

decision rendered soon afterwards, in which it was distinctly laid down that the effect of the legislation was to consolidate or codify the law relating to fraudulent preference. (i) Construing the words, "with a view," etc., Bowen, L.J., said:

"There are only three conceivable meanings which these words can have. (1) They may conceivably mean the case where the debtor has present to his mind as one view, among others, the giving a preference to the particular creditor. I do not think that is the true interpretation of the words. (2) Another possible construction of the words is to read them as equivalent to 'with the view'—the real, effectual, substantial view—of giving a preference to the creditor, the word *a* being equivalent to *the*. I think that is the correct interpretation. (3) The other conceivable construction is to treat them as equivalent to 'with the sole view.' . . . Is the expression 'with a view' convertible into 'with the sole view'? My answer is that the latter words are not in the Act, and I do not wish to lay down that they mean the same thing as the words which are in it."

The position of the Court of Appeal was still more precisely defined in *Ex parte Taylor*, (j) where it refused to accept the position that, "on the true construction of this section, if a debtor who is unable to pay his debts as they become due, out of his own money makes a payment in favour of one creditor, that of itself shews that he must have intended to prefer the creditor, and that court ought not to take into account any of the subsidiary matters which they were formerly in the habit of taking into account in determining whether a transaction was a fraudulent preference." Lord Esher said:

"The doctrine of fraudulent preference grew up from the decisions of judges, and the Act was intended to codify these decisions, and yet it is argued that they have been all swept away, and that we ought now to look at nothing but the words of sec. 48, and not make any inquiry into the actual intention of the bankrupt in making the payment in question. . . . What is meant by 'with a view'? It is the same thing as 'with an intent.' The moment you come to this, that you have to perform the metaphysical operation of finding out what a man's intent was, surely then you ought not to throw away all the tests which have been adopted by great and careful judges for the purpose of doing this. You cannot throw out of account the fact that a man was threatened with something which he would not at all like in order to see whether he did not act with the dominant view of getting rid of that pressure."

(i) *Ex parte Hill* (1883) 23 Ch. D. 701, per Bowen, L.J.

(j) (1886) 18 Q.B.D. 295.