#39.20 3/3/71

Memorandum 71-15

Subject: Study 39.20 - Garnishment (Discharge From Employment Because of Garnishment)

Attached are two copies of a revised recommendation on discharge from employment because of garnishment. Please mark any suggested editorial changes on one copy to turn in to the staff at the meeting. We need to approve the recommendation at the meeting because the deadline for bills is April 2.

The revised recommendation is believed to reflect accurately the decisions made at the last meeting. Section 2929 (pages 8 and following) is the key section. Exhibit I attached is a revised Section 2929. The revised section would permit the employer to discharge an employee after garnishment for more than one judgment in a case where this would constitute good cause for discharge even where no provision in the contract of employment provides for discharge because of garnishments. At the same time, the revised section gives the employee who has a contract for employment the same protection as is given the employee who can be discharged by the employer for any reason the employer considers sufficient. We think the revised section and revised Comment are a significant improvement and probably are consistent with what the Commission actually had in mind at the last meeting (although the decisions actually made at the last meeting are somewhat inconsistent with the revised section).

We have not had a chance to check out the problem of federal and state tax collection procedures. We plan to give this aspect of the research a top priority during the next month or so. When we have completed the research, if the Commission determines that changes are needed in the recommended legislation, the bill can be amended.

Respectfully submitted,

John H. DeMoully
Executive Secretary

Memorandum 71-15

EXHIBIT I

Labor Code § 2929 (new)

Sec. 4. Section 2929 is added to the Labor Code, to read:

2929. (a) As used in this section:

(1) "Garnishment" means any judicial procedure through which the wages of an employee are required to be withheld for the payment of any debt.

(2) "Wages" has the same meaning as that term has under Section 200.

(b) No employer may discharge any employee by reason of the fact that the garnishment of his wages has been threatened. No employer may discharge any employee by reason of the fact that his wages have been subjected to garnishment unless his wages have been subjected to garnishment for more than one judgment during his employment with that employer. A provision of a contract of employment that provides an employee with less protection against discharge by reason of the fact that his wages have been subjected to garnishment than is provided by this subdivision is against public policy and void.

(c) Unless the employee has greater rights under the contract of employment, the wages of an employee who is discharged in violation of this section shall continue until reinstatement notwithstanding such discharge, but such wages shall not continue for more than 30 days. The employee shall give notice to his employer of his intention to make a wage claim under this subdivision within 30 days after being discharged; and, if he desires to have the Labor Commissioner take an assignment of his wage

claim, the employee shall file a wage claim with the Labor Commissioner within 60 days after being discharged. The Labor Commissioner, may, in his discretion, take assignment of wage claims under this subdivision as provided for in Section 96.

(d) Nothing in this section affects any other rights the employee may have against his employer.

(e) This section is intended to aid in the enforcement of the prohibition against discharge for garnishment of earnings provided in the Consumer Credit Protection Act of 1968 (15 U.S.C. §§ 1671-1677).

Comment. Section 2929 provides a civil penalty to aid in the enforcement of the prohibition against discharge for garnishment of earnings provided by the federal Consumer Credit Protection Act of 1968. See 15 U.S.C. § 1674. The federal act provides a criminal sanction as the only penalty for violation of the prohibition. See Recommendation of the California Law Revision Commission Relating to Attachment, Garnishment, and Exemptions From Execution: Discharge From Employment (March 1971).

The civil penalty under Section 2929 benefits employees by providing a more effective method of securing compliance than the criminal sanction provided by the federal law. The availability of a civil penalty should benefit employers also to the extent that the provision of a reasonable alternative means of enforcement diminishes the possibility of a criminal prosecution under the federal law.

Since Section 2929 is intended to aid in enforcement of the federal prohibition against discharge for garnishment, the interpretations given to the federal act will be persuasive in interpreting Section 2929. The Wage and Hour Division of the U.S. Department of Labor has published the following interpretative information in "The Federal Wage-Garnishment Law," W.H. Publication No. 1309 (October 1970):

> PROTECTION AGAINST DISCHARGE
>
> The Federal law prohibits an employer from discharging any employee because his earnings have been subject to garnishment for any one indebtedness. 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. A distinction is thus 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 is considered as "one indebtedness". In the same vein, if a creditor joins several debts in a court action and obtains a judgment and writ of garnishment, the judgment would be considered a single indebtedness for purposes of this law. Also, the protection against discharge is renewed with each employment, since the new employer has not been a garnishee with respect to that employee.

LIMITS OF DISCHARGE PROVISION

The restriction on discharge applies to all garnishments as that term is defined in the law. Accordingly, if a tax debt results in a court proceeding through which the employee's earnings are required to be withheld, a discharge for such a first-time garnishment would be in violation of the law. The same would be true of a court order for the withholding of wages for child support or alimony. Also, since the discharge provision is a protection against "firing," a suspension for an indefinite period or of such length that the employee's return to duty is unlikely may well be considered as tantamount to firing and thus within the term discharge as used in the law.

Some employers have a rule that the employee will be given warnings for the first two garnishments and will be discharged for the third garnishment in a year. Where at least two of the actions relate to separate debts, discharge would not be prohibited by the law since the warning and discharge would be based on garnishment for more than one indebtedness.

In some cases employers set up plans which prescribe disciplinary actions for violations of company standards of conduct, with discharge if for example the employee violates three of the standards in a year. One of the actions considered as a violation is "garnishment of wages". If only one of these violations relates to garnishment, discharge would be prohibited by the law since the discharge would result from garnishment for only one indebtedness. In other words, regardless of the employer's disciplinary plan, no discharge may be based either wholly or in part on a first time garnishment.

The law does not prohibit discharge if there are garnishment proceedings pursuant to a second debt. However, as in the case of the limitations on the amount that may be garnished, the law does not affect or exempt any person from complying with a State law that prohibits discharge because an employee's earnings have been subjected to garnishment for more than one indebtedness.

"SUBJECTED TO GARNISHMENT"

An individual's earnings are "subjected to garnishment" for purposes of this law when the garnishee (employer) is bound to withhold earnings and would be liable to the judgment creditor if he disregards the court order.

> The law does not expressly provide any time limitation between a first and second garnishment. Where a considerable time has elapsed between garnishments, it may be that the employee is actually being discharged for the current indebtedness. The first indebtedness may no longer be a material consideration in the discharge. Determinations in such cases will be made on the basis of all the facts in the situation.

It should be noted that this interpretation of the federal statute is subject to continuing revision. The publication from which the quoted material was taken includes the following statement: "This publication is for general information and is not to be considered in the same light as official statements of position formally adopted and published in the Federal Register." Wage and Hour Division, "The Federal Wage-Garnishment Law," W. H. Publication No. 1309 at 7 (October 1970).

Mr. Robert D. Moran, Administrator of the Wage and Hour Division of the Department of Labor, has discussed the federal prohibition against discharge in Moran, Relief for the Wage Earner: Regulation of Garnishment Under Title III of the Consumer Credit Protection Act, 12 B. C. Ind. & Com. L. Rev. 101, 105 (1970).

Subdivision (a). Subdivision (a) defines "garnishment" in conformity with Section 302 of the Consumer Credit Protection Act. 15 U.S.C. § 1672.

The definition of "wages" in Section 200 of the Labor Code is adopted for use in Section 2929. Section 200 broadly defines "wages" to include all amounts for labor, work, or service performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation.

Subdivision (b). The first sentence of subdivision (b) makes clear that a discharge may not be by reason of a threat of garnishment. No comparable provision is contained in the federal statute.

The second sentence of subdivision (b), which prohibits an employer from discharging an employee because his wages have been subjected to garnishment for only one judgment, adopts the substance of Section 304 of the federal statute. 15 U.S.C. § 1674. Formerly, a somewhat similar prohibition was found in Sections 2922 and 2924. See Recommendation of California Law Revision Commission Relating to Attachment, Garnishment, and Exemptions From Execution: Discharge From Employment (March 1971).

The last sentence of subdivision (b) makes clear that the protection provided by the subdivision cannot be waived by the employee or his representative in the contract of employment.

Subdivision (c). Subdivision (c) continues without substantive change the civil penalty formerly found in Sections 2922 and 2924. The civil penalty is limited, however, to cases where the employee does not have greater rights under the contract of employment. Where the employee has greater rights under the contract of employment, his remedy is the enforcement of the contract of employment, not a wage claim under subdivision (c). See also discussion of subdivision (d), infra.

Subdivision (c) continues the notice requirements formerly found in Sections 2922 and 2924. However, the requirement that a wage claim be filed with the Labor Commissioner is limited to cases where the employee desires to have the Labor Commissioner take an assignment of his wage claim to recover the civil penalty under Section 2929. It is entirely discretionary whether the employee file a claim with the Labor Commissioner; the employee may file a civil suit on the claim rather than having the Labor Commissioner bring action on the claim. Likewise, the Labor Commissioner has complete discretion whether he will take an assignment of a wage claim under Section 2929.

Subdivision (d). Subdivision (d) makes clear that the protection afforded by Section 2929 does not affect any other rights the employee may have. For example, when an employee can be discharged only for "good cause" and there is no pertinent provision defining "good cause," whether garnishments brought on two or more judgments would constitute good cause would depend on the facts of the particular case; the statute does not reflect any policy that discharge of an employee is justified merely because his wages have been garnished on two or more judgments.

Subdivision (e). Subdivision (e) makes clear that Section 2929 is intended to provide an alternative means of enforcement of the federal prohibition against discharge for garnishment of earnings. See discussion in this Comment, supra.

#39 Revised March 1, 1971

STATE OF CALIFORNIA

C A L I F O R N I A L A W

R E V I S I O N C O M M I S S I O N

RECOMMENDATION

relating to

ATTACHMENT, GARNISHMENT, AND EXEMPTIONS FROM EXECUTION

Discharge From Employment

March 1971

CALIFORNIA LAW REVISION COMMISSION
School of Law
Stanford University
Stanford, California 94305

NOTE: This is a tentative recommendation and is being distributed so that interested persons will be advised of the Commission's tentative conclusions and can make their views known to the Commission. Any comments sent to the Commission will be considered when the Commission determines what recommendation it will make to the Legislature.

The Commission often substantially revises tentative recommendations as a result of the comments it receives. Hence, this tentative recommendation is not necessarily the recommendation the Commission will submit to the Legislature.

This tentative recommendation includes an explanatory Comment to each section of the recommended legislation. For the most part, the Comments are written as if the legislation were enacted. They are cast in this form because their primary purpose is to undertake to explain the law as it would exist (if enacted) to those who will have occasion to use it after it is in effect.

RECOMMENDATION OF THE CALIFORNIA LAW

REVISION COMMISSION

relating to

ATTACHMENT, GARNISHMENT, AND EXEMPTIONS FROM EXECUTION

Discharge From Employment

On July 1, 1970, Title III of the Federal Consumer Credit Protection Act of 1968 (15 U.S.C. §§ 1601-1677)--the Truth in Lending Act--went into effect throughout the United States imposing restrictions on the amounts creditors could garnish from debtor's earnings and prohibiting discharge from employment under certain circumstances.[1] The 1970 California Legislature attempted to conform the California law to the federal restrictions on the amount of earnings which a creditor can garnish[2] but did not attempt to conform the California provisions restricting discharge from employment because of garnishment[3] to the federal act.

The federal act provides that any employer subject to the act who willfully discharges an employee because his wages have been subjected to garnishment for a single indebtedness may be fined up to $1,000, or imprisoned for not more than one year, or both.[4] This criminal sanction is the only penalty provided for violation of the discharge restriction.

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1. See 15 U.S.C. §§ 1671-1677.

2. Cal. Stats. 1970, Ch. 1523. The Commission is reviewing the California statutes relating to attachment, garnishment, and exemptions from execution with a view to recommending the enactment of a comprehensive revision of this body of law at a future session of the Legislature.

3. Labor Code §§ 2922, 2924. See also Labor Code § 96.

4. 15 U.S.C. § 1674.

The California Legislature sought in 1969 to protect an employee from summary discharge because of garnishment for a single indebtedness by amending Labor Code Sections 2922 and 2924 to provide: "No employer may discharge any employee by reason of the fact that his earnings have been subjected to garnishment for any one indebtedness, prior to a final order or judgment of a court."[5] This prohibition is the same as the federal Consumer Credit Protection Act except for the emphasized phrase. However, that phrase appears to limit the prohibition against discharge solely to discharge for a prejudgment attachment of earnings.[6] Also, under California law, an employer who violates the prohibition against discharge is liable for the wages of a wrongfully discharged employee,[7] the period of liability ending when the employee is reinstated or at the end of 30 days following discharge, whichever occurs first. Unlike the federal act, no criminal penalty is provided.

The 1969 California legislation also amended Labor Code Section 96[8] to permit the Division of Labor Law Enforcement to take an assignment of the discharged employee's wage claim.[9] An employee has 30 days following the

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5. Cal. Stats. 1969, Ch. 1529 (emphasis added).

6. See Review of Selected 1969 Code Legislation 146-148 (Cal. Cont. Ed. Bar 1969).

7. The prohibition applies to employments at will (Labor Code § 2922) as well as for a specified term (Labor Code § 2924).

8. Labor Code § 96(k).

9. In cases of discharge from employments terminable at will, Labor Code Section 2922 provides that the commissioner "shall take assignment of wage claims." By contrast, Section 2924 provides that he "may take assignment of wage claims" filed by employees discharged from specified-term employments. For further discussion, see Review of Selected 1969 Code Legislation 147 (Cal. Cont. Ed. Bar 1969). The Commission believes that the Labor Commissioner should have discretion in all cases whether he will take an assignment of a wage claim and the recommended legislation so provides.

wrongful discharge from employment to notify the employer of his intent to make the claim and 60 days after the discharge to file the claim with the Labor Commissioner.[10] This statutory requirement apparently is intended to prescribe a mandatory time limit on claims the employee may but is not required to file.

The 1969 California legislation appears subsequently to have been rendered meaningless: first, by the decision of the California Supreme Court in McCallop v. Carberry,[11] and, then, by the enactment in 1970 of Code of Civil Procedure Section 690.6,[12] both of which bar prejudgment garnishment of earnings in California. Since there is now no prejudgment wage garnishment, there can be no occasion for a discharge for such garnishment.

On July 1, 1970, the broader federal provision which bars discharge for postjudgment levies against earnings for any one indebtedness became applicable in California. Conforming the California statutory prohibition to the federal prohibition is recommended so that the California statutes will state the substance of the prohibition as it has in fact applied to California employers since July 1, 1970. This change would benefit employees by making applicable the California civil remedy[13] for wrongful discharge--a more effective method of securing compliance than the criminal sanction

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10. Labor Code §§ 2922, 2924.

11. 1 Cal.3d 903, 464 P.2d 122, 83 Cal. Rptr. 666 (1970).

12. Cal. Stats. 1970, Ch. 1523.

13. The Commission has reviewed the "not more than 30 days' wages" penalty now provided in Labor Code Sections 2922 and 2924 and has concluded that it is a fair and desirable provision.

provided by the federal law. The change would benefit employers also to the extent that the provision of a reasonable alternative means of enforcement diminishes the possibility of a criminal prosecution for wrongful discharge under the federal law.

The Commission's recommendation would be effectuated by enactment of the following measure:

An act to amend Sections 96, 2922, and 2924 of, and to add Section 2929 to, the Labor Code, relating to termination of employment.

The people of the State of California do enact as follows:

Labor Code § 96 (amended)

Section 1. Section 96 of the Labor Code is amended to read:

96. The Labor Commissioner and his deputies and representatives authorized by him in writing may take assignments of:

(a) Wage claims and incidental expense accounts and advances.

(b) Mechanics' and other liens of employees.

(c) Claims based on "stop orders" for wages and on bonds for labor.

(d) Claims for damages for misrepresentations of conditions of employment.

(e) Claims for unreturned bond money of employees.

(f) Claims for penalties for nonpayment of wages.

(g) Claims for the return of workmen's tools in the illegal possession of another person.

(h) Claims for vacation pay, severance pay, or other compensation supplemental to a wage agreement.

(i) Awards for workmen's compensation benefits in which the Workmen's Compensation Appeals Board has found that the employer has failed to secure payment of compensation and where the award remains unpaid more than 10 days after having become final.

(j) Claims for loss of wages as the result of discharge from employment for ~~one~~ the garnishment of wages ~~prior to a final order or judgment of a court~~.

Comment. See the Comment to Section 2929.

Labor Code § 2922 (amended)

Sec. 2. Section 2922 of the Labor Code is amended to read:

2922. An employment, having no specified term, may be terminated at the will of either party on notice to the other. ~~No employer may discharge any employee by reason of the fact that his earnings have been subjected to garnishment for any one indebtedness, prior to a final order or judgment of a court. The wages of an individual whose employment has been so terminated shall continue until reinstatement if such termination is found to be in violation of this section; but such wages shall not continue for more than 30 days. The employee shall give notice to his employer of his intention to make such a wage claim within 30 days after being laid off or discharged and shall file a wage claim with the Labor Commissioner within 60 days of being laid off or discharged. The Labor Commissioner shall take assignment of wage claims under this section as provided for in Section 96.~~ Employment for a specified term means an employment for a period greater than one month.

Comment. See the Comment to Section 2929.

Labor Code § 2924 (amended

Sec. 3. Section 2924 of the Labor Code is amended to read:

2924. An employment for a specified term may be terminated at any time by the employer in case of any willful breach of duty by the employee in the course of his employment, or in case of his habitual neglect of his duty or continued incapacity to perform it. ~~No employer may discharge any employee by reason of the fact that his earnings have been subjected to garnishment for one indebtedness, prior to a final order or judgment of a court. The wages of an individual whose employment has been so terminated shall continue until reinstatement if such termination is found to be in violation of this section; but such wages shall not continue for more than 30 days. The employee shall give notice to his employer of his intention to make such a wage claim within 30 days after being laid off or discharged and shall file a wage claim with the Labor Commissioner within 60 days of being laid off or discharged. The Labor Commissioner may take assignment of wage claims under this section as provided for in Section 96.~~

Comment. See the Comment to Section 2929.

Labor Code § 2929 (new)

Sec. 4. Section 2929 is added to the Labor Code, to read:

2929. (a) As used in this section:

(1) "Garnishment" means any judicial procedure through which the wages of an employee are required to be withheld for the payment of any debt.

(2) "Wages" has the same meaning as that term has under Section 200.

(b) No employer may discharge any employee by reason of the fact that the garnishment of his wages has been threatened.

(c) Where an employment has no specified term, no employer may discharge any employee by reason of the fact that his wages have been subjected to garnishment unless his wages have been subjected to garnishment for more than one judgment during his employment with that employer.

(d) Where an employment is for a specified term, no employee may be discharged by reason of the fact that his wages have been subjected to garnishment unless the contract of employment otherwise provides. A provision of a contract of employment that provides an employee with less protection against discharge by reason of the fact that his wages have been subjected to garnishment than is provided by subdivision (c) is against public policy and void.

(e) Where an employment has no specified term, the wages of an employee who is discharged in violation of this section shall continue until reinstatement notwithstanding such discharge but such wages shall not continue for more than 30 days. The employee shall give notice to his employer of his intention to make a wage claim under

this subdivision within 30 days after being discharged; and, if he desires to have the Labor Commissioner take an assignment of his wage claim, the employee shall file a wage claim with the Labor Commissioner within 60 days after being discharged. The Labor Commissioner, may, in his discretion, take assignment of wage claims under this subdivision as provided for in Section 96.

(f) Nothing in this section affects any other rights the employee may have against his employer.

(g) This section is intended to aid in the enforcement of the prohibition against discharge for garnishment of earnings provided in the Consumer Credit Protection Act of 1968 (15 U.S.C. §§ 1671-1677).

Comment. Section 2929 provides a civil penalty to aid in the enforcement of the prohibition against discharge for garnishment of earnings provided by the federal Consumer Credit Protection Act of 1968. See 15 U.S.C. § 1674. The federal act provides a criminal sanction as the only penalty for violation of the prohibition. See Recommendation of the California Law Revision Commission Relating to Attachment, Garnishment, and Exemptions From Execution: Discharge From Employment (March 1971).

The civil penalty under Section 2929 benefits employees by providing a more effective method of securing compliance than the criminal sanction provided by the federal law. The availability of a civil penalty should benefit employers also to the extent that the provision of a reasonable alternative means of enforcement diminishes the possibility of a criminal prosecution under the federal law.

Since Section 2929 is intended to aid in enforcement of the federal prohibition against discharge for garnishment, the interpretations given to the federal act will be persuasive in interpreting Section 2929. The Wage and Hour Division of the U.S. Department of Labor has published the following interpretative information in "The Federal Wage-Garnishment Law," W.H. Publication No. 1309 (October 1970):

> PROTECTION AGAINST DISCHARGE
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> The Federal law prohibits an employer from discharging any employee because his earnings have been subject to garnishment for any one indebtedness. 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. A distinction is thus 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 is considered as "one indebtedness". In the same vein, if a creditor joins several debts in a court action and obtains a judgment and writ of garnishment, the judgment would be considered a single indebtedness for purposes of this law. Also, the protection against discharge is renewed with each employment, since the new employer has not been a garnishee with respect to that employee.

LIMITS OF DISCHARGE PROVISION

The restriction on discharge applies to all garnishments as that term is defined in the law. Accordingly, if a tax debt results in a court proceeding through which the employee's earnings are required to be withheld, a discharge for such a first-time garnishment would be in violation of the law. The same would be true of a court order for the withholding of wages for child support or alimony. Also, since the discharge provision is a protection against "firing," a suspension for an indefinite period or of such length that the employee's return to duty is unlikely may well be considered as tantamount to firing and thus within the term discharge as used in the law.

Some employers have a rule that the employee will be given warnings for the first two garnishments and will be discharged for the third garnishment in a year. Where at least two of the actions relate to separate debts, discharge would not be prohibited by the law since the warning and discharge would be based on garnishment for more than one indebtedness.

In some cases employers set up plans which prescribe disciplinary actions for violations of company standards of conduct, with discharge if for example the employee violates three of the standards in a year. One of the actions considered as a violation is "garnishment of wages". If only one of these violations relates to garnishment, discharge would be prohibited by the law since the discharge would result from garnishment for only one indebtedness. In other words, regardless of the employer's disciplinary plan, no discharge may be based either wholly or in part on a first time garnishment.

The law does not prohibit discharge if there are garnishment proceedings pursuant to a second debt. However, as in the case of the limitations on the amount that may be garnished, the law does not affect or exempt any person from complying with a State law that prohibits discharge because an employee's earnings have been subjected to garnishment for more than one indebtedness.

"SUBJECTED TO GARNISHMENT"

An individual's earnings are "subjected to garnishment" for purposes of this law when the garnishee (employer) is bound to withhold earnings and would be liable to the judgment creditor if he disregards the court order.

> The law does not expressly provide any time limitation between a first and second garnishment. Where a considerable time has elapsed between garnishments, it may be that the employee is actually being discharged for the current indebtedness. The first indebtedness may no longer be a material consideration in the discharge. Determinations in such cases will be made on the basis of all the facts in the situation.

It should be noted that this interpretation of the federal statute is subject to continuing revision. The publication from which the quoted material was taken includes the following statement: "This publication is for general information and is not to be considered in the same light as official statements of position formally adopted and published in the Federal Register." Wage and Hour Division, "The Federal Wage-Garnishment Law," W. H. Publication No. 1309 at 7 (October 1970).

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Subdivision (a). Subdivision (a) defines "garnishment" in conformity with Section 302 of the Consumer Credit Protection Act. 15 U.S.C. § 1672.

The definition of "wages" in Section 200 of the Labor Code is adopted for use in Section 2929. Section 200 broadly defines "wages" to include all amounts for labor, work, or service performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation.

Subdivision (b). Subdivision (b) makes clear that a discharge may not be by reason of a threat of garnishment. No comparable provision is contained in the federal statute.

Subdivision (c). Subdivision (c), which prohibits an employer from discharging an employee not employed for a specified term because his wages have been subjected to garnishment for only one judgment, adopts the substance of Section 304 of the federal statute. 15 U.S.C. § 1674. Formerly, a somewhat similar prohibition was found in Section 2922. See Recommendation of California Law Revision Commission Relating to Attachment, Garnishment, and Exemptions From Execution: Discharge From Employment (March 1971).

Subdivision (d). Subdivision (d) deals with employment for a specified term. It makes clear that garnishment of wages is not a reason for discharge unless the contract of employment otherwise provides. Subdivision (d) also extends to the employee employed for a specified term the same minimum protections afforded to other employees by subdivision (c). It should be noted that the remedy to the employee under subdivision (d) is the enforcement of his contract of employment, not a wage claim under subdivision (e). Formerly, an employee employed for a specified term was given some protection by Section 2924 against discharge for garnishment of his wages. See Recommendation of California Law Revision Commission Relating to Attachment, Garnishment, and Exemptions From Execution: Discharge From Employment (March 1971).

Subdivision (e). Subdivision (e) continues without substantive change the civil penalty formerly found in Sections 2922 and 2924. The civil penalty is limited, however, to cases where the employee is not employed for a specified term. See subdivision (d) for a discussion of the remedy of the employee employed for a specified term.

Subdivision (e) continues the notice requirements formerly found in Sections 2922 and 2924. However, the requirement that a wage claim be filed with the Labor Commissioner is limited to cases where the employee desires to have the Labor Commissioner take an assignment of his wage claim to recover the civil penalty under Section 2929. It is entirely discretionary whether the employee file a claim with the Labor Commissioner; the employee may file a civil suit on the claim rather than having the Labor Commissioner bring action on the claim. Likewise, the Labor Commissioner has complete discretion whether he will take an assignment of a wage claim under Section 2929.

Subdivision (f). Subdivision (f) makes clear that the protection afforded by Section 2929 does not affect any other rights the employee may have. For example, when an employee can be discharged only for "good cause" under a contract or agreement with the employer, and there is no pertinent provision defining "good cause," whether or not garnishments brought on two or more judgments would constitute good cause would depend on the facts of the particular case; the statute does not reflect any policy that discharge of an employee is justified merely because his wages have been garnished on two or more judgments.

Subdivision (g). Subdivision (g) makes clear that Section 2929 is intended to provide an alternative means of enforcement of the federal prohibition against discharge for garnishment of earnings. See discussion in this Comment, supra.