A BILL

To Amend the Law of Evidence.

WHEREAS doubts have arisen as to the competency of the Aborigines to give evidence in Courts of Law in the Colony, by reason of their imperfect comprehension of the obligations now necessary to give validity to their testimony, and whereas it is expedient for the ends of Justice, and the removal of such doubts, to enable such testimony to be taken; Be it enacted by the Governor of Vancouver Island and its Dependencies, by and with the advice and consent of the Legislative Council and Assembly thereof, as follows:

ABORIGINALS AND NATIVES OF THE HALF-BLOOD, MAY BE EXAMINED IN ALL CIVIL AND CRIMINAL PROCEEDINGS.

I. In any civil action, or upon any inquest, or upon any inquiry 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 the half-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 the half-blood as aforesaid, but upon his 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.

PRELIMINARY EXAMINATION TO BE IN WRITING, DULY CERTIFIED.

II. Provided that in case of any proceeding in the nature of a preliminary inquiry, the substance of the evidence or information of any such person 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 TO BE GIVEN TO NATIVES.

III. 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 the half-blood, that he will be liable to incur punishment if he do not, so as aforesaid, tell the truth.

WHOSE WRITTEN DECLARATION OR EXAMINATION MAY BE TAKEN IN EVIDENCE.

IV. The written declaration or examination, made, taken and verified in manner aforesaid, of any such Aboriginal Native, or Native of the half-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 EVIDENCE PUNISHED AS PERJURY.

V. If any such Aboriginal Native, or Native of the half-blood as aforesaid, making such affirmation or declaration aforesaid, in lieu of an oath, shall be convicted of having wilfully, or corruptly, affirmed or declared any matter or thing, which, if the same had been made upon oath in the usual form would have amounted to wilful and corrupt perjury, he shall incur the same penalties and forfeitures as by Law are enacted against persons convicted of wilful and corrupt perjury.

PERSONS HAVING A PROPER RELIGIOUS BELIEF NOT TO GIVE UNSWORN EVIDENCE.

VI. Nothing herein contained shall be deemed or taken to authorize any Court, Judge, Coroner, Gold or other Commissioner or Justice of the Peace, to take or admit the unsworn testimony of any person who shall upon examination by such Court, Judge, Coroner, Gold or other Commissioner, or Justice of the Peace, declare that he believes in a God, a future state of rewards and punishments, or the obligation of an oath.

SHORT TITLE.

VII. This Ordinance may be cited for all purposes as "The Native Evidence Ordinance, 1865."