

8 November 1966

Alexander M. Bickel  
Chancellor Kent Professor of Law  
and Legal History  
Yale Law School  
New Haven, Connecticut 06520

Dear Professor Bickel:

1. Sorry, but you are not correct when you say that the Commission cites Frazier only to support the statement that Connally could not have been hit after frame 240. The Report states on page 106 "At some point between frames 235 and 240, therefore, is the last occasion when Governor Connally could have received his injuries..." and footnote 299 at the end of sentence cites "5H 170 (Frazier)." On that very page, Frazier states explicitly that between frame 235 and frame 240 Connally "has turned...around to the right to the point that a bullet entering his back...would have exited in my opinion somewhere from his left chest area rather than from his right chest area." I continue to regard that as a misrepresentation of Frazier's testimony.

I trust that you did not intend to reproach me for deriving the impression from your Commentary article that you had not taken account of the relevant testimony. The article, after all, suggested no awareness of the constraints or obstacles implicit in Frazier's testimony (ambiguous or not) against the theory of a shot at frame 185, with another shot hitting Connally at least 42 frames later. Nor did the article take into account the trajectory of a shot fired at frame 185 rather than at frame 210 or later--a constraint to which your letter of the 3rd did not address itself.

Not unnaturally, I inferred that you were not aware of the relevant testimony--certainly, I did not wish to assume that you were familiar with evidence operating against the theory of a hit at frame 185 but deliberately failed to mention it.

2. I note that you do not consider Epstein a demonologist but only those critics of the Warren Commission who have the temerity to question Oswald's guilt, whether acting alone or in a conspiracy. But since it has taken considerable time for eminent figures such as Lord Devlin and, if I may say so, you yourself, to recognize the existence of grave defects in the Warren Commission's work, I do not lose hope of a further reevaluation in due course in which even so startling an idea as the innocence of the accused will be taken seriously. It does not seem fair to be so certain that he did it while we are still uncertain about when and how and why he did.

3. Sorry, but you are not correct when you say that Epstein saw the suppressed FBI and Secret Service reports, and the photographs showing the holes in the President's clothing, at the Archives. He obtained those documents long before they became available at the Archives, from a former assistant counsel to the Warren Commission who turned his working papers over to Epstein without even realizing the contents or import of some of the documents he had made available.

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Most of the documents in question became available in the Archives only after they had been revealed in Epstein's book.

The Commission did not mention in its Report or publish in its exhibits the FBI reports of November 26, December 9, or January 13, nor acknowledge the existence of an unresolved conflict with the autopsy report as to the location of the bullet wound in the back and its alleged exit from the anterior neck. The Commission published photographs of the President's clothing which did not show the bullet holes; it withheld the photographs which did show the holes, which were revealed for the first time in Inquest. The Secret Service report (control no. 737) on allegations that Oswald was on the FBI payroll at \$200 a month and carried informant number S172 was neither mentioned in the Report nor published in the exhibits.

That is not suppression of evidence? One may, of course, give the Commission the benefit of doubt--but then one should give it also to the alleged lone assassin.

4. I have no intention of getting "accustomed to the thought" that we must settle for "probabilities" which arise from a body of evidence composed of numerous half-truths, distortions, uninvestigated leads, and outright falsehoods. Nor do I intend to resign myself to a Report that what to press while a potentially explosive piece of evidence which pointed to conspiracy and/or the deliberate framing of Oswald was still under investigation and unresolved. If those who profess law are willing to settle, it only suggests their lack of interest in justice.

5. I should not have said in my letter that you did not consult the 26 volumes of Hearings and Exhibits; I should have said that you did not study them sufficiently. I readily apologize for having been less explicit than I should have been.

Although I am cognizant of the honor you do me by having taken the trouble to write to me in some detail, I regret that the elaboration of your reasoning and your statement that you hold no particular brief for the frame 185-theory are expressed in private correspondence rather than on the pages of Commentary. All the readers of your critique in the October issue should have the benefit of your additional remarks. I hope that the Editor will still see fit to present letters challenging your article even if the writers have received the courtesy of a personal reply.

Yours very sincerely,

Sylvia Meagher  
302 West 12 Street  
New York, N.Y. 10014

cc: Mr. Norman Podhoretz, Editor  
Commentary