University of Michigan Journal of Law Reform

Volume 7 | Issue 3

1974

What Ever Happened to the "Checkless Society"?

Isaiah Baker
University of Maryland School of Law

WHAT EVER HAPPENED TO THE "CHECKLESS SOCIETY"?

Isaiah Baker*

In the late 1960's and early 1970's, a proliferation of articles in law reviews and other scholarly journals predicted a fundamental change in the payments systems in the United States.[1] The "checkless society" was hailed as the coming thing—the latest and best innovation to come along in the vast areas of law covered by the Uniform Commercial Code provisions governing commercial paper[2] and bank collections.[3] Despite the claims that present technology is capable of effecting basic alterations in the existing check collection and payment systems,[4] changes have been slow to come and are coming with deliberate speed rather than the predicted great haste.

One cause of the initial optimism about the fast pace at which innovations would be adopted was the fear that the present check collection system would become inundated with paper. While inundation, or something analogous to it, seemingly has occurred in the back offices of investment securities dealers on Wall Street,[5] fears of such an occurrence in the check collection system have been exaggerated. A study commissioned by the American Bankers Association and conducted by the public accounting firm of Arthur D. Little has indicated that the present system is alive

---

* Assistant Professor of Law, University of Maryland School of Law. B.A., 1961, Yale College; M.B.A., 1970, J.D., 1970, Columbia University; LL.M., 1971, Harvard University.

1 *See, e.g.*, A. ANDERSON, D. CANNELL, T. GIBBONS, G. GROTE, J. HENN, J. KENNEDY, M. MUIR, N. POTTER & R. WHITBY, AN ELECTRONIC CASH AND CREDIT SYSTEM 123-25 (1966); Bergsten, *Credit Cards—A Prelude to a Cashless Society*, 8 B.C. IND. & COM. L. REV. 485 (1967); Davenport, *Bank Credit Cards and the Uniform Commercial Code*, 85 BANKING L.J. 941 (1968); Dunne, *Variation on a Theme by Parkinson or Some Proposals for the Uniform Commercial Code and the Checkless Society*, 75 YALE L.J. 788 (1966); Kramer & Livingston, *Cashing in on the Checkless Society*, 45 HARV. BUS. REV., Sept.-Oct., 1967, at 141, 142-43; *Survey, Toward a Less-Check Society*, 47 NOTRE DAME LAWYER 1163 (1972); Note, *Alternatives to the Present Check-Collection System*, 20 STAN. L. REV. 571 (1968). *Contra*, Cox & Giese, *Now it's the 'less-check society'*, 50 HARV. BUS. REV., Nov.-Dec., 1972, at 6. A popular, journalistic, and somewhat superficial view of these ideas is presented in R. HENDRICKSON, THE CASHLESS SOCIETY (1972).

2 UNIFORM COMMERCIAL CODE, Article 3.

3 UNIFORM COMMERCIAL CODE, Article 4.

4 Cox & Giese, *supra* note 1, at 7.

5 SEC, REPORT ON THE STUDY OF UNSAFE AND UNSOUND PRACTICES OF BROKERS AND DEALERS 13 (1971).

and well, and capable of handling fairly comfortably the estimated annual increase in check volume until the 1980's.[6]

Although banks in some communities use variants of the many possible electronic systems to process a segment of their transactions,[7] perhaps because the current check-processing system can meet demand, the ordinary bank customer has seen relatively little change to date. Many banks are still at the earliest planning stages in implementing automated funds-transfer systems. Possibly the most visible innovation, which can be detected by the consumer, is the use of cash registers that instantly determine the status of the buyer's account on credit sales and automatically change the inventory acount of the purchased item.[8]

Thus, the system for transferring funds and making payments is almost the same today as it was five or ten years ago. Nonetheless, there are clear indications that the comparatively slow rate of change will accelerate in the near future. Several factors seem to assure this quickened pace. First, the Federal Reserve System is aggressively pursuing a policy of fostering the development of a system that would largely replace the present check collection system.[9] Second, to the extent that there are profit-making opportunities in offering new services, individual banks and other enterprises are likely to respond to payments system changes in an equally aggressive way. Banks will also be sensitive, individually and collectively, to competition from other financial institutions that are utilizing these systems. Third, the present check collection system remains labor-intensive, even though during the early 1960's banks introduced some other automated methods and equipment. There is little or no evidence that the future will bring any important economies on the labor front, and if labor costs continue to go up, increased interest in automated—less labor-intensive—methods will be precipitated. The decreased cost and the potentially greater efficiency of automated transfer systems, both readily demonstrable by many banks and other financial institutions, are likely to bring about modifications in the payments process. As lower cost and efficiency are shown, consumers and business enterprises will adopt these

---

6 AMERICAN BANKERS ASS'N, THE OUTLOOK FOR THE NATION'S CHECK PAYMENT SYSTEM: 1970-1980 (1971).

7 Several banks in different sections of the United States have begun using automatic teller equipment in order to provide banking services during hours when the bank office is not open. Examples of such banks are: Empire National Bank of Rockland County, New York, and Equitable Trust Bank of Baltimore, Maryland.

8 Personal observations and informal interviews with sales personnel at the Hochschild-Kohn department store and the Sears Roebuck and Company store, both in Security Square Shopping Center near Baltimore, and at the Dixie Mall Montgomery Ward Store in Chicago.

9 Steering Committee on Improving the Payments Mechanism, Federal Reserve System, *Evolution of the Payments Mechanism*, 58 FEDERAL RESERVE BULL. 1009 (1972). *See generally* FEDERAL RESERVE BANK OF ATLANTA, RESEARCH ON THE IMPROVEMENT OF PAYMENT MECHANISMS (1971) [hereinafter cited as ATLANTA PAYMENTS PROJECT].

systems. Although these innovations are probable, it is also likely that checks will still be around in abundance for the indefinite future.[10]

I. POTENTIAL NEW FUNDS TRANSFER SYSTEMS

There appear to be few difficult technological problems that stand in the way of implementing new funds transfer systems.[11] The present level of development in electronic communications equipment and computer technology is seemingly adequate to allow implementation of one or several potential schemes. Rather, the problems encountered in moving away from the use of cash and checks center on obtaining widespread consumer acceptance of alternative systems. A potential user must be shown the advantages of the new systems and the ease with which he can adapt them to his needs. Without widespread adoption of the new systems, the potential societal good which could be derived from technological advances will not be realized.

A brief survey of the various funds transfer plans is appropriate in order to better understand the interplay between the new payments systems and consumer behavior. An understanding of this interplay will shed light on the legal policies that should govern this field.

A. Regional Check Processing Centers

Regional Check Processing Centers (RCPCs or Centers), which are designed to speed intradistrict and interdistrict[12] exchanges of checks, have been established in several districts of the Federal Reserve System. In addition, individual clearinghouse associations have been active in implementing this concept.[13] The Regional Check Processing Centers are designed and actually work according to the principle that the area served should be of a size that will enable the overnight movement of checks between the center and any of its constituent banks.[14] The centers, which have telecommunications capacity and automated processing equipment, would form the nuclei of a national system for transferring funds electronically. Essentially, the RCPC concept seeks to reduce the time lag between deposit and collection of checks by speeding up the present sys-

---

[10] A study by the University of Michigan Institute for Social Research indicates that, contrary to popular belief, the use of credit cards has led to an increase in check-writing rather than a decrease. This study was cited in DIVISION OF FEDERAL RESERVE OPERATIONS, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, 2 PAYMENT MECHANISM NOTES 4 (1972).

[11] Cox & Giese, *supra* note 1, at 7.

[12] *See* notes 18-19 and accompanying text *infra*.

[13] FEDERAL RESERVE BANK OF RICHMOND, PROPOSED REGIONAL CHECK CLEARING SYSTEM FOR THE FIFTH FEDERAL RESERVE DISTRICT 2 (1972).

[14] BALTIMORE BRANCH, FEDERAL RESERVE BANK OF RICHMOND, PROCEDURAL MANUAL 48; FEDERAL RESERVE BANK OF RICHMOND, PROPOSED REGIONAL CHECK CLEARING SYSTEM FOR THE FIFTH FEDERAL RESERVE DISTRICT 1 (1972); FEDERAL RESERVE BANK OF RICHMOND, PROPOSAL FOR THE REGIONAL CHECK CLEARING CENTER IN THE WASHINGTON-BALTIMORE AREA 3 (1969).

tem, rather than by introducing fundamental change. While the degree of automation used in these operations is unclear, there is no question that the stage is being set for a much more rapid transmission of checks for payment and a consequent reduction in "float"—the time it takes from the deposit of a check for payment until it is finally and irrevocably paid at the other end of the check collection process. The Federal Reserve System has an interest in promoting these changes beyond simply that of increasing the efficiency of the banking system in this country. A reduction in "float" would bring with it a greater measure of control over the actual volume of credit or money in the country, and, with this control, the Federal Reserve could better regulate the monetary policies being pursued.

B. Automatic Clearing House

The concept of the Automatic Clearing House (ACH) is best illustrated by the SCOPE (Special Committee on Paperless Entries) Project now operating in California.[15] The SCOPE Project was established by the Los Angeles and San Francisco Clearing House Associations in 1968.[16] Area employers signing onto the system[17] give their banks payroll data on magnetic tapes. The banks read the tapes for appropriate debiting of the employer's account and then deliver the tapes to the Automatic Clearing House for a secondary sorting out and transfer to the banks of the employees, where the employees' accounts are credited with the wage payments.

Beyond the SCOPE Project, the next step for a clearing house system would be for the participating banks to exchange information directly. Each bank would trade information from its internal electronic equipment for information from other participants. Because of the potential legal problems, for example in the antitrust area, it is possible that each would send such information either directly to the other banks or through the ACH equipment for transfer to the other banks. The implications of the SCOPE Project will be examined in greater detail below.[18]

C. Point-of-Purchase Terminals

Terminals located within the retail establishment at the point-of-purchase are feasible and have already been used on a small scale. The

---

[15] *See* Homrighausen, *One Large Step to Less-Check: The California Automated Clearing House System*, 28 BUS. LAW. 1143 (1973).

The ACH could be the usual traditional clearing house, a clearing house especially established for purposes of electronic funds transfer, the Federal Reserve Bank or branch nearby, or a designated commercial bank. For an outline of the rules governing the ACH functions see SPECIAL COMMITTEE ON PAPERLESS ENTRIES, PROCEDURAL GUIDE—INTERBANK PAPERLESS ENTRIES 63.

[16] Homrighausen, *supra* note 15, at 1143.

[17] As of mid-January, 1973, eighty-nine banks representing approximately 95 percent of banking offices in California were members of the organization formed to administer the system. *Id.*

[18] *See* part II *infra.*

customer hands the salesperson a plastic credit card which has an electronic activating tape or other signaling device imprinted on it. This card is inserted in the store's terminal which is connected by telephone line to a central computer in which is stored all useful credit information on the party presenting the card. The information read from the customer's credit card is used to check the customer's available credit and any possible unauthorized use of the charge card. While there can be many variations on this scheme, the variations all utilize the basic idea outlined above.[19]

D. Automatic Teller Equipment

Automatic Teller Equipment is equipment designed to execute most of the tasks usually performed by a human teller behind the cage in an ordinary bank setting.[20] The use of machines to largely replace human labor should result in a considerable reduction in the direct labor cost associated with operating any bank or other funds transfer organization. These devices operate with a bare minimum of human intervention and are used by customers to withdraw or deposit funds in their bank accounts. In a manner similar to the operation of point-of-purchase machinery, the customer employs a credit card or similar device to activate the automatic teller. Just as with point-of-purchase terminals, these devices can easily be tied to a central computer that contains all the necessary information about bank customers' accounts. This network would enable several banks to have access to the same automatic teller and would permit Automatic Teller Equipment to be installed in many places heretofore not served by a bank or bank branch. Obviously, there are many antitrust and state regulation of branch banking ramifications inherent in this proposal.

II. BEHAVIORAL ASPECTS OF ELECTRONIC FUNDS TRANSFER

The survey of basic technical patterns that are likely to be implemented by financial institutions alleviates some concern over the *economic* and *technological* features of transfer systems. The importance of these two factors must be kept in mind, however, lest any discussion of the behavioral aspects and, concomitantly, the legal aspects of these systems become greatly distorted. Nonetheless, it is important to examine the behavioral implications of changes in funds transfer mechanisms and the probable impact of these changes on the legal regime that has governed the conduct of business and financial transactions. In examining this aspect of funds transfer, it is necessary to focus on the areas of the law that will need further development and in which conflict is apparent on the basis of information already gathered.

The extent of present day specialization by financial institutions may well decrease under the onslaught of the new technology. Savings banks

[19] ATLANTA PAYMENTS PROJECT, *supra* note 11, Phase I Final Report, at 32, 42, 56.
[20] Cox & Giese, *supra* note 1, at 7.

and savings and loan associations will have an even greater motivation to offer services currently monopolized by the commercial banks.[21] Of course, such a move by "thrift" institutions will require considerable alterations in the statutorily prescribed regulatory schemes and perhaps even a change in the habits of customers of these institutions. Pressures for change may come from many sources. First, from a competitive viewpoint, the thrift institutions themselves will want to offer greater services. In prolonged periods of demand for money and inflation, thrift institutions have difficulty retaining time deposits without offering other kinds of services.[22] This difficulty is aggravated when interest ceilings remain intact or relatively inflexible. The thrift institutions are then put into the position of being unable to keep their funds because savings are moved into financial opportunities offering greater returns. If thrift institutions are permitted to expand their range of services, the role of commercial banks as the primary depositories of funds may shift to that of being institutions largely engaged in offering funds transfer services by electronic means.

The competitive and regulatory pressures accompanying the above proposals will force commercial banks to adapt in order not to lose ground as the first line of institutions offering financial services to the public. Commercial bank demand deposits under the systems outlined above may decrease in dollar volume because of the reduced need for businesses to keep large balances on hand to meet demands for payments as they come through the check collection system. Thus, to keep profits high, commercial banks will have to offer other services.[23]

Some writers have asserted that consumer willingness or reluctance to accept the kinds of changes outlined here is one of the main factors that will promote or retard the imposition of such changes.[24] The other major factor is the rapidity with which the regulatory agencies and industries can develop a consensus on the transfer system to be adopted.[25] Concern about consumer rather than institutional behavior is the focus of this article, although implicit in a consideration of consumer attitudes is an inquiry into the system that will receive consumer acceptance. Consumer acceptance of new systems is of concern to lawyers because consumer

[21] *See* REPORT OF THE PRESIDENT'S COMMISSION ON FINANCIAL STRUCTURE AND REGULATION 31-41 (1971) [hereinafter cited as HUNT COMMISSION REPORT]. A study conducted for the United States Savings and Loan League by the Northwestern University School of Management suggests that thrift institutions aggressively move toward ownership of the software and hardware needed for electronic payments systems. As a requirement for survival of the savings and loan industry, the study also suggests that the industry develop the legal authority and procedural apparatus to leapfrog over the paper check system into electronic funds transfer. Impact of Electronic Money Transfers on the Savings and Loan Business, reported in Am. Banker, Nov. 15, 1972, at 1.

[22] HUNT COMMISSION REPORT, *supra* note 25, at 37.

[23] HUNT COMMISSION REPORT, *supra* note 25, at 41-54.

[24] ATLANTA PAYMENTS PROJECT, *supra* note 11, Phase I Final Report Summary, at 6.

[25] *Id.*

reluctance will give rise to litigation and efforts to enact or repeal various kinds of legislation dealing with these systems.

The research that has been done so far suggests that most consumers show considerable and even remarkable conservatism in adapting to some new payments system.[26] These consumer qualms may simply be the initial response of people who are not aware of the conveniences that the system may offer to them. If this lack of knowledge is the basis of resistance, then the task for the industries is one of informing and educating the public. Educational campaigns may ultimately allow implementation of some or any of the systems with a minimum of public resistance. Eventually, with a more sophisticated public, the systems may gain acceptance and even allegiance. This view, however, may be naive. The data presented by one of the more extensive probes into this area of consumer opinion, along with several other facts, argue persuasively that consumer resistance to new funds transfer systems is due to perceived needs and self-interest, and thus will not easily be swayed.[27]

A. Statutory Restrictions on Wage Payments

Before it can be assumed that the general public will accept or acquiesce in the implementation of an electronic funds transfer system involving direct payroll deposits, the considerable body of law that prohibits payment of workers' wages or salaries in ways other than by currency or checks must be examined.[28] One commentator has assumed that because

---

[26] Cox & Giese, *supra* note 1, at 18.

[27] ATLANTA PAYMENTS PROJECT, *supra* note 11, Phase I Final Report Summary, at 6-10.

[28] These prohibitions are contained in statutes, judicial decisions, and administrative regulations. This legislation was enacted largely to curtail the abuses that accompanied the use of company script in stores in company towns. Although no comprehensive survey is attempted, the statutes reproduced here seem to be representative:

> (b) *Method of Payment*—Payment of wages or salaries shall be in lawful money of the United States or check payable at face value upon demand in lawful money of the United States.

MD. ANN. CODE art. 100, § 94(b) (Supp. 1973).

> The payment of . . . wages and compensation shall be paid in lawful money of the United States or by any good and valuable negotiable check or draft payable on presentation thereof at some bank or established place of business without discount, in lawful money of the United States and not otherwise.

MICH. COMP. LAWS ANN. § 408.521 (Supp. 1973).

California, whose Labor Code Section 212 provided that no person issue in payment of wages due "[a]ny order, check, draft, note, memorandum, or other acknowledgment of indebtedness, unless it is negotiable and payable in cash, on demand, without discounts, at some established place of business in the state. . . . ," amended Labor Code Section 213 to read as follows:

> Nothing contained in Section 212 shall:
>
> . . . .
>
> (d) Prohibit an employer from depositing wages due or to become due or an advance on wages to be earned in an account in any bank, savings and loan association or credit union of the employee's choice

the underlying reason for the adoption of such prohibitions does not pertain to direct deposit of payroll schemes, repeal of prohibitive enactments may be reasonably foreseen.[29] This assumption, however, may be too simplistic. The legal restrictions on wage payment methods, which seem so out of date in the 1970's, may take on new vigor as opponents of new funds transfer systems arise and breathe new life into the statutes. Union sentiment may find in the introduction of new wage payment systems still another example of management callousness toward the needs of working people. And, unless the economic savings were substantial, it is hard to believe that management would put the issue of direct deposit of payrolls on bargaining agendas. Thus, widespread adoption of this very easy first step may take longer than might otherwise be apparent at first glance.

Over the years there have been a considerable number of legal battles, even involving constitutional issues, regarding the method of paying wages.[30] Despite the doctrine of freedom of contract, rationales for controlling the method of payment of wages were found in the state's power to amend corporate charters and to otherwise regulate corporations, and in the general police powers of the state. Attacks on these rationales predictably came from those espousing constitutional protection for freedom of contract under the fourteenth amendment. But, after a painful and tortuous courtroom history, it was recognized that freedom of contract has little reality without complete economic equality.[31] An example of the economic liberty argument is found in an opinion that characterized a statute that forbade payment of wages in "store orders" as subjecting the laborer to unwarranted tutelage by the legislature.[32] Regulating the method of payment of wages was seen as paternalism, and it was thought that laborers should be able to bargain on the issue of the method of wage payment.

Considering the history of legal challenges to varying wage payment methods, it is necessary to inquire into the reasons why there is likely to be some—perhaps considerable—resistance to the institution of the various kinds of electronic funds transfer schemes. First, there is the ever-present thought (illusion might be a better description) that cash or currency in the hand is "real" money, while credit is not. Thus, to many financially unsophisticated citizens, money means cash, rather than some-

---

> in this state, provided the employee has voluntarily authorized such deposit.

CAL. LABOR CODE § 213(d) (West Supp. 1974).

For an annotation of limited value see Annot., 137 A.L.R. 846 (1942). For a more complete discussion of judicial opinions and administrative regulations see ATLANTA PAYMENTS PROJECT, *supra* note 11, 6 Phase III Legal Considerations, at 64-68.

29 ATLANTA PAYMENTS PROJECT, *supra* note 11, 6 Phase III Legal Considerations, at 64-68.

30 Harper, *Due Process of Law in State Labor Legislation,* 26 MICH. L. REV. 763, 767 (1928).

31 *Id.*

32 Godcharles v. Wigeman, 113 Pa. 431, 437, 6 A. 354, 356 (1886).

thing as intangible as a "credit" in a bank account. This attitude is similar to the historical attitude of many Americans about foreign currencies. That is, those currencies were "funny money," not much better than "Monopoly money." While some of the softer currencies may have had the characteristics of Monopoly money, *i.e.*, little value and exchangeability, the factual basis for the opinion is perhaps of less importance than the feelings underlying that opinion.

Whatever the reasons for consumer hesitancy to deal in "credits," whether it is a carryover from the commodity value of money associated with coins made of various precious metals or a misplaced focus on the visible and tangible object, the view that money is cash and cash is money is pervasive.[33] This view does not seem likely to disappear or appreciably diminish soon. But there are other more rational and practical reasons for consumer resistance. For example, before the turn of the century when the United States Supreme Court established that states could regulate wage payments,[34] very few pieces of state legislation regulating wages passed the test of constitutionality. The states are now permitted to enact legislation that is reasonably applicable to a genuine social and economic evil.[35]

Therefore, one must ask two basic questions. What would be the evil or good in a mandatory or prescribed direct payroll deposit system? And, who are the candidates most likely to attempt to introduce such a method of payment? To ascertain the problems and opportunities which might arise out of a payments system, the societal ramifications of such a system must be explored.

B. The Societal Impact of Electronic Funds Transfer

Imagine a United States in which almost all citizens have bank checking accounts. As compared with most societies, this society would be composed of people who had achieved an extremely high level of financial sophistication. As a result of this sophistication, a high percentage of money would be banked and, therefore, available to be lent for interest. Also, this society ultimately would be one in which the use of financial services by much of the population would be a matter of habit and an ordinary part of everyday life. For any nation in danger of entering a period of prolonged capital shortage, such a development could have great impact and perhaps be very helpful.

Implementation of one of the various electronic funds transfer systems would move a society toward the above-described sophistication. Among the general positive values that might be realized by systems such as direct payroll deposit would be a reduction in the number of individuals available as targets for strong arm robbery, burglary, and petty theft.

---

33 *See, e.g.*, R. HENDRICKSON, *supra* note 1, at 134-54.

34 Knoxville Iron Co. v. Harbison, 183 U.S. 13 (1901). In this case, the Court upheld a statute requiring that store orders be redeemable in cash.

35 Harper, *supra* note 34, at 770.

Obviously, direct deposit of payrolls would decrease the number of people who habitually carry large sums of money, and thereby reduce the number of people who could be successfully victimized. Although the possibility of a mugger's demanding a ransom would not be affected, generally a wrongdoer's chances of success would be considerably diminished. It is possible, however, that the emphasis may merely shift from carrying currency in considerable amounts to carrying the minimum amount thought necessary to bargain one's way out of scrapes with wrongdoers on the streets. Perhaps it cannot be said that crime will no longer pay, but certain crimes might pay so little as not to be worth the risks involved.

Consideration of the potential for crime reduction as a result of direct deposit systems necessitates giving some attention to the branches of society that are most likely to be affected by such systems. Government agencies, state and federal, which regularly issue large amounts of money in the form of welfare and social security benefits, will be the first to institute direct deposit systems on a mandatory basis.[36] Since state statutory prohibitions against payments by means other than currency and checks are usually couched in terms of payment of wages and salaries, payments of welfare and social security benefits probably do not fall within the statutes.

Crime reduction may be an important policy underlying the implementation of a direct deposit system by governmental agencies. Those segments of American society that are least able to absorb the criminal and wrongful taking of money by theft, burglary, and robbery are often those receiving social security benefits or welfare payments. People whose income is dependent upon government largess or social security payments make up a large portion of the most impoverished sectors of society. Methods of payment such as the direct deposit of funds, which can considerably diminish the incidence of predatory acts, will accrue to the benefit of the recipients of government monies.

To the extent that the use of checking accounts increases awareness of spending habits and patterns, and promotes the need for financial planning, direct deposit systems will encourage conduct that is more economically rational. More rational conduct by each economic unit, whether it be an individual or a household, should increase the amount of overall economic benefit that each government payment yields. Thus, each family should be better off, and, to the extent that there is more rational behavior on the microeconomic level, there should also be an improvement in macroeconomic rationality. It is not clear that welfare recipients use their money in a manner which is discernibly less rational than nonwelfare spenders. But, to the extent that the use of checks will minimize impulse buying by all consumers, the decrease in irrational buying by welfare recipients may enable better planning and utilization of public expenditures.

[36] *See* N.Y. Times, Jan. 17, 1974, at 22, col. 4.

III. CONCLUSION

The imposition of mandatory payment systems may enable more prompt implementation of completely automated funds transfer systems. Adoption of the automated systems eventually would reduce currency payments to an absolute minimum. It is assumed that there will always be some transactions requiring the use of small bills and change. Yet, most transactions of considerable size would be conducted through an automatic electronic funds transfer system. For many Americans, however, a one-step shift, from present day check and currency methods of making and receiving payments to a system involving electronic debiting and crediting of accounts, may simply be too abrupt. The direct deposit of payroll system would be a digestible and incremental change which could make the realization of a fully automated electronic funds transfer system attainable more quickly and easily.

One of the chief objections to the mandatory use of direct payroll deposits is that the system would result in a further loss of individual freedom.[37] A mixed payments system involving automated and traditional methods would allow individuals to exercise their freedom to contract in a way that a prescribed system would not. There is still the question of whether, in the context of paying everyday bills, too much stress can be put on freedom of contract when the particular freedom to choose the method for payment of bills and debts is fairly trivial. This freedom of choice does not necessarily involve the same kind of discretion and judgment as does choosing between several consumer products or candidates for public office.

It must be admitted that although certain kinds of crime and wrongdoing may be reduced by instituting an electronic funds transfer system, there may be a concomitant rise in other kinds of wrongdoing and crime. For example, the widespread adoption of the direct deposit of payroll system may foster a higher incidence of various kinds of deception involving payments. At the minimum, inasmuch as only one important element in the total use of checks, the transfer of the check from drawer to payee, may be eliminated, all other elements may remain intact. Consequently, all that may happen is a shift in emphasis from strong-arm methods and other kinds of thievery to what is commonly referred to as "white-collar crimes." Until a fully automated system of transfer is implemented, the increase in check usage that will follow from direct deposit of payrolls may carry with it a concomitant increase in the number of dishonored checks, forgeries, and alterations.[38] This increase in white-

---

[37] Other objections to imposition of a mandatory system are 1) the possibility of increased wrongful governmental or nongovernmental surveillance over individuals' lives; 2) greater impersonality in the market place which would add to the high degree of alienation in monetary matters that many individuals already feel; and 3) less, not more economic rationality.

[38] In addition to these various types of crime, there is the possibility of misuse of the electronic tapes involved in the transfer process. For a description of another example of misuse of electronic equipment, see N.Y. Times, April 12, 1973, at 59, col. 2 (describing one facet of the Equity Funding scandal).

collar crime, however, may hasten the development and introduction of a payments system that is truly "cashless," together with a more secure method for identifying the transferring parties. Nonetheless, implementation of a widespread cashless system may be far off. The immediately available system of direct deposit of payroll payments is a more likely candidate for faster general adoption. Thus, although crime may not be eliminated entirely, the numbers of certain kinds of crimes can be reduced, with the correlative reduction in some of the violent hazards associated with these crimes.