Q. At the time that you were still in Vietnam, sir, following the 15th of February, when you did your study, about the middle of February, when you did your study, there continued to be fighting, I think you said, in Hue, is that correct?

A. As I recall, yes.

Q. And was that intense fighting, sir?

A. It was intense fighting.

Q. And do you have any estimate of the number of enemy that were killed in that fighting, in that intense fighting at Hue, after you made your mid-February study?

A. No.

Q. Any estimate at all?

A. No, I don't.

Q. But whatever number of enemy killed, that would be enemy killed in addition to the enemy that you had estimated in your study, correct, sir?

A. Well, as I recall it, my study took a number of days, approximately a week, and again as I recall it, it started sometime in mid -- the mid time frame of February, as you and I have been talking, to the third week in February, and we tried to -- I tried to include all of the updated information, but as of the time that I finally briefed General Davidson -- and I believe that was before the 1st of March -- anything after that would not have been
included in the study.

Q. And in addition to Hue, was there intense fighting elsewhere in Vietnam after your statistics were estimated?

A. Not that I recall.

Q. What about Khe Sanh, sir?

A. I don't recall that.

Q. When you say you don't recall that --

A. I don't recall how long -- I went to Khe Sanh and everything, but I don't recall how long Khe Sanh took with respect to Hue and with respect to after the Tet offensive, whether it was two weeks, three weeks, a month. I can't recall that.

Q. In other words, your testimony is you just don't recall how long the Khe Sanh fighting went on?

A. You see, the Khe Sanh fighting took place well prior to Tet. General Westmoreland directed a number of major air strikes to be conducted around Khe Sanh well before Tet occurred, and then it lasted, because that was part of Tet, apparently, by the enemy plan, it lasted beyond Tet, but I can't recall exactly when it ended.

In fact, it kind of wasn't like Hue, where you had one day where the enemy just finally gave out and pulled out. The Khe Sanh battle sort of drifted away. The enemy was bombed almost into oblivion and began to just
sort of drift out. So I can't recall exactly when he pulled out.

Q. At any time prior to your leaving Vietnam did you ever do any estimate of enemy casualties that updated the 85,000 estimate that we have talked about?

A. I had input -- the question of casualties and of infiltration and so on was a constant question, and I had input to studies, but I did not do another major study, nor did I update my estimate per se, because its purpose was something other than what you're talking about.

Q. Were you aware of any estimate, whether you or anyone else prepared it, after you completed your study, of casualties that the enemy incurred subsequent to your study but before you left Vietnam?

A. I was aware that Colonel Graham was involved in doing a major study of enemy strength and that that study included a reanalysis of the methodology used to figure enemy strength, and that estimates were written, but I don't remember precisely who wrote them and when they were sent out and what they were.

Q. Do you remember anything at all about what they were?

A. Well, as I say, during the period mid-February to mid-March there was a postmortem report done on Tet, and again, the elements of that report were what was the enemy
strategy, how did he try to promulgate that strategy and what had been the effect.

Q. I am now talking about casualties.

A. I was not involved in any further analyses of casualties and I do not recall precisely any further analysis.

Q. Even though you may not recall it precisely, do you recall approximately what the estimate was of enemy casualties that were incurred after you did your study but before you left Vietnam?

A. I recall that there was a re-look at the figure of 85,000, for example, and it began to drop down. In other words, there was further intelligence coming in to suggest that while very high casualties were inflicted on the enemy, that perhaps they weren't as high as I had originally, with the help of my fellow analysts, estimated. But I don't recall where that figure actually set.

Q. Do you recall approximately, sir?

A. No, I don't.

Q. With respect to this 85,000 figure, that was a figure that you had gotten from your fellow analysts and which you had then satisfied yourself was a reasonable estimate, correct, sir?

A. Correct.

Q. And who were the fellow analysts that
contributed to that analysis?

A. The in-country analysts, I Corps, II Corps, III Corps, IV Corps. Each desk had a senior analyst and a junior analyst. The names I think I have given you before. Overcash, there was a kid named John something or other, Burleson or something like that, and Tom Sullivan and Mike Del Percio. Those were the analysts from whom I got the reports.

Now, the reports of enemy casualties were -- came in initially through reports by friendly forces. That is, United States or South Vietnamese forces would be in contact and they would report a number of soldiers killed during the battle.

So those analysts initially, at least, were drawing strictly on reports that they had received through friendly channels back up.

Q. My question is who were the analysts.

A. Okay. I just told you.

Q. Colonel Stewart, I would like to return to a subject that we were talking about earlier today. You will recall that I directed your attention to page 59 of your deposition in connection with the issue of the ratio of enemy wounded to killed.

A. I recall.

Q. And I raised the question of a typographical
error.

A. Right.

Q. I have the corrected copy of your deposition together -- you might keep this with it -- with the stenographer's contemporaneous recording of that deposition.

I would like to direct your attention to the answer that is at the top of page 59. You see that, sir?

A. I do.

Q. And that answer has to do with the number of enemy that were sufficiently seriously wounded to have died of wounds or to have been permanently disabled as a ratio to the number of enemy killed, does it not, sir?

A. Would you let me take just a moment to read this?

Q. Certainly. The portion I am particularly interested in is the portion that you read into the record before, that starts back on page 58.

A. Yes, it did.

Q. And in your answer here you say "Well, until that time" -- and that time is the time of the Tet offensive, is it not, sir?

A. Correct.

Q. You say "Well, until that time enemy dead, whatever enemy dead, it was estimated that three were wounded, but that ratio was changed drastically as a result of Tet," correct, sir?
A. Correct.
Q. And did you mean to say there that three were wounded for every enemy that was dead?

MR. DORSEN: Objection, your Honor.

THE COURT: What ground?

MR. DORSEN: Your Honor, this witness has testified that that was his best recollection of what he said and we have two versions of the deposition.

MR. BOIES: We can bring --

THE COURT: Objection overruled.

MR. BOIES: -- the stenographer in.

THE COURT: Objection overruled. Please don't comment in front of the jury.

A. Would you ask the question again, please?
Q. Yes. Let me ask you, is this an accurate transcription now of your testimony? Do you have any reason to doubt the stenographer's --

A. I have no reason to doubt it.
Q. When you said here "whatever enemy dead, it was estimated that three were wounded," were you talking about three wounded for each enemy dead?

A. I misspoke.
Q. That is, your testimony is you misspoke here?
A. Correct.
Q. And then later down in the page, when I repeated
the question and said "Am I correct that prior to the Tet offensive the estimate of enemy wounded to killed would have been three to one," and you answered "Correct" to that, your testimony is that you misspoke there as well?

A. Correct.

Q. Let me turn to the subject of enemy strength estimates, if I can, sir. And I would like to begin by directing your attention to 1967. We have been talking about 1968, after the Tet offensive, and I would now like to move to the period in 1967 before the Tet offensive.

During 1967 were you personally involved in conducting or making estimates of enemy strength?

A. In II Corps, yes.

Q. Other than in II Corps, sir, were you personally involved in making estimates of enemy strength in 1967?

A. Not of total enemy strength.

Q. You gave some testimony, and I don't want to try to characterize it, but you gave some testimony about work that you had done in June and July and perhaps August of 1967. Do you recall that testimony generally?

A. I believe so.

Q. Did that work that you were involved in in June and July and August and perhaps the end of May of 1967 involve your preparation of estimates of enemy strength?

A. As an input to the overall estimates or to
estimates of overall strength, yes, it did involve me, and yes, I was privy to estimates of overall enemy strength, and I gave opinions and estimates of enemy strength as it pertained to II Corps and sat and talked with and listened to analysts that discussed that.

Q. I want to be sure I understand it. Are you saying that in 1967 your only participation in the development of enemy strength estimates was to estimate the enemy strength in II Corps?

A. Yes.

Q. Who did the overall estimate of enemy strength to which your estimate of enemy strength in II Corps was, it is your testimony, a part or an input?

A. General Graham, Colonel Graham.

Q. Who else provided estimates of enemy strength that were inputs to Colonel Graham's or General Graham's overall estimate?

THE COURT: To the extent you know.

Q. To the extent you know, sir.

A. CICV and other analysts in CIIED.

Q. Is it your testimony that you and other analysts in CIIED and analysts in CICV all gave enemy strength information to Colonel Graham and he then did an estimate of enemy strength?

A. He did regular estimates of enemy strength based
on all source analysis, and yes, I would say that the input came from CIIEED analysts and also from CICV.

Now, the CICV analysts themselves were generally junior officers, lieutenants, with limited experience in analysis. So their product would go through more senior officers before they got to General -- Colonel Graham. But yes, CICV provided an input.

Q. What was your rank at this time?
A. I was a captain.

Q. And were you still a captain when you left Vietnam in April of 1968?
A. Yes, I was.

Q. Do you know whether Colonel Graham prepared regular written estimates? You said he prepared regular estimates of enemy strength. Do you know if he prepared regular written estimates of enemy strength?
A. I believe he did.

Q. Did you ever see them?
A. On a few occasions, yes, sir, I did.

Q. What was the format of those estimates, what did they look like?
A. They were written as if they were a message. They discussed past estimates, saying that "In our previous correspondence or whatever previous messages we estimated that the enemy size was X, Y and Z," went on to analyze the
situation and give the best estimate of what it currently was at that time.

Q. And you saw these in 1967, it is your testimony, or not?

A. Yes, I believe I saw -- Colonel Graham got there in summer of '67, and until that time the person who was sitting in his spot was more of an administrator than an analyst, and Colonel Graham became very interested in analyzing, and I believe I began to see that kind of estimative work being done somewhere in the fall of '67, and at that time I believe I saw one or more products of that nature.

Q. During the time that you were in Vietnam your immediate superior was Commander Heon, was he not, sir?

A. For a number of months, yes. I changed jobs three times in Vietnam at that point or changed bosses twice and jobs twice. So I had different bosses every time those changes took place.

But Commander Heon was my boss from about June or July of '67, until I was put on my special study that I talked about about infiltration in about November '67.

Q. Are you saying that Commander Heon ceased to be your immediate superior sometime in 1967?

A. About November.

Q. About November. I want to be sure I understand.
It is your testimony that in November of 1967 or about in November of 1967, sometime in the fall of 1967, Commander Heon ceased to be your immediate superior?

A. Yes. What happened was -- is between about August of '67 and November of '67 I was not only the II Corps analyst, but I also was an analyst on certain special projects, where I reported directly to either General -- Colonel Graham or Colonel Morris.

That was finally institutionalized about November of '67, when I was pulled completely out of the II Corps analysis and put on analysis for specifically that one major infiltration problem that we had, that we described earlier.

At that time my fitness report was written by my -- my efficiency report was written by Commander Heon, and a new boss took over, who became my rater, and that was Colonel Graham.

So officially -- and I can't recall what exact date it was, but it's in my military file -- my boss changed from Commander Heon directly in charge of me in November, approximately November, to Colonel Graham.

Q. And that happened in November of 1967?

A. I believe it was just that month. It could have been mid-November or mid-December, but it was right in there.
Q. Let me ask you to look at page 40 of your deposition. Again, you can read whatever portion you wish to for context, but the portion I am particularly interested in begins at line 7, page 40.

"Q. To whom did you report in the fall of 1967?

"A. Who was my boss?

"Q. Yes.

"A. Colonel -- Commander Heon."

And then you say "But," and I say "When did," and you say "To whom did I report? If you mean in a broader sense to whom did I talk with about estimates and things of that nature, or intelligence, I had free access to all of the senior intelligence officers there, so I talked -- spoke on a daily basis with General Graham and Colonel Morris and General Davidson.

"Q. But your immediate superior would have been Commander Heon, is that correct?

"A. Yes."

Do you recall being asked these questions and giving these answers?

A. That's exactly correct.

Q. And was Commander Heon your immediate superior in the fall of 1967?

A. Yes, he was.

Q. And your testimony is that at some point in the
fall of 1967 your superior officer changed, immediate
superior?

A. Well, if you call the fall November. You know, in Vietnam there was no fall. It was monsoon season. But yes, in November Commander Heon ceased to be my boss directly, although as a senior officer in the tank I certainly answered to him and dealt with him with tremendous respect and spoke with him on a daily basis. He just didn't write my efficiency report at that time because I was answering directly for most of my duties to Colonel Graham.

Q. When I asked you to whom you reported in the fall of 1967 and who your immediate superior was in the fall of 1967 and you told me Commander Heon is there any reason why you didn't tell me that it was Commander Heon until November and then it changed to Colonel Graham?

A. No, Mr. Boies, there wasn't -- I was thinking that fall -- to me in the United States the fall runs about September, October, November, and during that period of time, or almost all of that period of time, I answered to Commander Heon, because I officially was the II Corps analyst.

It wasn't until late November, when we began to see the indicators of infiltration of major integral units out of North Vietnam, I was officially pulled off II Corps
and put on a special study, and at that time it was decided by my superiors to give me a fitness report at that time and then give me a new boss, because I would not go back to be the II Corps analyst specifically and I would begin to analyze intelligence questions of interest of a broader nature.

And so when you asked me that question I wasn't trying to hide anything. It just never occurred to me that you were asking beyond -- if I had bosses change and so on. If you will recall, in the top of the page I did tell you when I first got to Vietnam that it was another guy in charge and was my boss.

Q. Yes, that's right, you did, and in that connection let me direct your attention to the immediately preceding page, Colonel Stewart, the last question and answer on page 39.

"Q. Did Commander Heon have a successor during the time you were in Vietnam? And by successor I mean somebody who succeeded him as the person responsible for supervising the preparation of the WIEU's.

"A. No, I believe Commander Heon came in a little bit later than I did and I think left after I did, or so closely around when I did that I can't recall having another boss, except for when I first got there, before Commander Heon entered."
You recall giving that answer to that question, sir?

A. What I was -- I don't know why we are going on about this. I am not trying to lie about who my bosses were. If somebody wants to know you can go to the military personnel center and you can tell every boss I had for 22 years and 5 months and you can tell exactly when they took over and what my fitness was.

What I was saying there, as an II Corps analyst -- in my mind I was thinking about being a II Corps analyst -- I can't recall having another boss other than Commander Heon, other than the men I responded to prior to Commander Heon coming in.

I don't know what to tell you. If I misled you there, I apologize. I hope it's clear now.

Q. When you and the other corps analysts were providing enemy strength estimates to be used by Colonel Graham, that was in the summer of 1967 and at a time when you were still reporting to Commander Heon, is that correct?

A. That was one series of times we did that, yes, sir. And during the summer of '67 I did report to Commander Heon.

THE COURT: Within the next few minutes, when you come to a convenient stopping place.

MR. BOIES: Yes, your Honor. I will not be more
than five more minutes.

Q. Let me ask you to look at some of Commander Heon's testimony in this trial. And I would direct your attention to page 1424.

One of the reasons that I want to focus on when you were reporting to Commander Heon is because of the way Commander Heon describes what he and his people were responsible for doing.

I direct your attention in particular to the question and answer that's at line 7 of page 1424. You see that, sir?

A. Correct.

Q. Where Commander Heon is asked "And during the time that you were in Vietnam neither you nor your people were responsible for preparing estimates of enemy strength, correct" and he answers "That's correct." You see that?

A. Correct. Yes, I see that.

Q. Do you believe that's accurate, sir?

A. I think -- yes, I think that in the precise sense of what Commander Heon is talking about there that's accurate.

Q. Is it the case that during the time that you worked for Commander Heon, which at least went up until November of 1967, you were not responsible for preparing estimates of enemy strength?
A. That's correct. There are two branches in CIIMO, current intelligence and estimates division. The current intelligence guys -- and that was Commander Heon's side and me for a long time -- were responsible for analyzing the current enemy situation and making short-term predictions, what the enemy would and wouldn't do, and providing input to other intelligence products.

Part of our input was to the estimates division that did do estimates, and since Colonel Graham was in charge of both estimates and current intelligence, and was the senior analyst in that sense out of that branch, we did provide input.

So what Commander Heon is saying here and what I have been saying are one and the same thing, I think.

Q. Colonel Stewart, Colonel Graham wasn't even in country in June of 1967, was he?

A. I don't believe he got there --

Q. He didn't even arrive until after June of 1967?

A. I don't believe he got there until about July.

Q. And he wasn't head, as you put it, of both current intelligence and estimates at the time that you were talking about doing the studies in June and July, was he, sir, because the reorganization didn't happen until August, correct, sir?

A. Are you talking about -- what studies are we
Do you remember testifying on direct examination about how after a briefing in May of 1967 Colonel Caton is supposed to have come to you and other analysts and said "I want to do some work on enemy strength and check out enemy strength"?

A.  Right.

Q.  Do you recall that?

A.  I do.

Q.  And do you recall testifying how you and the other corps analysts then went off and did something in May and June, and perhaps July as well, of 1967?

A.  No. On that specific question we were given 72 hours to answer. Colonel Caton was the boss. Colonel Phillips was under him. Colonel Phillips was the guy that was the head of current intelligence, or at least we analysts, prior to Commander Heon.

So in 72 hours, at least that one study, that was my description of how we did that. Neither one of the two men, neither Commander Heon nor Colonel Graham, were there at that time, because they weren't in country, and you're very correct.

Q.  Did those estimates that you did for Colonel Caton in the 72-hour period include guerrillas and self-defense forces?
A. As best as we could figure out.
Q. They did, sir?
A. As best as we could figure out, yes.
Q. You say they did though, as best you could figure out?
A. Right.

MR. BOIES: I may be six minutes, if I can, your Honor. I apologize. I want to finish this particular train of thought, if I can.

Q. Let me ask you to look at page 804 of the trial transcript. This is the testimony of Colonel Caton, who you say was your superior officer in May of 1967, who asked you to do these reviews.

The portion I am particularly interested in is at line 7. And this is a question to Colonel Caton.

"Q. Did you ever review estimates of the enemy's guerrilla forces?

"A. I don't recall having been asked to do that.

"Q. Did you ever review estimates of the enemy's self-defense forces?

"A. I don't recall ever being asked to do that."

Do you see that, sir?

A. Read down further, will you?

Q. Yes. How far do you want me to go?
"Q. Did you ever review estimates of the enemy's secret self-defense forces?

"A. I might have read one or two, but I don't recall. We kept them on file.

"Let me put it this way. The basic data was on file with the desk analysts. If there was to be an operation in that sector, then all the forces, real or potential, were identified for the field commanders.

"Q. Did these desk officers work for you?

"A. Yes."

Shall we keep reading?

A. Yes --

Q. We will read as long as you like. Shall we keep reading?

A. What I want to point out to you is the operative word --

Q. First, have we read far enough?

A. I think at this point we have.

Q. Okay.

A. Would you mind just reading the question and answer at line 23 and 25?

THE COURT: Just a second. What is the question that you want to ask Colonel Stewart?

MR. BOIES: The question is whether or not Colonel Stewart ever gave any estimates that included
guerrillas and self-defense forces to Colonel Caton for
review and transmission to anyone else.
A. The answer is yes.
Q. You did?
A. When you read desk officer, desk analyst, that's
what I was. I kept all the files. I was asked to return --
I personally wasn't at that time.

Now, my testimony was very precisely that Major
Glenn Hargess was my boss and I was a stand-in. Glenn
Hargess provided in May, over a 72-hour period, the
estimate as a desk analyst directly to Colonel Caton on
what enemy strength figures were. That's my testimony.

Q. And was it your testimony that Colonel Caton was
asked to prepare these estimates and give them to General
McChristian? Is that what you said?

THE COURT: I don't think he was permitted to
testify as to what conversation took place out of his
presence in a meeting that he was not part of.

MR. BOIES: Your Honor, I believe he was
permitted to answer who they were for --

THE COURT: He was permitted to say who he was
told they were for, but not whether Colonel Caton was asked
something outside of his presence.

MR. BOIES: No.

THE COURT: You may ask him what he was told.
Q. You were told, were you not, or it was your testimony that you were told that General McChristian had told Colonel Caton to review enemy strength?

A. Correct.

Q. And is it your testimony that that review of enemy strength that you say Colonel Caton was told to do by General McChristian included guerrillas and self-defense forces?

A. They included every enemy category under our jurisdiction at the time.

Q. And did that include guerrillas and self-defense forces?

A. Yes.

Q. And when Colonel Caton testifies he doesn't recall ever being asked to review estimates of the enemy's guerrilla forces and self-defense forces, do you know what he is talking about here, is that consistent with your recollection?

MR. DORSEN: Objection, your Honor. He said he didn't recall.

THE COURT: Sustained.

Q. Are you aware of any instance in which Colonel Caton was asked to review estimates of the enemy's guerrilla forces?

THE COURT: Was asked to or did?
MR. BOIES: Was he ever told --

THE COURT: The question in Colonel Caton's examination was did you ever review, not were you ever asked to. You want to ask him now is he aware of any instance in which Colonel Caton did review such estimates?

MR. BOIES: Yes, except the question was did you ever review, but the answer is I don't recall ever being asked to.

THE COURT: But this witness is not in a position to testify to what Colonel Caton was asked to or not asked to, unless you want to ask him about conversations that took place in his presence.

MR. BOIES: That's what I meant to do, your Honor.

(Continued on next page)
CROSS EXAMINATION (continuing)

BY MR. BOIES:

Q. Did Colonel Caton, according to you, ever tell you that he had been asked to review enemy strength estimates that included guerrillas and self-defense forces?

A. The answer to that is yes, but I would like to explain something. Intelligence guys talk in more precise terms than we are talking here in the courtroom. When Colonel Caton came out of that meeting that I referred to in my previous testimony, he described what went on in the meeting and described the requirements that the corps analysts had.

And he said, we want you. You need to go back and review your holdings of enemy strength in each one of your corps areas. Now, in more precise terms, an estimate gives you a projection of the future, what you have now and in the future, and a holding was an order of battle holding that we had developed overtime. I'm not certain if maybe Colonel Caton wasn't, you know, confused by, when you asked him about estimates, because clearly his job was current intelligence, not estimative in nature.

And so perhaps he was answering that, no, it wasn't an estimate, but what happened, to the best of my recollection, vis-a-vis that requirement that I witness
corps analysts, that I studied, and that I helped provide
input to, happened.

Q. At any time in 1967, did you personally work on
any estimates of enemy strength, you personally, sir?
A. Not total enemy strength, no. I personally
worked on the infiltration in 1967, the infiltration of the
integral unit.

Q. Other than your work on infiltration, did you
personally work on any estimates of enemy strength in 1967?
A. In II Corps, yes. But not the total, in your
question is --

Q. I didn't say total enemy strength, I just said
enemy strength?
A. Yes, enemy strength.

Q. Did you other than infiltration ever work on any
estimates of enemy strength in 1967 personally?
A. Yes.

Q. You did?
A. Well, I'm confused by the question because I
think I have answered to your Honor and to others what my
job was concerning total enemy strength, and I said on a
number of occasions that I was the II Corps analyst up
until the end of November, and until that time I made input
to others who were providing estimates on aggregate
strength of the enemy in South Vietnam. But I personally
I did not, was not responsible for estimating aggregate enemy strength in South Vietnam during 1967.

Am I missing your point, Mr. Boies?

Q. Well, I didn't say whether you were responsible, I didn't say whether it was total, I simply asked you whether at any time in 1967 you personally worked on developing estimates of enemy strength?

A. Was my current answer correct?

MR. BURT: I object to the form of the question.

I don't understand it.

THE COURT: Are you asking him whether he personally worked on anything that was used by himself or anyone else for enemy strength estimates?

MR. BOIES: If he doesn't understand the question, your Honor, I'll put another one. The reason that I phrased it the way I did, and I apologize for taking the time of the jury as well so late, but the reason I want to finish this and the reason I am focusing on these precise words, is this is the way the witness testified at his deposition.

Maybe the fastest way to cut through it is to show the witness the deposition at page 53.

A. Does someone have the deposition?

Q. I think it is still up there, sir. I don't think I took it back.
(Pause)

Q. Let me direct your attention to the top of page 53.

"Q. In 1967, did you personally work on developing any estimates for enemy strengths? "

And you asked:

"Enemy strength in country? "

And I say:

"Yes, in South Vietnam?"

And you answer:

"No."

Do you see that, sir?

A. Exactly.

Q. Was that an accurate statement?

A. Yes.

Q. Is it still an accurate statement?

A. Well, I think here in the courtroom we have become much more precise in our answers, and I guess in a Court of law, I would tell you that I provided input to estimates on enemy strength, particularly with respect to II Corps. What I was thinking you were asking me here, and I think the context of this was in terms of overall figures, is that did I personally work on enemy strength, an estimate of enemy strength in overall figures for South Vietnam, and my answer is, no, and it has been no all day
today, and it is no right now.

Q. With respect to the distinction, if any, between the deposition and the Court, you understood that you were under oath in the deposition?

A. I understood I am supposed to tell the truth in talking with anyone here about this, and that's what I have been doing.

Q. And as the oath was administered to you at your deposition, the truth, the whole truth?

A. Correct.

MR. BOIES: Thank you, your Honor.

THE COURT: Does the plaintiff have anything?

MR. BOIES: I thought we were going to break. I have some additional questions. I didn't want to keep the jury here--

THE COURT: I see. All right.

MR. BOIES: -- longer than I already have.

THE COURT: 10:00 tommorow, members of the jury. Remember, if you don't vote, your not entitled to complain.

See you tommorow.

(Jury excused)

(Adjourned until November 7, 1984 at 10:00 a.m.)