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Mixed-blood Indians.

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MIXED-BLOOD INDIANS.

MARCH 22, 1897.—Ordered to be printed.

Mr. PETTIGREW, from the Committee on Indian Affairs, submitted the following

REPORT.

[To accompany S. 375.]

The Committee on Indian Affairs, to whom was referred the bill (S. 375) confirming the title of mixed-blood Indians to their lands and allowing the same to be alienated under certain circumstances, beg leave to report the following substitute therefor and to recommend the passage of the substitute.

A BILL defining the rights and privileges of mixed-blood Indians under the treaties and statutes of the United States, confirming the title of said Indians to their lands, allowing the same to be alienated under certain circumstances, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the term Indian, wherever it occurs in any law of the United States or any treaty of the United States with any nation or tribe of Indians, shall be held to mean and include not only all Indians of the full blood, but also all Indians of the mixed blood, of whatever degree, whenever such mixed-blood Indians, at the time of the passage of any such law or ratification of any such treaty, lived and maintained tribal relations with any tribe of Indians which was interested in or affected by any such law or treaty, and shall be entitled to all the rights and privileges under the law the same as Indians of the full blood.

SEC. 2. That all entries of land or allotments of land in severalty heretofore made to any Indian of whatever degree of blood, by virtue of any of the laws of the United States, are hereby ratified and confirmed, and said Indians shall hereafter enjoy all the rights of Indians of their respective tribes. All mixed-blood Indians who are one-quarter or less than one-quarter of Indian blood who have heretofore taken allotments of land in severalty shall at once receive patents in fee for said allotments, and all such mixed-blood Indians who shall hereafter take allotments of land in severalty under any of the laws of the United States shall, upon taking said allotment of land, receive from the United States a patent for the same in fee; and said mixed-blood Indians upon receiving said patents shall have the right to sell, convey, or encumber said lands, and the same shall be subject to taxation the same as the lands of any other citizen of the United States.

SEC. 3. That any mixed-blood Indian of more than one-quarter Indian blood may apply to the district court of the State in the judicial district in which he resides for permission to sell and convey or encumber his allotment of land; and if said court shall decide that said mixed-blood Indian is capable of managing his own affairs, said court shall enter a decree adjudging said mixed-blood Indian capable of managing his own affairs, and thereupon and thereafter said mixed-blood Indian shall have the right to sell or encumber the whole or any part of his allotment and give a fee-simple title therefor, and upon the making of said decree the whole of said allotment of land shall be subject to taxation the same as other lands of citizens of the United States: *Provided,* That the application for leave to sell or encumber lands under the provisions of this act and the trial thereon shall be in the form and according to the rules of procedure and practice of the district or circuit court of the State or Territory in which the land may be located: *And provided further,* That before a deed, mortgage, or other incumbrance shall be valid or binding the sale, mortgage, or incumbrance shall be approved by the court authorizing the same, as in cases of ordinary judicial sales.

The report of the Committee on Indian Affairs submitted upon this measure during the Fifty-fourth Congress is herewith resubmitted and made a part of this report, as follows:

The term "Indian" does not seem at all times to have been accurately defined in our legislative history, and it is thought advisable to give it a precise meaning as applied to the holding and allotment of public lands; and therefore it is provided in section 1 of the bill that where the word "Indian" occurs in any law or treaty of the United States with any nation or tribe of Indians, "Indian" shall be held to mean and include not only Indians of the full blood, but also Indians of the mixed blood of whatever degree, whenever such mixed-blood Indian, at the time of the passage of any such law or the ratification of any such treaty, lived with and was a member of the tribe and maintained tribal relations with his tribe who were interested in or affected by any such law or treaty.

It will be observed, therefore, that the test is whether such Indian possessed Indian blood of any degree at the time of the passage of the law or treaty by which he may be affected and actually lived with and was recognized as a member of the tribe by his people and maintained tribal relations with them.

The second provision provides that all entries or allotments of lands in severalty heretofore made to any Indian of any degree of blood, by virtue of the laws or treaties of the United States, are ratified and confirmed, and that such Indian shall hereafter enjoy all the rights of other members of the tribe. This provision is essential to confirm and quiet Indian titles. It is further provided that mixed-blood Indians who are possessed of one-quarter or less of Indian blood and who have heretofore taken allotments of land in severalty shall at once receive patents in fee for their lands, and that all such mixed-blood Indians who shall hereafter take allotments in severalty under the laws of the United States shall, on receiving title, have the right to sell, convey, or encumber their lands, and the same shall be subject to taxation as the lands of other citizens of the United States.

This provision is important to the Indians as well as to the white settlers in the States and Territories where Indian lands are located. It is believed by your committee that a mixed-blood Indian having one-quarter or less Indian blood in his veins is quite as competent to perform the duties of citizenship intelligently as many white men, and that the percentage of incompetency among the Indian tribes of one-quarter Indian blood or less is not greater than that to be found among a like number of white persons. It is therefore believed to be unjust both to the Indian and taxpayers where these lands are found that the Indians should be deprived of the right to alienate their lands and be exempt from just local taxation.

Section 3 provides for a case where the Indian is more than one-quarter blood. It provides ample safeguard for all such persons desiring to alienate or encumber their lands. If the State district court of the judicial district in which such Indian resides, on application for the privilege of selling, conveying, or encumbering his land, shall determine that he is capable of managing his own affairs it is authorized to enter a decree giving him authority to sell, convey, or encumber the whole or any part of his land and authorizing him to convey a fee-simple title, and the land shall thereafter become subject to taxation as the lands of other citizens.

As a safeguard it is required that the application for leave under the provisions of this act to sell or encumber lands, and the trial thereon, shall be in the form and according to the rules of procedure and the practice of the district or circuit court of the State or Territory in which the land may be located; and it is further provided that before a deed, mortgage, or other incumbrance shall be valid or binding the same shall be approved by the court authorizing the sale, as in the case of an ordinary judicial sale.

With these safeguards thrown around these persons, who are now citizens of the United States, no reason is known to your committee why such of them as may show themselves competent to manage their own affairs and dispose of their own estates should not be permitted to do so in advancement of the material interest of themselves and their families, and thus take their stations in the ranks of the other citizens when they show to the satisfaction of the court ability to do so. This measure is justly due our Indian citizens, while it is also due to the public interest that lands owned by them shall bear a just portion of public taxes.

Your committee have thought it advisable and recommend that after the word "lived," in line 9, on page 1, the bill should be amended by the insertion of the words "with and was recognized as a member of the tribe," so that the sentence will read, "lived with and was recognized as a member of the tribe and maintained tribal relations with any tribe of Indians which was interested in or affected by such law or treaty," etc.

With the adoption of this amendment your committee recommend the passage of the bill.