

## Introduction

Sonoma County Genealogical Society's first publication, entitled *Amended Index, Sonoma County Homestead Declarations*, was published in 1976 with the financial assistance of the Sonoma County Bicentennial Commission. That volume's introduction included this brief summary of homesteads excerpted from *California Jurisprudence*, 2<sup>nd</sup> edition:

The use of the term "homestead" in legislation is quite modern and peculiarly American and is prescribed in the Constitution. The Civil Code declares the homestead consists of the dwelling house in which the claimant resides, together with the outbuildings and lands on which house and outbuildings are situated.

The first act relating to homestead exemption was enacted in 1851 to secure to every householder with a family certain enjoyment of a home, free from the anxiety that it may be taken against the declarant's will, although the declaration will not hold against debts incurred prior to declaration of homestead, mechanic's liens or mortgages on said property acknowledged by both man and wife. In 1860 a right to homestead exemption was extended to all white, unmarried persons, and in 1862 the code was amended so that on the death of one spouse the homestead vested absolutely in the survivor.

Originally the value of the property could not exceed \$5,000, but today for the head of the household the value cannot exceed \$20,000, and for a single person, no more than \$10,000. There is no limit to the amount of land if within statutory limitation as to value. A party cannot have two homesteads, nor can a wife declare a valid homestead on one piece of property and her husband on another.

The probate homestead is a matter of statutory right, and the term has attached by usage to the proceeding in the probate court whereby, in case no homestead was selected, or in case the homestead was selected by the survivor and out of the decedent's separate property, the court selects and sets aside a homestead for the surviving spouse and minor children.

The Sonoma County Genealogical Society republished the work in 2011 and changed its title to *Homestead Declarations, Amended Index, Sonoma County, California, second edition*. The introduction to this edition was, unfortunately, also changed and erroneously referenced the federal Homestead Act signed by President Lincoln on May 20, 1862, which was enacted to encourage settlement in the western states on unappropriated public land. This publication does not provide an index to Homestead Applications under this federal act, but rather, as stated in the first edition, provides an index to Sonoma County declarations of homestead under California law. This revised second edition corrects this error and includes an updated introduction. The data presented in the body of the work remains the same as in previous editions. This index includes over 6,000 names of individuals and their family members who declared homesteads in Sonoma County, California from 1860 through 1927, along with the dates on which each of the homestead declarations was filed and the volume and page on which they were recorded.

## How to Use This Index

This index is arranged in a tabular three-column form. The first column, **Applicant and Family Information**, alphabetically lists the names of the claimants in every homestead declaration recorded in Sonoma County from 1860 through 1927. The claimant's spouse's name (if given) and any pertinent family information has also been extracted and is listed in this column. The second column, **Filing Date**, gives the date on which the homestead declaration was filed with the County Clerk. The third column, **Vol.-Pg.**, gives the volume and page on which the homestead declaration was recorded.

Once the researcher has identified a homestead declaration of interest using this index he/she can view the recorded document as a digital image on the public computers at the Sonoma County Clerk-Recorder's Office in Santa Rosa, California.

## Records Utilized

The Sonoma County homestead declarations indexed in this publication have been recorded in thirteen volumes of Homesteads (volumes A through M). Volumes A through I are housed in the Sonoma County Clerk-Recorder's Office in Santa Rosa, California. Volume J was given to the Museum of Sonoma County, but has since been transferred to the Sonoma County Archives. Volumes K, L, and M were given out to the public on 23 March 1989. Their whereabouts are unknown. All thirteen volumes were microfilmed. The images on the microfilms have been converted to digital images which are now available for viewing on the public computers in the Sonoma County Clerk-Recorder's Office. There were apparently four boxes of original homestead declarations housed in the Sonoma County Recorder's Office in 1979, but these cannot now be located and, perhaps, may have been destroyed.<sup>1</sup>

## Abbreviations Used

w/o	without
yrs.	years
dec'd	deceased
aka	also known as
est.	estate
inc.	includes
mo(s).	month(s)

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<sup>1</sup> Sonoma County Records Inventory Project, Reference Department, Ruben Salazar Library, Sonoma State University, *Inventory of Records, 1834-1986, Office of the Recorder, Sonoma County, California* (1979; reprint, [Santa Rosa, California]: Sonoma County Recorder's Office and Sonoma County Historical Records Commission, 1987), 5.

## Legislative History of the Statutes Concerning Homesteads

The California legislature passed an act entitled “An Act to exempt the Homestead and other Property from forced sale in certain cases” on 21 April 1851.<sup>2</sup> This act exempted a homestead selected by its owner from forced sale on execution or on any other final process of a Court, for any debt or liability contracted or incurred after thirty days from the passage of the act and for any debt or liability contracted or incurred at any time in any other place than in California. The exemption did not extend to mechanic’s, laborer’s, or vendor’s liens or to any mortgages lawfully obtained. A homestead was defined as “consisting of a quantity of land, together with the dwelling-house thereon and its appurtenances, not exceeding in value the sum of five thousand dollars.”

The California legislature extended the provisions of the 1851 act relating to the homestead exemption to all white, unmarried men and women, widows, and widowers in 1860 provided that the homestead claimed was of no greater value than \$1,000.<sup>3</sup> A month and a half later, on 28 April 1860, the 1851 act was amended and essentially rewritten.<sup>4</sup> A homestead was “to be selected by the husband and wife, or either of them, or other head of a family,” and the selection was to be made in writing declaring their intention to claim the homestead. The claimants were to state in their declarations: 1.) that they or either of them were married, or if not married, that he or she was the head of a family, 2.) that they or either of them were residing with their family or with the person under their care and maintenance on the premises, 3.) a description of the premises, and 4.) their intention to use and claim the premises as a homestead. The declarations were to be signed by the claimants and “recorded in a separate book kept for that purpose.” Claimants of homesteads under the 1851 act had one year in which to file for record their declarations. An 1861 amendment extended this filing date another year to 28 April 1862.<sup>5</sup>

Five sections of the 28 April 1860 act were amended in 1862.<sup>6</sup> Among the changes, homestead properties were now to vest absolutely in the survivor upon the death of the husband or wife and the filing date was extended to 1 June 1862.

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<sup>2</sup> *The Statutes of California, Passed at the Second Session of the Legislature: Begun on the Sixth Day of January, 1851, and Ended on the First Day of May, 1851, at the City of San Jose* (n.p.: Eugene Casserly, State Printer, 1851), pp. 296–298, Chap. 31, “An Act to exempt the Homestead and other Property from forced sale in certain cases.”

<sup>3</sup> *The Statutes of California, Passed at the Eleventh Session of the Legislature, 1860, Begun Monday, the Second Day of January, and Ended on Monday, the Thirtieth Day of April* (Sacramento: Charles T. Botts, State Printer, 1860), pp. 87–89, Chap. CXX, “An Act extending the Privileges of the Homestead Law to certain Persons, and to Regulate the Creation of the Same.”

<sup>4</sup> *The Statutes of California, Passed at the Eleventh Session of the Legislature, 1860, Begun Monday, the Second Day of January, and Ended on Monday, the Thirtieth Day of April* (Sacramento: Charles T. Botts, State Printer, 1860), pp. 311–313, Chap. CCCXX, “An Act to amend ‘An Act to Exempt the Homestead and other Property from Forced Sale in certain cases,’ passed April twenty-first, one thousand eight hundred and fifty-one.”

<sup>5</sup> *The Statutes of California, Passed at the Twelfth Session of the Legislature, 1861: Begun Monday, the Seventh Day of January, and Ended on Monday, the Twentieth Day of May* (Sacramento: Charles T. Botts, State Printer, 1861), p. 232, Chap. CCXXX, “An Act amendatory of, and to extend the provisions of, an Act entitled An Act to amend An Act to exempt the Homestead and other Property from forced sale in certain cases, passed April twenty-first, eighteen hundred and fifty-one, approved April twenty-eighth, eighteen hundred and sixty.”

<sup>6</sup> *The Statutes of California, Passed at the Thirteenth Session of the Legislature, 1862: Begun on Monday, the Sixth Day of January, and Ended on Thursday, the Fifteenth Day of May* (Sacramento: Benj. P. Avery, State Printer, 1862), pp. 519–520, Chap. CCCXCVI, “An Act amendatory of and supplemental to an Act, passed April twenty-

When the statutes of California were codified in 1872 those statutes concerning homesteads were incorporated into sections 1237 through 1269 of the Civil Code.<sup>7</sup> After amendment in 1874, section 1263 of the Civil Code, “Declaration of homestead,” stated that a homestead declaration of the head of a family must contain:

- 1.) A statement, showing that the person making it is the head of a family; or, when the declaration is made by the wife, showing that her husband has not made such declaration, and that she therefore makes the declaration for their joint benefit.
- 2.) A statement that the person making it is residing on the premises, and claims them as a homestead.
- 3.) A description of the premises.
- 4.) An estimate of their actual cash value.<sup>8</sup>

Homestead declarations of persons other than heads of families were to contain only the last three items.<sup>9</sup> Declarations were to be “recorded in the office of the recorder of the county in which the land is situated” for both heads of families and other persons.<sup>10</sup> These laws remained in effect at least through 1903. Current California law still allows the recording of homestead declarations.<sup>11</sup>

## **Acknowledgments from 2<sup>nd</sup> Edition**

Eugenia Titus Ohman, original Projects Chairman  
Lois Nimmo, data entry  
Doris Dickenson, editor  
Carmen Finley, camera ready copy

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eighth, eighteen hundred and sixty, entitled an Act to amend an Act to exempt the Homestead and other Property from Forced Sale, in certain cases, passed April twenty-first, eighteen hundred and fifty-one.”

<sup>7</sup> Creed Haymond and John C. Burch, annotators, *The Civil Code of the State of California*, 2 vols. (Sacramento: H. S. Crocker and Co., 1872), 1: 339–350, Division II (Property), Part IV (Acquisition of Property), Title V (Homesteads), §§ 1237–1269.

<sup>8</sup> James H. Deering, ed., and Walter S. Brann, *The Civil Code of the State of California, as Enacted in 1872, Amended at Subsequent Sessions, and Adapted to the Constitution of 1879; and an Appendix of General Laws Upon the Subjects Embraced in the Code* (San Francisco: Bancroft-Whitney Co., 1903), pp. 293–301, Division Second, Part IV (Acquisition of Property), Title V (Homesteads), §§ 1237–1269, specifically p. 299, § 1263.

<sup>9</sup> *Ibid.*, specifically p. 300, § 1267.

<sup>10</sup> *Ibid.*, specifically p. 299, § 1264 for heads of families and p. 301, § 1268 for other persons.

<sup>11</sup> “California Law,” database, State of California, *California Legislative Information* (<https://leginfo.legislature.ca.gov/faces/home.xhtml> : accessed 25 March 2020), Code of Civil Procedure, Part 2 (Of Civil Actions), Title 9 (Enforcement of Judgments), Division 2 (Enforcement of Money Judgments), Chapter 4 (Exemptions), Article 5 (Declared Homesteads), §§ 704.910-704.995.