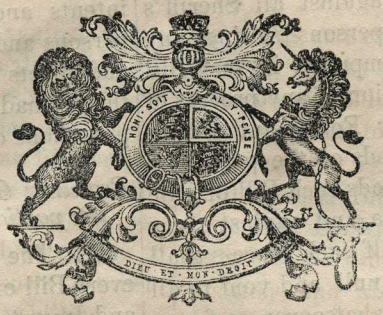
V.  R.

AN ACT

For preventing Frauds upon Creditors by Secret Bills of Sale of Personal Chattels.

WHEREAS, frauds are frequently committed upon Creditors by Secret Bills of Sale of Personal Chattels, whereby persons are enabled to keep up the appearance of being in good circumstances and possessed of Property, and the grantees or holders of such Bills of Sale have the power of taking possession of the property of such persons, to the exclusion of the rest of their Creditors;

For remedy whereof, be it therefore enacted by the Governor on behalf of Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Vancouver Island and its Dependencies, as follows:

All Bills of Sale to be void unless the same or a copy thereof be filed within twenty-one days, in like manner as Warrants of Attorney.

I. Every Bill of Sale of Personal Chattels made after the passing of this Act, either absolutely or conditionally, or subject or not subject to any trusts, and whereby the grantee or holder shall have power, either with or without notice, and either immediately after the making of such Bill of Sale, or at any future time, to seize or take possession of any property and effects comprised in or made subject to such Bill of Sale, and every Schedule or Inventory which shall be thereto annexed or therein referred to, or a true copy thereof, and of every attestation of the execution thereof, shall, together with an affidavit of the time of such Bill of Sale being made or given, and a description of the residence and occupation of the person making and giving the same, or in case the same shall be made or given by any person under or in the execution of any process, then a description of the residence and occupation of the person against whom such process shall have issued, and of every attesting witness to such Bill of Sale, be filed with the Registrar General within twenty-one days after the making or giving of such Bill of Sale, otherwise such Bill of Sale shall as against all Assignees of the Estate and Effects of the person whose goods or any of them, are comprised in such Bill of Sale, under the laws relating to Bankruptcy or Insolvency, or under any Assignment for the benefit of the Creditors of

such person, and as against all Sheriff's officers and other persons seizing any property or effects comprised in such Bill of Sale in the execution of any process of any Court of Law or Equity authorizing the seizure of the goods of the person by whom or of whose goods such Bill of Sale shall have been made, and against every person on whose behalf such process shall have been issued, be null and void to all intents and purposes whatsoever, so far as regards the property in or right to the possession of any personal Chattels comprised in such Bill of Sale, which at or after the time of such Bankruptcy or of filing the Insolvent's Petition in such Insolvency, or of the execution by the Debtor of such Assignment for the benefit of his Creditors, or of executing such process, (as the case may be) and after the expiration of the said period of twenty-one days, shall be in the possession or apparent possession of the person making such Bill of Sale, or of any person against whom the process shall have issued under or in the execution of which such Bill of Sale shall have been made or given, as the case may be.

Defeasance or condition of every Bill of Sale to be written on the same paper or parchment.

II. If such Bill of Sale shall be made or given, subject to any defeasance or condition or declaration of trust not contained in the body thereof, such defeasance condition or declaration of trust shall, for the purposes of this Act, be taken as part of such Bill of Sale, and shall be written on the same paper or parchment on which such Bill of Sale shall be written, before the time when the same or a copy thereof respectively shall be filed, otherwise such Bill of Sale shall be null and void to all intents and purposes against the same persons and as regards the same property and effects as if such Bill of Sale or a copy thereof had not been filed according to the provisions of this Act.

Registrar General to keep a Book containing particulars of each Bill of Sale.

III. The Registrar General shall cause every Bill of Sale and every such Schedule and Inventory as aforesaid, and every such copy filed in his said office under the provisions of this Act, to be numbered, and shall keep a book or books in his said office, in which he shall cause to be fairly entered an alphabetical list of every such Bill of Sale, containing therein the name, addition and description of the person making or giving the same, or in case the same shall be made or given by any person under or in the execution of process as aforesaid, then the name, addition and description of the person against whom such process shall have issued, and also of the person to whom or in whose favor the same shall have been given, together with the number and the date of the execution and filing of the same, and the sum for which the same has been given, and the time or times (if any) when the same is thereby made payable, according to the form contained in the Schedule to this Act; which said Book or Books, and every Bill of Sale or copy thereof filed in the said office may be searched and viewed by all persons at all reasonable times, paying to the Registrar General for every search against one person, the sum of one shilling; and that in addition to the last mentioned Book the said Registrar General shall keep another Book or Index, in which he shall cause to be fairly inserted as and when such Bills of Sale are filed in manner aforesaid, the name, addition and description of the person making or giving

the same, or if the person against whom such process shall have issued, as the case may be, and also of the persons to whom or in whose favor the same shall have been given, but containing no further particulars thereof; which last mentioned Book or Index all persons shall be permitted to search for themselves, paying to the Registrar General for such last mentioned search the sum of one shilling.

Registrar General to take a Fee of Four Shillings and Two Pence for Filing Bill of Sale.

IV. The said Registrar General shall be entitled to receive for filing and entering every such Bill of Sale, or a copy thereof as aforesaid, the sum of four shillings and two pence, and no more.

Fees to be paid into Treasury.

V. All moneys received under this Act shall be paid into the Treasury of Vancouver Island for the use of Her Majesty, Her Heirs and Successors.

Copies.

VI. Any person shall be entitled to have an office copy or an extract of every Bill of Sale or of the copy thereof filed as aforesaid, upon paying for the same at the rate of nine pence per folio.

Chief Justice may order satisfaction to be entered.

VII. It shall be lawful for the Chief Justice of the Supreme Court to order a memorandum of satisfaction to be written upon any Bill of Sale or copy thereof respectively as aforesaid, if it shall appear to him that the debt (if any) for which such Bill of Sale is given as security, shall have been satisfied or discharged.

Interpretation.

VIII. In construing this Act, the following words and expressions shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such constructions; that is to say, the expression "Bill of Sale" shall include Bills of Sale, Assignments, Transfers, Declarations of Trust without transfers, and other assurances of personal Chattels, and also Powers of Attorney, Authorities or Licences to take possession of personal Chattels as security for any debt; but shall not include the following documents, that is to say, Assignments for the benefit of the Creditors of the person making or giving the same, Marriage settlements, Transfers or Assignments of any Ship or Vessel or any share thereof, Transfers of Goods in the ordinary course of business of any trade or calling, Bills of Sale of Goods in foreign parts or at sea, Bills of Lading, India Warrants, Warehouse Keepers' Certificates, Warrants or orders for the delivery of goods; or any other documents used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize, either by endorsement or by delivery, the possessor of such document to transfer or receive goods thereby represented. The expression "Personal Chattels" shall mean Goods, Furniture, Fixtures, and other articles capable of complete transfer by delivery, and shall not include Chattel interest in Real Estate, nor shares or interests in the Stock Funds or Securities of any Government, or in the Capital or property of any Incorporated or Joint Stock Company, nor choses in action, nor any Stock or produce upon any Farm or Lands which by virtue of any covenant or agreement, or of the custom of the country, ought not to be removed from any Farm where the same shall be at the time of the

making or giving of such Bill of Sale. Personal Chattels shall be deemed to be in the apparent possession of the person making or giving the Bill of Sale, so long as they shall remain or be in or upon any House, Mill, Warehouse, Building, Works, Yard, Land, or other premises occupied by him, or as they shall be used and enjoyed by him in any place whatsoever, notwithstanding that formal possession thereof may have been taken by or given to any other person.

Short Title.

IX. This Act may be cited as "The Bills of Sale Act, 1861."

Passed the House of Assembly 25th July, 1861. Council amendments agreed to 4th November, 1861.

E. Bowers Doggett,
Clerk of the House of Assembly.

Passed the Council the 29th day of October, 1861.

Joseph Porter,
Acting Clerk of the Council.

Received my assent this 28th day of November, A. D. 1861.

JAMES DOUGLAS.

SCHEDULE.

Name, &c., of the person making or giving the Bill of Sale, or of the person divested of property.	Name, &c., of the person to whom made or given.	Whether Bill of Sale, Assignment, Transfer, or what other assurance, and whether absolute or conditional; and number.	Date of Execution	Date of Filing.	Sum for which made or given			When and how payable.
					£	s.	d.	