

CIRCULAR OF INSTRUCTIONS

703
REGISTERS AND RECEIVERS

For Taking and Passing on Final Proof.

RULE 1.—PREMATURE FINAL PROOF.

Reject all Final Proofs prematurely made, viz:

In Pre-emption and Commuted Homesteads, before the expiration of 6 months from date of establishing a bona fide residence.

In Final Homesteads, before the expiration of 5 years from date of entry, except: 1. Where residence is allowed before entry (Act June 14, 1878, Act May 14, 1880). 2. Where credit is allowed for military or naval service. Secs. 2394-5-6 and 2291, R. S. U. S.

In Timber Cultures.—1. Before the expiration of 3 years from date of entry. 2. Before the expiration of 8 years from the date when the total number of trees, seeds, and cuttings required by law are planted.
Cir. July 12, 1887, Sec. 23.

In Timber and Stone Entries, before the expiration of 60 days publication, as required by law (10 weekly insertions).
29 Stat., 89, Sec. 3; Cir. 761, p. 97; 2 L. D., 709; 4 L. E., 282.

In all cases, before the expiration of the time of publication and the day fixed.
See Rule 3.

RULE 2.—LAPSED FINAL PROOF.

When final proof is taken (or offered) after lapse of statutory period, viz:

In Final Homesteads, after 7 years from date of entry.

In Timber Cultures, after 12 years from date of entry.

In Desert Entries, after 3 years from date of entry.

Require affidavit of party making proof of real cause of delay, withhold certificate, and forward all papers to this office for action.

Note.—In Pre-emption and Commuted Homesteads the above rule does not apply.

RULE 3.—PUBLISHED NOTICE OF FINAL PROOF.

The Register alone is responsible for the correctness of published notice. Act of March 2, 1879.

Thirty days publication of notice (6 weekly insertions), of intention to make proof is required in—

Pre-emption, Commuted Homesteads, and Final Homesteads. Act March 2, 1879; Cir. March 20, 1886.

Timber Cultures. Cir. July 12, 1887, Sec. 23.

Desert Entries. Cir. June 28, 1887, Sec. 12.

Town-sites. Cir. July 9, 1886, Sec. 12.

Timber and Stone Entries. Sixty days (10 weekly insertions). Cir. July 16, 1887, Sec. 16.

The notice must contain—

(a) Correct description of land sought to be entered, and kind of entry to be made. Act March 2, 1879. (b) Correct names of witnesses and post-office address. Act March 2, 1879. (c) The exact day (not a holiday) when, and (d) the exact place where proof is to be taken. (e) The officer's name and official designation who is to take proof.

v. s. v., Jacob Sencer case, 6 L. D., 310; Lent case, 6 L. D., 110; Sheelock case, 6 L. D., 150.

Note.—(1) It is read to applicants and not alternatives, as in the Jacob Sencer case (6 L. D., 310), viz: "before a Judge or Clerk of a Court of Record."

Note.—All proof must be taken before the same officer. Partial proof cases, and those wherein notice of intention to submit proof has been published under a different practice, will not be affected by this requirement.

RULE 4.—OFFICERS AUTHORIZED TO TAKE FINAL PROOF.

In Pre-emption and Commuted Homesteads—

Register and Receiver; Clerk of County Court; Clerk of Court of Record. 21 Stat., 109; Cir. March 20, 1886.

In Timber Culture and Desert Entries—

Register and Receiver; Judge, or Clerk of Court of Record, T. & S. Cir., July 12, 1887, Sec. 24; Desert Cir., June 28, 1887, Sec. 7.

In Final Homesteads—

Register and Receiver; Judge of Court of Record; Clerk of Court of Record (only) when Judge is absent. This fact must be certified by Clerk. Act March 2, 1879.

In Timber and Stone Entries and Town-sites

Register and Receiver alone can take the proof. T. & S. Cir., July 16, 1887, Sec. 11; Town-site Cir., July 9, 1886; R. S., 2287.

Note.—Judges and Notaries Public can not take Pre-emption and Commuted Homestead Proof, except Private Judges, who are or officiate their own clerks, and so-called. Cir. Oct. 27, 1886; Cir. March 20, 1886; 4 L. D., 104. Judges, Clerks, and Notaries can not take proof in Timber and Stone Entries. Clerks can not take Final Homestead Proof unless Judge is absent, and they so certify.

RULE 5.

Registers and Receivers will approve no case, neither accept payments nor issue final certificate and receipt thereon, until the foregoing requirements are complied with. *Provided*, in exceptional cases of hardship, when non-compliance is no fault of claimant and his good faith appears, and no one protests against the entry, you will withhold certificate and receipt, and forward papers and explanatory affidavits to this office by special letter for instructions.

S. M. STOCKSLAGER,
Commissioner.

Approved:
Wm. F. VILAS,
Secretary.

Jan. 1, 1885.

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(223-81,000.)