

████████████████████

detailed provisions which this would have required. The amendments adopted in 1967 are considered significant only as abortive housekeeping measures, designed to remove provisions which might appear inconsistent with RSA 70:1-a (supp). That these measures fell short of complete success because provisions in sections 6, 7, and 12 were ignored or overlooked, does not detract from the force of the clear and mandatory provisions of RSA 70:1-a (supp).

RSA 70:1-a (supp) precludes the application of RSA ch. 70 (supp) to the activities of these defendants. Moreover, under the amended definition of "election" and the definition of a "candidate" (RSA 70:1 I and II (supp)), RSA 70:8 (supp) fails to encompass the efforts of the defendants on behalf of Robert F. Kennedy, since he is not a "candidate in any election" within the meaning of this section, and the defendants are not a political committee at a "primary" to which the section applies.

The transferred question is answered in the affirmative: RSA 70:1-a (supp) does except presidential preference primaries from the provisions of RSA ch. 70.

Remanded.

████████████████████

Rockingham,
No. 5621.

SALLY D. COLLETTE

v.

VICTOR L. COLLETTE.

Argued December 5, 1967.

Decided February 29, 1968.

████████████████████

Wayne J. Mullavey for the plaintiff, filed no brief.

Shaw & Eldredge (*Mr. Carleton Eldredge* orally), for the defendant.

KENISON, C. J. This case presents the common but difficult question of deciding what is an equitable division of a husband's salary for the benefit of his divorced wife and minor children. Neither the Legislature nor this court has devised any litmus test that guarantees Solomonic certainty in determining the maximum or minimum amount of support that a wife and minor children are entitled to receive or the amount of salary that a husband is entitled to retain. *Ballou v. Ballou*, 95 N. H. 105. The Trial Court is accorded a wide discretion in such matters both at the time of the original divorce decree and at any hearing for a modification of the support order. *Peterson v. Buxton*, 108 N. H. 77, 78; *Benjamin v. Benjamin*, 99 N. H. 117, 119; *Guggenheimer v. Guggenheimer*, 99 N. H. 399, 403.

The parties were divorced in 1965 and by stipulation of the defendant approved by the court in 1966 the defendant agreed to pay \$70 a week for the support of his three minor children. The defendant's support payments are in arrears due in part to his failure to make money in a "full-time selling position" in 1966. He filed a motion to modify and reduce his support order of \$70 a week and the Court reduced the weekly payment to \$60. At the time of the hearing on this motion the defendant received "take home pay" of approximately \$104 a week. The defendant's exception to this order was reserved and transferred by *Grant, J.*

The defendant had the burden of showing that the support order was improper and unfair. 2A Nelson, Divorce and Annulment (Rev. 1961) s. 17:08; *Fortuna v. Fortuna*, 103 N. H. 547. While the order of the Trial Court is subject to review (*Taylor v. Taylor*, 108 N. H. 193), it can be set aside only if the evidence demonstrates clearly an abuse of judicial discretion. *Kennard v. Kennard*, 81 N. H. 509, 511. Considering all the

circumstances including the financial straits of the mother and the three minor children and the father's "take home pay" of \$104 a week, we cannot say that the weekly support order of \$60 constitutes an abuse of discretion. See Annots. 89 A.L.R. 2d 7; 1 A.L.R. 3d 382; *Peterson v. Buxton*, 108 N. H. 77.

Exception overruled.

All concurred.

Hillsborough,
No. 5630.

EDITH L. JELLEY

v.

RICHARD E. LAFLAME.

Argued September 8, 1967.

Decided February 29, 1968.

Leonard, Leonard & Prolman (*Mr. Richard W. Leonard* orally),
for the plaintiff.

Sheehan, Phinney, Bass & Green and *Thomas H. Richards*
(*Mr. Richards* orally), for the defendant.

PER CURIAM. This is an action by a mother to recover damages for physical harm resulting from fright and shock caused when she witnessed an accident in which her 6 year old daughter