

**THE HOMESTEAD
RIGHT AS IT EXISTS IN
NEW HAMPSHIRE, 1901**

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The Homestead Right as it Exists in New Hampshire, 1901 by Louis G. Hoyt

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1901.

LOUIS G. HOYT.

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CONCORD, N. H. :
Edson C. Eastman.
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Rec. Dec. 16, 1901.

PREFACE.

The following article on the homestead right comprises our present statutory enactments on the subject, and all the judicial decisions affecting their interpretation, and the nature, extent, and enforcement of the right, that have been made by our courts to date.

It was just a half century ago that the people of the state became impressed with the realization that although all men might be created equal they remained so for only a short time after their creation, and that it was for the public interest that such of them as should become so unfortunate as to need it should be afforded protection for their homes against both their misfortune and improvidence, which would secure to each inhabitant "a house and lot of reasonable value," and thus relieve them from the contemplation of being "occupants of the poor house."

They accordingly sent numerous petitions to the legislature for the enactment of a law to carry out this design.

While the original intention undoubtedly was to confine the exemption to the habitation, the rule of liberal construction which our court early adopted for the interpretation of this class of laws has extended the homestead right to land not dwelt upon, provided it was utilized in some way to contribute to the necessities of life, even to the support of a debtor's cow.

Of the many states where similar laws exist there are no two with like provisions, so that text-books on the subject, or the decisions of the courts of other states, afford little light as to the right as it exists here.

As our court in *Barney v. Leeds* expressed it, "the result is a confused and almost inexplicable system, indic-

ative of different intentions, theories, and designs on the part of the lawmakers, with regard to the practical application of the law, expressed, generally, without any very successful attempt at definition of terms or manifestation of meaning and purpose. The inevitable consequence is a conflict of judicial construction and interpretation, but a pretty general agreement of the courts and the legal profession in sentiments of disgust for the unsatisfactory and uncertain condition of this department of jurisprudence."

The various questions which have arisen under the law here since its passage in 1851 have been discussed before our courts by our ablest lawyers, who have given these questions the benefit of their most earnest attention and thorough investigation.

How clearly defined the homestead right and the various methods of its enforcement, occasioned by the numerous conditions under which it is found to exist, have become in New Hampshire, by reason of legislative enactment and judicial interpretation, may be seen by reference to the following pages.

LOUIS G. HOYT.

Kingston, N. H., May, 1901.

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