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ROYAL COURT 133A.

(exercising the Appellate Jurisdiction conferred upon it by Article 10 of the Separation and Maintenance Orders (Jersey) Law, 1953).

20th September, 1990

Before: The Deputy Bailiff, and
Jurats Vint and Hamon

Between:

Mr F

Appellant

And:

Mrs F

Respondent

Appeal against decision of Petty Debts' Court of 16th January, 1990, whereby custody of the second child of the marriage was awarded to the respondent; the tenancy of the matrimonial home was transferred into the respondent's name; and the appellant was ordered to pay £15 per week towards maintenance of the second child.

Advocate P.C. Sinel for the Appellant.
Advocate R.J. Renouf for the Respondent.

JUDGMENT

(on application by Appellant under Rule 10 of the Separation and Maintenance Orders (Appeals) (Jersey))

Rules, 1953, for leave to adduce further evidence).

DEPUTY BAILLIFF: The Court is primarily concerned with the interests of this family and we cannot believe that it is in the interests of the family that the proceedings should be so conducted as to set father and one son on the one hand against mother and the other son on the other hand.

Rules 5 and 6 of the Separation and Maintenance Orders (Appeals) (Jersey) Rules, 1953, provide only for a copy of the notes of the judge of the Petty Debts Court and of his reasons for his decision to be available to the Court.

It is true that in 1953 transcripts were not generally available and that transcripts do assist the Court in complicated cases, but here we are concerned only with a comparatively brief hearing of the 16th January, 1990, when only the question of custody, care and control of **A** was before the Court and we find the notes are adequate for that purpose.

Therefore in the exercise of our discretion we have decided not to avail ourselves of Rule 10 of the same Rules and the Court will not retake evidence given in the Petty Debts Court nor will it take further evidence.

Therefore, we shall now proceed to hear the appeal on the basis of the papers that are before us excluding the letter from the Child Care Officer of the 24th July, 1990, addressed to Mr. Sinel.