

34/78

## FAMILY COURT OF AUSTRALIA

*In the Marriage of HOGUE and HAINES (formerly Hogue)*

Wood J

27 June 1977

(1977) 29 FLR 186; 3 Fam LR 11,290; [1877] FLC 76,384 (¶90-259)

FAMILY LAW – EVIDENCE – REPORT FROM WELFARE OFFICER – NATURE AND EXTENT OF MATTERS TO BE CANVASSED BY REPORT – WHETHER HEARSAY MATERIAL IN REPORT INADMISSIBLE – WEIGHT TO BE GIVEN TO WELFARE REPORT: *FAMILY LAW ACT* 1975-76, S62.

## HELD:

(1) In determining what matters are desirable matters to be reported upon by a welfare officer pursuant to s62(4) of the *Family Law Act* 1975-76 the court should have regard to the fact that the ordinary rules of evidence will be applied at the trial and the reporter should not be asked to go into fields of inquiry which will produce material incompatible with those rules.

(2) Once a welfare report has been ordered and prepared by a welfare officer as defined in s4 of the *Family Law Act* 1975-76 then the discretion imposed in the court to admit the report into evidence is without limitation and such a report can be admitted even though it contains hearsay material.

*Sing v Muri* (1969) 16 FLR 211;

*Official Solicitor v K.* (1965) AC 201;

*Priest v Priest* (1963) 9 FLR 384, followed.

(3) The admission of a welfare report into evidence does not supplant the duty of the trial judge to listen to and weigh up the evidence and form his own conclusions.

*Staats v Staats* (1970) 19 FLR 279, followed.

(4) It is undesirable for a welfare officer to annex to a report copies of reports and statements obtained from other persons. The report must be the work of the officer who prepares it and should be confined to the matters which the court considered desirable when requesting the report be furnished.