IN THE HIGH COURT OF AUSTRALIA

BETT

V.

STUART

ORIGINAL

REASONS FOR JUDGMENT

Judgment delivered at __Melbourne__

on __Friday, 4th. March, 1949.__

BETT   V.   STUART

JUDGMENT   RICH J.
                                            DIXON J.
                                            WILLIAMS J.

BETT   V.   STUART

JUDGMENT   RICH J.
                                           DIXON J.
                                           WILLIAMS J.

            In this case the facts are in a small compass.
It appears that in November 1947 a sum of £85. 4. 7 was owing
by the appellant to the respondent which the appellant neglected
to pay and the respondent obtained in the County Court judgment
for that amount.   The appellant again failed to pay the
judgment debt and on the footing of that judgment a bankruptcy
notice was issued with which the appellant did not comply.   The
failure to comply with the requirements of the bankruptcy notice
enabled the creditor to present a petition.   In these
circumstances the respondent was entitled to avail herself of
the law of bankruptcy.   There were very few facts before the
learned Judge in Bankruptcy.   The debtor did not go into the
box and give any evidence; his counsel did not tender any
evidence, although he was asked whether he wished to do so.   In
these circumstances the matter comes to us on appeal and we are
confined to the evidence, such as it is, which appears in the
transcript.   There we can find nothing which shows that the
learned Judge was not justified in making the order.   I think
each of us has pointed out to the appellant what the law is; we
have pointed out the distinction between this case and the case of
In re a Debtor: Ex parte Lawrence 1928 Ch.D. 665, cited by the
appellant.   There is no evidence which suggests any agreement
between the parties which might show that the bankruptcy pro-
ceedings were an abuse of the bankruptcy process or that the
learned Judge exercised his discretion wrongly.   The appeal
is dismissed.

                            Appeal dismissed with costs.   If and in so
                    far as the respondent is unable to recover

her
~~their~~ costs from the bankrupt personally
he is
~~they are~~ to be at liberty to apply to the
official receiver to allow them out of
the estate of the bankrupt and if he
disallows them to the Judge in Bankruptcy.