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PHILADELPHIA, MONDAY, NOVEMBER 2, 1964

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No. 68

MONDAY BAR REPORT

The News Service of the Philadelphia Bar Association

CALENDAR

November

This Week

- 2-4 p.m.: Criminal Law Committee meeting, Bar Assn. Headquarters.
- 4-1 p.m.: Economics of Law Practice Committee, Bar Assn. Headquarters.
- 4-4 p.m.: Federal Court Subcommittee of the Civil Judicial Procedure Committee, Bar Assn. Headquarters.
- 4-8 p.m.: U. of P. Law Forum, McKean Hall, 100 S. 34th St.
- 5-3:30 p.m.: Mexico-Legal Committee, Bar Assn. Headquarters.
- 6-12:30 p.m.: Stradley Tax Group luncheon lecture, Kugler's Restaurant.
- 6-4 p.m.: Shingle meeting, Bar Assn. Headquarters.

Coming Events

- 9-3 p.m.: Biography and History Committee, Bar Assn. Headquarters.
- 10-12:50 p.m.: Corporate Law Counsel luncheon meeting Dining Room, Phila. Nat'l. Bank.
- 10-3 p.m.: Mr. Goldberg's Special Committee of the Criminal Law Committee, Bar Assn. Headquarters.
- 10-6:30 p.m.: Reception and Buffet Supper, Lawyers' Club of Philadelphia, in honor of Philadel-

The Divorce Code

Minority Report on Proposed Code

The following Minority Report on the Proposed Divorce Code is the last of a series of four reports, dealing with the Proposed Marriage Code and Proposed Divorce Code, submitted by the Philadelphia Bar Association's Committee on Marriage, Divorce and Family Law, of which Ralph C. Bussler, Jr., is chairman.

Minority Report

Professor Foster, Reporter for the Subcommittee of Family Law, Joint State Government Commission, in his article "Honest Grounds for Divorce", Pennsylvania Bar Association Quarterly, June 2, 1963, says that the underlying philosophy of the proposed Divorce Code is that the main issue should be: is the marriage dead, should the marriage be dissolved?

As stated by Hon. Chauncey M. Deputy, Chairman of the Family Law Section, Pennsylvania Bar Association, "... the divorce action will no longer be founded on the unprofitable inquiry about who is at fault, but substituting the criterion: is the particular marriage dead beyond resuscitation and should it be decently buried"; Quarterly, same issue.

This reflects the "socialized approach". It would, to a great extent, take divorce out of the field of law and judicial determination and place it in the field of sociology where reports would depend largely upon reports and investigations made by pro-

NOTICE

PHILADELPHIA BAR ASSN.

This is to advise the bar that your Committee on Special Services and Communications has appointed a subcommittee headed by William A. Goichman to work for further improvements in the Practitioner's Office.

This subcommittee will work in cooperation with the Committee on Court Records.

All inquiries or suggestions from the bar pertaining to the work of this subcommittee will be welcomed. They should be sent to Mr. Goichman, Suite 1332 Philadelphia National Bank Bldg., Philadelphia, Pa. 19107, telephone LO 7 6100.

Chancellor's Message

Last Monday the Board of Governors had a long meeting dealing with a number of important matters. It made an appropriation to aid in supporting the Sitting Judge Principle and the reelection of Judge Woodside. It reviewed a committee report recommending a more liberal pension and insurance program for the bar association's staff. Final action on this program will be taken at the November

Minimum Fee Schedule Increased Fees Suggested In Orphans' Court Matters

Published in this edition of the Monday Bar Report are additional recommended minimum fee schedules which have been approved by the Committee on Economics of Law Practice of the Philadelphia Bar Association.

Other such schedules approved by the committee will be published in future editions.

Comments and suggestions concerning these fee schedules should be sent to Mitchell W. Miller, Esq., consultant to the Committee on Economics of Law Practice, 1466 Two Penn Center Plaza, Philadelphia, Pa. 19102.

Estate Planning Services

Thorough planning of an estate requires the attorney to gather all pertinent data concerning the total assets of the client, including business interests, life insurance, social security and pensions, jointly owned property, interest or expectancies in other estates, powers of appointment, the estate and

(Continued on page 8)

Executive Director

Paul C. Dewey to Succeed Wm. Duiker

Appointment of Paul Carpenter Dewey as the new executive director of the Philadelphia Bar Association was announced today by Chancellor Theodore Voorhees. He succeeds William J. Duiker who resigned last

FEDERAL COURTS

COURT OF APPEALS

OPINIONS FILED
October 30, 1964

By KALODNER, Cir. J.:

American Dredging Co., Appellant v. Local 25, Marine Division of U. 14199, the case was criteria of the district court will be vacated and the case remanded with directions to the district court to enter an order of remand; dissenting opinion filed by Circuit Judge Hastie.

By GARNEY, Cir. J.:

U. S. of America v. Bergen Point Iron Works, Appellant, 14662, judgment will be reversed and matter will be remanded with direction to enter judgment in favor of Bergen Point Iron Works and against U. S. in amount of \$2,500 plus interest from date of taking.

PER CURIAM:

U. S. of America v. State of N. J., Appeal 14661; judgment of court will be affirmed.

DISTRICT COURT

NOTICE TO THE BAR IN RE WAIVER OF JURY TRIAL

A special list will be established for the trial period commencing November 9th, 1964, for trial before the Hon. Alfred L. Luongo, Judge of the Eastern District Court for the Eastern District of Pennsylvania comprising cases now on the Jury Trial list, provided enough attorneys for plaintiff and defendants will stipulate to waive:

1. Jury trial.
2. Extensive findings of fact and conclusions of law.

Counsel will be afforded opportunity for announcement at the trial's start. The trial judge will announce his decision with a brief statement of the reasons therefor promptly following the conclusion of the trial and not later than 24 hours thereafter. The determination of the trial judge shall carry with it all of the inferences favorable to the winning party which ordinarily accompany a jury verdict. The same post-trial motions may be filed as in the case of a jury verdict.

Effort will be made to list the cases for a day or two. Preference will be given to those cases on the ready list, but applications for the special list

Notice to the Bar

Amendment to Local Rule 31 of the United States District Court for the Eastern District of Pennsylvania

Local Rule 31 has been amended to read as follows, effective January 1, 1965:

"A copy of each post trial motion shall be served upon the trial judge within three (3) days after the original shall have been filed with the Clerk. Unless, within ten days of filing a post-trial motion, (a) the transcript is ordered by a writing delivered to the official court reporter, or (b) good cause for failure to order such transcript is shown in a motion supported by an affidavit, a copy of which is delivered to the chambers of the trial judge, the post-trial motion will be dismissed for lack of prosecution."

JOHN J. HARDING, Esq.
Clerk

DISPOSITION OF CASES ON THE JURY TRIAL LIST

October 30, 1964

By WOOD, J.:

Ferguson v. U. S. Shring Machine Co., Inc. and Enterprise, 1954, Inc. et al., settled. (Continued on page 3)

NOTICE TO THE BAR

Courts of Common Pleas
Settlement Conferences

11 - 1 p.m.: Economics of Law Practice - Committee meeting, 18th Floor, Fidelity Phila. Trust Bldg.

12 - 12:30 p.m.: Lecture Luncheon sponsored by Committee on Professional Education, Mirador Room, Wanamaker Tea-room Restaurant.

12 - 3:30 p.m.: Committee on Services and Communications, Bar Assn. Headquarters.

12 - 8 p.m.: University of Pennsylvania Annual Owen J. Roberts Memorial Lecture.

13 - 1 p.m.: Civil Rights Committee Bar Assn. Headquarters.

16 - 4 p.m.: Annual Meeting of the Section of Corporation, Banking and Business Law of the Phila. Bar Assn. Ballroom of the Rectorick Club.

17 - 3:30 p.m.: Juvenile Service Subcommittee of the Public Service Committee, Bar Assn. Headquarters.

17 - 4 p.m.: Orphans' Court Committee meeting, 23rd Floor, Packard Bldg.

18 - 12:15 p.m.: Luncheon meeting of the Committee on Meetings, Bar Assn. Headquarters.

18 - 4 p.m.: Civil Judicial Procedure Committee, Bar Assn. Headquarters.

19 - 4 p.m.: Lawyer Reference Service Committee, Room 1809, Finance Bldg.

20 - 3:30 p.m.: Public Service Committee, Bar Assn. Headquarters.

Announcements

G. D. Bowman and Korman take pleasure in announcing that Frederick Cohen and Bernard D. Botha have been admitted into the firm as partners, and that Morton H. Mailman is now associated with the firm. The firm's offices are located at 732 Bankers Securities Building, Philadelphia, Pa. 19107. Phone: KI 3-2550.

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Philadelphia Bar Association News Staff

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18. Substitute the issue of the "death" of the marriage and whether it should be dissolved.

Our present divorce laws, lax as they are in many provisions and often in construction, are based on the principle that the family is the foundation of society.

Sitting Judge Principle

Lawyers Asked to Back Woodside for Reelection

Voters of both parties were urged today to repudiate overwhelmingly partisan political efforts to remove Judge Robert E. Woodside from the State Superior Court.

The plea was made by J. Wesley McWilliams, a former president of the Pennsylvania Bar Association and chairman of the Philadelphia Bar Association's Non-Partisan Committee for the Re-election of Judge Woodside.

"A vote for Judge Woodside in today's election is a vote to uphold the sitting judge principle," McWilliams pointed out. "This is a principle which the organized bar in Philadelphia has supported, without regard for partisan political considerations for more than a quarter of a century. It is a principle to which the voters of Philadelphia have given their allegiance almost without exception during that entire period. It is a principle which I am confident they will vote to uphold again Tuesday, regardless of the preferences they express for candidates for any other offices."

McWilliams emphasized that there will be two vacancies on the Superior Court to be filled Tuesday and he urged voters, Republicans and Democrats alike to be sure to vote for Judge Woodside for one of them.

"Judge Woodside's name will appear in the Republican column only," he added, "but all voters can cast their votes for him, regardless of for whom they vote for the other vacancy in the Superior Court."

McWilliams declared that Judge Woodside was endorsed unanimously for reelection by the Pennsylvania Bar Association and that his qualifications to continue to serve also were endorsed overwhelmingly in a secret vote in which all Philadelphia lawyers had an opportunity to participate. Judge Woodside also has been endorsed for reelection by the Philadelphia Evening Bulletin, the Philadelphia Inquirer and other leading newspapers in Pennsylvania, he asserted.

"The sum and substance of the Sitting Judge Principle," McWilliams said, "is that the voters should elect the judge who is best qualified to do the job."

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"The Philadelphia Bar Association" which was admitted to practice in Philadelphia in 1956 through a resolution from the University of Pennsylvania Law School earlier the same year. He also is a graduate of St. Paul's School, Concord, New Hampshire (1919) and Princeton University (1953), and studied at the Wharton Graduate School of Business and Commerce of the University of Pennsylvania in the summer of 1958.

He served in the Naval Reserve for four years, the Judge Advocate's Division of the United States Army for two years and was a member for five years of the First Troop, Philadelphia City Cavalry.

From November 1958 to March 1962, he practiced law with the firm of Strong, Sullivan, Saylor and Ferguson. From March 1962, to January 1961, he practiced law in association with Thomas B. K. King, Jr., and Spencer Erwin, Jr.

He is a member of the Big Brothers Association of America, the Juvenile Court Panel, Pennsylvania and Federal Defense Panel and the Committee on Professional Education of the Philadelphia Bar Association. He has been active in organizing the Institute of Contemporary Art of the University of Pennsylvania.

He was married on May 6, 1961, to the former Alexandra Davies. They have one son, Paul C. G. Dewey, Jr.

THE WARREN REPORT

ANALYSIS OF SHOTS, TRAJECTORIES AND WOUNDS—A LAWYER'S DISSENTING VIEW

Arlen Specter, Esq., Assistant Counsel of the President's Commission on the Assassination of President Kennedy was quoted by The Evening Bulletin of October 23, 1961, page 4, as follows: "The people are going to have to rely on the conclusions (that have been drawn) and the stature of the men on the Commission."

We know that Mr. Specter did not mean by the above statement that the Warren Commission was ever meant to be construed as a "ministry of truth." Nor would the members of the Commission, as public servants in a democracy, ever consider that their "stature" insulated their interpretations and findings from public criticism. Since we are all agreed on this score, we can now proceed to disagree.

Let us then, as lawyers, address ourselves to the evidence and findings of the Commission, limiting ourselves

to the present to Mr. Specter's area of particular interest relating to the shots, their number, source or sources and trajectories. We will also look briefly into the subject of the wounds inflicted. Then we will scrutinize the Commission's conclusions that their evidence supports the propositions that three shots were fired by Lee Harvey Oswald alone from a bolt-action 6.5mm. Carcano rifle while he was stationed at a window on the sixth floor of the Texas School Depository Building. The Commission further concluded that the three shots caused all the damage at the assassination site and that the time span between the first and last shot which struck President Kennedy and Governor Connally was 1.8 to 9.6 seconds. These conclusions I comment to your scrutiny and urge that you relate them to the evidence of the Commission.

First, with reference to the source of the shots, it is not central to my

(Continued on page 9)

United States District Court, Eastern District of Pennsylvania

NOTICE

Hon. Joseph S. Lord, 3rd, Calendar Judge, will hear all applications dealing with matters on the Civil Jury Trial Calendar and the Civil Nonjury and Admiralty Trial Calendar, Monday through Thursday, at 2 p.m. in Court Room 5 of the United States Court House, during the week of November 2, 1961.

MILDRED I. HUNTING, Deputy Administrator for Civil Listings.

TODAY'S LEGAL CALENDAR

COMMON PLEAS COURTS:

Argument List	Room 486 City Hall; 10:00
Consolidated Civil Jury Trials	Rooms 243, 285, 416, 662 and 654 City Hall; 10:00
Consolidated Equity-Nonjury Trial List	Rooms 275 and 482 City Hall; 10:00
Equity Matter	Room 195 City Hall; 10:00
Settlement Conferences	Room 311 City Hall; 10:00

COUNTY COURT:

Assessment of Damages	Room 650 City Hall; 10:00
Equity Matters	Room 650 City Hall; 11:00
Motion List	Room 234 City Hall; 10:00
Trials With Jury	Room 642 City Hall; 10:00
Trials With Jury	Rooms 478 and 650 City Hall; 10:00

ORPHANS' COURT:

Audit List	Rooms 432 and 436 City Hall; 10:00
Trials	Rooms 425 and 426 City Hall; 10:30
Trials	Rooms 411 and 416 City Hall; 11:00

QUARTER SESSIONS COURT:

Mail Arrangement List	Room 254 City Hall; 12:15
Major or Special Cases	Rooms 196, 216, 253, 443, 453, 175 and 653 City Hall; 10:00
Miscellaneous Lists	Rooms 413 and 653 City Hall; 10:00
Foal Cases	Room 254 City Hall; 10:00
Prison Arrangement List	Room 653 City Hall; 9:15
Waiver Cases	Rooms 296, 616 and 676 City Hall; 10:00

SHERIFF'S SALE

Argument List	Room 653 City Hall; 2:00
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UNITED STATES DISTRICT COURT:

Jury Trials	U. S. Court House; 10:00
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Advance Lists

Common Pleas Courts:

Schedule of Consolidated Motion and Miscellaneous List for November and December - This Issue	Room 254 City Hall; 10:00
Settlement Conference Lists for Weeks of November 2 and 9 - Issue of October 19, vol. 472; Lists for Weeks of November 16, 23 and 30 - This Issue	Room 653 City Hall; 10:00
Continuing Jury Trial List - Issue of August 14, vol. 156; Issue of September 21, vol. 329 and October 19, vol. 472	Room 653 City Hall; 10:00
Equity-Nonjury Trial List - Issue of September 21, vol. 529 and October 19, vol. 472	Room 653 City Hall; 10:00

County Court:

Assignment of Cases for Week of November 2 - Issue of October 20, vol. 347	Room 653 City Hall; 10:00
List for Week of November 9 - Issue of October 26, vol. 349; List for Week of November 16 - This Issue	Room 653 City Hall; 10:00
Assignment of Judges for November - Issue of October 28, vol. 325	Room 653 City Hall; 10:00

Quarter Sessions Court:

Mail Arrangement List for Week of November 2 - Issue of October 27, vol. 349; List for Week of November 9 - This Issue	Room 653 City Hall; 10:00
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Supreme and Superior Courts:

Argument List Calendar - Issue of October 9, vol. 327	Room 653 City Hall; 10:00
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sense of dedication, I believe that the Section of Corporation, Banking and Business Law will strengthen the Philadelphia Bar Association immeasurably and will add much to the professional learning and luster of the Philadelphia Lawyer.

Sincerely yours,

ARNOLD R. GINSBURG

The Warren Report

(Continued from page 1)

thesis that the Warren Commission erred in determining that three shots came from the Book Depository Building. On the contrary, I am willing to concede for the purposes of this presentation that three shots did come from the Book Depository Building, but I will endeavor to prove that all the evidence of the Commission's Report points up that another shot or shots came from a source other than the Depository Building.

The following witnesses reported evidence indicating a source other than the Book Depository Building: Austin L. Miller on the railroad bridge thought the shots came from the Presidential limousine itself.¹ Frank E. Heilly, an electrician on the same bridge, heard three shots that seemed to come from the "top" on the north side of Elm Street at the corner up there,² S. M. Holland heard "four shots which sounded as though they came from the trees on the north side of Elm Street where he saw a puff of smoke."³ Thomas J. Murphy said the two shots he heard "came from a spot just west of the Depository."⁴ J. E. Bowers, Jr. said they came "either from the Depository Building or near the mouth of the Triple Underpass."⁵

Arlen Specter, Esq., stated that Senator Ralph W. Yarborough said he smelled gunpowder at the assassination site. Mr. Specter dismissed this as the function of "an overly active olfactory sense." He admitted that a Dallas police officer was reported to have smelled gunpowder 350 to 400 feet from the Depository Building immediately following the assassination shots. Mr. Specter did not comment on this.⁶ If the smell of gunpowder was detectable at street level immediately after the assassination, then this would indicate a source of shots other than the sixth floor of the Book Depository Building.

So, the Commission ignored all of the above in so far as the evidence reveals auditory, visual and olfactory stimuli reception incompatible with the source of shots exclusively from the Book Depository Building. Need-

less, on an occurrence of this magnitude, the simplest thereof.

Next, let us consider the number of shots. The Commission states, "It is possible that the assassin carried an empty shell in the rifle and fired only two shots with the witnesses hearing multiple noises made by the same shot. Soon after the three empty cartridges were found, officials at the scene decided that three shots were fired . . ."⁷ So, therefore the Commission concedes that since only three shells were found, no more than three shots could have been fired from the vantage point of the sixth floor of the Depository Building. It suggests that maybe less than three were fired if the assassin brought in a discharged shell. In that event he would have fired only two shots on that day from that point. The Commission speaks as if their problem is perhaps one of superfluous shots which are not required to explain the carnage of that dreadful site. Examination of the Commission's evidence, however, indicates the opposite to be true. This reader is not satisfied that only three shots could possibly have raked that lead-spewn site on November 22, 1963.

Let us presently read G. A. Bennett's testimony with reference to the number of shots fired. "Secret Service Agent Glen A. Bennett, stationed in the right rear seat of the President's followup car, who heard a sound like a firecracker as the motorcade proceeded down Elm Street. At that moment, Agent Bennett stated:

" . . . I looked at the back of the President. I heard another firecracker noise and saw that shot hit the President about four inches down from the right shoulder. A second shot followed immediately and hit the right rear of the President's head."⁸

The Report goes on to explain "Substantial weight may be given Bennett's observations" because "he recorded what he saw and heard at 5:20 p.m., November 22, 1963, on the airplane en route back to Washington."⁹ According to Bennett, then the first shot missed.

The Commission discussed other evidence to indicate the first shot did not miss. Then the Report goes completely awry. "If the first shot did not miss, there must be an explanation for Governor Connally's recollection that he was not hit by it. There was conceivably a delayed reaction between the time the bullet struck him and the time he realized that he was hit . . ."¹⁰ Conceivably Governor Connally had a delayed reaction to realizing he was hit, but Abraham Zapruder's motion picture frames taken at the assassination scene did not register subjective

frames immediately which pierced with a rifle bullet from back to chest which projectile exited at the spot of 1500 feet per second.¹¹ The Governor's body did not register any lurch when the first bullet struck the President. As a matter of fact, the Commission asks us to believe that the Governor executed a turn completely around to the right, and then partially to the left, after he had been struck with at least one bullet in the back, through the right nipple, right wrist and left thigh.

The Governor's body did not react immediately after the President's body reacted. Therefore, he was not hit by the same bullet that hit the President. The Commission would have us believe that Governor Connally was wrong,¹² his wife was wrong,¹³ the F.B.I.'s initial findings were wrong; all the eye witnesses were wrong (none contradicted the Governor's recollection); the Zapruder films were wrong, and that there is no law of physics called action and reaction.¹⁴ Governor Connally was not hit by the first bullet to hit President Kennedy. All of the above-mentioned evidence is against it.

See how weak the following testimony is in support of the Commission's proposition that the first bullet to hit the President also hit the Governor: "Dr. Frederick W. Light, Jr., the third of the wound ballistics experts . . . testified that the anatomical findings were insufficient for him to formulate a firm opinion as to whether the same bullet did or did not pass through the President's neck first before inflicting all the wounds on Governor Connally."¹⁵ The Commission further states, "The alignment of the points of entry was only indicative and not conclusive that one bullet hit both men."¹⁶

If Governor Connally was not hit by the same first bullet to hit the President, then the Government's case is destroyed. The Government admits one shot missed.¹⁷ A separate shot removed the back of the President's head.¹⁸

This would constitute a minimum of four shots and would put the Government's theory that only three bullets were fired out of business. The explanation that the President and the Governor were first hit by different shots conforms to the "substantial majority of the witnesses (who) stated that the shots were not evenly spaced. Most witnesses recalled that the second and third shots were bunched together . . ."¹⁹ Governor Connally said he was hit at a point corresponding to frames 231 to 234 of the Abraham Zapruder films. If, as the Commission states, the President was hit no later than at frame 225, then this would in-

clude a major source in the vicinity of the underpass."²⁰ James T. Tague, as previously mentioned, was struck in the chest by a missile.²¹ These three witnesses could well be accurately recording separate shots missing their target. From all the above, I deduce that more than three shots were fired from more than one rifle.

In addition to the hard fact of the hitting of Tague, and the bullet strike in the curbing, we have in the Presidential limousine "the cracking of the windshield and the dent on the windshield chrome."²² Where these hits came from is never explained satisfactorily by the Commission.

Finally, let us discourse briefly on the trajectory as revealed by the wounds. Assistant Professor of Surgery Robert M. McClelland, M.D. of Parkland Hospital stated that "the death (president) was due to massive head and brain injury from a gunshot wound of the left temple."²³

You will recall that Secret Service Agent Glen A. Bennett, stationed in the right rear seat of the President's followup car saw a "shot hit the President about four inches down from the right shoulder."²⁴ "An examination of the suit jacket worn by the President by F.B.I. Agent Frazier revealed a roughly circular hole approximately one-fourth of an inch in diameter on the rear of the coat, 5 1/2 inches below the top of the collar and 1 1/4 inches to the right of the center back seam of the coat."²⁵ "The shirt worn by the President contained a hole on the back side 5 1/2 inches below the top of the collar and 1 1/4 inches to the right of the middle of the back of the shirt."²⁶ "The tie had a nick on the side of the knot."²⁷ The Commission would have us believe that a trajectory of a bullet from the sixth story downward would hit the President four inches from the right shoulder, or 5 1/2 inches from the top of his short collar, and ranging upward emerge from his neck tie knot without having hit any bones. This proposed trajectory of down and then up fails to comport with a sixth-floor shot, and if possible at all, must have been fired from a lower level. Further they ask that this same bullet which exited flying upward after not hitting any bone in the President "then changed direction in mid-air and curved downward striking the Governor in the back, chest, right wrist and left thigh."²⁸

When I suggested to Arlen Specter, Esq., on the 22nd of October, 1964 that the Commission owes it to the public to enact the alleged performance of Oswald with a rifle on moving targets, he asked whether I would have them kill a man. The joke fell upon ears

Unfortunately, with increasing liberality and laxity in law and practice, family life has disintegrated in the Nation to an alarming extent.

The theory behind our divorce law historically has been to maintain the contractual relationship of marriage and to allow divorce only in relief of the injured party where the other spouse has broken the relationship by specific acts constituting grounds for divorce. True it is that, due to the ease with which divorce can often be obtained, the idea of the permanence of marriage has become obscured in practice and there is need for reform. But if our common goal is, as it certainly should be, to reduce divorce, then we submit that the reform should be in correcting existing laws and the administration, rather than in sweeping away the historical theory of the law of divorce and substituting for "the rule of law" the criterion of the "death" of the marriage.

The fundamental philosophy of the code is, of course, quite controversial and we believe it impossible to get an intelligent vote of the entire Bar Association without much more discussion than is possible at an ordinary meeting of the Association. In fact we are confident that there would be a wide latitude of opinion on the elimination of the injury and innocent spouse requirement, the abolition of defenses and the additional grounds.

Indeed, our discussions in Committee revealed that, with respect to other provisions of the code, there was by consensus unanimity, nor would it be possible to say that those who joined in the majority report necessarily favored such controversial provisions. A vote of the membership of our Association would not mean much unless it were taken seriatim on all such provisions.

Again, we find many faults of draftsmanship in the code. The majority report states: "We detect infirmities, for example, in the wording of various provisions, but we realize in a work as long and as elaborate as this (52) pages including Table of Contents and Comments) disagreements on points of drafting are inevitable. In any event, we may only advert to their existence; there is no room to itemize them in this report." It seems to us that the report should, at least, list these "infirmities." We maintain that any legislation to have the stamp of approval of our Association should be definitely in form to be passed by the Legislature. The Association should not sponsor legislation that invites unnecessary litigation due to defect or "infirmities" in draftsmanship.

(Continued on next page)

fertile turtles and Ogden Nash to be productive.

Fax Leary, and the chancellor in his article in the October 1961 issue of the *Shingle*, have outlined the reasons why the Section of Corporation, Banking and Business Law will surely succeed. The fact that almost 400 members of the Philadelphia Bar Association have joined our new section in the short space of a few months is the best evidence of the fact that this is more than just a worthwhile experiment.

What puzzles me is why it took our bar association so long to establish this section. My own correspondence files reveal some facts which I submit not only as an interesting footnote to the history of the Section of Corporation, Banking and Business Law but also for whatever it may suggest to the leaders of our bar association in connection with the processing of similar ideas which members may offer in the future.

As a matter of historical interest, on October 9, 1958, six years ago, I wrote a letter to Walter E. Alessandrini, then Chancellor of the Philadelphia Bar Association, suggesting that our bar association should have a "Committee on Corporation, Banking and Business Law" and a subcommittee on Federal and State Regulation of Securities.

Walter Alessandrini replied on October 17, 1958 that "I have given thought to your letter on the establishment of a Committee on Corporation and Business Law and have discussed the matter with" the then "Chairman of the Pennsylvania Bar Association's committee on this subject," and stated further:

"He has mixed feelings as to whether a committee could be of real service in view of the work of the Pennsylvania committee, but suggests that it might have merit if the local committee also had on its membership the Philadelphia members of the state committee. This suggestion does seem to have merit. I will probably discuss this matter further with the Board of Governors at its next meeting."

I do not know whether my suggestion was reported to the Board of Governors in 1958 and what consideration, if any, they may have given to it at that time, but I never heard anything more about it.

Some four years later, on January 3, 1963, in congratulating David Berger upon becoming Chancellor of the Philadelphia Bar Association and offering my assistance, I wrote in part:

"In this connection, I should like to renew a suggestion that I first made

local attorneys and their clients. I need not add that there are many other problems and areas of concern in the general field of Business Law. You might choose to establish a 'Committee on Corporation, Banking and Business Law' or a separate 'Committee on Corporation Law' and a 'Committee on Business Law.'

"As a subcommittee of the Committee on Corporation, Banking and Business Law, in the fashion of the American Bar Association, or as a separate and independent committee, I think there is need for a 'Committee on Federal and State Regulation of Securities.' With the vigorous enforcement of its regulatory legislation by the Federal Securities and Exchange Commission, and with the new enforcement the last few years of its legislation by the Pennsylvania Securities Commission, many attorneys are perplexed by the problems which confront them under these somewhat complicated statutes. . . . There are certain questions and possible objections concerning administrative regulation by the Pennsylvania Securities Commission which a Committee of the Philadelphia Bar Association might find it profitable to consider. Desirable revisions to legislation and regulation of securities in the federal field also deserve attention.

"If you find any merit in these suggestions for the establishment of a new committee or committees, I shall be happy to discuss this with you further and, needless to say, I should like to serve on such committees and to assist you in their organization."

Now that the Section of Corporation, Banking and Business Law has been established, at long last, within the Philadelphia Bar Association, it is important that all members of the association who appreciate its purposes and the many contributions it can make should join this Section and participate actively in the work of its committees. Initially the annual section dues are only \$5. As reported by Fairfax Leary in his recent article, the leadership of the section has projected the creation of some eighteen or more committees operating in the substantive fields of business organizations, insurance, commercial law, banking and finance, small business, and in certain general areas and fields of special study.

If the section's leadership will see to it, as I am sure it will, that all section members are given full opportunity to serve on the committees of their choice, and if the membership will participate actively and with a

less to say, this aforementioned evidence does not rule out additional shots having been fired from the building in question. But it certainly supports the conclusion that one or more shots originated from the tree and fence area north of Elm Street.

Further support for the inference that at least one shot emanated from a source other than the Book Depository Building is the fact that James T. Tague was hit in the cheek by a bullet, or part of a bullet, which impact evidently was the result of a ricochet from the "south curb of Main Street." Tague "got out of his car to watch the motorcade from a position between Commerce and Main Streets."⁷ Please take careful note that Tague was not on Elm Street, not on Main Street, but between Main and Commerce Streets "near the Triple Underpass."⁸ From my view of the pictures, maps and exhibits of the Commission Report (let us except my personal inspection of the situs in Dallas) I conclude that the South curb of Main Street near the Triple Underpass was not in the line of fire with the presidential limousine traveling on Elm Street. Tague was about 1 1/2 blocks from the building in question. But he was directly across from the tree and fence area on the north side of Elm Street from which so many witnesses reported the shots came. The Commission finds "The mark on the curb could have originated from the lead core of a bullet but the absence of copper precluded the possibility that the mark on the curbing section was made by an unjacketed military full metal-jacketed bullet such as the bullet from Governor Connally's stretcher."⁹ The obvious deduction that this was a bullet fired from the north side of Elm Street, and that it came from a rifle which was different from the Carcano that the Commission described as the assassination weapon, is scrupulously avoided. The bullet smear on the curbing did not reveal a trace of the metal jacket which coated the bullets allegedly fired from the Carcano. This fact cries for the inference that the bullet which hit Tague was of a different type, made of lead and antimony, and sans copper. If such was the case, then more than one gun was firing on that fateful day, and more than one man was firing. My law school professors described such actively as pointing in the direction of a conspiracy. Such a conclusion is in accordance with the basic scientific law of parsimony which requires us to select as between two equally good explana-

findings. These frames recorded what actually happened and not what was subjectively felt. These films show, according to Governor Connally's own viewing, that the Governor's body reacted some 6.9 frames later than that of the President at frames 231 to 231.11 The President's body showed reaction at frame 225.13 According to photographer, Phillip L. Willis, he "snapped a picture at a time which he also asserts was simultaneous with the first shot. Analysis of his photograph revealed that it was taken at approximately frame 210 of the Zapruder film which was the approximate time of the shot that probably hit the President. . . ."¹⁰ Therefore, according to Willis' photograph, the President was hit at frame 210 of the Zapruder film, or some 21 to 24 frames before Governor Connally's body seems to react. Some 1.04 to 1.31 seconds after the President's body reacted, Governor Connally indicates that he was hit.

If we are to assume that the Commission is correct in stating that the President's body was seen to react at Zapruder frame 225, and that he was hit at this point, then the Governor's body reacted from 6.9 frames later than when the President was hit. At 18.3 frames per second, this would be translated into the time period of 0.34-0.49 seconds. These film records that the Governor's body reacted 0.31-0.49 seconds after the President's body reacted. This interval is, as is the interval recorded by photographer Willis of 1.04 to 1.31, below the minimum firing time of 2.3 seconds necessary to operate the rifle. This 2.3 seconds was the top accomplishment of the Commission's marksmen, at stationary and not moving targets, which feat was only accomplished once and then never again approached by the Commission experts.¹¹ Lt. Col. A. G. Folsom Jr., head, Records Branch, Personnel Department, Headquarters U.S. Marine Corps, evaluated Oswald's marine shooting ratings as indicating a "fairly good shot" (sharpshooter qualification) and as a "rather poor shot" (low marksman rating).¹² Naturally, both 0.34-0.49 and 1.04-1.31 second intervals represent time periods far above the maximum time of the bullet in transit from the President to the Governor.

Irrespective of Governor Connally's reaction time, the Zapruder films should show the Governor's body conforming to the simple law of physics which requires that every action have an equal reaction. If Governor Connally did not have any nervous system at all, his body would have had to

react two separate shots hitting close upon one another. Since they were fired within 6 to 9 frames of one another, or according to photographer Willis 21 to 24 frames of one another, this represents a time interval of from 0.34 to 1.31 seconds. This time gap is insufficient to allow firing from the same bolt-action rifle and therefore points to the existence of another marksman. Needless to say, the majority view of the spectators that the last two shots were bunched, militates against a single carbine, bolt-action weapon doing all the firing. The time period between the first hit on the President and the final hit on him is not greater than 5.6 seconds according to the Commission's own findings. "As previously indicated, the time span between the shot entering the back of the President's neck and the bullet which shattered his skull was 4.8 to 5.6 seconds."¹³ Therefore, 5.6 seconds being the longest time span, if there were two hits on the President and one separate hit on Connally, there could not have been any bunching of two shots since the once-accomplished 2.3 seconds minimum firing time could not permit bunching.

The Commission tries to have Connally nailed with the same bullet that struck the President. If logical fallacies were bullets, the job would have been done cleanly. Here is the reasoning, "The bullet that hit President Kennedy in the back and exited through his throat most likely could not have missed both the automobile and its occupants. Since it did not hit the automobile, Frazier testified that it probably struck Governor Connally."¹⁴ But that argument assumes as proven, that which the Commission had not proven, to wit, that no other marksman was firing from any vantage point other than the Book Depository Building. A shot from the tree and fence area above the grassy knoll on the north side of Elm Street would account for a shot passing through the President and not striking the car in a flatter trajectory. This simple explanation which conforms to logic, geographical facts and trajectory is never considered by the Commission.

Additional evidence to the effect that there were more than three shots fired can be deduced from the testimony of the following: Royce G. Skelton who was on the railroad bridge, "thought that there had been a total of four shots, either the third or fourth of which hit in the vicinity of the underpass."¹⁵ Dallas Patrolman J. W. Foster, who was also on the Triple Underpass testified that shot hit the curb

which detect no humor in murder. I insisted that the moving target could convey dummies. Mr. Spector then complained that the traffic conditions were terrible around the Book Depository Building. I explained to him that the conditions could be duplicated with a tower and an open field. To this he made no reply.

Having read the Report, I conclude that the evidence offered by the Commission indicates there was more than one rifleman firing on November 22, 1963. There were more than three shots, if Oswald was one of the gunmen, then with that gun, from that vantage point, in that timespan, suggested by the Commission, he could not have been alone in the performance of the terrible work that destroyed our President and wounded two other men.

VINCENT J. SALANDEA
of the Philadelphia Bar

1. Report of the President's Commission on the Assassination of President Kennedy, P. 76. United States Printing Office, Washington, D. C. 1964.

2. Loc. cit.

3. Loc. cit.

4. Ibid., p. 76.

5. Loc. cit.

6. Arlen Specter, Esq., Bar Association Meeting, October 22, 1964, Room 632, Court Hall, Philadelphia, Pennsylvania.

7. Ibid., p. 116.

8. Loc. cit.

9. Loc. cit.

10. Ibid., p. 111.

11. Ibid., p. 111.

12. Loc. cit.

13. Ibid., 112.

14. Loc. cit.

15. Ibid., p. 109.

16. Ibid., p. 109.

17. Ibid., p. 112.

18. Loc. cit.

19. Arlen Specter, Esq., Room 632, Court Hall, October 22, 1964.

20. Ibid., p. 109.

21. Ibid., p. 107.

22. Ibid., p. 111.

23. Ibid., p. 109.

24. Ibid., p. 115.

25. Ibid., p. 109.

26. Ibid., p. 117.

27. Ibid., p. 105.

28. Ibid., p. 116.

29. Loc. cit.

30. Loc. cit.

31. Ibid., p. 105.

32. Ibid., p. 507.

33. Ibid., p. 111.

34. Ibid., p. 82.

35. Loc. cit.

36. Ibid., p. 82.

37. Ibid., p. 87.

38. Ibid., p. 82.

39. Ibid., p. 82.

40. Ibid., p. 87.

41. Ibid., p. 87.

The Divorce Code

(Continued from page 1)

mental unit of society, and that ordered community life depends upon the stability of the family. The State has an interest in maintaining the status of marriage and the essential performance of the marital contract.