior	Dairy Production
Schmitt, Kathy	Mitchell	Junior	Family and Child Dev.
Svaty, Ann	Harvey	Senior	Anthropology
Swann, Barbara	Atchison	Sophomore	Home Economics
Switzer, Allen	Dickenson	Junior	Clothing Retailing
Tracy, Oran	Woodson	Junior	Animal Husbandry
Trexler, Carol	Smith	Junior	Family and Child Dev.
Turnquist, Steve	Rice	Junior	Agricultural Economics
Vore, Patty	Wyandotte	Junior	Home Ec.-Liberal Arts
Wandt, Jane	McPherson	Sophomore	General
Weinmann, Ann	Scott	Sophomore	Business Administration
Willcott, H. J.	Leavenworth	Senior	Int. Architectural Des.
Willcott, Kathy	Leavenworth	Prov.	Speech
Wilson, Tanya	Lyon	Junior	Home Ec. Education
Wyckoff, Kirk	Labette	Senior	Business Administration
Wyckoff, Sue	Montgomery	Sophomore	Family and Child Dev.
Yost, Marilyn	Lane	Junior	Social Science

Starting Salaries for Sheriff's Patrolmen and Official Abbreviations for All
Kansas Counties

Allen	AL	\$440	Kearny	KE	\$440	Stafford	SF	\$300
Anderson	AN	400	Kingman	KM	325	Stanton	ST	455
Atchison	AT	400	Kiowa	KI	*	Stevens	SV	395
Barber	BA	345	Labette	LB	394	Sumner	SU	610
Barton	BT	380	Lane	LE	315	Thomas	TH	275
Bourbon	BB	419	Leavenworth	LV	561	Trego	TR	350
Brown	BR	420	Lincoln	LC	265	Wabaunsee	WB	325
Butler	BU	440	Linn	LN	240	Wallace	WA	*
Chase	CS	*	Logan	LG	*	Washington	WS	250
Chautauqua	CQ	300	Lyon	LY	420	Wichita	WH	*
Cherokee	CK	361	Marion	MN	385	Wilson	WL	387
Cheyenne	CN	*	Marshall	MS	350	Woodson	WO	425
Clark	CA	300	McPherson	MP	400	Wyandotte	WY	500
Clay	CY	310	Meade	ME	350			
Cloud	CD	350	Miami	MI	425			
Coffey	CF	400	Mitchell	MC	350			
Comanche	CM	*	Montgomery	MG	410			
Cowley	CL	425	Morris	MR	300			
Crawford	CR	375	Morton	MT	*			
Decatur	DC	300	Nemaha	NM	400			
Dickinson	DK	394	Neosho	NO	393			
Doniphan	DP	294	Ness	NS	215			
Douglas	DG	450	Norton	NT	275			
Edwards	ED	374	Osage	OS	300			
Elk	EK	*	Osborne	OB	275			
Ellis	EL	400	Ottawa	OT	393			
Ellsworth	EW	*	Pawnee	PN	425			
Finney	FI	450	Phillips	PL	225			
Ford	FO	350	Pottawatomie	PT	390			
Franklin	FR	440	Pratt	PR	368			
Geary	GE	400	Rawlins	RA	233			
Gove	GO	?	Reno	RN	350			
Graham	GH	250	Republic	RP	321			
Grant	GT	*	Rice	RC	438			
Gray	GY	270	Riley	RL	400			
Greeley	GL	400	Rooks	RO	300			
Greenwood	GW	375	Rush	RH	?			
Hamilton	HM	434	Russell	RS	400			
Harper	HP	400	Saline	SA	410			
Harvey	HV	375	Scott	SC	*			
Haskell	HS	*	Sedgwick	SG	440			
Hodgeman	HG	350	Seward	SW	428			
Jackson	JA	425	Shawnee	SN	400			
Jefferson	JF	400	Sheridan	SD	*			
Jewell	JW	350	Sherman	SH	275			
Johnson	JO	500	Smith	SM	?			

*No deputy

December 4, 1970

Mr. Robert Meade
National Commission on
Consumer Finance
1016 16th Street N.W.
Washington, D. C. 20986

Dear Mr. Meade:

I appreciated the opportunity to talk with you Tuesday afternoon. Enclosed is a copy of an instruction sheet developed for use in the garnishment study. We hope to have as many as 50 students involved. You will note that the only pay we can offer is academic credit. This is fine for the students but it also means absorption by the office of considerable resources. Very limited funding for this type of thing would be most helpful to us and produce a considerable amount of information per dollar of expenditure.

For example, if a sum of approximately \$5000 were available this would enable us to employ a graduate assistant, office staff, and expenses.

I shall look forward to keeping in touch with you from time to time.

Sincerely yours,

Richard L. D. Morse
Professor and Head

RLDM:eck

Enclosure

NATIONAL COMMISSION ON CONSUMER FINANCE

1016 - 16TH STREET, N.W.
WASHINGTON, D.C. 20036

December 22, 1970

Mr. Richard L. D. Morse
Professor and Head
Department of Family Economics
Justin Hall
Kansas State University
Manhattan, Kansas 66502

RECEIVED

DEC 29 1970

FAMILY ECONOMICS
College of Home Economics

Dear Dick:

Thank you for your letter of December 4, 1970 concerning the garnishment study. I have circulated it among the staff and we have a few questions. The basic question is: Where will the study lead us? Presumably, it will give us the total garnishments for the year 1969, as well as the type of creditor involved in the garnishment. While this information may be useful, particularly to Kansans, I wonder what significance it would have for this Commission. What assumptions would be tested by this particular study?

Garnishment is certainly a national problem, and its correlation with personal bankruptcies is fairly well established. Perhaps I am missing the point of the whole thing. At any rate, let me hear from you and many thanks for your interest in the Commission.

Sincerely,


Robert L. Meade
Executive Director

March 16, 1971

Robert L. Meade
Executive Director
National Commission on Consumer Finance
1016 16th Street, N.W.
Washington, D. C. 20036

Dear Mr. Meade:

Let me first apologize for taking so long to comment on your letter of December 22. As we told you, we are somewhat puzzled and perplexed by your response.

You state: "While this information may be useful, particularly to Kansans, I wonder what significance it would have for this Commission." One of the duties of the Commission, as outlined in the Truth in Lending Bill, is: "The Commission shall study and appraise the functioning and structure of the Consumer Finance industry, as well as consumer transactions generally." I can only say from our preliminary investigation that garnishment appears to be an integral part of the practices and functioning of the consumer credit market. It would seem self-evident that information about this remedy would be of significance to the Commission. Perhaps the Commission knows more about garnishment as practiced in sections of the country such as Kansas than we. Do you have any statistics on such basic data as the number of garnishments by states or regions?

As to your question of what assumptions would be tested by this particular study, I am not entirely sure we have any assumptions at this time to test, mainly because in all of our preliminary correspondence and personal contacts with people in the field, attorneys, finance companies, personnel directors for various companies including the large local military installation, no one could give us any general idea of the extent and use of garnishment in the State of Kansas. We are finding, for example, garnishments are being filed at a rate far in excess of our wildest expectations. Last fall in Wichita the rate was about 600 per month, and even in rural counties where we had not expected garnishment to be used, it was!

You ask where the study will lead us? Some of the questions we see needing answers about garnishment are: (1) How effective is garnishment for the recovery of money? (2) How much is garnishment used? (3) What happens to the consumers involved in a garnishment action? (4) What happens to all of the creditors involved? Is garnishment a grab law, where one creditor grabs all the marbles leaving the other creditors holding the bag at least for 30 days? (5) How are garnishment records kept so that one would know how to enumerate them? (6) What is the cost of this form of justice? (7) The last and possibly most basic questions to be answered by a study of this type are: Why was garnishment necessary? Why did the consumer quit making payments? If it was because he had no money, then

Robert L. Meade
March 16, 1971
Page 2.

was garnishment of use? But if it was for some other reason, then the whole area of inquiry opens up as to why the consumer refused to make payments on the debt. In our preliminary investigation we have found several cases of the interaction of the Holder in Due Course Doctrine with respect to eventual garnishments. Under what circumstances was credit granted in the first place? Are legal remedies being substituted for judicious extensions of credit by creditors? Does the doctrine of holder in due course play a part?

I agree with you that garnishment is certainly a national problem.

From reports of the frustrations and problems students had attempting to gather data from officials in Kansas, I do not honestly know how anyone could know the national situation.

It was my thought, in writing, that you would see the wisdom of our initiating a state study, using low-cost, high quality students, to open up the area. Our request for assistance remains open....And so we do not duplicate effort, I would appreciate your sending references to studies that are available to the Commission on the extent of garnishment in this section of the U.S., and data obtained (1) on the type of creditors using garnishment, (2) the cost of garnishment to the courts, (3) the recovery of amounts owed, and (4) any information about the types of debtors and the effect of garnishment on debtors.

I look forward to your reply.

Sincerely yours,

(Signed) Dick
Richard L. D. Morse
Professor and Head

RLDM:eck

NATIONAL COMMISSION ON CONSUMER FINANCE

1016 - 16TH STREET, N.W.,
WASHINGTON, D.C. 20036

April 20, 1971

Dr. Richard L. D. Morse
Professor and Head
Department of Family Economics
Justin Hall
Kansas State University
Manhattan, Kansas 66502

RECEIVED

APR 23 1971

FAMILY ECONOMICS
College of Home Economics

Dear Professor Morse:

Thank you for your letter concerning your proposed study of garnishment in Kansas.

The Commission is interested in all creditors' remedies, of which garnishment happens to be one. The extent of garnishment and the method of its use varies around the country. For example, there is prejudgment (now severely limited by the Sniadach Decision), postjudgment garnishment, postjudgment garnishment only after a court order, etc. The intensity of the use of garnishment often depends on what other remedies are available. Wage assignments are generally more popular among consumer finance companies and credit unions in most states. In most states where confessions of judgment are available, garnishment is usually less intensively used.

Some of the questions you raise in your letter might well be asked of all the creditors' remedies that we are studying. One of our study areas is an attempt to learn what effect the existence or non-existence of certain creditors' remedies or contract provisions has on credit extensions. We need to know which remedies are used and which are preferred by creditors around the country.

I agree that a number of answers are needed not only about garnishment but about other creditors' remedies, and you have set out many of the questions which we would like answered. However, with the exception of questions (2) and (5), I do not see that your proposed garnishment study would give us these answers. In any event, we

- 2 -

do not believe that the results which would be achieved by the study would warrant our funding it at this time.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. L. Meade". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Robert L. Meade
Executive Director

GARNISHMENT IN KANSAS, 1969

by

CAROLE MARGUERITE GRIGSBY

B. S., Saint Mary College, 1966

AN ABSTRACT OF A MASTER'S THESIS

submitted in partial fulfillment of the

requirements for the degree

MASTER OF SCIENCE

Department of Family Economics

KANSAS STATE UNIVERSITY
Manhattan, Kansas

1971

The purposes of this study were to document the usage in 1969 of garnishment as a collection device in Kansas, to document the extent of its use by population density and by the various types of creditors, to measure whether garnishment in Kansas was self-supporting or whether it was a collection device subsidized by Kansas taxpayers, and to develop and test a technique whereby students could serve as responsible researchers in collecting data.

The procedure evolved in a four-stage process. An exploratory study was made in Franklin county to ascertain what records were available for research and what information they contained. The next stage was to design a study utilizing recorded services of orders of garnishment available from sheriffs' records. Student researchers were recruited to collect data from 63 Kansas counties assigned in accordance with student preference and convenience. Finally, the data were summarized and analyzed.

Sixty percent of the counties in Kansas were included in the survey, and 60% of the population resided in those counties. The study revealed 2,618 instances of the use of garnishment in the 63 Kansas counties surveyed. This is an underestimate of garnishment usage since complete records were obtained for only two-thirds of the counties surveyed or 43 of the 105 counties of Kansas. The incidence of garnishment per 1,000 population was 2.2 for all the counties from which complete data were obtained, and 1.8 for counties from which partial data were obtained. Incidence of garnishment among counties ranged from 0 to 5.8 per 1,000 population.

The use of garnishment was not limited to or concentrated in any one area of the state, to any one population size of county, or to rural or urban areas. Its use appeared to be unique to the situation in each county.

Financial institutions, particularly finance companies, were responsible for the greatest percentage of identifiable garnishment, followed by retailers and professionals.

Garnishment was subsidized in most counties by the taxpayers.

Student researchers proved to be willing and conscientious researchers.

The research revealed an inconsistent and often haphazard method of record keeping in many counties and variations between counties despite the law.

Recommendations were made for further research on the various aspects of garnishment to obtain a more comprehensive picture of garnishment usage in Kansas and its effects on creditors, the garnishee, and debtors.