UNETHICAL DEBT COLLECTION: PROBLEMS, PRESCRIPTIONS, AND A CONGRESSIONAL PROPOSAL

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I. Introduction

Consumer credit transactions in the United States now involve billions of dollars annually. [1] When, inevitably, a portion of that debt is not paid when due, creditors resort first to extrajudicial collection methods. Typically this involves turning the account over to an independent agency, which attempts to recover the debt in return for a percentage of the sum due.

The collection practices employed by such agencies range from the admirably restrained to the abhorrently barbaric: the latter have occasionally provoked legislative reaction in a number of statehouses, and, most recently, in Congress.

On October 9, 1975, Rep. Frank Annunzio (D., Ill.) introduced a bill which would amend the Consumer Credit Protection Act -- the "Truth in Lending" law [2] -- to prohibit abusive practices by debt collectors. The provisions of this bill, as a product of past difficulties in this area and the corrective legislation which has previously been enacted to meet them, is considered here. [3]

II. The Collection Process

Collectors quite universally initiate the recovery of a debt by notifying the debtor by mail that they have been retained to collect the bill, and perhaps hinting at the unpleasant ramifications of a failure to pay. If there is no response, or an unsatisfactory one, the letters become increasingly frequent and vitriolic. [4] The letters may simulate legal process, "ordering" the debtor to appear at a specified address (the agency's office) to answer charges, or may be otherwise misleading or misrepresentative.

At some point the agency begins to intersperse or substitute telephone calls to the debtor's home or business; the calls may come at all hours, [5] and in a seemingly incessant series. [6] The debtor is often subjected to obscenities, unwarranted threats of legal action, and various insults to his honesty and character. [7]

When direct appeals fail, calls and letters to the debtor's friends, neighbors, relatives, and -- especially -- employer, follow. The collector notifies the debtor's acquaintances of the account and cajols them into pursuing the matter with the debtor. Contact with the employer is a favorite tactic, and an effective one. [8] The caller points out the disadvantages of employing "unreliable" workers, and hints darkly of the accounting costs which will surely follow an attachment of the employee's wages; soon the boss is ordering the worker to straighten the problem out, or else. The employee, whose delinquency was perhaps precipitated by unforeseen emergencies, responds to the

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1. *E.g.*, in a recent year, total consumer credit was $157.58 billion. *Fed. Res. Bull.* (A54 - April, 1973).
2. *Consumer Credit Protection Act*, 15 U.S.C. Sects. 1601-1665 (1968); amended, Pub. L. No. 42-495 (Oct. 28, 1974).
3. Obviously, innumerable issues bearing on the topic, such as the relative merit of the debtor's and creditor's interests, and the issue of freedom of contract versus public policy considerations, cannot be adequately discussed. Thus the assumption is made that delinquent debtors deserve protection from flagrantly offensive collection methods, whatever the validity of the creditor's claim.
4. See Comment, *Effectively Regulating Extrajudicial Collection of Debts*, 20 Maine L. Rev. 261 (1958).
5. *E.g.*, *Advance Loan Service* v. *Mandik*, 306 S.W. 2d 754 (Tx. Civ. App. 1957); calls at 5:30 a.m. and 10 p.m.
6. *E.g.*, *Pioneer Finance and Thrift Corp.* v. *Adams*, 426 S.W. 2d 317 (Tx. Civ. App. 1968); thirty per calls per week for two weeks.
7. *E.g.*, *Barnett* v. *Collection Service Co.*, 214 Iowa 1303, 242 N.W. 25 (1932); *LaSalle Extension University* v. *Fogarty*, 126 Neb. 457, 253 N.W. 424 (1934).
8. See comment, *Creditor's Pre-Judgment Communication to Debtor's Employer: An Evaluation*, 36 Brooklyn L. Rev. 95 (1969).

continuous badgering with illness, lowered productivity, and absenteeism. [9] Even more severe symptoms, including miscarriage [10] and temporary insanity, [11] have been induced by such pressure.

III. Tort Theories of Recovery

Relief from these and similar practices has traditionally been sought in tort. Such suits have met with only limited success, due to either the plaintiff's failure to demonstrate all elements requisite to the action, or the defendant's success in asserting a recognized defense or privilege. The most frequent theories upon which debtors have relied are defamation, intentional interference with contractual relations, invasion of privacy, and intentional infliction of mental distress.

The failure of defamation actions brought by debtors whose reputations are being ruined, effectively illustrate the impotence of tort remedies for many problems in this area. The principal difficulty here is that, since falsity is an element of the tort, truth of the debt is a defense -- in most states an absolute one. There is some recognition that publication of objectively true facts which impute falsely may be actionable, [12] but such insinuations are neither commonly obvious nor easily proven. The publication requirement may also present obstacles to recovery: some courts have held, for example, that notification of an employer does not constitute publication sufficient to maintain the action. [13]

Communication with the employer has also been the source of actions for intentional interference with contractual relations. Most often this theory has been ineffective, since it requires not only knowledge by the defendant of the relationship, but intent to induce breach, and breach proximately resulting. [14] It is exceptionally difficult to prove that the collector intended, or must have expected, that his conversations would result in the employee's dismissal. Also, since weight is placed on the maliciousness of the interference, many courts give wide berth to the creditor, who -- ostensibly at least -- is protecting his legitimate interests. Where the debtor is not discharged, no action will lie, despite the possible impairment of his status and opportunities for advancement. [15]

Invasion of privacy, on the basis either of intrusion into one's solitude, or public disclosure of private facts, has proven more hospitable to debtors' complaints, perhaps because of its more recent vintage. [16] In fact, the first real use of the public disclosure theory involved an overdue debt, and a creditor's publication of it. [17]

Nevertheless, flaws have appeared here as well. Disclosure actions have failed where disclosure was made to plaintiff's employer, [18] or to any other individual, or even to small groups, [19] apparently on the basis that "public disclosure" must be more extensive than technical publication. Intrusion suits based on harassing phone calls have met with some success, [20] yet other courts have refused to hold the defendant liable, on the grounds that, as to the creditor, either the matter was not entitled to protection or, similarly, that the assumption of the debt was also an implicit consent to

9. See, *e.g.*, *Advance Loan Services* v. *Mandik*. *supra* at n. 5.
10. *Kirby* v. *Jules Chain Stores Corp.*, 210 N.C. 808, 188 S.E. 626 (1936).
11. *Mell* v. *Edge*, 68 Ca. App. 314, 22 S.E. 2d 738 (1942).
12. *Weston* v. *Barnicot*, 175 Ma. 454, 56 N.E. 619 (1900).
13. *Gouldman-Taber Pontiac* v. *Zerbst*, 213 Ga. 682, 100 S.E. 2d 881 (1957).
14. *Prosser*, *The Law of Torts* Sect. 129 (4th ed. 1971).
15. There appear to be no cases, in this regard, concerning interference with prospective advantage.
16. *Trammel* v. *Citizen News Co.*, 285 Ky. 529, 148 S.W. 2d 708 (1941); *Tollefson* v. *Price*, 247 Ore. 398, 430 P. 2d 990 (1967).
17. *Brents* v. *Morgan*, 221 Ky. 765, 299 S.W. . 867 (1927).
18. *Household Finance Corp.* v. *Bridge*, 252 Md. 531, 250 A. 2d 878 (1969).
19. *Prosser*, *supra*, Sect. 117 at 810.
20. *Carey* v. *Statewide Fin. Co.*, 3 Conn. C.C. 716, 233 A. 2d 405 (1966).

correspondence concerning it.

Another modern tort, intentional infliction of mental distress, has also failed to meet the debtor's needs, except in cases of extreme outrage. [21] The prevailing principle still appears to be that, in such cases, up to a yet-undefined point, "a certain toughening of the mental hide is a better protection than the law could ever be." [22] In fact, a number of courts have yet to recognize the tort itself, [23] much less place such activities within its realm. Here, too, arises the recurring problem of establishing an intentional injury on the basis of conduct whose foundation, at least, has merit. In suits by debtors, the "extreme outrage" frontier is less easily crossed than in the general run of cases.

The availability of defenses, the lack of required elements, the conflicts over malice, intent, and the creditor's fundamentally legitimate interest, as well as the often intangible psychological damage complained of, have all contributed to the impotence of tort remedies in this area. The more modern torts have been more useful, but, like all the common law, they have grown slowly, and precedent is still shaping their boundaries. Recognition of these difficulties has led to the conviction that the legislature is in a more advantageous position to respond to the apparent need.

IV. Statutory Regulation

Legislative and administrative regulation of debt collection agencies and practices is widespread. Roughly half the states, as well as the federal government through the Federal Trade Commission (F.T.C.), oversee collection agencies. Nevertheless, such regulation has proven incapable either of encompassing the range of offensive tactics employed or, more frequently, of providing adequate remedies.

A. Licensing Statutes

A number of states attempt, through the use of licensing statutes, both to regulate entry into the business of collecting debts, and to control those agencies already licensed. [24] A typical provision specifies requirements and procedures for licensing, plus a list of prohibited practices and (or,in the alternative) an umbrella proscription of "unethical practices." [25] Common penalties for unauthorized collecting are fines, imprisonment, or both. [26] Licensed collectors who violate the acts are usually subject to revocation of their license, but in actuality, since the regulations are often enforced by a board comprised largely of collection agency executives, the exercise of their highly discretionary duties is often more lenient with the accused than might be prudent. [27]

Many such statutes can reach only collection agencies, or businesses purporting to be collection agencies, and so have no effect on self-collectors and grantors. Moreover, since the debtor receives no compensation for a violation, he has little motivation to report and challenge such practices.

Regulation by licensing is not totally valueless, however. It serves a necessary -- although perhaps insufficient -- function in screening new applicants for the business, and the regulations undoubtedly deter at least some agencies from behaving overzealously. Additionally, since the prohibited practices are normally not actionable at common law, in any case, even the possibility of enforcement provides greater

21. For an illustration of just how extreme the outrage can be, see *Duty* v. *General Finance Co.*, 154 Tex. 16, 273 S.W. 2d 64 (1954).
22. *Magruder*. Mental and Emotional Disturbance in Disturbance in the Law of Torts, 49 Harv. L. R. 1033, at 1035; quoted by Prosser, *supra*. Sect. 12, at 51.
23. *E.G., Ex parte Hammett*, 259 Ala. 240, 66 So. 2d 600 (1953); *Bartow* v. *Smith*, 149 Ohio St. 301, 78 N.E. 2d 735 (1948).
24. See note, 10 B.C. Ind. & Comm. L.R. 702 (1969).
25. *E.g.*, Ark. Stat. Ann., Sect. 71-2008(10).
26. *E.g.*, Ark. Stat. Ann., Sect. 71-2010 (fine); Me. Rev. Stat. Ann., Tit. 32, sect. 573(2) (fine and/or imprisonment).
27. Washington requires that two members of the five man board be actively engaged in the business while serving. Wash. Rev. Code Ann. Sect. 19.16.280 (1974). Florida's members must be "representive of the various segments of the industry." Fla. Stat. Ann. Sect. 559.69 (Supp. 1975).

protection than the debtor might otherwise enjoy.

B. Deceptive Trade Practices Acts

The Deceptive Trade Practices acts of the various states [28] -- initially and primarily designed to regulate sales and advertising -- have also been applied to collection practices. Like licensing statutes, such legislation normally includes a catch-all clause forbidding practices which are "unfair to the consumer." [29] These phrases have become springboards for debtor actions. The applicability of such acts to debtor-creditor conflicts is also supported by a line of cases under the Federal Trade Commission Act, as well as by the rules of the F.T.C. [30]

The deceptive practices statutes enjoy the advantage (as compared with licensing schemes) of being applicable to any person, not simply collection agencies. Again, however, the remedial aspects are often disappointing. Although some states, such as Massachusetts, [31] provide for both the recovery of damages and the securing of an injunction, others, such as Maine, [32] permit only injunctive relief.

Where, as in some cases, a civil action cannot be brought, the debtor's motivation to seek redress is, again, minimal. An additional problem is that, as all were enacted without the particularities of debt collection in mind, none include lists of proscribed practices. The debtor's task is then complicated, in that he must show not only that collection practices themselves should fall within the scope of the law, but that the conduct complained of is within the embrace of the clause forbidding unfair practices.

C. Uniform Consumer Credit Code

The Uniform Consumer Credit Code (UCCC) [33] gives short shrift to this problem. It prohibits "fraudulent or unconscionable conduct in the collection of debts" [34] arising from consumer transactions. Although this language is more inclusive than that of the licensing statutes, it suffers from the same remedial weaknesses as many of the deceptive practices acts: the only remedy provided for is an action to restrain the conduct, and it fails to designate particular acts as fraudulent or unconscionable, thus leaving a heavier burden on the debtor.

D. Model Consumer Credit Act

The UCCC, almost from the beginning, had more than its share of responsible critics, among the most vehement of which was the National Consumer Law Center at Boston College. Their response was to publish in 1970 an alternative proposal, the National Consumer Act (NCA), [35] which incorporated some sections of the UCCC, but introduced considerably greater restrictions on creditors' remedies. The NCA has been supplanted by a later version, the Model Consumer Credit Act (MCCA), [36] published in 1973. Article Six, dealing with debt collection, remains substantially as it appeared in the NCA: a comprehensive provision reflecting the viewpoint of the consumer partisan.

Section Six of the Article defines terms and specifies prohibited practices, thereby avoiding two pitfalls which plagued prior legislation. The act is specifically made applicable to creditors and their agents, as well as independent agencies. The most

28. See Lovett, *State Deceptive Trade Practice Legislation*, 46 Tul. L. Rev. 724 (1972); Note, *Deceptive Consumer Sales Practices in Indiana*, 2 Notre Dame J. of Leg. 81 (1975).
29. *E.g.*, Idaho Code Sects. 48-603(12).
30. See 15 U.S.C. Sects. 41-58 (1970); 16 C.F.R. Sects. 237.0-.6(1973).
31. Mass. Gen. Laws Ann., Ch. 93A,. Sect. 9.
32. Me. Rev. Stat. Ann., tit. 10 Sect. 1213.
33. National Conference of Commissioners on Uniform State Laws, *Uniform Consumer Credit Code* (West Pub. Co., 1969).
34. *Id.*, Sect. 6.111(1).
35. National Consumer Law Center, Inc., *National Consumer Act* (Boston, 1970).
36. National Consumer Law Center, Inc., *Model Consumer Credit Act 1973* (Boston, 1973).

common tactics of coercive collectors are catalogued in subparagraphs, each of which is preceded by the disclaimer "without limiting the general application of the foregoing, the following conduct is a violation of this section."

The MCCA would effect a crucial expansion in debtor's remedies, the area of major inadequacies in earlier legislation. A violation of the ban on unethical practices would make the collector liable for (a) a fine of not less than $100 nor more $2500, determined by the court, and (b) the actual damages, including any incidental, consequential and special damages, sustained by the consumer as a result of the violation. [37] In addition, if the plaintiff-debtor can show a "willful and knowing violation" of the Act, he may be awarded exemplary damages. [38]

From the debtor's perspective, the MCCA is clearly superior to prior regulatory devices. The model act applies to all persons collecting debts. It requires no proof of damage for recovery. It specifies illegal tactics, but expressly rejects an overly narrow interpretation of its coverage. It provides for injunctive relief as well as damages. Finally, it provides that where a debtor has proven harassment, conviction of the collector-- beyond rendering him civilly liable -- creates a complete bar to any further claim on the debt at issue. A more stringent combination of penalties is realistically unimaginable.

E. Recent State Statutes

Since the publication of the 1970 NCA, a number of states -- among them Massachusetts, Wisconsin, Florida, and Washington -- [39] have adopted similar statutes, which are illustrative of the maximum degree of protection afforded debtors on the state level. Each of these states, paralleling the MCCA, provides a list of prohibited practices, and three of the four apply the provisions to all collectors of debts. In the specifics of their remedies, however, there is significant diversity both among the states and between each state and the MCCA. One notable point of convergence among all five, though, rests in their allowance of a recoverable penalty even in the absence of a showing of actual damages.

The Florida provisions most nearly parallel those of the MCCA, although its remedies are even more formidable than those proposed by the model law. Whereas the MCCA allows automatic recovery of at least $100 plus actual damages, with punative damages possible upon a showing of willfulness, the Florida plaintiff who shows a violation of the act is entitled to recover either $500 or his actual damages (whichever is greater), plus costs and attorney's fees. Punative damages are within the court's discretion, as is such equitable relief as it may deem necessary.

Recovery of such minimum penalties is available in each of these states. Massachusetts grants $25 or actual damages, plus attorney's fees. Wisconsin has an intriguing arrangement: the debtor may recover actual damages plus twice the finance charge involved, as long as the total amount is at least $100 but not more than $1000.

Washington's statute makes the finance charge (as well as similar costs) unrecoverable, and the debtor is entitled to reasonable attorney's fees. Washington's legislature has given the courts a potent weapon with which to strike at particularly onerous or recidivous offenders: at its discretion, the court may grant up to three times the actual damages to an aggrieved plaintiff. [40]

37. *Id*, Sect. 8.108.
38. *Id.*, Sect. Sect. 8.110.
39. Mass. Gen. Laws Ann., Ch. 93A, Sect. 9; Wisc. Stat. Ann., Sect. 427.103; Fla.Stat. Ann., Sect. 559.55 (Supp. 1975); Wash. Rev. Code Ann., Sect. 19.16.450 (Supp. 1974).
40. *Id.*, Sect. 19.86.090.

Since the MCCA was designed as a total alternative to the UCCC, the attempts of several states to extract and adopt only certain sections, e.g., the debt collection article, leads to some confusion. Specifically, while Florida adopted a strong MCCA-style act, it positioned it amid related matters and attempted to link it by reference to the older licensing requirements, with a less than totally satisfying result.[41] So too, both Washington and Massachusetts divided the relevant sections into several parts, scattered them throughout their volumes, and incorporated by reference their deceptive trade provisions, further muddying the waters.[42]

Statutes such as these provide more protection than is generally available, and, in some instances, more potent remedies than even the ambitious MCCA. Yet the shortcomings which remain, such as the confusion and overlapping of some, and, most significant, the fact that such statutes are comparative rarities, has led to the proposal of a similar Federal provision.

V. The Debt Collection Practices Act

Representative Annunzio's proposal, H.R. 10191,[43] would amend the Consumer Credit Protection Act by adding a Title VII: Debt Collection Practices. The language of the bill evinces a familiarity with the MCCA and an intention to assume a similar posture; in fact, a number of sections have been inserted virtually verbatim from the model code.[44]

The legislation would apply only to transactions between an individual consumer and a creditor, and only to credit or goods extended for personal, family or household use.[45] Transactions between merchants and similar business dealings are excluded.[46] Significantly, the act would not affect everyone engaged in the collection of debts: banks, officials acting under court order, attorneys, original grantors of credit, and certain others are all specifically exempted from coverage.[47] The question of whether such limitations are advisable is more dependent upon an individual conception of the public policy to be served than upon any more objective criteria.

Specific practices are prohibited, and in this respect Rep. Anunzio's bill is more comprehensive than any currently in effect: some 47 sub-paragraphs relate to acts of harassment, unfair practices and misleading representations.[48] Virtually every offensive tactic commonly used or reported in the case law appears to be covered; this is a valuable element, since conduct is included which would not likely be actionable under common law theories.[49] Expanding upon another MCCA section, agencies are required to assemble files for each account of over $100, in conformity with set standards, and to apprise the debtor of their existence and of his right of access to them.[50]

Failure to comply with any of these provisions would make the collector civilly liable according to a plan which is also nearly identical to the MCCA arrangement.

41. Fla. Stat. Ann. Sects. 19.16.110; 19.16.440 (Supp. 1975).
42. Mass. Gen. Laws Ann. Ch. 93, Sects. 24-28, 49; Ch. 93A, Sects. 2,9. Wash. Rev. Code Ann. Sects. 19.16.100-.950, 19.86.090 (Supp. 1974).
43. H.R. 10191, 94th Congress, 1st Session (1975) currently under study by the Consumer Affairs subcommittee of the House Committee on Banking, Currency, and Housing.
44. *E.g.*, compare H.R. 10191 Sect. 802(6) with M.C.C.A. Sect. 6.202(d).
45. H.R. 10191 Sects. 801(c),(g),(i).
46. For a discussion of the differences between the creditor-consumer and creditor-merchant relationships, see Leff, *Injury, Ignorance and Spite -- The Dynamics of Coercive Collection*, Yale L.J. 1 (1970).
47. H.R. 10191 Sect. 801(e)(2).
48. *Id.*, Sects. 802, 805.
49. *See e.g.*, *id.*, Sect. 802(3) -- intentional infliction of mental distress, Sect. 802(14) -- defamation.
50. *Id.*, Sects. 806, 809, 810.

Under this section the debtor is entitled to his actual damages, if any, as well as between $100 and $2500, as the court shall decide, plus with costs and attorney's fees. The court may also award punative damages, and any equitable relief requested. Here, too, a finding of an intentional violation will constitute a complete bar to any further claim on the debt. [51]

Jurisdiction is granted for such an action to any appropriate U.S. District Court, or to any other court of competent jurisdiction, without regard to the amount in controversy. Suit must be brought within two years of the violation, except that where a defendant has wilfully misrepresented material information, the action can be initiated within two years after the discovery of that fact. A later section allowing for exemption of states from the force of the Title provides that these jurisdictional matters cannot be exempted.[52]

As Massachusetts does,[53] H.R. 10191 would allow the private attorney general concept of enforcement. That is, any affected consumer could sue under the declaratory judgment provision of the U.S. Code (Title 28, Sect. 2201), asking for a declaration of unlawful conduct and for appropriate civil relief. Prior to suit, the plaintiff must invite the United States, through the Attorney General, to join as co-plaintiff. Provision is made for governmental intervention where appropriate, and for equal division of damages between the individual plaintiff and the U.S. [54]

Criminal liability is also specified: an intentional violation would render the collector liable for a fine of not more than $5,000, or a prison term of not more than one year, or both. [55] As an instrument of deterrence the criminal penalty is useful, but it is not as valuable to the consumer as the protection and recovery afforded by the prescribed civil remedies. Finally, the Federal Trade Commission would be charged with promulgating regulations to explain and enforce the new law. Jurisdictional requirements (such as the necessity that the defendant be engaged in commerce) would be removed, and the full powers of the Commission would be applied. [56]

If passed, the act would not affect similar state laws "except to the extent that those laws are inconsistent with any provision of this title, and then only to (that) extent." [57] Thus the law would allow a measure of local autonomy and experimentation, as long as the minimum protection was granted: "A court shall not find any provision of a State law to be inconsistent . . . if it affords equal or greater protection to a consumer. " [58] If the Commission determines that the comparable law of a particular state provides substantially equal protection, and adequate enforcement, they may by regulation exempt that state from compliance with the title. [59]

VI. Conclusion

There is a spectre haunting America. It is the spectre of over-regulation. A politically popular issue, the charge has been made against much consumer-oriented law. In some respects, it may be a valid criticism of H.R. 10191. Aside from the bureaucratic facets (e.g., record-keeping) of the act, its substantive portions raise the possibility that it will dis-serve its legitimate ends.

51. *Id.*, Sect. 811(b).
52. *Id.*, Sect. 820.
53. Mass. Gen. Laws Ann. Ch. 93A, Sect. 2.
54. H.R. 10191, Sect. 812(a),(c),(d).
55. *Id.*, Sect. 814.
56. *Id.*, Sects. 816, 817.
57. *Id.*, Sect. 819.
58. *Ibid.*
59. *Id.*, Sect. 820.

For example, extrajudicial collection is used as an economical altemative to litigation; in this light it is often viewed as beneficial to the creditor's interests, and indeed it is. Yet, despite the multiplicity of abuses, it can also be advantageous to the debtor, in that it provides a forum for explanation and accommodation, and encourages the informal settlement of disputes. The possibility exists that, under a law such as the one proposed, creditors fearful of inadvertent violation would more readily resort to litigation. This would be less desirable, from the debtor's point of view, than the opportunity for personal contact, even where accompanied by a limited degree of abuse.

Yet such contact rarely remains amicable for very long, and most debtors fail to pay simply because they cannot. Under the new law creditors' suits would probably remain at the current levels. The possibility that debtors' suits would multiply is unlikely, for two reasons. First, the law would force higher standards of behavior on collection agencies, which would minimize the likelihood of actions by debtors. Second, those suits which were brought could be disposed of more rapidly: rather than a prolonged effort to assert a tort claim, for example, the more expedient declaratory judgment could be sought. The net result would be fewer and more easily resolved cases.

The breadth of the prohibited practices also suggests the possibility that debtors will congest the courts. Here reliance must be placed on both the good faith of debtors and their counsel, and on the good sense of the courts. It seems unlikely that anything shy of real abuse would drive a debtor (not normally eager to publicize his situation) to legal actions, and equally unlikely that attorneys would risk disciplinary action by bringing unwarranted claims for which recovery would be minimal. This may simply be a risk which must be assumed, at least initially, to assure adequate protection.

Another potential drawback is that such regulation would raise the price of credit or goods, since they reflect the prevailing risk of unrecoverable debts and, in this case, of the liability of the collector to suit. Such an effect is not assured, however. Again a multiplication of suits -- and therefore of liability -- is unlikely. Also, the fact that the legislation exempts self-collectors (such as many small retailers) and most larger creditors (such as banks) raises substantial doubt as to whether any negative impact would be appreciable.

These exemptions present another question as to the law's effectiveness. It is the moderately large creditor who most often resorts to agencies to collect its debts. If such creditors organize their own collection departments, they will apparently be free to circumvent the legislation, subject only to the constraints of their state law. The issue of exemptions, like many others in the proposal, is essentially one of balancing: it would be incongruous to apply the law to all creditors, as it would presumably then be extendable even to one's newspaper carrier. Yet there appears no clearly reliable indication of where the line should be drawn, and the Annunzio bill sets it at as logical a place as can be suggested.

Despite these uncertainties, Rep. Annunzio's proposed bill would serve a useful and important public purpose by unifying and simplifying the requirements and procedures for the collection of debts and the prevention of abuses. If it can adequately protect debtors from unconscionable forms of abuse, while preserving the creditor's rights to his remedies, and avoid significant increases in litigation and in creditors' costs, the law would be a considerable contribtuion to the public good.