

# Index to SMC Homestead Registers 1-4



By Russ Brabec

We are all familiar with the Homestead Act of 1862 which helped populate the west by giving free land to those willing to settle and improve the land, but that is not the basis for the Homestead Registers found in California.

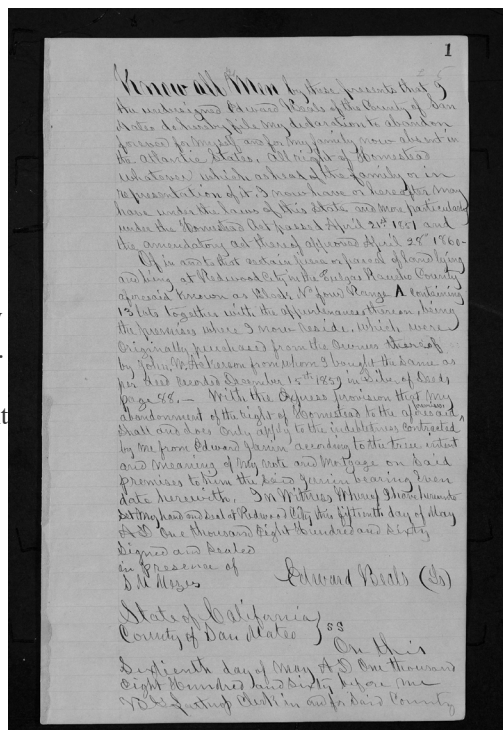
The California state archives gives the following description of the Homestead Registers in their collections: **Homesteads** Recorded declarations, and usually abandonments, of homestead indicating intent to use property as a place of residence. For declarations, contains name of homesteader, statements on marital status, residence on property, and intent to use property as a homestead, description and estimated value of land, date recorded, and signature of homesteader. Abandonments include statement of voluntary release of homestead rights, date of homestead, and signature of homesteader

Homestead Registers were the result of the approval of a "An Act to Exempt the Homestead from forced sale in certain cases" by the California State Legislature on 21 April 1851. The registers, however, do not appear to have been kept separately from other documents until the passage of an amendment to the original law on 28 Apr 1860.

The San Mateo County registers start after that date as do those in the CA Archives collection. Earlier declarations and abandonments would most likely be found in Miscellaneous Registers, Sole Trader Registers, or Deed Registers.

Basically the law gave a husband and/or wife (or a head of household) the right to declare, in writing, that a quantity of land with a dwelling house, on which they resided, was a homestead exemption from creditors. The worth of the homestead could be no more than \$5000. The declaration must be signed and recorded. The 1860 amendment specified that husbands and wives were to be considered joint tenants of any homestead that either declared.

The law goes on to state that the exemption does not extended to any mechanic's, laborer's or vendor's lien which had been lawfully obtained or to any mortgage that was taken to purchase the homestead. Prior to an amendment approved on 12 May 1862 it was necessary to file an abandonment of homestead in order for a new lien, mortgage, etc. to be legal. After that as long as all interested parties signed the new document the homestead was considered abandoned.



In 1860 the right to declare a residence a homestead was extended to all white residents regardless of whether they were married or head of a household. The value of the homestead exemption allowed was set at \$1000. The amount of land was set at 320 acres or if in city limits no more than 320 feet square.

California still allows homestead declarations. You can find many websites dealing with declaring a homestead today. The following links are to background information on homestead legislation in California.

[General Laws of the State of California, from 1850-1864 - Homesteads](#)  
[Homestead Legislation in California](#)

This index to San Mateo County Homestead filings covers the years 1860 through 1913. Digital images of the recordings can be found on FamilySearch.

When using the index, if you find AND it indicates a joint declaration of homestead. If there is no AND then the entry just acknowledges the spouse.

