

L. S.



# BRITISH COLUMBIA.

ANNO TRICESIMO

## VICTORIÆ REGINÆ.

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NO. 11.

### An Ordinance to provide for the taking of Oaths and admission of Evidence in certain cases.

[15th March, 1867.]

**WHEREAS** it is expedient to provide for the taking of Oaths and admission of Evidence in certain cases, and to assimilate the same in all parts of the Colony of British Columbia; Preamble.

Be it enacted by the Governor of British Columbia, with the advice and consent of the Legislative Council thereof, as follows

I. "The Oaths Act, 1859," and "The Native Evidence Ordinance, 1865," are hereby repealed: provided however that such repeal shall not affect any rights acquired under such Act and Ordinance or either of them, or any liabilities or penalties already incurred under such Act and Ordinance or either of them, or any remedies or punishments prescribed by such Act and Ordinance or either of them, for enforcing the same, but such remedies and punishments may still for the purposes of such enforcement, but not further or otherwise, be held to be available and capable of imposition as if such Act and Ordinance were still in force. Repeals "Oaths Act, 1859," and "The Native Evidence Ordinance, 1865," saving existing rights.

II. If any person called as a witness in any Court of Judicature or required or desiring to take any oath or to make an affidavit or deposition shall refuse or be unwilling from alleged conscientious motives to be sworn, it shall be lawful for the Court or Judge, or other presiding officer or person qualified to take such oath, affidavit, or deposition, upon being satisfied of the sincerity of such objection, to permit such person, instead of being sworn, to make his or her solemn affirmation or declaration in the words following, viz: "I, A. B., do solemnly, sincerely, and truly affirm and declare that the taking of any oath is, according to my religious belief, unlawful, and I do solemnly, sincerely and truly affirm and declare, &c., &c." Authorizes affirmation in lieu of oath.

III. If any person professing the Roman Catholic Religion shall be required by any lawful authority, or shall be desirous for any purpose to take the oath of allegiance to Her Majesty, Her Heirs and Successors, it shall be sufficient if he shall in lieu thereof take the oath in the form appointed and set forth in the 2nd section of the Act made and passed in the Parliament of the United Kingdom, held in the tenth year of His late Majesty King George IV. intituled "An Act for the relief of His Majesty's Roman Catholic subjects." Removes Roman Catholic disability.

IV. If any of the persuasion of the people called Quakers, or any other person under this or any other law permitted to make his solemn declaration or affirmation in lieu of an oath, or any person professing the Jewish Religion, shall at any time be required by any lawful authority, or shall be desirous for any purpose to take the oath of allegiance to Her Majesty, Her Heirs or Successors, or any form of oath containing the words "And I make this declaration upon the true faith of a Christian" the said words "And I make this declaration Quaker's affirmation in lieu of oath.

*Evidence Ordinance.*

declaration upon the true faith of a Christian," shall be omitted in the form of oath to be taken or the declaration or affirmation in lieu of an oath to be made by such person. And the taking of every such oath, or the making of such affirmation and declaration with such omission as aforesaid, shall have the same force and effect as the taking and subscribing by other persons of the oath containing the said words "And I make this declaration upon the true faith of a Christian."

Indian unsworn testimony receivable in certain cases.

V. In any Civil Action, or upon any Inquest, or upon any Enquiry into any matter or complaint or otherwise, or upon the trial of any crime or offence whatsoever, or by whomsoever committed, it shall be lawful for any Court, Judge, Coroner, Gold or other Commissioner, or Justice of the Peace, in the discretion of such Court, Judge, Coroner, Gold or other Commissioner, or Justice of the Peace, to receive the evidence of any Aboriginal Native, or Native of mixed blood, of the Continent of North America, or the Islands adjacent thereto, being an uncivilized person, destitute of the knowledge of God, and of any fixed and clear belief in religion or in a future state of rewards and punishments, without administering the usual form of oath to any such Aboriginal Native or Native of mixed blood as aforesaid, upon his solemn affirmation or declaration to tell the truth, the whole truth, and nothing but the truth, or in such other form as may be approved by such Court, Judge, Coroner, Gold or other Commissioner, or Justice of the Peace.

Indian information how taken.

VI. Provided that in the case of any proceeding in the nature of a preliminary inquiry, the substance of the evidence or information of any such Aboriginal Native or Native of mixed blood as aforesaid, shall be reduced to writing, and signed by a mark by the person giving the same, and verified by the signature or mark of the person acting as Interpreter, (if any), and of the Coroner, Justice of the Peace, or person before whom such information or evidence shall have been given.

Preliminary caution.

VII. The Court, Judge, Coroner, Gold or other Commissioner, or Justice of the Peace, shall before taking any such evidence, information, or examination, caution every such Aboriginal Native or Native of mixed blood as aforesaid that he will be liable to incur punishment if he do not so as aforesaid tell the truth.

Indian declaration evidence.

VIII. The written declaration or examination made, taken, and verified in manner aforesaid, of any such Aboriginal Native or Native of mixed blood as aforesaid, being one of such uncivilized persons as hereinbefore described, may be lawfully read and received as evidence upon the trial of any cause Civil or Criminal in the said Colony, when under the like circumstances the written affidavit, examination, deposition, or confession of any person might be lawfully read and received as evidence.

False declaration perjury.

IX. Every solemn affirmation or declaration in whatever form, made or taken by any person as aforesaid, shall be of the same force and effect as if such person had taken an oath in the usual form, and shall in like manner infer the penalty of perjury in case of falsehood.

Short Title.

X. This Ordinance may be cited for all purposes as the "Evidence Ordinance, 1867."

*Passed the Legislative Council the 13th day of February, A. D. 1867.*

CHARLES GOOD,  
Clerk.

ARTHUR N. BIRCH,  
Presiding Member.

*Assented to, in Her Majesty's name, this 15th day of March, 1867.*

FREDERICK SEYMOUR,  
Governor.

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