no value was received either by the insolvent or his creditors.

In *Ex parte Williams*, L. R. 7 Ch. D. 138, a mortgage executed by the insolvents contained an attornment clause by which the mortgagors became yearly tenants to the mortgagees at a rent seven times greater than the letting value of the premises. The mortgagors became bankrupt, and then the mortgagees claimed the right to distrain under the attornment clause. The Court enjoined the distress upon the ground, as it appears, that looking at the whole scope of the mortgage, and the intention of the parties, one could not help seeing that it was intended to make a different arrangement in the event of the mortgagors becoming bankrupt or not. The attornment clause was called by James, L. J., a contrivance to give the mortgagee an additional benefit in the case of the mortgagors' bankruptcy. It is observable in this case that this obnoxious clause had no reference in terms to the bankruptcy of the mortgagors, but the Court seem to have imported this term into it.

Some light is thrown upon this decision by the very recent case of *Re Stockton Iron Furnace Company*, 27 W. R. 433. The mortgage in that case also contained an attornment clause, but no sufficient evidence was given to make it apparent that the rent reserved was excessive as in the earlier case. Bacon, V. C., on the authority of *Ex parte Williams*, held the attornment clause bad and invalid, but the Court of Appeal reversed the finding. James, L. J., said: "If one could see that the rent was such an absurd sum that it really could never have been intended as a rent, but that it was only part of a device which would enable the mortgagee to obtain, in the event of the mortgagor's bankruptcy, something which he would not otherwise attain, the principle of *Ex parte Williams* would apply. And Bramwell, L. J., observed, "in *Ex parte Williams*, it was found that the intention and object of the arrangement was to commit a fraud on the bankruptcy laws; that the clause was to come into operation only in the event of bankruptcy. That was the substance of the agreement. There is nothing of the kind here."

It is evident that *Re Hoskins* goes very much further than these cases, because the attempt was in the English decisions to get a privilege over the other creditors by means of a distress. In *Re Hoskins* the attempt was merely to rank *pari passu* with the other creditors. Indeed Patterson, J., throws out his own views that, as between the parties, the bargain was binding and legal. He says at 1 App. R. p. 383: "As to the subsequent year's rent, I see no reason for refusing to hold that, as between the lessor and lessee, the amount became due and payable when the event happened, which the law declares shall produce the that result, viz.: the institution of the proceedings in insolvency." And again at p. 384, "It may be conceded that, as between the parties to the lease, it is an agreement in the nature of liquidated damages for the loss involved in the landlord's having to resume possession of the premises, and that, as I have already said, it creates a legal debt." But though there is some force in this reasoning it is difficult to see how effect can be given to these *dicta*. By the decision itself, it was held that the claim did not constitute a debt proveable in the insolvency proceedings; that being so, if it was yet valid between the parties, it would survive the insolvency and become a debt exigeable against the debtor when discharged from proveable claims. And in this way a debt, fraudulent in its inception as against the creditors, would