

#39.30

11/19/73

First Supplement to Memorandum 73-96

Subject: Study 39.30 - Wage Garnishment and Related Matters (AB 101)

The most recent issue of Collector's Ink (official monthly publication of the California Association of Collectors) contained an editorial and letter relating to AB 101. Copies are attached.

Respectfully submitted,

John H. DeMouilly
Executive Secretary

Collector's Ink

OFFICIAL MONTHLY PUBLICATION OF THE CALIFORNIA ASSOCIATION OF COLLECTORS, INC.

VOL. XXV

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President's Message

ROBERT P. LEONARDINI

November 16th and 17th are important days to every member of CAC. Our annual Mid-Winter Conference will be convened at 9:00 A.M. both days, at the Airport Marina Hotel adjacent to the San Francisco International Airport. As an added item, the Legislative Executive Council will be meeting at the same location on Thursday, November 15th.

This of course, is CAC's yearly working meeting with four hour sessions slated for both Friday and Saturday mornings. As previously advised, these will not be mere committee reporting sessions, but will be devoted to discussing and deciding important matters that have been submitted by members throughout the State. I recently requested items from the Board of Governors to be included on the agenda. Not only did the topics have a wide range but the response proved to me that our members are vitally interested in what is transpiring in both CAC and ACA. Further, it convinced me that most members want to have a hand in making the decisions which will have a direct bearing on their own future and that of our association.

The agenda and conference details will be found elsewhere in this issue, but let me state here that the items suggested for discussion range from legislation to education — from budgets to by-laws — and from litigation to protestations. Loren Darr, our Attorney and Victor Steffan, our Legislative Advocate will be present to visit with you informally as well as being included on the formal program. I sincerely feel the interest shown to date will be reflected in the numbers attending the conference.

Many of you who were unable to attend the recent convention in Palm Springs due to the weather and travel involved, hopefully will find the San Francisco area more accessible. Your attendance is heartily anticipated and desired.

EDITORIAL

In the current populist reform movement, the legislature keeps the telescopic sight of its camera focused with intense concentration on the Debtor. The Creditor is ignored, forgotten or dispensed with. The Creditor is thought of as a constant quantity — he will always be there to be plucked. If the carcass gets a bit exposed and bare, you can take for granted that the feathers will grow back, so that you can always count on a full bird.

A case in point is Assembly Bill No. 101, introduced by Assemblyman Warren and co-authored by Senator Song. It has passed the Assembly and is waiting in the Senate for the session that opens in January 1974.

The Bill provides that a court order for alimony and/or child support may be a continuous levy, ad infinitum, on the man's wages.

Anyone who has the least familiarity with the alimony-child support situations knows that at the present time it is a mess. The law makes it the responsibility of the City or District Attorney to locate the delinquent husband or father and to provide lodging for him in jail if he fails to meet the order of the Court. However, the delegated attorneys are too busy to do the job, and the problem hangs in limbo while divorcees and children suffer for lack of support.

And so, instead of trying to improve or devise a legal process that will correct the situation, the Legislature turns to the creditor as a fowl that can be easily plucked.

Inasmuch as the present law prescribes that only one garnishment can stand at any one time, and inasmuch as AB 101 provides for a continuous garnishment, the essence is that in such a circumstance, no creditor may attempt a garnishment. He would be blocked by the existing alimony and/or child support levy.

The existing law, in contradistinction, calls for a garnishment to run 90 days, with a lapse of 10 days to allow for some other Creditor to come in if he holds a judgment. AB 101 says that we have to think only of the hapless divorcee and/or

her neglected children. Forget the Creditor. A goose is a goose is a goose.

Let's examine the situation a bit more closely. There would seem to be two classes of ex-husbands. One class is sincere and conscientious. He will meet his payments regularly as called for because he respects a court order; because he feels a moral obligation to the woman to whom he was once married; and because he is conscientiously concerned about the welfare of his children. He doesn't need any garnishment provision.

There is the other class, however, which is the core of the problem. It consists of the men who resent their ex-wives and/or have no concern for their children. They consider the court order onerous and burdensome. They will use any wile to evade payment. The garnishment provision, of course, is directed against them. However, at the first sign of an execution against their salaries, they will skip.

Which leaves us with the original problem. How will they be traced. Who will trace them. Presumably, the District Attorney. But experience shows that he is not equipped to do the job. We are therefore right back where we started from. And AB 101 will not contribute the slightest aid for a solution.

However, that is not the point. AB 101 again demonstrates that in the thinking process, absolutely no thought was given to the Creditor — except that it was taken for granted that he was a golden goose always at ready to be plucked.

MID-WINTER CONFERENCE

NOVEMBER 16-17

AIRPORT MARINA HOTEL
BURLINGAME

SAN FRANCISCO
INTERNATIONAL AIRPORT

To The Collection Fraternity

Re: Assembly Bill 101

As you are well aware, CAC has been fighting AB 101 and its predecessor for many years.

On September 4, 1973, a hearing was scheduled before the Senate Judiciary Committee to determine whether or not this Bill, having heretofore passed the Judiciary Committee and the Assembly floor with little or no opposition, should be approved by the Senate Judiciary Committee and be sent to the Senate floor with a "do pass" recommendation.

Having personally fought this Bill before the Law Revision Commission, I felt very strongly that there should be opposition to this Bill in addition to whatever should be voiced by CAC, and therefore, I retained the law firm of Weiss, Bregman & Lipton to prepare an analysis of the Bill pointing out some of the major defects.

The law firm of Weiss, Bregman & Lipton did prepare such an analysis and did cause same to be personally served on not only the author and co-author of the Bill, but on each member of the Senate Judiciary Committee.

As you are further aware, the author requested that the Bill not be heard by the Senate Judiciary Committee this year and the Bill was withdrawn from consideration for this year.

Since I feel so strongly about this Bill and the horrible effect that it would have on this industry, I am enclosing a copy of the brief of Weiss, Bregman and Lipton for your consideration and request that you show this to your attorney and that you attend the Unit 8 meeting on October 18, 1973 so that this matter can be discussed further.

Very truly yours,
Emil A. Markovitz
President, Unit 8

What is a political or... that should have...

CALIFORNIA ASSOCIATION OF COLLECTORS

Mr. R. Ernst, Jr.
P.O. Box 249
Yuma, Arizona 85364

Dear W.C.C. President "Bud":

Today I have added the name of the executive committee of your Western Collectors Conference to our "Western Round-Up" mailing list for our "Collector" and our Legislative reports.

This is a sign of the appreciation of the California Association of Collectors, Inc., for the dedication and achievements of W.C.C. and its current officers.

We hope this issue will be of some help to you, and them; even if just to "keep up" with our supporters in California. Our October issue is enclosed.

Be assured, and other officers, that the support of California's Collectors is with you as you move forward. Please let this office know if you need assistance to you.

Ever,
Barbara Helm
Secretary

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Send answer, which will be held confidential to Editor - Collector's Ink.

On the Senate Chaplain, Edward Everett Ruess, was asked, "Doctor, when you pray, do you look at the tragic condition of this country and then pray that the Almighty will give the Senators the wisdom to find solutions?" He answered, "No, I do not. I look at the Senators and pray for the country."

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