

24 October 1966

Mr. Norman Podhoretz  
Editor, COMMENTARY  
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Dear Mr. Podhoretz,

One must rejoice that a man so eminent and authoritative as Professor Alexander M. Bickel of Yale has now spoken out on the failure of the Warren Report.

Professor Bickel is quite correct in labeling the pronouncements that greeted the Warren Report two years ago as "fatuous praise." No one who sang in that chorus of accolades pretends any longer that the Report is respectable, except perhaps Mr. Louis Nizer. But since Mr. Nizer's mind is unimpaired by acquaintance with the contents of the Report he celebrated so ecstatically—he asserts, for example, that Oswald kept a "Carbonari" rifle in a crib covered by a blanket (and his baby on the floor of the garage?)—we need not give him further attention.

Professor Bickel is neither uninformed nor fatuous in his own pronouncements on the Report but I have some difficulty in finding the proper adjective for his position—that the work of the Warren Commission is blemished by serious defects but that its essential conclusions are ("in all probability") miraculously correct.

Like Professor Bickel, other respected personalities now acknowledge that there are serious failings in the Report; some of them who spoke too soon and too uncritically (Lord Devlin, Max Lerner, and Alistair Cooke, to mention a few) now are delicately pecking away at their earlier words of approbation or swallowing them en masse.

Much credit for spurring those sobering second thoughts must go to such "demonologists" as Edward Jay Epstein, Mark Lane, and Leo Sawage—none of whom garnered a single approving word from Professor Bickel. It may well be that the Epsteins and Lanes stand as pygmies, intellectually and morally, beside the colossus of Professor Bickel, as his critique seems to proclaim. Just the same, it was the work of the "demonologists," or some of them, that stirred Professor Bickel to break his two years of consenting silence, and it would have been gracious of him to acknowledge that much.

Professor Bickel, like the "demonologists," does not find it possible to excuse all the loose strings left lying around by the Commission. He disapproves of the instances when the Commission asserted more than it could prove. He frowns upon the habit, "inexcusable...in a fact-finding body," of offering the phrase, "The Commission has concluded..." as a substitute for evidence. And he repudiates as a trick the use of the Commission's prestigious names to persuade the public that the findings and conclusions of an obscure staff merited confidence.

But, with that said, Professor Bickel does not consider that the Commission's shortcomings necessarily involved any trifling with the truth (is suppression of vital evidence like the FBI Reports and the photographs showing the holes in the President's clothing and the Secret Service report of allegations that Oswald was on the FBI payroll not to be regarded as trifling with the truth?). That he seeks to absolve the Commission of deliberate dishonesty only suggests to me that he has not yet checked the Hearings and Exhibits to see if the Report faithfully reflects the evidence. Had he done so, he would be aware that the Report is stuffed with misrepresentations, many of which can only be deliberate.

Nevertheless, Professor Bickel recognizes the failure of the Report, and he tells us what must be done now—"our government must either rehabilitate the one-bullet theory, or establish some other probability." He does not counsel a new search for the truth and nothing but the truth—the least we should demand, I would have thought—he asks just some probability or other that will leave the Commission with saved face and a still-solitary assassin.

Professor Bickel knows that the single-missile hypothesis is lost by default and really cannot be rehabilitated. No spokesman for the Commission (or the FBI) has come up with an effective answer to Epstein's charges since they made front-page headlines almost five months ago. And since the single-missile hypothesis is beyond salvage—embarrassed as it is not only by a massive body of contradictory evidence but by the remarkable reticence of the Commission—Professor Bickel has made a valiant attempt to rescue the Commission from its own ineptitudes.

He offers an alternate hypothesis which allows us to retain our lone assassin. We can dally no more with the proposition that a single bullet from Oswald's rifle struck both the President and the Governor sometime between frames 210 and 225 of the Zapruder film, while the car was concealed by a highway sign. And we cannot say two separate bullets struck the President sometime after frame 210, and the Governor sometime before frame 240, because to keep our lone assassin we must have at least 2.3 seconds, or 42 frames, between two shots—2.3 seconds being the minimum time for operating the bolt of the rifle (not counting aiming time).

That leads Professor Bickel to reason that Oswald may have shot the President earlier than frame 210—a possibility that the Commission all but ruled out. A large oak tree obscured the assassin's view of the President's back until frame 210; but, the professor says, there was a momentary break through the tree when the assassin had an unobstructed line of fire to the President's back, at frames 185-186. That was only one-eighteenth of a second but a shot was possible, he says. (I will go along with that for the sake of argument although I think it is wildly implausible.) Now, if we add the mandatory 42 frames to frame 185, we arrive at frame 227, well under the limit for a separate shot hitting the Governor before frame 240. Q.E.D.

Unwittingly, the professor has extricated the Commission from one vise only to trap it in another. His fatal error is his assumption that just because the Warren Report says so the Governor could have been shot from the Depository window any time up to frame 240. Had he taken the precaution of checking the testimony (we have already regretted that he did not do so), he would have realized that the assertion in the Warren Report is a complete misrepresentation of the testimony on which it purports to be based—that of FBI expert Robert Frazier.

Frazier did not say that at some point between frames 235 and 240 was the last occasion when Governor Connally could have received his wounds, as the Report asserts (page 106). He explicitly excluded frame 235, frame 240, and the frames between 235 and 240. He said repeatedly that the outside limit at which the Governor could have been shot was frame 225. Since Professor Bickel will not go to the testimony, let me bring the testimony to him.

Specter How would the bullet have passed through his body based on his position as shown in frame 235?

Frazier In frame 235, which is Commission Exhibit No. 897, the Governor in our reconstruction, according to the Zapruder film was also facing too far, too much towards the front. The angle of the bullet through his body, assuming no deflection, would not have corresponded to the angle through his clothing or according to the information furnished from the medical examiners.

Specter How about the Governor's position in frame 240?

Frazier In frame 240 the Governor again could not have been shot, assuming no deflection of the bullet prior to its striking his body, from the window on the sixth floor because he is turned in this case too far to the right. Now, this obviously indicates that the Governor in between frame 235 and frame 240 has turned from facing completely forward in the car around to the right to the point that a bullet entering his back on the right shoulder area would have exited in my opinion somewhere from his left chest area rather than from his right chest area.

(Volume V, page 170)

Dalles Have you asked the witness—I was studying these frame pictures—at about what frame he thinks the body of Governor Connally would have been in a position to receive a bullet that would go through the body with this trajectory?

Specter Yes; I believe I did.

Dalles I wasn't quite clear.

Frazier I testified that it would have been in position from anywhere from frames 207 to 225.

(Volume V, page 171)

Well, it is readily apparent that Professor Bickel's nice hypothesis of a shot at frame 185-186 was not destined for viability. He has moved closer to the minimum separation of 42 frames, but he is two frames short—and, as the saying goes, a miss is as good as a mile. And if he is tempted to wave aside a mere two frames, let me recall that a shot at frame 185-186 would have had a downward trajectory of about 40° and whether the bullet hit the base of the neck or six inches below the neck it could not have exited at the Adam's apple, not with that trajectory.

Various statements on other aspects of the evidence in Professor Bickel's article are vulnerable too, but I think I will not concern myself with his capillaries. I will merely hope that he will proceed, however belatedly, to read for himself the 26 volumes (not "25") of Hearings and Exhibits, and then reconsider his assumptions about the assassination and the Warren Report.

Yours sincerely,

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