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Editorial

Another Loophole Missed Again: How Many Shims?

How many shims had to be used to correct a defective sight on Lee Harvey Oswald's rifle? Were two or three shims necessary before the rifle could be fired in the FBI test range? Could the question be of such little importance when it concerned a rifle that only hours before had performed with magical speed and accuracy?

Here we see how unconcerned the Warren Commission was about the rifle and how blissfully unaware the New Orleans Assistant District Attorney was that such a puzzle even existed.

A chance to close this loophole was missed in the Clay Shaw trial during the testimony of FBI Special Agent Robert A. Frazier. Frazier's testimony of February 22 was reported in the Times-Picayune of Sunday, February 23, 1969.

Q. (By Assistant District Attorney Alvin Oser) When did you first see the gun you examined?

A. It was about 7 a.m. in the morning of November 23, 1963.

Q. Can you tell us how it came into your possession?

A. I don't know. I think it was obtained from an FBI office in Dallas.

(Oswald's rifle was taken to Washington by Special Agent Vincent Drain on the morning of November 23, 1963 as shown in Vol. 4 page 82 when Paul Morgan Stombaugh, Special Agent FBI assigned to the FBI Laboratory testified: "...I received this gun from Special Agent Vincent Drain of the Dallas FBI office. It was crated very well.")

Q. (By Oser) When you received the rifle, the sight wobbled or moved?

A. When I received the rifle that was the situation.

Frazier then elaborated the scope was tightened before he used the rifle for the firing tests.

In Vol. 3, page 443 Ronald Simmons, Chief of the In-

fantry Weapons Evaluation Branch of the Ballistics Research Laboratory of the Department of the Army testified:

Q. (Melvin Eisenberg doing the questioning) Was it reported to you by the persons who ran the machine-rest tests whether they had any difficulties with sighting the weapon in?

A. Well, they could not sight the weapon in using the telescope, and no attempt was made to sight it in using the iron sight. We did adjust the telescopic sight by the addition of two shims . . .

Q. Would you recognize these shims that I display to you, Mr. Simmons, as being the shims that were placed in the weapon?

A. I saw the shims only when they were in the weapon, but those look very much like what was evident from the external view, after they were in place.

MR. EISENBERG (doing the questioning): For the record, Mr. Chairman, these shims were given to me by the FBI who told me that they had removed them from the weapon after they had been placed there by Mr. Simmons' laboratory. May I have these introduced as evidence?

MR. JOHN J. McCLOY: Yes.

Q. Mr. Simmons, I find there are three shims here: You mentioned two. Would three be consistent with what you were told?

A. I was told two. These were put in by a gunsmith in one of our machine shops—rather a machinist in one of our machine shops.

Q. Mr. Simmons, I wonder whether you could take these shims back after I have marked them to find out whether the three had been placed?

A. Yes.

MR. EISENBERG: I am marking these 576, 577, and 578. They consist of three shims in three small envelopes.)

Mr. McCloy, acting Chairman received the shims in evidence with no further questioning as to where there were two or three! And when the next opportunity to question one in authority as to the correct number of shims used to rectify a sight default in a rifle supposed to have been used in killing President Kennedy, the attorney seemed to have no knowledge that such a controversy had been raging among the few persons who have cared enough to read the testimony concerning the killing of our President.