1 having been convicted of a felony. Thank you.
2 THE COURT: You've been sitting there for quite
3 awhile, ladies and gentlemen. So we'll take our
4 morning recess now, and right after the recess, I'll
5 explain the law that applies to this case. You may
6 return to the jury room.
7 (Proceedings out of the presence of the jury as
8 follows:)
9 THE COURT: The Court will be in recess.
10 (Short recess.)
11 (Proceedings in the presence of the jury as
12 follows:)
13 THE COURT: Ladies and gentlemen, the starting
14 point, obviously, is what is the charge against
15 Mr. Taylor. And the indictment, which you'll have with
16 you in the jury room, charges that on March 19, 2005,
17 Mr. Taylor possessed a firearm in and affecting
18 commerce after having previously been convicted of a
19 crime punishable by a prison term greater than one year
20 in violation of a federal statute, Section 922(g)(1),
21 of Title 18 of the United States Code. I'll read to
22 you the relevant part of that statute. That statute
23 says: "It shall be unlawful for any person who has
24 been convicted in any court of a crime punishable by
25 imprisonment for a term exceeding one year to possess

1 in or affecting commerce any firearm or ammunition."
2 Now, in order to prove that Mr. Taylor is guilty
3 of that offense, the Government has to prove four
4 things or what the law refers to as elements, and they
5 have to prove them beyond a reasonable doubt.
6 The first thing the Government has to prove is
7 that Mr. Taylor possessed a firearm. The second thing
8 the Government has to prove is that he possessed the
9 firearm knowingly. Third, it has to prove that the
10 possession was in or affecting commerce; and, fourth,
11 the Government has to prove that at some time before he
12 possessed the firearm, Mr. Taylor had been convicted of
13 a crime that carried a penalty or a possible penalty of
14 more than one year in prison.
15 Now, in this case, as you know, the parties have
16 stipulated to a couple of these points. The parties
17 have stipulated or agreed that prior to March 19th,
18 2005, Mr. Taylor had, in fact, been convicted of a
19 crime that was punishable by imprisonment for more than
20 one year. And they've also stipulated or agreed that
21 the firearm in question had traveled in interstate
22 commerce. You may remember the stipulation was it was
23 manufactured somewhere outside of Rhode Island and,
24 therefore, it had to travel in interstate commerce to
25 be found in Rhode Island and that would satisfy the in

1 an effecting commerce element that the Government has
2 to prove. So the issue for you to consider is whether
3 the Government has proven the remaining two elements,
4 that is to say, that Mr. Taylor possessed this firearm
5 and that he did so knowingly.
6 Now, a firearm, I'm sure you won't be surprised
7 to learn, a firearm is any weapon which will or is
8 designed to, or may readily be converted to expelling a
9 projectile by the action of an explosive. And the term
10 "firearm" includes any handgun that is capable of
11 firing a projectile. So that's what a firearm is.
12 Now, the question, one of the questions here is,
13 or the central issue for you to decide is whether
14 Mr. Taylor possessed the firearm in question. And in
15 order to show that Mr. Taylor possessed the firearm,
16 there are three basic things that the Government needs
17 to demonstrate.
18 First, it has to show that Mr. Taylor knew that
19 the firearm was there where the officers said they
20 found it. Second, the Government has to show that
21 Mr. Taylor had the ability to exercise power and
22 control over the firearm. And third, the Government
23 has to show that Mr. Taylor intended to exercise power
24 and control over the firearm.
25 Now, in determining whether the Government has

1 shown that Mr. Taylor possessed the firearm, you should
2 be aware that there are two kinds of possession that
3 the law recognizes. There's what's called actual
4 possession, and there is what is called constructive
5 possession. And proof of either one is sufficient to
6 satisfy the possession element. If the Government
7 proves that Mr. Taylor actually possessed the firearm
8 or constructively possessed the firearm, that would
9 constitute possession.
10 When an individual has direct and immediate
11 power and control over a firearm, that individual may
12 be found to have actual possession of the firearm. And
13 direct and immediate control may exist when the firearm
14 is on the defendant's person or it's within his
15 immediate reach.
16 When an individual has indirect power and
17 control over a firearm, the individual is said or may
18 be said to have constructive possession of the firearm.
19 Constructive possession may exist when the firearm is
20 readily accessible to the individual and the individual
21 has the power and the intention to exercise control
22 over it. It doesn't have to be on his person or within
23 his immediate reach, but it does have to be readily
24 accessible to him, and he has to have the intention and
25 the ability to exercise power and control over it.

1 I should also mention -- I said there are two
2 kinds of possession, but there are actually more than
3 two kinds. There's actual and constructive, but there
4 also is what's called sole possession and joint
5 possession. The proof of either one, again, is
6 sufficient to satisfy the possession requirement. And
7 as the terms suggests, sole possession may exist when
8 one individual alone has either actual or constructive
9 possession of the firearm, and if two or more persons
10 share possession or control, the ability to exercise
11 control over the firearm, then those persons are said
12 to have joint possession of the firearm.
13 So to summarize it, a person doesn't have to
14 have an object or firearm on his person or within his
15 immediate reach in order to be deemed in possession of
16 the firearm. And the person doesn't have to possess
17 the firearm all by himself, possession may be shared
18 with someone else. But what is required is that the
19 person must have both the intention and the ability to
20 exercise power and control over the firearm, either
21 alone or jointly with another person.
22 Now, keep in mind, too, that possession and
23 ownership are not synonymous. The Government doesn't
24 have to prove that Mr. Taylor owned the firearm. What
25 it has to prove is that he possessed the firearm.

1 Now, ownership, of course, may be a factor to
2 consider in determining whether a person possessed a
3 firearm, but ownership alone is not the criterion.
4 Evidence that a defendant was near the firearm or that
5 even if he knew it was there or that he associated with
6 someone who possessed the firearm, again, those are
7 factors that you may consider, but they don't by
8 themselves establish that the defendant possessed the
9 firearm.
10 As I said, in order to find the defendant
11 possessed the firearm, you must find that he had either
12 actual or constructive possession, either by himself or
13 together with someone else, and that he had the ability
14 to exercise control over the firearm and that he
15 intended to exercise control over the firearm.
16 Now, I told you that the Government also has to
17 show that the possession was knowing or that the
18 defendant acted knowingly. To act knowingly means to
19 act voluntarily and intentionally with an awareness of
20 the nature of the act that you're committing and the
21 likely consequences that flow from it, as opposed to
22 acting by mistake or accident or some other reason.
23 And the purpose of requiring proof that a defendant in
24 a criminal case acted knowingly is to make sure that
25 nobody is convicted for an act that they didn't intend

1 to commit or that they didn't understand. That's why
2 the Government has to show that the defendant acted
3 knowingly.
4 Now, to prove that somebody acted knowingly,
5 obviously, you can't present -- evidently, you can't
6 look into somebody's mind and say scientifically what
7 that person knew, but you can infer knowledge by what
8 the person may have said or done or the circumstances
9 under which the person acted. You can determine or you
10 can make a judgment as to whether that person acted
11 knowingly or not. But the Government has to prove, the
12 burden is on the Government to prove the defendant
13 acted knowingly and to prove that beyond a reasonable
14 doubt.
15 Now, I've told you what it is that the
16 Government has to prove here and I told you the
17 Government has to prove these things beyond a
18 reasonable doubt. If the Government fails to prove any
19 one of those elements, any one of the elements that
20 I've mentioned beyond a reasonable doubt, then you
21 should return a verdict of not guilty. On the other
22 hand, if you're satisfied that the Government has
23 proven every one of these things beyond a reasonable
24 doubt, then you should find the defendant guilty, you
25 should return a verdict of guilty.

1 What does it mean to prove something beyond a
2 reasonable doubt? Well, that's pretty difficult to
3 define. You probably have a pretty good sense as to
4 what that means. I can simply say that to prove
5 something beyond a reasonable doubt doesn't mean that
6 you have to prove it beyond any shadow of a doubt or
7 beyond any conceivable doubt. To prove something
8 beyond a reasonable doubt means exactly what it says.
9 The Government must prove these things beyond a
10 reasonable doubt. And in determining whether a
11 reasonable doubt exists, you, of course, should use
12 your common sense. A reasonable doubt could arise from
13 the evidence that has been presented to you, or it
14 might arise from a lack of evidence. I can't provide
15 you with a more precise definition of what reasonable
16 doubt means. I think that that's something that we
17 have to leave to you. You know what a doubt is and you
18 know what the term "reasonable" is. It's up to you to
19 decide whether the Government has proven the things
20 that it must prove beyond a reasonable doubt.
21 I told you you'd have the indictment with you in
22 the jury room. And I remind you the indictment is not
23 evidence. It doesn't prove anything or attempt to
24 prove anything. It simply tells you what the charge
25 is, and it's up to you to decide whether the Government

1 has proven that charge.
2 I also told you earlier about the presumption of
3 innocence. I don't want to repeat that, but very
4 briefly, the presumption of innocence is sufficient to
5 require you to acquit the defendant unless you're
6 satisfied that the Government has presented evidence
7 that proves him guilty beyond a reasonable doubt. If
8 you are satisfied that the Government has presented
9 such evidence, the presumption of innocence vanishes.
10 I have told you what things the Government has
11 to prove and what the standard of proof is, the
12 reasonable doubt standard. Now, the next question is
13 how do you go about determining whether the Government
14 has proven these things beyond a reasonable doubt?
15 Well, as I said earlier, you must base that
16 decision on the evidence that is properly before you
17 and on the law as I'm attempting to explain it to you.
18 The evidence, as I said, came from the witnesses, the
19 exhibits, and the stipulations of the lawyers, not on
20 anything else the lawyers may have said or not on
21 anything else period. Just the testimony of the
22 witnesses, contents of the exhibits, and the
23 stipulations.
24 As far as the witnesses are concerned, your
25 principal task is to determine the credibility of the

1 witnesses, how much weight is their testimony entitled
2 to. How believable were they in what they had to say.
3 And in making that judgment, there are a number of
4 factors that you can and should consider. One of them
5 is whether the witness had an opportunity to have
6 accurately observed the facts about which the witness
7 testified. In other words, was the witness in a good
8 position to have accurately seen, heard, or otherwise
9 perceived the things that the witness told you? Or did
10 it seem to you that the witness's ability to observe
11 these things was impaired in some way or not entirely
12 reliable?
13 A second factor is the witness's memory, or your
14 assessment of how good the witness's memory was. These
15 events happened some time ago and even though the
16 witness may have been in a good position to have seen
17 or heard what happened, you should ask yourselves
18 whether it appears that the witness had a clear and
19 accurate recollection of what the witness saw or heard,
20 or whether the witness's memory maybe was dim and the
21 witness really wasn't accurately recalling what the
22 witness may have seen or heard.
23 The third factor is the witness's appearance on
24 the stand. One reason that we ordinarily require
25 witnesses to come in and testify in person before you

1 as opposed to having somebody tell you what someone
2 that you may not have ever seen told them is that by
3 requiring the witness to come in personally, it gives
4 you a chance to size that person up, to size up the
5 source or the information and make your own judgment as
6 to how reliable you think that witness's perceptions
7 are. So that's -- you heard the witnesses in this case
8 testify, and you had a chance to observe them, and you
9 can make some judgments based on your observation as to
10 how much weight that witness's testimony should get.
11 Another factor is the probability or
12 improbability of what the witness said. Did the
13 witness testify about in the manner that seemed
14 plausible and believable or did the witness say things
15 that you just find to have been highly improbable or
16 impossible, it couldn't have happened the way the
17 witness said. Just because a witness testifies on a
18 point and nobody directly contradicts the witness, that
19 doesn't mean you have to accept the witness's testimony
20 at face value. If you think the witness was mistaken,
21 or was shading things, or was outright lying, you don't
22 have to accept the witness's testimony if the witness
23 is telling you things that are just unbelievable.
24 A final factor is whether the witness has any
25 stake in the outcome of the case that might color the

1 witness's testimony. Now, that doesn't mean, of
2 course, that simply because a witness may have a stake
3 in the outcome, may have some interest in what your
4 decision in the case is that you should automatically
5 disregard or even discount the witness's testimony
6 because by the very nature of things, cases that are
7 litigated in court, when a case is litigated in court,
8 usually the people who are most directly involved, the
9 witnesses, have some involvement in the case. They
10 have a stake in the outcome of the case. So the mere
11 fact that somebody has a stake in the outcome shouldn't
12 automatically cause you to discount that person's
13 testimony, but you may take that into consideration
14 especially if there's another witness that you find
15 credible who doesn't have a stake in the outcome whose
16 testimony is different. So that's a factor you can
17 consider.
18 You've heard testimony in this case from a
19 couple of police officers. That shouldn't have any
20 bearing on your assessment, the fact that they're
21 police officers. You should base your judgment with
22 respect to credibility not on the position that the
23 witness may hold or the office that the witness may
24 hold but rather on your assessment of that person's
25 credibility as an individual. So it's of no

1 significance one way or the other that a witness may be
2 a police officer or not a police officer. Also keep in
3 mind that it isn't the number of witnesses who testify
4 on either side of a particular point that is
5 determinative, but rather it's the quality of the
6 testimony. So you could have one person who testifies
7 on one side of an issue and two or three people who
8 testify to the contrary, that doesn't necessarily mean
9 that you should accept the testimony of the two or
10 three. If you find that the one witness was a very
11 credible witness and the two or three witnesses, for
12 whatever reason, were not as credible, you may accept
13 the version given by the single witness.
14 You'll have the exhibits with you, the second
15 source of evidence, the exhibits, will be with you in
16 the jury room with you when you deliberate. Keep in
17 mind, though, that the exhibits, like the testimony of
18 the witnesses, are simply part of the evidence that's
19 before you. You don't have to accept what's in an
20 exhibit at face value, and you shouldn't look at it in
21 isolation. You should consider the exhibits in light
22 of all the evidence that's been presented and give them
23 whatever weight you think is appropriate in making your
24 decision.
25 I've told you two times during the trial, I

1 explained this evidence about prior convictions that
2 Mr. Taylor had previously been convicted of a felony,
3 actually more than one, I guess more than one felony,
4 and I just want to repeat again so there's no
5 misunderstanding here as to the manner or the purposes
6 for which you may consider that evidence. You may
7 consider the evidence for two purposes. One, as I
8 said, one of the things the Government has to show is
9 that prior to allegedly possessing the firearm,
10 Mr. Taylor had been convicted of a felony, that is to
11 say, a criminal offense that carries a possible penalty
12 of more than a year in prison. And you also know that
13 the parties have stipulated that that's the case. So
14 that evidence is relevant and may be considered by you
15 for purposes of deciding whether the Government has
16 proven that element.
17 The second purpose for which you may consider it
18 is to the extent that you think the prior conviction
19 bears on Mr. Taylor's credibility, that it may be a
20 reason for discounting or disregarding his testimony or
21 not accepting his testimony, you may consider it for
22 that purpose. But as I said, it's entirely up to you
23 to decide to what extent you think it bears on his
24 credibility. You may not think that it matters at all,
25 or you may think that it's a very significant factor to

1 consider in assessing his credibility. But the purpose
2 for which you may not consider it is you may not
3 consider it as evidence that he must have committed
4 this crime because he committed some other crime in the
5 past. Individuals under our system are tried based on
6 the facts relating to the offense with which they're
7 charged and not on the basis of some prior offense they
8 may have committed. Now, I hope there's no
9 misunderstanding or confusion on the proper use of the
10 prior conviction.
11 Now, I've told you that you have to make your
12 decision based only on the evidence that's properly
13 before you, but that doesn't mean that you are strictly
14 limited to the testimony of the witnesses and the
15 contents of the exhibits. You may draw from the
16 evidence that was presented from the witnesses and the
17 exhibits, you may draw from that evidence any
18 inferences that may be reasonable. That is to say, you
19 may reach some reasonable conclusions based on that
20 evidence. To put it another way, any fact that has to
21 be proven in a case may be proven in one of two ways.
22 It may be proven by direct evidence, that is to say,
23 the testimony of someone who claims to have directly
24 observed the fact or the presentation of an exhibit
25 that isn't the thing itself, or it may be proven by

1 what's called circumstantial evidence. And proving
2 something by circumstantial evidence simply means
3 proving through the direct evidence two or more facts
4 from which the existence or non-existence of a third
5 fact may be reasonably inferred. Now, let me try to
6 explain that one other way. I think by giving you an
7 example I think it may illustrate what I'm trying to
8 say even more clearly. Suppose on some winter night
9 before you go to bed you look out the window and the
10 ground is bare. The next morning you wake up and
11 there's a foot of snow on the ground. If someone asked
12 you if it snowed last night, your answer, I would
13 assume, would be yes. Now, if you had to come into
14 court and prove that it snowed, how would you go about
15 doing that? Well, one way you might do it is you could
16 find someone who was awake and looking out the window
17 when the snowflakes were falling. That person could
18 testify that he or she actually saw the snowflakes
19 falling from the sky, and that would be an example of
20 proving it by direct evidence, the testimony of a
21 witness who claims to have directly observed the
22 snowflakes falling. If you couldn't find someone who
23 was awake when the snowflakes were falling, you could
24 testify as to two facts from your direct observation.
25 Fact number one, that before you went to bed the ground

1 was bare; fact number two, when you woke up, there was
2 a foot of snow on the ground. You proved those two
3 facts from your direct observation. And from those two
4 facts, it is perfectly reasonable to infer or conclude
5 the existence of the third fact, namely, that it snowed
6 last night. The snowflakes fell out of the sky.
7 Now, a word of caution. There's a big
8 difference between proving something by circumstantial
9 evidence and guessing or speculating, and the
10 difference is -- there are really two things that
11 distinguish proof by circumstantial evidence from
12 guesses. The first is that in order to prove something
13 by circumstantial evidence, the inference to be drawn,
14 or the conclusion to be drawn must be based on facts
15 that are established by the direct evidence. And the
16 second thing is that the inference that is drawn must
17 be a reasonable inference based on those facts.
18 So in my example, if someone asked you if it's
19 going to snow next Wednesday night, it would not be a
20 reasonable inference based on the two facts that last
21 night it may have snowed. It would not be reasonable
22 to infer from that that it's going to snow next
23 Wednesday night. So keep that in mind.
24 The other thing I should mention is that the law
25 recognizes either form of proof. Proof by direct

1 evidence or proof by circumstantial evidence are valued
2 equally. But what the law does require that no matter
3 which method of proof you use, in a criminal case the
4 Government must prove the fact beyond a reasonable
5 doubt whether it's by direct evidence or circumstantial
6 evidence.
7 I've told you that it's up to you to decide the
8 facts in this case. That's not my function, and you
9 should not interpret anything that I may have said or
10 done during the course of the trial as indicating any
11 opinion on my part as to what the facts are. I
12 certainly haven't intended to convey any such
13 impression, and you shouldn't be concerned what my view
14 of the facts may be because, as I said, that's up to
15 you. It's your job, and your job alone, to decide the
16 facts.
17 I also mentioned that as far as the objections
18 of the lawyers are concerned that simply because a
19 lawyer may have objected to evidence, if I admitted the
20 evidence, you shouldn't give it less weight just
21 because the lawyer objected to it. You should give it
22 whatever weight you think it deserves. And I will add
23 at this time that you shouldn't hold it against either
24 lawyer, or either lawyer's client, because a lawyer may
25 have objected at times to evidence offered by the

1 opposing lawyer. A lawyer has a responsibility,
2 actually, to object to evidence that's offered that the
3 lawyer does not believe satisfies the requirement of
4 the Rules of Evidence, that doesn't get through that
5 filter. So that shouldn't be a consideration in your
6 decision.
7 As you know, this case is brought in the name of
8 the United States of America. But that doesn't again,
9 make any difference here because every party that comes
10 into this court comes here as an equal. It doesn't
11 matter who they are. Each side is entitled to the same
12 consideration regardless of who they may be.
13 I hope that it goes without saying that neither
14 bias in favor of any person, or group, or cause, or
15 prejudice against any person, or group, or cause or
16 sympathy, should play any role whatsoever in your
17 deliberations. Your job very simply is to examine the
18 evidence objectively, to determine from the evidence
19 what the facts are, and to apply to those facts the law
20 as I have explained it to you. Nothing more, nothing
21 less. That's all that either side in this case is
22 entitled to, and that's all they have any right to
23 expect.
24 All right. I'm going to ask the lawyers to
25 briefly approach the side bar and tell me if they think

1 I have forgotten to tell you something I should have
2 told you, or if I misstated something that I told you.
3 So if you'll bear with us. Counsel, would you approach
4 the side bar.
5 (Side-bar conference.)
6 THE COURT: Does the Government have any
7 objections to the charge?
8 MR. VILKER: No, your Honor.
9 MR. FITZGERALD: I don't think I have an
10 objection, but I just didn't hear if you gave an
11 instruction about unanimous verdict.
12 THE COURT: I will after I excuse the
13 alternates.
14 MR. FITZGERALD: Thank you.
15 (End side-bar conference.)
16 THE COURT: Ms. Maneca, am I pronouncing your
17 name correctly?
18 JUROR: Yes.
19 THE COURT: And, Mr. LaBonte, you've both been
20 alternates in this case. Your job was to be able to be
21 ready to fill in if something happened to one of the
22 regular jurors and, fortunately, nothing has happened
23 to them. So at this time I want to excuse both of you,
24 but I want to thank you very much for being so
25 attentive. You never know as an alternate when you're

1 going to be called upon. I know it's difficult but
2 it's important that you pay close attention, as both of
3 you have, and I thank you for that. So you're excused.
4 (Alternate jurors excused.)
5 THE COURT: As to you remaining ladies and
6 gentlemen, in order to return a verdict in this case,
7 all 12 of you must agree as to what that verdict should
8 be. You can't return a verdict of either guilty or not
9 guilty unless you are unanimous. When you go into the
10 jury room, there are two things that you need to keep
11 in mind. The first is that you should be prepared to
12 listen with an open mind to what the other jurors have
13 to say if initially they disagree with you, and you
14 should be humble enough to change your opinion if,
15 after listening with an open mind, you agree that
16 they're correct and you are incorrect.
17 On the other hand, you should also keep in mind
18 that you each have an independent responsibility to
19 vote for the verdict that you think is the correct
20 verdict based on the law that I've explained to you and
21 the facts as you understand the facts to be. And you
22 should have the courage to stick to your convictions
23 even if other jurors, or even if all of the other
24 jurors disagree with you, as long as you have listened
25 with an open mind to what they have to say. I know

1 those two things sound like they may be in conflict,
2 and to some extent they are, but my experience over the
3 years has been that in the vast majority of the cases
4 the jurors are able to reach unanimous verdicts without
5 violating each of those principles. I'm confident you
6 will, also. But if you can't, well, we'll cross that
7 bridge when we get to it.
8 When you go into the jury room, the first thing
9 you need to do is select a foreman or a forelady, and
10 that person will have three basic responsibilities.
11 The first will be to complete and sign the verdict form
12 that will go with you into the jury room. Very simple
13 form. It just involves checking a box and signing it.
14 So when the jury has unanimously decided on the
15 verdict, the foreman or forelady should fill that in
16 and sign it, bring it back into the courtroom, and the
17 clerk will take it from you at that time.
18 The second responsibility, I guess really the
19 first responsibility the foreman or forelady has is to
20 act as the moderator of your deliberations and to see
21 that they're conducted in an orderly manner, and that
22 everyone who wants a chance to express a view has a
23 fair opportunity to do that.
24 And the third responsibility, which you may or
25 may not have to exercise, is if it's necessary for you

1 to communicate with me for any reason, the
2 communication should be in the form of a brief note
3 from the foreman or forelady. Just write out whatever
4 your question or problem is, give it to the security
5 officer who will be outside your door, he'll deliver it
6 to me, I'll discuss it with the lawyers, and I will try
7 to respond to you as quickly and helpfully as I
8 properly can. And I emphasize the word "properly,"
9 because there are some things I cannot properly do to
10 help you, one of which is to help you decide what the
11 facts are, because I've told you that you are the sole
12 judges of the facts, and it would not be proper for me
13 to start assisting you in determining what the facts
14 are. But anything else that I can help you with, I
15 certainly will do my best to try. I don't mean to
16 suggest that I expect you to have problems or
17 questions, but I just want to make sure you know that
18 if you do have something that you think I can help you
19 with, and you need some help, I will try to provide it.
20 If you do find it necessary to send a note to
21 me, make the note as brief and to the point as
22 possible. We don't want to know what's going on in the
23 jury room unless there's some breach of the peace or
24 something. We don't want to know that you've
25 tentatively voted eight to four, or for or against this

1 or that. All we want to know is what is your question
2 or problem.
3 As far as your hours are concerned, they're
4 whatever you want them to be. You should take as much
5 time as you think is necessary to fairly decide the
6 case. There's no time limit. If you've reached a
7 verdict by the end of the day, fine. If not, you can
8 come back tomorrow and resume your deliberations.
9 Ordinarily, I would say that if you wanted to stay
10 late, we could arrange to do that, but I can't offer
11 you that option today. I have something to do this
12 evening so that's not an option. But you can come back
13 tomorrow and you take as much time as is necessary to
14 fairly decide the case.
15 Is there anything else before the jury is sent
16 out to deliberate.
17 MR. VILKER: No, your Honor.
18 MR. FITZGERALD: I don't believe so. Thank you,
19 your Honor.
20 THE COURT: All right. I'll ask the security
21 officer to come forward and the clerk will swear him
22 in.
23 (Security officer sworn in.)
24 THE COURT: Ladies and gentlemen, this case is
25 in your hands. You may return to the jury room and