

CIRCULAR OF INSTRUCTIONS

70

REGISTERS AND RECEIVERS
FOR TAKING AND PASSING ON FINAL PROOF.

RULE 1.—PREMATURE FINAL PROOF.

Reject all Final Proofs prematurely made, viz:

In Pre-emptions 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, 1875, Act May 14, 1880.) 2. Where credit is allowed for military or naval service. Secs. 2304-5-6 and 2391, B. S. U. S.

In Timber Cultures.—1. Before the expiration of 6 years from date of entry. 2. Before the expiration of 6 years from the date when the total number of trees, wood, and earnings 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., 80, Sec. 3; Cir. 94, p. 97; 2 L. D., 799; 4 L. D., 232.

In all cases, before the expiration of the time of publication and the day fixed. See Table 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 13 years from date of entry.

In Desert Entries, after 2 years from date of entry.

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

Note.—In Preemption 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 March 3, 1879, § 508.

Thirty days publication of notice (3 weekly insertions) of intention to make proof is required in—

Preemptions, Commuted Homesteads, and Final Homesteads, Act March 3, 1879; Cir. March 29, 1880.

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

Desert Entries. Cir. June 29, 1887, Sec. 13.

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

Timber and Stone Entries. Sixty days, (10 weekly insertions.) Cir. July 9, 1887, Sec. 12.

The notice form contains—

(a) Correct description of land sought to be entered, and kind of entry to be made. Act March 3, 1879. (b) Current names of witnesses and post-office address. Act March 3, 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.

s, d, e, Jacob Somer case, 6 L. D., 345; Lent case, 6 L. D., 110; Herlock case, 9 L. D., 135.

Note.—C, d, e, must be unambiguous and not alternative, as in the Jacob Somer case, 6 L. D., 345, viz: "before a Judge or Clerk of Court of Record."

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

RULE 4.—OFFICERS AUTHORIZED TO TAKE FINAL PROOF.

In Preemption and Commuted Homesteads—Register and Receiver; Clerk of County Court; Clerk of Court of Record. 21 Stat., 109; Cir. March 30, 1886.

In Timber Culture and Desert Entries—Register and Receiver; Judge, or Clerk of Court of Record. T. C. Cir., July 12, 1887, Sec. 24; Desert Cir., June 29, 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 3, 1877.

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; E. S., 2387.

Note.—Judges and Probate Judges can not take Preemption and Commuted Homestead Proof, except Probate Judges, who are or ought to be sworn clerks, and so certify. Cir., Oct. 27, 1884; Cir., March 30, 1886; 3 L. D., 424.

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 payment 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. YLAA,
Secretary.
Jan. 7, 1889.