Chapter III

The Protection of Wages

Laws Prescribing the Time of Payment of Wages

Prior to 1911 California laws had entirely failed to protect wages in one important respect -- there had been no regulation of the time and manner of the payment of wages.*

*The only important attempt at regulation had been an act of 1897 (Cal. Stats. 1897 p. 231) compelling corporations to pay their employees monthly, in lawful money, and it had been declared unconstitutional on the grounds of class legislation (Johnson vs. Goodyear Mining Co., 127 Cal. 4). (1899) See Eaves, Lucile, History of California Labor Legislation, pp. 257-260.

Employers had been in the habit of delaying payments to suit their own convenience and they had often compelled workers to wait for long periods of time after a job had been completed before a final settlement was made.

Labor Commissioner Mackenzie recommended in 1910 that a suitable provision for the regular monthly payment of wages by employers as applying to all classes of labor should be furnished through legislative enactment. He also suggested that a reasonable provision should be made for the immediate payment of wages following the dismissal of an employee or upon the completion of a specified employment.*

*Report of the Bureau of Labor Statistics, 1910, pp. 43-44.

Similiar requests came from organized labor and, as a consequence, one of the first laws enacted during the progressive era

beginning in 1911 was an act regulating the time of the payment of wages. This wage-payment law had been amended several times in the Senate committee before its final passage and therefore it was not the same measure which had been sponsored by the workers of the state.

Section one of the act provided that whenever an employer discharged an employee the wages earned and unpaid were due and payable immediately, and that whenever an employee quit or resigned his employment, if he had no contract for a definite period, the wages earned and unpaid were to be paid withing five days from the time of quitting.

Section two provided that all wages other than those mentioned in section one were to become due and payable at least once each month and that no employer was to withhold such payable wages for a longer period than fifteen days after they had become due.

Section three pertained to the penalty for violation of the act which was to be a maximum fine of $500.

Section four provided for the exemption of counties, incorporated cities and towns, and municipal corporations from the provisions of the act.*

The Bureau of Labor Statistics immediately undertook to put the law into effect. During the first three years after the passage of the act there were 12,802 complaints filed with the Bureau against employers for non-payment of wages and the Bureau succeeded in collecting 8,409 of the claims amounting to $171,806.21, but in 1914

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*Cal. Stats. 1911 Ch. 663.

This splendid work was cut short by an adverse decision from an Appellate Court of the State.*

*Report of the Bureau of Labor Statistics, 1914, p.14.

The penalty section of the act was declared unconstitutional as being in violation of section 15 of article I of the constitution forbidding imprisonment for debt in any civil action unless in cases of fraud, since a defendent charged with the offense thereby created (non-payment of wages) might be arrested, and, if unable to give bond would be committed to jail until his trial.* However, at the

*Matter of Crane, 26 Cal. A. 22, 145 Pac. 733.

following session of the legislature an amendment was introduced seeking to meet the objections set forth in the decision of the Appellate Court. This amendment to the act of 1911 was drawn by Attorney General Webb, at the request of Governor Johnson,* and

*Governor's Message to the Legislature, 1915, p.19.

provided that "In the event that an employer shall fail to pay... within five days after the same shall become due..., any wages of any employee who is discharged or who resigns or quits,...then as a penalty for such non-payment, the wages of such servant or employee shall continue from the date thereof at the same rate until paid,... provided, that in no case shall such wages continue for more than thirty days...Every person indebted to another for labor...who having the ability to pay, shall wilfully refuse to pay the same...shall be

guilty of a misdemeanor..."*

*Cal. Stats. 1915 Ch. 143.

The constitutionality of the amended act was upheld by the California District Court of Appeal in May, 1918, in the case of Moore vs. Indian Spring Channel Gold Mining Co.*

*Thirty-seven Cal. A. 370, 174 Pac. 378.

Moore, the plaintiff, had been employed as a miner by one Mushrush who had agreed to pay him $3.50 per day for an eight-hour day. The plaintiff had worked for several months until the end of August when the mine became flooded and he was then discharged. Mushrush, however, refused to pay the plaintiff his wages for the month of August. Action was brought under the amended wage law of 1911 and the case was taken to the Appellate Court. This court upheld the validity of the act with the following concluding statement: "The law imposes no unreasonable burden upon the employer, for, operating as it does in the future, and disturbing no vested right, he must, and it is but fair he should, make provision to pay his employee before hiring him, failing in which he should pay the penalty...The intention of the penalty imposed by the act in question is to make it to the interest of the employer to keep faith with his employees and thus avoid injury to them and possible injury to the public at large."

Two years later the District Court of Appeal held that the law was valid as against individual employers. In this case the defend-

ent claimed a distinction between the power of the legislature to enact such a law to govern corporations and its power to control the acts of individuals. The court denied this distinction, however, and upheld the validity of the law as applying alike to both corporate and individual employers.*

*Manford vs. Memil Singh, 40 Cal.A. 700, 181 Pac. 844, (1920).

In 1915, at the time the invalidated wage law of 1911 was amended so as to conform to the constitution, organized labor agitated for an independent law prescribing a semi-monthly pay day for all employees. Labor leaders contended that large corporations, particularly the Southern Pacific Railroad Company, were great offenders against the policy of frequent pay days. In order to remedy the evil, railroad workers joined with the State Federation of Labor in seeking the passage of a more stringent law.* A semi-monthly

*Labor Clarion, August 27, 1915, p.7.

pay day bill was accordingly presented in the legislature and after several amendments and delays the bill was finally passed and approved by the governor.*

*Cal. Stats. 1915 Ch. 657.

The Labor Commissioner reported in 1916 that this semi-monthly pay day law was practically inoperative since it allowed employers to hold back fifteen days pay, thus virtually providing for a monthly pay day. He also explained that under the act an employee

wanting his pay every two weeks was compelled to demand it and this he very seldom did, for as soon as an employee made such a demand he was paid off and usually discharged for demanding that to which he was lawfully entitled.*

*Report of the Bureau of Labor Statistics, 1916, p.19.

It also developed that the amended act of 1911 needed some further revision and so in 1919 a comprehensive bill was drafted to deal with the entire subject of "the time of payment of wages" and to supercede both existing acts pertaining to the subject. The bill was duly passed by the legislature and became a law when signed by the governor May 6, 1919.*

*Cal. Stats. 1919 Ch. 202.

The new statute was composed of eleven sections and had the following provisions: Whenever an employer discharged an employee the wages were to become payable immediately, and whenever an employee quit his employment, in the absence of a written contract to the contrary, the employer was to pay him all unpaid wages within seventy-two hours thereafter. Wages were to become due and payable semi-monthly on days ;to be designated in advance by the employer as the regular pay days; provided, however, that wages for each half-month should not be withheld more than five days after becoming due. In agriculture and related occupations and in house-hold domestic service the pay days were to become due and payable monthly. Every employer was required to post conspicuously at the place of work a

notice specifying the regular pay days and the time and place of payment. The penalty for failure to observe the law was a maximum fee equal to thirty days' pay of the mistreated employee, the amount depending upon the time which the payment should be overdue, and, in addition, the employer was to be guilty of a misdemeanor.* All

*Section six provided that "Any person, firm, association, or corporation, or agent, manager, superintendent, or officer thereof, who having the ability to pay, shall wilfully refuse to pay the wages due and payable when demanded, as herein provided, or falsely deny the amount or validity thereof, or that the same is due, with intent to secure for himself, his employer or other person, any discount upon such indebtedness, or with intent to annoy, harass or oppress, or hinder, or delay, or defraud, the person to whom such indebtedness is due, shall in addition to any other penalty imposed upon him by this act, be guilty of a misdemeanor".

public employment was to be exempt from the provisions of the act and the two former "wage-payment" statutes were repealed.

The constitutionality of the penalty section of this new law was upheld by the District Court of Appeals in 1922*

*Martin vs. Going, 57 Cal.A. 631, 207 Pac. 935.

and again in 1926*, the latter decision being sustained by the

*In re Oswald, 76 Cal.A. 347, 244 Pac. 940.

California Supreme Court in March 1926.*

*Seventy-one Cal. Dec. No. 3751, minutes.

In 1926 the semi-monthly pay day sections of the law were upheld in the Lohman case. Theodore Lohman had been arrested after

having refused to pay wages to a group of workers who had filed wage claims with the San Diego district office of the Bureau. Lohman had then applied for a writ of habeas corpus on the ground that the criminal provisions of sections two and four of the law (the semi-monthly pay day sections) were unconstitutional. The writ was denied by the District Court of Appeals.*

*In re Lohman, 49 Cal.A.Dec. No. 2164, minutes, (1926).

Meanwhile these sections of the act had been supplemented in 1925 by providing that employers who did not pay their workers within the time prescribed by law should forfeit to the people of the state, to be credited to the general fund in the state treasurer's office, the sum of $10. for each failure to pay each worker.*

*Cal. Stats. 1925 Ch. 76.

This civil penalty provision of the statute was attacked by the Cowell Portland Cement Company before the Superior Court of Martinez. Judge A. B. Mckenzie upheld the validity of the act inasmuch as its provisions substantially followed the New York law which had been declared constitutional by the United States Supreme Court in an unanimous decision in the case of the Erie Railroad Company vs. Williams.* Since 1926 the validity of this section of the law has not been questioned.

*233 U.S. 685, 34 Sup. Ct. 761, (1914).

The administration and enforcement of the act will be discussed in connection with a following section devoted to the settlement

of wage disputes.*

*Infra. p.

The Regulation that Wages must be Paid in Negotiable Instruments.

In addition to the law passed in 1911 requiring regular pay days there was enacted the same year a statute requiring that the payment of wages must be made in money or its equivalent. Prior to this time many employers had made a practice of issuing "pay checks" to their men, redeemable in thirty, sixty or ninety days, or at the pleasure of the employer, in which latter case the redemption date apparently sometimes never arrived.

According to Mr. Hichborn, "This evil had been given sensational publicity at San Francisco through the murder of a woman cashier employed by the contracting firm of Gray Brothers. A laborer by the name of Cunningham, who had been employed by Gray Brothers, had a 'pay check' issued to him in lieu of wages. Cunningham had tried for weeks to realize on the check. Finally, suffering for the necessities of life, he imagined that the woman cashier who put him off from day to day, was responsible for his trouble. Acting under this insane conception, Cunningham went to Gray Brothers' place of business, and for the last time demanded that his 'pay check' be honored. Upon the cashier's refusal, he shot the woman dead. As an immediate result of the notoriety which this incident had given the 'pay check' evil, no less than four anti-pay check bills were introduced, three in the Assembly and one in the Senate. The Senate bill was eventually decided upon as the best and was finally

passed. The measure was, however, made subject of an extended debate in the Senate, a debate that was well peppered with personalities. But when the bill came to final passage, not a vote was cast against it in either House. The measure received the approval of Governor Johnson."*

*Hichborn, Franklin, Story of the California Legislature of 1911, pp. 232-233.

The pay-check law provided that no person, firm or corporation engaged in any business or enterprise within the state, should issue, in payment of or as an evidence of indebtedness for wages due an employee, any check, order, memorandum or other acknowledgment of indebtedness, unless the same be negotiable and payable upon demand without discount in cash at some bank or other established place of business in the state.*

*Cal. Stats. 1911 p. 259.

The Labor Commissioner reported in 1914 that the law was being observed almost universally and that during the two years in which it had been in force there had been only three prosecutions for violations of the act.*

*Report of the Bureau of Labor Statistics, 1914, p.17.

Just prior to the opening of the 1915 legislature the question arose as to whether or not the act was broad enough to prohibit the issuance of non-negotiable coupon books to employees between pay days, these coupon books being redeemable in merchandise at the

commissaries or stores of the employer.* The Attorney General ruled

*This practice had been engaged in principally by lumber companies in the state who had claimed that it was done only for the accommodation of their employees.

that as the law then stood employers could issue coupon books as an advance on wages earned. Therefore, the act was amended and the use of scrip or coupons was prohibited if the same were redeemable otherwise than in money.*

*Cal. Stats. 1915 Ch. 628.

The constitutionality of the pay check law was tested in the case of Ballestra decided by the Supreme Court in 1916. The court in an unanimous decision upheld the validity of the act. Justice Shaw who wrote the decision stated that "In considering this statute, we may presume in support of the legislative enactment that some employers in this state had adopted and followed the custom of paying the daily, weekly or monthly wages of their employees, when due, by giving orders for the amount thereof payable only in goods, or in orders of an indefinite nature not payable on demand, but at some future time. The purpose of the statute evidently is to prevent the evils which the legislature considered had arisen from such practices.

"The right to make contracts, like other personal or property rights, is subject to reasonable regulation designed and calculated to promote the general convenience, prosperity and welfare (Mutual Loan Co. vs. Martell, 222 U.S. 225, 32 Sup. Ct. 74). Laws having

a reasonable tendency to accomplish these results, and not imposing unreasonable burdens upon indfviduals, are valid. The provisions of the statute in question do not transgress this rule. As applied to ordinary transactions between employers and employees, of the kind embraced within its terms, the statute is, in our opinion, valid and constitutional."*

*In re Ballestra, 173 Cal. 657, 161 Pac. 120, (1916).
The validity of the act was also sustained by the District Court of Appeals in the case of Hunt vs. Clark, 43 Cal.A.Dec. 766, (1924).

A minor change was made in the law in 1929 in order to bring associations within the provisions of the act.*

*Cal. Stats. 1929 Ch. 573.
Section one now reads, "No person, firm, association or corporation, or agent or officer thereof, shall issue...."

The Wage-Payment Law for Seasonal Labor.

Soon after the Bureau of Labor Statistics began enforcing the "payment of wages" act of 1911 it encountered great difficulty in connection with wage disputes of men employed in the Alaska salmon canneries located on the coast of Alaska. They were returned during the months of August and September and were paid off in San Francisco for the full season's work. The Bureau found that many of these men were returned to San Francisco without a cent due them all of their wages having been deducted for food or gambling debts incurred at the gambling tables operated by the sub-contractors. Innumerable disputes arose on account of these deductions and in 1911 and 1912

the Bureau made an intensive study of the whole question of the payment of wages to men employed in the Alaska canneries.* The

*The findings of this investigation were published in the Report of the Bureau of Labor Statistics, 1912, pp.51-56.

labor commissioner recommended that an act be passed regulating wage payments in this seasonal industry. A bill was drafted by the Bureau of Labor Statistics, indorsed by organized labor* and enacted

*Resolution No. 22, Proceedings of the California State Federation of Labor Convention, October 7-12, 1912, p.37.

by the legislature of 1913.

The statute defined "seasonal labor", for purposes of the act, as being "all work performed by any person employed for a period of time greater than one month, and where the wages for such work are not to be paid at any fixed intervals of time, but at the termination of such employment, and where the work is to be performed outside of this state; provided, that such person is to be hired within this state and the wages earned during such employment are to be paid in this state at the termination of such employment." The act provided that upon application of either the employer or the employee, the wages earned in seasonal labor, should be paid in the presence of the Commissioner of Labor or an examiner appointed by him, and the Commissioner or deputy should hear and decide all disputes concerning wages earned in seasonal labor and should allow or reject any deductions made from such wages; provided, however, that all deductions made for gambling and liquor debts should be rejected.*

*Cal. Stats. 1913 Ch. 198.

Investigations made in 1912 showed that most of the cannery workers were Chinese coolies but by 1928 the largest nationality groups recruited for this work were Filipinos and Mexicans.

The exploitation of Alaska cannery hands has not yet been entirely checked. Many complaints of bad treatment aboard ships, of exorbitant prices charged for food and clothing, and of fraudulent methods of taking away the workers' wages are filed with the bureau every season.

The following table shows the average amount paid to Alaska cannery hands each season upon arrival in San Francisco, from 1915 to 1927:

Table II

Years	Number of men	Balence due upon arrival in San Francisco	Average amount due each man upon arrival in San Francisco
1913	1,382	-------	$110.00
1914	1,528	-------	120.00
1915	1,566	$191,018	121.98
1916	1,574	201,494	128.01
1917	1,858	241,494	129.91
1918	2,069	322,455	155.85
1919	1,996	374,867	187.81
1920	1,971	444,494	225.52
1921	1,560	309,793	198.59
1922	1,372	175,178	127.65
1923	1,078	129,791	120.40
1924	1,045	130,083	124.48
1925	825	108,485	131.50
1926	686	85,575	197.82
1927	784	128,558	197.34

Source: Reports of the Bureau of Labor Statistics, 1914-1928. (Figures for 1928 - 1930 were not available)

It may be noted that the average amount has increased from $110 in 1913, to $197.34 in 1927, which indicates that some improve-

ment has been made since the passage of the act. The value of the work is seen best, however, by comparing these figures with the average amount received by the men before the statute was enacted. We have figures for 1912 only, but in that year the men's wages averaged at the close of the season less than $35.*

*Report of the Bureau of Labor Statistics, 1912, p.52.

The Regulation of Tips and Gratuities.

A tip or gratuity is usually bestowed upon an employee as a reward for promptness or politeness or skill beyond the mere performance of his duty to serve his master's customers. When this personal gift is appropriated by the employer it is generally considered by organized labor to be a fraud.*

*See "The Tipping Abuse", Labor Clarion, May 16, 1913, p.8.

In 1915 a law pertaining to the subject of tips and gratuities was enacted by the legislature. The statute made it a misdemeanor or any manager, superintendent, foreman or other person to receive any fee, gift or other remuneration, in consideration of hiring, employing or permitting any person to continue in his employment.*

*Cal. Stats. 1915 Ch. 56.

Owing to the unwillingness of employees to testify against their managers, the practice of dividing tips, however, still continued in hotels, restaurants, cafes and many other places. It was also soon discovered that the statute did not prohibit employers from collecting tips which had been received by their employees.*

*The law prohibited managers from accepting employees' tips but made no mention of employers doing the same thing.

Accordingly in 1917, a new act was passsd which repealed the law of 1915 and which prohibited employers, as well as managers, etc., from demanding or receiving directly or indirectly any portion of tips or gratuities from employees as a condition of their employment.*

*Cal. Stats. 1917 Ch. 172.

The new statute was immediately contested in the courts and in 1918 the California Supreme Court decided that there was nothing essentially immoral in a contract between an employer and an employee whereby the employee agreed to work for a certain wage and to surrender all tips to his employer. The statute was, therefore, declared to be void as being in conflict with the "due process" provision of the constitution of the United States and with section 13 of article I of the constitution of California. The court stated that the means used to accomplish the desired object were most unreasonable and it suggested that tipping could be regulated best by the posting of a notice advising the patrons, in all places where the practice was carried on, regarding the ultimate disposition of all tips given employees.*

*In re Farbe, 178 Cal. 593, 174 Pac. 320, (1918).

Commissioner McLaughlin, however, did not favor this suggestion contained in the opinion of the Supreme Court. He felt that "such a

regulation would defeat its own purpose since the public would then have no interest in giving tips to servitors who no longer had any interest in doing the service with the degree of promptness, fidelity and courtesy which the tip was given to induce".*

*Report of the Bureau of Labor Statistics, 1918, p.29.

After the nullification of the act in 1918 the tipping abuse continued with no restraint whatsoever until 1929. In that year a measure was passed which had been drafted along the lines recommended by the California Supreme Court. The act required all employers who accepted tips or gratuities given to employees by the general public to post notice of such policy or practice in a conspicuous place in their establishments or places of business. Section five of the statute declared that the purpose of the act was to prevent fraud upon the public in connection with the practice of tipping and stated that the law was passed for a public reason which could not be contravened by a private agreement.*

*Cal. Stats. 1929 Ch. 891.

It is believed that this law will withstand the test of constitutionality inasmuch as it was recommended by the California Supreme Court.

Mechanics' Lien Laws

Few important changes have been made in the mechanics' lien laws during recent years. As early as 1885 the laws had offered quite satisfactory protection to the wage earners of the state and by 1908, according to Miss Eaves, they were giving "completest pos-

sible gurantee that the workers of California would receive the wages which they had earned".*

*Eaves, Lucile, History of California Labor Legislation, p.232.

Although the workers may have been fully protected in 1908 subsequent court decisions together with changed industrial conditions have brought out defects in the mechanics'lien laws. Most of these defects have pertained to such technical matters as the time and manner of filing of claims, posting of notices, etc. The important defects as well as remedial amendments will be discussed in the following paragraphs. The Bureau of Labor Statistics must be given most of the credit for these amendments as organized labor has maintained a more or less passive attitude toward any changes.*

*Miss Eaves stated that trade unionists were quite satisfied after they had obtained the protection given by the laws of 1885. Ibid., p.231.

In 1911 the legislature enacted an amendment to the Code of Civil Procedure which provided that the courts should construe the provisions of the mechanics'lien laws in a liberal manner, keeping in mind the laws' intent and purpose.*

*Cal. Stats. 1911 Ch. 681.

The legislature of 1919 modified the law pertaining to the claims of persons employed by contractors upon public works. According to the amendment, contractors on public works were to put up bonds for the protection of mechanics and materialmen and there were to be no more liens upon the public improvements themselves.*

*Cal. Stats. 1919 Ch. 303.

During the early twenties a weakness was discovered in the provision for loggers' liens* and in 1927 the claims of this class

*Report of the Bureau of Labor Statistics, 1926, p.30.

of workers were strengthened.*

*Cal. Stats. 1927 Ch. 505.

In 1928 the Supreme Court of California decided that mortgages for future advances were prior claims over mechanics' liens. According to the courts's own language, "A deed of trust is a lien and, if recorded before any work is done or material furnished under a building contract, it in the ordinary course takes priority over mechanics' liens; and an owner has a right to create by deed of trust a prior lien on property to raise money for the purpose of erecting a building, which will take precedence over subsequent mechanics'liens".*

*Pickling vs. Jackman, 203 Cal. 657, 265 Pac. 810, (1928) Similiar decisions had previously been rendered by the lower courts.

As a result of the interpretation by the courts, the Labor Commissioner urged that improvement should be made in the law. He explained that under the existing statute many workers were unable to collect wage claims because of the practice of martgage companies of advancing money to irresponsible contractors who sometimes spent

the money and left "for parts unknown". The commissioner maintained that because of the wording of the law, though not its intent, loan companies were fully protected while mechanics were not.*

*Report of the Bureau of Labor Statistics, 1928, p.33.

The Labor Commissioner has also urged for several years that the wages of farm labor should be protected. Under existing laws, according to court interpretation, farm workers may not place a lien upon farm land nor even upon the crops which they produce. Liens may be placed only upon land used for a building or improvement site, in which event mechanics may place a lien upon the site as well as upon the building or improvement.*

*Gregg vs. H and M Drilling Co., 92 Cal.A. 189, 267 Pac. 903, (1928).

As a step toward making the above recommended changes in the law, the legislature of 1929 appointed a special legislative committee to study the entire subject of mechanics'liens.* The committee

*Assembly Concurrent Resolution No. 47, Cal. Stats. 1929, Ch. 92.

will report its findings and recommendations to the legislature of 1931.

The writer is convinced that the Labor Commissioner's recommendations will eventually be carried out by the legislature. Mechanics' wages should be protected no matter whether the workman is employed upon a farm or upon a mortgaged building.

The following is a digest of the 1929 status of the mechanics' lien laws in California:

For what given. A lien may be had to secure payment for labor performed or material furnished in or for the construction, alteration, addition to, or repair of, any building or other structure; on any railroad, vessel, wharf, bridge, ditch, flume, well, tunnel, fence, machinery, wagon road, mine, or mining claim; for grading or improving any lot or tract of land or the street or sidewalks in front of or adjoining the same. There is no lien for work done on public improvements.

Who may have liens. Contractors, subcontractors, materialmen, architects, teamsters, draymen and all persons performing labor.

Subject property. The mine, mining claim, structure or improvement on which the work was done, together with so much of the land as is necessary for the convenient use and occupation of the structure or improvement, is subject to the lien.

Amount of lien. In general, for agreed price of the labor done and material furnished not to exceed reasonable value. A contractor's lien secures only the amount named in the contract. No lien, except that of the contractor, may be diminished by any indebtedness or set-off in favor of the owner and against the contractor.

Contract. Work must be done at the instance of the owner or his agent, which term includes every contractor, subcontractor, architect, builder, or any person in charge of any mining claim or claims, whether as lessee or otherwise.

Work will be presumed to have been done at the instance of the owner, unless within ten days after he obtains knowledge of the construction, alteration or repair or work or labor by posting a notice of non-responsibility in a conspicuous place on the premises and recording a verified copy of same with the county recorder.

Stop notice. Notice may be given at any time by the claimant other than an original contractor, whereupon it shall be the owner's duty to withhold from the contractor an amount equal to the claim made. Such notice must be verified and served on the owner personally or left at his residence or place of business.

Filing. Every original contractor has sixty days after the completion of his contract in which to file his claim of lien with the county recorder. Laborers and materialmen have thirty days after completion in which to file their claims. Cessation from labor for a period of thirty days is notice of completion or within ten days after there has been a cessation of labor for thirty days, all persons claiming liens have ninety days in which to file same. Liens on mining claims and city lots or tracts of land which have been graded or improved should be filed within thirty days after the completion of the work. A lien may not be filed before the lien claimant stops work or ceases to furnish material. Mechanics' liens can not be assigned before they are filed as they are mere inchoate rights before they are recorded. After they are filed they may be assigned. The fee for recording is approximately $1.50.

Limitation. No lien binds any building, improvement or mining claim for longer than ninety days after filing unless foreclosure proceedings thereon have been commenced in the superior court; or if a credit be given, within ninety days after such credit expires,

which may in no case be longer than one year from the time the work was completed. If a credit is given notice to that effect must be recorded within the original ninety day period.

Rank. Mechanics' liens are preferred to any lien or other incumbrance attaching subsequently to the commencement of the work for which given; also to any earlier incumbrance of which the lienholder had no notice and which was unrecorded at such commencement of work. Such liens have among themselves, equal rank, except the lien of the contractor, which is subordinate to the other liens.

Bond of contractor. The owner may limit liens to the amount of the contract price by recording the contract before the commencement of the work and filing at the same time a bond of the contractor for fifty per cent of the contract price, with good and sufficient sureties. Suit can not be brought on such bond without filing a lien period, unless otherwise provided in the bond. (Most bonding companies agree in the bond to pay all just labor claims under the bond within two weeks after demand and to waive notice and filing of labor liens.) Suit may be brought against the person liable separately or a deficiency judgement can be asked for against him in the lien action.*

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*Constitution, Art. XX, Sec. 15; Code of Civil Procedure, Secs. 1183 to 1203, Labor Laws of the State of California, 1929, pp.325-326.

The Settlement of Wage Disputes.

The Bureau of Labor Statistics devotes a large part of its time and energy enforcing the wage payment and mechanics' lien laws of the state. Approximately 90 per cent of all complaints handled by the Bureau relate to the nonpayment of wages.*

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*Report of the Bureau of Labor Statistics, 1928, p.56.

Claims for wages are handled by the Bureau in the following manner: "Every wage claimant is interviewed by an agent or deputy of the Bureau and the facts pertaining to the wages claimed are entered on uniform blanks used in all of the district offices of the Bureau. The employer is then notified that a claim for unpaid wages has been lodged against him with the Labor Commissioner, and he is asked to explain his reasons for failing to pay the claimed wages. In most cases the employers are cited to appear at a hearing before the

Commissioner or his deputies at a specified time, when the wage claimant is also cited to appear. This procedure enables the commissioner or his deputies to secure all of the facts involved in wage disputes. At this hearing an attempt is made to settle the differences between the employer and employee and to accomplish the payment of wages whenever the wages appear to be legally due to the complainant. If no settlement can be arrived at, and the employer refuses to pay the amount of wages that has been determined upon as due the claimant, a citation is issued directing the employer to appear at the office of the district attorney, to show cause why a warrant should not be issued for his arrest. The matter in dispute is then again threshed out before a representative of the district attorney's office in the presence of the employer, the employee and the Bureau's agent or deputy. If the employer still refuses to pay the amount of wages determined upon as coming to the complainant, a criminal warrant is issued for his arrest. Every effort is made to avoid court proceedings, but when no other alternative is available, criminal or civil action is started against the defaulting employer."*

*Report of the Bureau of Labor Statistics, 1926, pp.61-63.

A wage collection law was passed in 1919 in order to facilitate the administration of the California mechanics' lien and wage payment laws. Section seven of the act states that "the Commissioner and his deputies duly authorized by him in writing shall have the power and authority, when in his judgment he deems it necessary, to take assignments of wage claims and prosecute actions for the collection of wages and other demands of persons who are financially unable

to employ counsel in cases in which, in the judgment of the Commissioner, the claims for wages are valid and enforceable in the courts; to issue subpoenas, to compel the attendance of witnesses or parties and the production of books, papers or records, and to administer oaths and to examine witnesses under oath, and to take the verification or proff or instruments of writing, and to take depositions and affidavits for the purpose of carrying out the provisions of this act and all other acts now or hereafter placed in the Bureau for enforcement".*

*Cal. Stats. 1919 Ch. 228.

Under the authority bestowed by the wage collection law "small claims courts" were established in various cities of the state. By 1926 the Labor Commissioner reported that these courts were extremely important, as hundreds of workers were dependent upon them for the adjustment of wage disputes.*

*Report of the Bureau of Labor Statistics, 1926, p.30.

The following table shows the number, per cent and amount of wage claims collected by the Bureau for each year since 1915:

Table III

Fiscal year ending June 30	Filed with the Bureau	Collected through the Bureau	Per cent collected of total filed	Total amount of wages collected
1915	9,320	5,249	56.3	$153,804.20
1916	10,167	5,672	55.8	179,132.22
1917	8,774	4,550	51.8	150,661.69
1918	8,058	4,118	51.1	120,841.20
1919	7,504	5,356	71.4	202,965.61
1920	7,603	5,362	70.5	206,389.72
1921	10,369	4,895	47.2	221,350.82
1922	12,349	5,643	45.7	228,813.49
1923	14,551	7,040	48.4	353,583.83
1924	14,935	8,207	55.0	504,580.02
1925	16,481	9,447	57.3	598,249.75
1926	25,026	13,895	55.5	870,300.88
1927	28,621	16,918	59.1	960,444.82
1928	28,568	17,171	60.1	1,002,547.43

Source: Report of the Bureau of Labor Statistics, 1928, p.57 (Figures for 1929-1930 were not available)

It may be noted that, with the exception of the war period of 1917 -1918, the activity of the bureau has steadily increased. The table also shows that the Bureau collects approximately 60 per cent of the wage claims received in any given period. It is impossible to collect all claims inasmuch as (1) many claims are filed after the employer has become insolvent and (2) many wage claims prove upon investigation to have no merit and are dismissed by the Bureau.*

*Report of 1928, p.59.

The following table shows the number and per cent distribution of 57,352 wage claims filed by workers during the biennial period ending June 30, 1928, by industries:

Table IV

Principal groups of industries	Number of wage claimants	Per cent of total
Agriculture, forestry, animal husbandry	7,546	13.2
Extraction of minerals	3,589	6.3
Mfg. and mechanical industries	23,888	41.7
Transportation	975	1.7
Trade	5,507	9.6
Public service	370	0.7
Professional service	4,348	7.6
Domestic and personal service	7,213	12.6
Clerical occupations	3,753	6.6
Total -- all industries	57,189	100.0

Source: Report of the Bureau of Labor Statistics, 1928, p.66.

The table shows that over 40 per cent of the wage claims were made by workers in manufacturing and mercantile industries which is not surprising, however, as this industrial group comprises more workers than any other in the state.

The Commissioner estimates that the wage collection activities of the Bureau results in savings to the workers of from one-fourth to one-third of the total amount of unpaid wages collected by the Bureau. The estimate is based upon the attorneys' fees which would otherwise have been necessarily paid.*

*Report of the Bureau of Labor Statistics, 1928, p.69.

During the sixteen years, from 1915 to 1930, the Bureau has collected approximately seven million dollars in unpaid wages, without any cost to the workers of the state. This service alone has probably repaid the cost of the Bureau to the tax payers of California.