

## CHAPTER 78.

### Of Estates of Homestead.

#### SECTION

- 1.—Estates of homestead, not exceeding twenty acres, exempt from execution, sale, &c.
- 2.—How acquired; extent; Registration fee.
- 3.—Homestead title not to be defeated by conveyance, &c.
- 4.—Partition of property subject to homestead.

#### SECTION

- 5.—Estate of homestead to be set apart in case of insolvency.
- 6.—Execution upon property after reserving homestead.
- 7.—Homestead after death for benefit of widow and minor children.
- 8.—Rights of widow and children may be sold or leased.

1. Every person who shall settle upon any of the wilderness lands of this colony, and cultivate and improve the same, and erect a dwelling house thereon, shall be entitled to an estate of homestead therein not

exceeding twenty acres: and such homestead, and all right and title therein, shall be exempt from attachment, levy or execution, sale for the payment of his debts or other purposes, and from the laws of conveyance, distribution and devise, or bequest, except as hereinafter provided.

2 To constitute such an estate of homestead, and to entitle property to such exemption, it shall be set forth in the grant or deed of conveyance by which such property is acquired that it is designed to be held as a homestead, or after the title has been acquired, such design shall be declared in writing, duly signed, acknowledged and recorded in the registry of the district where the property is situated, according to the form in the schedule hereto annexed; but the acquisition of a new estate of homestead in either of the said modes, shall defeat and discharge any estate or right of homestead previously existing; but no person shall hold, exempted as a homestead, land of greater extent than twenty acres. And for every registration under this chapter there shall be paid to the registrar the sum of one dollar.

3. No conveyance of property in which an estate or right of homestead exists, and no release or waiver thereof, shall operate to convey that part so held and exempted, or defeat the right of the owner, or his wife and children, to have a homestead therein, except by leave of the Supreme Court, to be granted on the petition of such owner, and his wife (if any), if it shall be thought expedient, having regard to the interests of all concerned, to grant such leave, upon such terms as the Court may direct.

4. Where an estate or right of homestead exists in property in which other parties have an interest, the party entitled to the homestead, or any other party interested, may upon petition have partition thereof as by law provided, but not in any way to affect the estate of homestead therein.

5. When the property of a debtor is vested in a trustee, under the insolvent laws, and such debtor claims, and it appears to the Court or a judge before whom the proceedings in insolvency are pending, that he is entitled to hold any part thereof as homestead, and that the property in which such homestead exists is of greater extent than twenty acres, the Court or judge shall cause the estate of homestead, to the extent of twenty acres, including the dwelling house thereon, to be set apart to the insolvent, and the residue shall vest in and be disposed of by the trustee, in the same manner as property not exempt by law from levy or execution.

6. If a judgment creditor requires an execution to be levied on property claimed by the debtor to be exempt from levy as a homestead, and it appears to the sheriff, to whom such execution is directed, that the premises are of greater extent than twenty acres, the sheriff shall set off the estate of homestead to the extent of twenty acres, including the dwelling house thereon to the debtor, and the residue of the property shall be levied upon and disposed of in like manner as land and property not exempt from levy or execution.

7. The estate or right of homestead of any householder, existing at his death, shall continue for the benefit of his wife and minor children, and be held and enjoyed by them, if some one of them occupies the premises, until the youngest child is twenty-one years of age, and until the marriage or death of the widow; and shall, upon the death of such householder, be limited to that period; but all the right, title and interest of the deceased in the premises where such estate or right exists, except the estate of homestead thus continued, shall be subject to the laws relating to devise and bequest, distribution and sale, for the payment of debts against the estate of deceased.

8. The widow or the guardian of the minor children, or both, may by leave of the Supreme Court or a judge thereof, to be granted on petition of either, in such case as the Court or judge may deem it expedient, effect a sale or lease of such estate of homestead, and the purchaser thereof shall have the right to enjoy and possess the premises for the full time that the widow and children, or either of them, might have continued to hold and enjoy the same if no sale had been made, or shall, if the Court or judge shall grant leave so to sell, take an absolute or such other estate in the premises as the Court or judge may allow, the proceeds in either of the foregoing cases to be applied as the Court or judge may direct, for the benefit of the parties interested therein.

#### SCHEDULE.

To all to whom these presents shall come, greeting:

I, \_\_\_\_\_, of \_\_\_\_\_, under and by virtue of the provisions of chapter seventy-eight of the consolidated statutes, second series, hereby declare that I design and intend that all that piece or parcel of land situate at [here state locality], and owned by me, and bounded as follows [here set out boundaries], shall be held by me as a homestead under the said chapter.

In witness whereof I have hereunto set my hand this \_\_\_\_\_ day  
of \_\_\_\_\_, A. D. 18 \_\_\_\_\_.

A. B.

The execution of the above was acknowledged before \_\_\_\_\_  
and deposited with me for registration this \_\_\_\_\_  
day of \_\_\_\_\_, at \_\_\_\_\_ o'clock, by the said A. B. \_\_\_\_\_

C. D., *Registrar*.