

you very much for being with us today. We look forward to seeing you again next week.

THE WITNESS: Thank you very much.

MR. LIMAN: Clarence Jones.

MR. MC KAY: Mr. Jones, will you remain standing to be sworn.

C L A R E N C E J O N E S, called as a witness having been first duly sworn by Mr. McKay, was examined and testified as follows:

EXAMINATION BY MR. LIMAN:

Q Mr. Jones, would you state your full name for the record?

A My name is Clarence Jones.

Q Your occupation?

A I'm an editor and publisher of the New York Amsterdam News.

Q You are also an attorney?

A Yes, I am.

Q Would you state by way of background, some of the positions you have held in your career?

A Well, I've, as you have indicated, I've practiced law. I have for four years or more, I was an officer in an investment banking firm. Prior to that time I ran an insurance enterprise. My background has

5 been one principall of law and business. I have had 686
2 concurrent with that, I served in activities involving
3 civil liberties and civil rights. I served as a
4 special counsel to the Southern Christian Leadership
5 Conference. To Lawyer's Constitutional Defense Committee,
6 et cetera.

7 Q How did you happen to go to Attica?

8 A I was invited to Attica. The invitation was
9 communicated to me by Governor Rockefeller's office.
10 I had heard about the disturbance at Attica on Thursday
11 evening, I believe, and I had learned both by a tele-
12 phone call to my home as well as some friends of mine
13 had called and said they had heard on the news that my
14 name was among several names included in a group of
15 people that had been invited by the inmates.

16 Q But you did nothing about going on Thursday
17 night, am I correct?

18 A Oh, no. Not at all. In fact, as of Thursday
19 night it wasn't--it was not clear to me whether in fact
20 I had been invited or just my name had been mentioned
21 in the news.

22 Q Then on Friday morning did you receive a tele-
23 phone call from Mr. Van den Houvel?

24 A Yes, I did.

25 Q Did he tell you that he had heard that you

2 A That's correct. He had, I think he said in
3 effect that a Mr. Robert Douglas had been trying to
4 reach me and that was sort of the first, I suppose
5 definite confirmation that I had been invited.

6 Q Robert Douglas was the Governor's counsel
7 and is now secretary to the Governor.

8 Did you speak to him on Friday?

9 A I believe I did. I think he called my apart-
10 ment that Friday morning and said that, you know, asked
11 if it were possible for me to come to Attica, that he
12 was in touch with some other persons that had also been
13 requested by the inmates to come.

14 Q Did anybody tell you what they wanted you to
15 do other than to go there before you went?

16 A No. There was not any specific instruction
17 or any specific instructions. No specific mandate of
18 any kind. There was only the general statement that
19 the situation at Attica was critical. That the correc-
20 tional authorities and the State was trying to resolve
21 the situation and one element of their effort was to
22 try to bring some of the people that the inmates had
23 invited and I was one of several people that they were
24 trying to bring up.

25 Q You flew there Friday afternoon?

2 Aviation Terminal at LaGuardia Airport.

3 Q Were you accompanied by Congressman Badillo?

4 A Yes, I was, by Congressman Herman Badillo,
5 by Senator Robert Garcia, by Mr. Alfredo Matthew, by
6 Dr.--by Reverend Wyatt T. Walker.

7 I don't recall if there was anyone else but
8 I do remember that those persons were there.

9 Q When you arrived at Attica late that after-
10 noon, were you briefed by anybody?

11 A We were briefed--yes, when we actually ar-
12 rived at Attica there was--we walked in on a meeting
13 or--that was in progress in one of the rooms in the
14 administration building.

15 Q With other private citizens?

16 A With other private citizens. I think there
17 may have been an Assemblyman or a State Senator, I'm
18 not sure whether Senator John Dunn was there at that
19 time or not. And Commissioner--or I should say Deputy
20 Commissioner Walter Dunbar, Superintendent Mancusi,
21 Commissioner Oswald. They were there and--

22 Q How was the situation described to you?

23 A As critical.

24 Q Did they say that there was any negotiation
25 going on?

8 A Yes. We were informed that earlier that 689
2 day that Commissioner Oswald had been inside the cell
3 block D, or it may have been cell block A, but probably
4 cell block D, and had had some conversations with the
5 inmates and that since that time or during that inter-
6 val, the State of New York and the Department of
7 Correctional Services were trying to gather together
8 those people that the inmates had invited while this
9 process of negotiations as to how to best settle the
10 matter, was continuing.

11 Q This morning when Professor Schwartz was on
12 I read the first five demands that the inmates sub-
13 mitted and then the 15 practical proposals. Were those
14 described to you before you went into the yard, in
15 general terms as to what the inmates were asking for?

16 A Yes, they were described to us--they were
17 described to me in general terms and I think that at
18 that time there may have been a mimeographed sheet of
19 paper which contained some of the demands.

20 Q After your briefing with Commissioner Oswald,
21 did you and the other observers go into the yard?

22 A Yes. After a discussion that took place not
23 just with Commissioner Oswald, but with Walter Dunbar
24 and Superintendent Mancusi and other--there were some
25 State officials there. When I say State, I think

2 committee who had by that time arrived.

3 We did go into the yard and the exact time of
4 that I would say was late afternoon, early evening.

5 Q And what happened there?

6 A Well, in the yard, you know, there is a
7 process of going to the yard which may or may not have
8 been described to you before.

9 We went pass--we went through Cell Block A.
10 A corridor into Cell Block A. We were met by a group
11 of inmates who were wearing various, what appeared to
12 be certain protective garb such as boxing helmets or
13 football helmets. And then we were escorted into D-Yard
14 and when we arrived there we were, you know, some of
15 us were introduced or we were asked to introduce our-
16 selves.

17 The inmates--I think that--I don't know the
18 exact period of time between the time that Commissioner
19 Oswald was last in the yard on Friday morning on the
20 last time he had conversations with them, but my im-
21 pression was on coming into the yard that the inmates
22 regarded this as somewhat of a partial fulfillment of
23 some of the things which they had, which they had re-
24 quested at that time, namely, that there be certain
25 named people to come up to Attica and that late after-

2 requested did in fact arrive.

3 Q Was there any discussion with the inmates
4 of what they expected you to do for them?

5 A At that time it was more of a--the inmates
6 more, you know, they spoke publicly about--so that those
7 of us who had arrived would understand why, you know,
8 why they were part of the disturbance, why they had
9 taken this action.

10 The action being a rebellion and you know,
11 coming together in D-Yard. While there were some
12 limited conversations with individual inmates, most of
13 the time was spent with inmates speaking about conditions.

14 Q Speaking publicly?

15 A That's right, speaking publicly. They had a
16 hand mike and a public address system, speaking publicly
17 both to their fellow inmates as well as to the observers
18 as to, you know, why this situation existed. And then,
19 you know, they spoke about their grievances. They spoke
20 about the conditions at the prison. They asked--they
21 wanted very much for the observers to understand, you
22 know, at least both in general terms and in some specific
23 terms what their complaints were. And, of course,
24 the observers in turn, were asked to, you know, to say
25 something or to identify themselves.

2 what did the observers group do?

3 A We went back to the administration building,
4 to the same room that had been set up, I guess, as the
5 meeting room, or the command post for the observer's
6 committee. We had some cross discussion among our-
7 selves. Other members--other persons who had been in-
8 vited by the inmates had arrived or were arriving.

9 Q At this time Bill Kunstler arrived and some
10 others. Between your first and second trips in?

11 A Friday night, I think, yes, I think William
12 Kunstler arrived. Tom Wicker arrived. I'm not sure
13 what other persons arrived.

14 Q Did you have discussion within this group of
15 what your role should be?

16 A Yes. There was--well, there was a discussion
17 of this question of what our role should be, not as
18 a separate isolated subject matter of discussion, but
19 it was sort of pervasive. It sort of would come up
20 at any given time.

21 Q Were there different views on this?

22 A I would say that there were--I would say that
23 there were different views, yes. When I say different
24 views, I think that different not necessarily antagonistic
25 or not necessarily views which were adverse to one another

3 or the different views expressed was really both in
4 terms of statement as well as a kind of asking rhetorical
5 questions, that is, if you recall as I did as I was
6 driving down here that on one of the mimeographed
7 sheets that the inmates initially had their initial de-
8 mands, when they referred to the parties, the named
9 persons that they wanted or that they demanded to come,
10 they used, I just recalled this, they used the word,
11 they want Bill Kunstler, so and so, so and so, Clarence
12 Jones, Tom Wicker, but before their names they used
13 the word "to negotiate through," or they used something
14 like that.

15 Q You are right. They said, "We urgently
16 demand immediate negotiations through."

17 A Through. I thought of that. We urgently
18 demand negotiations through. And I for one, for
19 example, had that in front of me at Attica and that
20 somewhat did influence what I conceived the role of the
21 observers to be, my role.

22 Q How did you conceive your role?

23 A I conceived my role and what I thought was
24 the role that the circumstances required of the observers
25 and certainly as expressly stated in that demand, is
that we were an agent, a conduit. The inmates wanted to

2 We therefore served the role as a bridge
3 or a, as I said, a conduit through which the opinions
4 of the inmates could be expressed to the prison
5 authorities and through which the opinions of the prison
6 authorities could be expressed and I think that while
7 I'm sure many people have different reasons why the
8 inmates asked the observers, I believe that they asked
9 the observers because by asking the observer's people,
10 outside people to come up and using the language to
11 negotiate through them, is that they were reposing
12 a degree of trust and confidence in the observers as a
13 collective unit and felt either by the collection of
14 people invited either by their collective stature or
15 by their individual relationships outside, that some-
16 how there would be a far better chance of their message
17 being communicated to the prison authorities accurately
18 without distortion than if they were to deal directly
19 with the prison authorities.

20 I think they were, that they wanted to--you
21 know, that they obviously had a whole set of historical
22 experiences with prison authorities, to put it mildly,
23 which would lead them to believe that if they were going
24 to seriously have discussions with the prison authorities,
25 and if they were to trust, trust having accurate com-

14 munication of what they wanted as well as an accurate,
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3 you know, an accurate communication as to what the
4 prison authorities were saying to them, that they
5 felt that they would probably better receive this by
6 using the so-called outside observers.

7 Q So you understood, at least your view was,
8 that you should not become an advocate of one point of
9 view or another, but rather the exchange to which these
10 viewpoints--

11 A I would say, yes, my point of view was that
12 principally we were--the observers and I conceived my
13 role to be one of trying to serve as an agent through
14 which this very serious dispute and disturbance could
15 be resolved.

16 Now, having said that, that does not mean that
17 being an instrument through which communication between
18 the prison authorities and the inmates could be
19 channelled, does not mean that in the process of that
20 communication that you could not very strongly and
21 as effectively as you could, try to persuade, try to
22 persuade the prison authorities of the point of view
23 that was being advocated by the inmates and conversely,
24 we tried to a limited degree to try to, you know,
25 advise the inmates or to indicate what at least appeared
to be practically possible in terms of our understanding

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15 as to what the prison authorities were saying.
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3 So that it wasn't, it wasn't an either/or
4 choice, that one had to either be a sterile instrument
5 which you merely transmitted points of view and not to
6 have any patience or feeling in which you could, to use
7 your words, advocate if necessary, a position, a point
8 of view on behalf of the inmates for the purpose of
9 getting the authorities to understand with as much
10 clarity and depth as possible, what the inmates were
11 trying to say or as the inmates would say, and as I
12 would say, where the inmates were coming from.

13 Q On Friday night we have had testimony from
14 Mr. Wicker that this group went in and they listened
15 to the inmates and tried to make some compilation of
16 what it was that the inmates really wanted. And you
17 were there and listened to the inmates that night, am
18 I correct?

19 A Late Friday--that's right, Friday night.

20 Q That was the long session?

21 A Long session in which what we tried to do
22 is that--what we tried to do and what was done is that
23 we took down, we actually wrote down all the various
24 demands that we expressed by the inmates. Not just
25 the initial five or 15, but every grievance, everything
which was the subject matter of a demand. We tried to

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16 compile them in the kind of master list and our
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3 purpose in doing this was, of course, so that we would
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5 be sure that we had sort of collected all of the things
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7 which the inmates had expressed so that when we went
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9 back to our, you know, to our meeting room when we
10
11 left Cell Block D, we would in fact have before us the
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13 various demands and we could go, we could go down them
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15 one by one both among ourselves and eventually with the
16
17 prison authorities to see which of them were possible.

18 Q And your understanding was that you would take
19
20 this list and see how much you could get for the inmates
21
22 of what they wanted?

23 A That's correct. That's correct.

24 Q After you had been in that yard, I under-
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stand that early Saturday morning or late Friday night
the observers met and collated the demands that they
had heard in the yard and discussed what to do?

A Yes, but what happened, I believe, if my
recollection--I think it is accurate, is that late--
late Friday night we had had--after we had compiled
this list, this master list of all of the demands which
had been expressed, we had a discussion both among
ourselves, I think at some point with Commissioner
Dunbar--at this point I don't know whether Commissioner
Oswald was there Friday night. I believe at one stage

17 a member of his family, his wife wasn't feeling well. 698

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3 But we tried to go through these and what emerged
4 out of our discussion was the question of amnesty.
5 Both, you know, civil as well as criminal amnesty.

6 Q Did you have any feeling of what the sentence
7 of the inmate body was on this subject of amnesty
8 from your visits to the yard?

9 A Well, Friday night--Friday it was expressed
10 and I knew that it was an important issue, an important
11 issue to which there had to be given some attention
12 and certainly an issue that the observer's committee
13 had to deal with and had to come back with some infor-
14 mation as to what was the position of the prison
15 authorities or the State before there would be, you
16 know, any kind of credible listening on the part of
17 the inmates and it was--it was because amnesty among
18 the many other issues had to be considered but at the
19 same time again to sort of, like, if you had 35 master
20 grievances and I am only using this hypothetically, I
21 don't know whether there are 35 or not, but if you
22 had 35 and one of them was amnesty, it became clear
23 in our discussion and certainly as we began to reflect
24 and to recall the conversations that we heard from the
25 inmates in Cell Block D, just prior to our being there
Friday night, it became clear to us that amnesty began

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18 to emerge as an issue that had greater weight
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3 than many of the other issues.

4 I can somewhat skip forward and say, of
5 course, Saturday, you know, later on when we were
6 actually in the yard, it was clear that that was the
7 issue but on Friday, on Friday because amnesty was
8 such an important question, it was decided among the
9 observers that a committee of the observers would go
10 and talk to the district attorney of Wyoming County
11 that following morning, a Mr. Louis R. James, I think,
12 a Mr. Lewis James. A committee was appointed by the
13 observers committee of myself, Tom Wicker and a
14 Mr. Julian Tepper.

15 The purpose of that committee was to in fact,
16 to sit down and to talk with the district attorney to
17 explore just what the possibilities were, if any, on
18 the question of--on the question of criminal amnesty.

19 Q You did meet with him and as a result of
20 that meeting a letter was written by the District Attorney
21 which you then brought back to the observers group?

22 A As a result of that meeting and as a result
23 of that morning discussion we, together with the Dis-
24 trict Attorney, that is, you know, we had a discussion
25 with him, I must say, the three members of the committee.

We tried to persuade the District Attorney to

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19 provide criminal amnesty. We somewhat in the dis- 700
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3 cussion--while he displayed in my judgment considerable
4 flexibility, he was fairly adamant, at least with re-
5 spect to the question as to whether or not he had the
6 power or would grant amnesty if there were certain
7 serious crimes committee, if it could be proven, so
8 that we tried, we tried to persuade him to go as far
9 as he thought he could in providing assurances to the
10 inmates that the best way I can use, and this is not
11 an accurate description, I would say the best that we
12 got from that was a quasi amnesty.

13 What do I mean by quasi amnesty? Did the let-
14 ter in fact say that all acts of criminal conduct would
15 in fact be excused? No. It didn't say that, but we
16 tried to get something, we tried to get something
17 which would indicate that the State would not go in
18 with vindictive and--you know, vindictive reprisals,
19 would not seek to get blanket indictments, would not
20 seek to use their prosecutor--their prosecution powers
21 in a way which essentially would be in a vindictive
22 manner.

23 That's what we tried to get. We tried to
24 get something--well, we tried to get absolute amnesty
25 but what we in fact got in my judgment was something
less than that but something much better than nothing at

2 Q When you returned with that to the observers
3 committee, Mr. Jones, did you receive some reaction from
4 some of the other observers to this letter?

5 A Yes, we did. As we had expected. We said to
6 them that this in our judgment, the judgment of Mr.
7 Tepper and Mr. Wicker and myself, that this was the
8 best that we were able to get and were likely to be
9 able to get from the District Attorney on the question
10 of amnesty. We said that we were not endorsing it.
11 We were not recommending it. We were merely stating
12 that this is what we have achieved and it has to speak
13 for itself.

14 There was some criticism on the part of the
15 observers that if we even read the letter or brought
16 the letter in, that this would be tantamount to the
17 observers saying that we recommend that you accept
18 this as the basis for amnesty and what in fact we were
19 saying is that this amnesty was a critical issue.

20 We pursued the question as to what the possi-
21 bilities were and having pursued that question, this
22 is what we were able to achieve. The ultimate decision
23 is up to the inmates as to what significance, if any,
24 the James letter was to have in terms of how they felt
25 about the possibilities of resolving the rebellion.

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21 Q When you returned to the institution, did 702
2 you then participate in the negotiations of what
3 has come to be known as the 28 demands?

4 A Yes. With Commissioner Oswald.

5 Q Who participated in these negotiations? First
6 from Commissioner Oswald's side, was there anybody
7 with him as you recall it?

8 A Deputy Commissioner Walter Dunbar may have
9 been--may have been part of that Saturday afternoon
10 session.

11 Q Basically--

12 A Basically it was Commissioner Oswald?

13 Q And there were about 10 or 15 observers who
14 were on the other--

15 A There were 10 of the observers, ten members
16 of the observers committee consisting of William
17 Kunstler, Louis Steele, Tom Wicker, Alfredo Matthew,
18 Julian Tepper, John--Senator John Dunne, I believe.
19 I think Mr. Lawrence from Buffalo. I'm not sure whether--
20 I think that Arthur Eve was there--I think he was there
21 during most of the time. I'm not sure he was there
22 most of the time.

23 Q Would you describe briefly how the negotiating
24 process worked with Commissioner Oswald and where you
25 met the major resistance?

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22 A Well, essentially we had this master list
2 of demands and we sat down with him and said let's
3 take it from the top. Let's just go through each one
4 of them.

5 Q Was he making the calls right on the spot
6 saying yes, no.

7 A He was making a decision with respect to most
8 of them right on the spot. He was also indicating
9 that in some instances that he didn't have the power,
10 that he would have to recommend that something be
11 done.

12 Q What were the demands that he refused to
13 accede to? Most of them he agreed to in one form or
14 another, most on this list.

15 A He refused to accede to the demand which was
16 among the several demands that Superintendent Mancusi
17 be removed. That he be removed or reassigned.

18 Q What did he say on that?

19 A He said in effect that he could not do that.
20 If he didn't say he could not, he said that he would
21 not. Perhaps that's what he said. Also there was a
22 question about a prison doctor. I believe a Dr. Williams,
23 which was the subject of some very strong criticism and
24 complaint on the part of the inmates. They wanted
25 another prison doctor or--and that the inmates wanted

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23 very strongly and in this regard he--while he 704
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3 didn't say that he would replace Dr. Williams, he
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5 seemed to indicate that he would--that he is re-
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7 ceptive to having an additional doctor, someone in ad-
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9 dition to Dr. Williams, to be added to the medical
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11 staff. He--the question of amnesty, he said he had
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13 no power and he said that you went to see the District
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15 Attorney and the letter from the District Attorney
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17 speaks better than anything I can say.

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19 Q Was the question of flight, which appeared on
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21 this draft of demands that was made in the yard, was
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23 that--

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25 A Question of what?

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27 Q Flight to a non-imperialist country, was
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29 that pressed with him?

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31 A No, it was not--well, it was raised with
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33 him. It was discussed with him but it wasn't pressed
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35 with him. That is, he refused it and I don't know,
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37 I don't recall the exact language or the exact reasons
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39 for the refusal. But I know that there were a category
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41 of things, of demands, which were on the master list
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43 which he refused but the principal basis for his refusal,
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45 with the exception of Superintendent Mancusi, was that
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47 he didn't have the power to do it. Most, I am not
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49 necessarily saying all, most of the things which were

2 agreed to do on the spot.

3 And the demands, I must say, I don't re-
4 call--I mean I do recall most of the 28 demands. I
5 don't recall all of the master demands. But most--
6 the 28 demands really was a distillation of those
7 things which were quite reasonable and certainly were
8 things which--that the Commissioner, certainly the pri-
9 son authorities, if they were serious in being re-
10 sponsive to the complaints of the inmates, had the
11 capacity, you know, to really be responsive. The
12 demands, I'm trying to say, the eight demands which
13 resulted, I thought they were rather elementary and
14 not rather--you know, not revolutionary, not earth-
15 shaking in terms of common standards of fairness and
16 decency and not what I would call humanity in our
17 society today.

18 Q Did you feel that you had pressed Commissioner
19 Oswald as hard as you could to get concessions on
20 what the inmates wanted?

21 A At that stage on Saturday, I think we did.

22 Q You then got a signed list of 28 proposals.
23 Was there discussion among the observers committee as
24 to what your role should be with respect to presenting
25 these 28 signed proposals or demands?

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Q Tell us what the different views were in the observer's committee and what was finally decided?

A I think as I best recall, there were different views and different emphasis. I'd say at the outer end of the spectrum there was the point of view that whatever--whatever the inmates demanded and advocated, that those should be the things that we should demand from Oswald, even things which, at least in my judgment there was certain serious question as to whether he had the capacity or the power to answer such demands.

Then, as you moved down toward the middle of the spectrum, you had the position which--there was never any vote so I use the words advisedly, so I am just using a descriptive term which might be called a majority, which might be called a majority or what appeared to be a majority or what appeared to be substantial concensus, point of view which said these are the--this is the distillation of the overall demands of the inmates resulting in 28 proposals, 28 things which the Commissioner of Correctional Services has agreed to do. That the role of the observers committee was to advise, to take these proposals back and to advise the inmates that as a result of our negotiation, as a result of our back and forth discussion

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26 and deliberation with the prison authorities, that 707
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3 this is the best that we were able to achieve and
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5 that we had to present it to them so that they
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7 would know that this was the best that we were able
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9 to achieve.

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7 There was some members of the Observers
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9 Committee moving further down at the other end of the
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11 spectrum who felt that we should strongly advocate,
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13 certainly advocate strongly, recommend these proposals
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15 as a basis for settlement and I think that--but that,
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17 you know, while I say there was not a vote taken,
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19 my recollection is that most of the observers felt
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21 that the role of the Committee was to present the 28
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23 proposals as those things which had been achieved as
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25 of that time, Saturday, in our discussions with the
prison authorities.

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18 Q The inmates had also asked for a representa-
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20 tive of the Black Panther Party and in particular
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22 either Hewey Newton or Bobby Seale.

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21 He arrived Saturday night.

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22 A That's correct.

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23 Q Did you have discussion among the observer
24
25 group as to whether Bobby Seale should accompany you
into the yard?

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A Yes, there was some discussion and the discus-

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27 sion presently centered on--there was an assumption 707A
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3 and an acceptance by and large that he had been asked
4 by the inmates to come just as other members of the
5 observers committee had been asked to come and that
6 therefore, it was important that Bobby Seale or Hewey
7 Newton go into Cell Block D and to demonstrate to the
8 inmates that in fact they were there. In the case
9 of Bobby Seale that he was there.

10 The discussion in the observers committee
11 concerned itself over the role that Bobby Seal would
12 play when he went into Cell Block D.

13 (Continued on page 708.)
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1 Q What was that discussion?

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2 A Well, the discussion really was, as I recall,
3 the prison authorities, I think Commissioner Oswald,
4 naturally understandably was hopeful that Bobby Seale
5 would in some way speak affirmatively and to recommend
6 the proposals as a basis for resolving the dispute.

7 I was principally concerned that the observers
8 not be put in a position of merely, because they were
9 bringing in these 28 proposals as the factual result
10 of the negotiations, that the observers not be put in
11 the untenable position of being publicly postured as
12 being advocating these proposals and then being attacked
13 by the black panther leader for not having achieved a
14 sufficient, you know, a sufficient result as I was con-
15 cerned about exactly what his position would be and when
16 I say I, it was not really my own single concern.

17 I think that Bobby Seale, chairman of the
18 black panther party, after discussion and, you know,
19 whatever may have been his personal feelings, other than
20 that which was expressed and I can only go by what
21 he said, is that he took the position that essentially
22 it was a position very much like the observers committee
23 that he was not advocating.

24 He was not advocating or recommending those
25 28 demands, that is, their acceptance of those 28

1 demands as a basis for resolving the dispute. 70⁹

2 He made it very clear that that was ultimately up to
3 the inmates to decide. He said further, however, that
4 he might have an opinion about these demands later,
5 after conversing with what he described as the central
6 committee of the black panther party but until he had
7 an opportunity to discuss it with his colleagues in the
8 black panther party, his position was one of supporting
9 their struggle, of recognizing the legitimacy of many
10 of their complaints and you know, then leaving.

11 Q Was the mood of the observer group one of
12 optimism that these 28 demands would be accepted?

13 A The mood of some of the members of the observers'
14 committee was hopeful.

15 Q Were you hopeful?

16 A I had a guarded hopeful optimism.

17 Q Was it affected by the news of Officer Quincy's
18 death that day?

19 A Was my optimism affected, yes, personally it was
20 and I think that learning--I don't know at what time
21 on Saturday the inmates in cell block D learned of the
22 death of Officer Quincy. But I, you know, so I'm sure
23 when they did learn of it, it only gets back to the
24 earlier question I raised, the question of amnesty,
25 while it was important Friday night, certainly was very

2 So you asked me, you know, what was the opinion.
3 I said, yes, my own opinion was one of guarded optimism.

4 Q You went into the yard Saturday night and
5 we have had testimony from Mr. Wicker that Bobby Seale
6 made a short speech saying that he would be back the
7 next morning and not commenting on the demands.

8 A That's correct.

9 Q And then he left and most of the observers'
10 committee walked out with him.

11 A Many members of the observers' committee.

12 Q You chose to stay or did you stay?

13 A Yes, I chose to stay.

14 Q For what purpose?

15 A Well, I chose to stay still pursuing the
16 purpose for which I had agreed to come there and that
17 is, to try to go as far as possible to see if there
18 wasn't some way to resolve this dispute, but specifically
19 it fell to--it was my unhappy lot and I only--and I
20 mean that both in the combination of seriousness as well
21 as with some humor.

22 Someone, knowing the feeling of the inmates,
23 someone from among the observers' committee had to get
24 up and to present the 28 demands, the letter from
25 District Attorney Louis R. James and in effect had to

4 1 present to the inmates a picture as to 711
2 the results and limited achievements of negotiation
3 that had occurred so that the purpose of going in
4 and reading the demands of the letter on Saturday was
5 really like a report back.

6 This is where we are. This is what has been
7 achieved and to recite--to go through the demands to
8 indicate that they had been accepted by Russel Oswald
9 so that the inmates would be fully advised and fully
10 informed.

11 Q Would you tell us the procedure you followed
12 in presenting the demands and if you can reconstruct
13 it, the speech which you delivered which has been
14 commented on by almost every inmate.

15 It's one of the few things that people
16 seem to have remembered in the yard.

17 A Well, I felt very strongly from my own view
18 of the development of events. I felt very strongly that
19 Attica and the observers and inmates, that we were all
20 like participants in a Greek tragedy and that I had a
21 very great sense that Saturday night was likely to be
22 a turning point because I had a sense as a result of
23 recalling and thinking back to the process of discussion
24 and negotiation with Commissioner Oswald that there was
25 probably very little room--not saying that there was

5 1 no room but that we had come a long way

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2 in terms of what we were likely to be able to get and
3 so, while I was disappointed that we were unable to
4 present a package of great success, I felt that, neverthe-
5 less, that we had to make the maximum effort to clear
6 indicate to the inmates that this was about all we
7 were likely to get and so that I preceded my verbatim
8 reading of the 28 demands and the letter from District
9 Attorney James with a short speech and the substance
10 of the speech was that--this has been described as a
11 political struggle.

12 A struggle which the inmates were engaged in
13 and that while I was not a politician, I have heard
14 and sometimes I've learned throughout life and certainly
15 by reading about other political movements that one has
16 to make some very careful decisions and very thoughtful
17 decisions when you are in a political struggle and
18 I think I used the word that politicians sometimes is
19 the art of that which is possible and I said that part
20 of the inmates' understanding that which was possible
21 also meant that they had to understand and define the
22 power relationships that existed at the circumstances
23 that I was talking.

24 It's one thing to have, you know, when you
25 have one kind of political power under one circumstance,

6 1 you are able to achieve certain kinds of 713
2 things. When you have less power, perhaps you are
3 unable to achieve everything.

4 I said that it may be--I said that we had
5 been--that since the observers had been invited and
6 then I spoke in a very personal, I said at one point,
7 I said I didn't ask to come here. You asked me to come
8 here and as you asked the other observers and we regard
9 that as a sacred trust.

10 We don't hold it lightly. And we have tried
11 to do the best that we can do. That you have asked
12 us to bring home--you have asked us to go out and get
13 a hundred things. We have only got 97 and 98. You
14 have to make a judgment as to whether or not the 97
15 and 98 things out of 100 which you have asked, whether
16 that's sufficient for settlement.

17 I think I said I know that in other political
18 struggles that to achieve certain objective, sometimes
19 a political movement has to take what I described as
20 a step backward in order to take two steps forward.

21 I said but those were very--that was ultimately
22 their decision. I had to tell them, however, that in
23 the opinion of the observers, certainly in my opinion,
24 that this was the best that we were able to achieve.

25 It's not that we are recommending it as, or that

7¹ we are advocating it. It's just that the
2 reality of the negotiation processes, that this is the
3 best we were able to achieve and that they had to under-
4 stand what that meant within the context of the actual
5 circumstances.

6 Circumstances being you look up around the
7 yard and you would see all that fire power and I reminded
8 them of that and I--then I went on to read slowly but
9 carefully each demand and the full text of the letter
10 from the District Attorney.

11 Q And what happened?

12 A Well, there was, as I read through it, there
13 was, you know, it was a very tense moment, I felt it
14 was very tense.

15 I believe I was permitted--I think I was able
16 to read all of the demands. I'm not sure, I may have
17 been cut off before I was--I had been able to finish
18 them all.

19 But either I was cut off or immediately after
20 I finished, one of the inmates stood up and took a copy
21 of the document and said that this is not enough. This
22 is nothing. I don't know whether the particular inmate
23 or whether it was said later.

24 "This is a sell-out." "This is not what--this
25 is not good enough," in effect.

2 fact that the demands which Oswald had accepted did not
3 contain all of the ones which they requested, specifically
4 amnesty and the question of Mancusi but there was in-
5 directly a criticism of the observers' committee,
6 certainly criticism of me for having read and even pre-
7 sented these demands.

8 Q Did this position seem to have wide support by
9 shouts from the yard and things like that?

10 A You know, I don't really know. I don't really
11 know. I have been asked that question many times.
12 I recall reading, I recall hearing scattered applause
13 at some point in time as I was reading the demands or
14 when I was reading some part of the letter from District
15 Attorney.

16 At least of those inmates who appeared to be
17 exercising leadership. It was not sufficient for
18 them. As to whether or not it was insufficient for all
19 of the inmates in they yard, I will never know.

20 Q Did one of the other observers rise to your
21 defense?

22 A Yes. Yes, there was a defense of me and a
23 defense of the process by which we had achieved those
24 demands.

25 Q And who was that?

2 Q Would you tell us as best you recall it what
3 Mr. Kunstler said?

4 A Well, Bill Kunstler said essentially, "Look,
5 just as Clarence Jones has said, this is the best that
6 we were able to get. If you don't like it, fine.
7 That's your decision. If you don't like it, you know,
8 we will stand with you. If you like it, we will
9 stand with you. But ultimately it's not our, that
10 is, the observers' committee decision. It's your decision
11 and what this represents is the best that we were able
12 to get. If you don't think it's sufficient, then you
13 should act accordingly. And if you think it's sufficient,
14 then you should, you know, then you should indicate your
15 acceptance but ultimately it's your decision."

16 Q Was the reaction to his speech also negative?

17 A No, I don't think--not the reaction to his
18 speech being negative.

19 Q To the proposals?

20 A Yes, the reaction to the proposals continued
21 to be negative but the reaction to his speech was in
22 the negative and some of it--and even under some of the
23 scathing criticism of some of the inmates, at one time
24 they said, for example, "We don't hold Brother Jones
25 responsible. Don't misunderstand us. He presented this.

2 of the observers that's not enough."

3 I don't feel that the tension, you know, the
4 tension in the yard at the time, probably the knowledge
5 of Officer Quincy, I sensed a certain escalation of
6 desperation and I think that, for example, that,
7 you know, the inmates were very, very tense and I think
8 that--I think that many of them became concerned or
9 maybe suspicious as to really whether the observers
10 were really looking out for their best interest.

11 Maybe if they could come back, that this is
12 the best they can do, maybe these observers--maybe we
13 have to watch them, you know. And have to be concerned
14 about them also.

15 Q Mr. Jones, you mentioned that the observers felt
16 that they should--that the furthest that they could go
17 would be to say that this was the best possible rather
18 than to recommend.

19 Did you feel that to make a recommendation on
20 the merits of these demands, that the inmates should
21 accept them would have counterproductive in the circum-
22 stances?

23 A I wouldn't say counterproductive. I would say
24 that--I would say to advocate their acceptance unequivocally
25 rather than to clearly indicate that this is the best that

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11 we were able to achieve and leave the 718

2 decision to the, if we had avocated their acceptance,
3 we, at least I would have considered that to have gone
4 beyond the role of what an observer should have done.

5 I felt privately, and I said this to my fellow
6 observers personally, I felt that we should do as much
7 as possible to try to get the inmates to see that this
8 was as about as great a result we were likely to achieve
9 but while I personally felt I would have liked to have
10 advocated it, I certainly knew and certainly the reaction
11 of the inmates bore me out and supported my concern
12 that I think it would have compromised the effectiveness
13 of the observers had they advocated taking a strong
14 advocacy position, publicly saying, either everyone
15 of these demands is excellent, it's good, you should
16 take it and begin to get in the kind of argumentative
17 exchange with the inmates.

18 That would not have been constructive. So
19 in that sense perhaps it would have been counterproductive

20 Q You mentioned that the decision on whether to
21 accept these demands was to be left to the inmates.
22 How did you expect the inmates to determine whether
23 to accept by vote and by majority vote, by what kind
24 of process?

25 A Well. I'm not sure to tell you the truth, at the

1 time I didn't have any, any clarity,

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2 any precise thoughts as to the procedure that should be
3 followed with respect to whether they should adopt
4 or reject the proposals.

5 I felt they had a kind of inmate steering
6 committee and I felt that if it was clearly indicated
7 that what they were considering was, in the opinion
8 of the observers' committee, the best that they were
9 likely to get in this process of negotiation, that once
10 we had clearly and unequivocally indicated that to the
11 inmates, that I assumed that they would engage in the
12 kind of public discussion as they had on other issues
13 as to whether or not the proposals should or should
14 not be accepted.

15 After the presentation, you know, we left the
16 yard and it was up to the inmates to deliberate, in what-
17 ever form they chose, the demands that we had left along
18 with the letter from the District Attorney.

19 Q Were any votes taken in your presence at any
20 time?

21 A I'm not sure. It is possible. It is possible
22 that one of the inmates in the public discussion or the
23 public rejection of these proposals may have in the course
24 of the speech said, "Is that right?" I mean, "Am I
25 right" and sort of kind of ask for an affirmation from

1 13 the audience but I don't recall that there

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2 was a vote.

3 Q In any event, when you left the yard that
4 Saturday night, you had a negative reaction--

5 A That' correct.

6 Q (Continuing)--to these demands but you thought
7 there would still be further discussion to follow among
8 the inmates?

9 A I was very discouraged. When I left the yard,
10 I felt--I felt the turning point, I felt that that
11 was one of the two major turning points in the entire
12 rebellion during that weekend.

13 Q The second turning point came on Sunday?

14 A The seocnd turning point came on Sunday. A
15 last minute effort to persuade the governor to come.
16 The inmates' rejection and the governor's failure to
17 come to Attica, in my judgment, those two things com-
18 bined completed the tragedy. Completed the tragedy
19 I spoke about.

20 Q Mr. Jones, when you were in the yard on Saturday
21 night, had the inmates asked for the governor to come?

22 A I don't recall whether that was a formal demand.

23 Q Was the request that the governor to come basical
24 a request initiated by the observers' committee in order
25 to avoid what you saw was the pending tragedy?

2 request for the governor to come was an effort on the
3 part of the observers' committee to really prevent
4 what actually occurred.

5 To prevent the bloodshed. To prevent, you
6 know, a massacre.

7 Q When did you start discussing the possibility
8 of calling for the governor to come?

9 A We discussed it Sunday afternoon or maybe
10 late Sunday morning.

11 Q You had a discussion first among the various
12 observers?

13 A We had a discussion--we had a discussion which
14 was prompted by our judgment as to where things apparently
15 stood.

16 Q What was your judgment at that point?

17 A That it was critical. That, as I said, a
18 turning point had occurred with the rejection of the
19 28 proposals and as we were in the room, we could look
20 outside the window and we could see all sorts of prepara-
21 tions being made for an assault into the prison.

22 We could see. We could see fire hoses. We
23 could see that there was a great deployment of police
24 personnel and military and paramilitary personnel.

25 We could see preparations going on to retake

1 cell block D by force. And so recognizing, 722

2 I suppose, the helplessness of our own situation, the
3 helplessness that we were unable to bring about a
4 successful negotiation and helpless to prevent both,
5 you know, a kind of desperation escalating as well as
6 certain preparations on both sides, escalating, we
7 called--we, I am saying we had a discussion among
8 ourselves and Tom Wicker and Herman Badillo and John
9 Dunn, myself--not the only ones--except it was somewhat--we
10 somewhat initiated the idea or conceived the idea and
11 then in fact initiated the step of calling the governor
12 to speak to him on the phone.

13 Q What did you say to him?

14 A Well, we each spoke to him separately. I believe
15 that I may have been the third person to speak to him
16 and essentially we cross-confirmed what the other had said
17 to the governor, that this--that a massacre was about
18 to take place.

19 That in our judgment what we needed more than
20 anything at this time was time. That positions not be
21 taken by either side which would be irreversible.

22 Positions which would make it impossible to
23 change. Positions from which there could be no retreat.
24 And I recall that I said to the governor, he asked
25 me over the phone, "Well, Mr. Jones, are they interested

16¹ in, are they interested in confrontation, 723
2 or are they interested in settlement, you know, if
3 all they are interested in is amnesty, I don't see
4 what value I can--you know, what I can, what I can do."

5 You know, essentially what I said and others
6 said it in different form was that we're not asking you,
7 Governor Rockefeller, to come here to meet with the
8 inmates or to negotiate with the inmates.

9 We're asking you to meet with us, to come to
10 Attica, that your coming to Attica will make--I won't
11 say will, may provide us with that additional ingredient
12 that could tip the scales toward the possibility of
13 a peaceful solution.

14 And we didn't ask the governor, we pleaded.
15 We pleaded in the name of humanity to please come up
16 to Attica to meet with us so that by meeting with us,
17 at least it was certainly my opinion and I think I speak
18 in this sense for the other persons who spoke to him,
19 I think there was a probability it could have given us
20 more time, it certainly would have given us greater
21 credibility with the inmates, an ability to return
22 into cell block D and to say that not only has Commissioner
23 Russel Oswald agreed with your 28 demands, in my judgment,
24 you know, we will never know because history can never be
25 repeated.

3 result, if any, what the impact, if any, it would have
4 had had the observers been able to go back into cell
5 block D and say, we have met with the governor of the
6 State of New York.

7 He has seen these 28 demands to which Commission
8 Oswald has agreed to. We would have asked the governor,
9 do you agree with these demands.

10 If we had been able to say we have met with
11 him and asked him whether he agreed with them and he
12 would implement them, perhaps if we would have had
13 that additional--and this is only speculation and Monday
14 morning tragic quarter backing, perhaps it would have
15 been that single factor which might have unfroze even
16 the positions which had become pretty hard and might
17 have prevented the armed--the necessity of the armed
18 invasion.

19 Q Did the governor make it clear that he was
20 not going to come?

21 A No. To me he did not make it clear that he
22 was not going to come. He left me with the distinct
23 impression that he was faced with a very difficult
24 decision and he was torn.

25 I suppose, as I said, I had guarded optimism
on Saturday and I suppose that subjectively as I reflect

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18 back on my own state of mind, which may
2
3 have colored my judgment, I suppose that desparately,
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5 so desparately wanting to avoid bloodshed I may have
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7 heard, I may have gotten a certain intonation, a
8
9 certain feeling from the conversation but I was left
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11 with the impression which I spoke with him that he was
12
13 going to seriously consider and that when I finished
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15 talking with him on the phone it was unclear, it was
16
17 unclear to me as to whether he would come or would not
18
19 come.

11 I felt, I don't know that he did, I felt
12
13 that he was going to really seriously give the question
14
15 some serious thought as to whether or not maybe it
16
17 would be advisable to come.

15 Q Did you think that he could come to Attica
16
17 and meet with you and as a practical matter refuse to
18
19 go into the yard when so many lives were at stake?

18 A Yes. No question about that. No question about
19
20 that. I mean, that--I have many feelings on that. There
21
22 is no question, I felt that he could have.

21 In fact, we made it very clear to him that--he
22
23 was being asked to meet with us. It would have been
24
25 possible, I felt very--I felt it would have been possible
26
27 for him not to have been caught up in events and to feel
28
29 that he had to go.

2 you made clear, of the inmates to make any such commitments

3 I take it?

4 A Make any commitment to him?

5 Q Yes, that the demand would be made for him to
6 go in the yard?

7 A Well, even if the demand had been made for him
8 to go in the yard, I felt--I felt personally that it would
9 have been such a positive development for his coming
10 to Attica that, here again, you know, my judgment may
11 have been colored by the concern to avoid bloodshed but
12 we certainly made it clear to him in the conversation
13 that he was not being asked, we made it very clear he
14 was not being asked to go in to meet with the inmates.

15 He was being asked to meet with the observers
16 and why I thought he could do that, I thought quite
17 candidly, if any governor of any state in a prison
18 situation could come to meet with observers, I think
19 that Nelson Rockefeller could do it.

20 Now, my judgment is based upon my whole concept
21 of him as a person and as governor and I say he could
22 have come because there was a minimum even thinking
23 of what may have been his terms and I have no--I have
24 never discussed it with him and I don't know whether
25 this is so or not but I'm certainly sure this was some

2 advisers.

3 He could have risked whatever might have
4 been the advisers' political consequences. Governor
5 Rockefeller is one of the most powerful governors this
6 state has had and I don't think he is likely to be--to
7 have been hurt politically, economically, morally or
8 otherwise if he would have come to Attica.

9 Q Did you convey to the governor any sense of
10 the mood of the armed forces that you saw assembling
11 outside the walls?

12 A I think so and if I didn't, I know that three
13 of the other people, either Senator Dunn, Herman Badillo
14 or Tom Wicker did.

15 Q What was your sense of the situation?

16 A The situation was that unless something like
17 his coming was done, that we were going to have, you were
18 going to have a blood bath.

19 Q You felt that under the circumstances restraint
20 could not be shown or would not be shown?

21 A I felt that--well, I felt that under the circum-
22 stances that in light of the rejection by the inmates of
23 not the 28 demands.

24 They were holding out--they wanted those 28
25 demands. What they wanted was amnesty. I felt that the

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21 failure of--the failure to provide

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3 amnesty for them and the failure of the governor to
4 come to meet with us and that--and the question of
5 amnesty would have been the subject of discussion.

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7 Obviously. If the governor had come I certainly
8 would have spent considerable time trying to persuade
9 him. I suppose I would have been unsuccessful since
10 shortly after the telephone conversation he issued a
11 statement setting forth his position on amnesty but
12 I certainly would have tried to convince him that he
13 had the power to prevent the bloodshed.

14
15 Q Did you think that amnesty was required to pre-
16 vent the bloodshed?

17
18 A Yes, I do.

19
20 Q On Sunday, in addition to the message which
21 Governor Rockefeller issued almost immediately after
22 your conversation saying that he wasn't coming to
23 Attica and that he wasn't going to grant amnesty,
24 there was also a--

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26 A And he said not only that he wouldn't grant
27 amnesty but even if he felt he had the power--he said
28 he didn't think he had the power but even if he did have
29 the power he would not grant amnesty.

30
31 Q He said he did not feel it was appropriate to
32 grant it. He didn't just put it on the basis of power?

2 Q In fact his statement said, "I do not have
3 the constitutional authority to grant such a demand and
4 I would not even if I had the authority because to do
5 so would undermine the very essence of our free society,"
6 and other words.

7 A I disagree with with that.

8 Q Mr. Jones, Commissioner Oswald also sent a
9 notice into the inmates that day which had affect on
10 the observer group and that was a note which said,
11 among other things, "I urgently request you to release
12 the hostages unharmed now and to accept the recommenda-
13 tions of the committee of outside observers, which
14 recommendations were approved by me and join with me
15 in restoring order to this institution."

16 What was the reaction to this note which was
17 sent into the inmates?

18 A Well, it was in the form of an ultimatum.
19 Certainly the preliminary form of an ultimatum and
20 secondly is that it postured the inmates in a position
21 in contradiction to what we had described--

22 Q You mean the observers, postured the observers?

23 A I am sorry. Postured us in a position in con-
24 tradiction to which we described on Saturday. We
25 expressly said that we were not recommending their

1 sentence. We were saying it's for them 730

23 2 to make the decision. We were telling them that this
3 is--this was the best that they were likely to get so
4 that while you might think it's a matter of a fine
5 distinction when you look at it, it in effect put the
6 observers in the advocacy position of advocating the
7 position of the state authorities or certainly Commissione
8 Russel Oswald rather than in the position that, yes,
9 this is the best we negotiated, this is the best we
10 could get and you should know that this is the best
11 that we could get and we think that you have to do
12 some serious thinking as to whether or not you should
13 accept this because this, in our judgment, we the observers
14 don't think we can get a better result.

15 Q Did you feel compromised by this, you or other
16 observers?

17 A I and other observers did feel compromised.
18 Certainly compromised within the context of what I
19 described as the escalation of tension.

20 On Sunday, we went back in Sunday night.

21 Q You went back in after this note?

22 A Oh, yes, that's right.

23 Q Why did you go back in?

24 A It may have been because we were requested to
25 go back in by the inmates. I'm not sure.

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Q Was it in part to explain to the 731 inmates that you had not sold them out and to reject this note that had been sent in by Commissioner Oswald?

A That's correct. But that was a major purpose. This, of course, was a very tense time and it was a time when I--well, you know, when I think--I think on Sunday we were asked to sign waivers and naturally, this has a great affect on your psyche.

Q These were releases--

A These were releases of liability. From the State of New York.

Q That you or your estates would not claim against the state?

A That's right, you or your estate would not hold the State of New York for any responsibility. Well, you can imagine, that said something to me. Someone said that you are on your own.

Okay, if you can achieve something, fine, but if something happens to you, we want to make sure that your estate has not claim against us.

That was perhaps the most dangerous time for all parties concerned.

Q You felt apprehensive in going back into that yard?

A I felt that there was a 50-50 chance that I

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would come back. It was just equally possible for something to explode, for the possibility that in desperation the inmates would hold some of the observers hostage to keep us in there or that something would trigger, some event.

On Sunday, and particularly in walking through the armed lines of--I mean the line-up of guards and police personnel who were heavily armed, many of whom I assumed had very little rest like members of the observers' committee.

As I said to one of my fellow observers, I saw, or I thought I saw on the faces of the guards as we walked through a kind of desperation, a different kind, the same kind of desperation I saw on the faces of the inmates when I was in theyard on Saturday and I described it as the escalation of the Kent State syndrome.

The Kent State state of mine. Under the tension, under the tension of guards who have not had any sleep with heavily armed loaded weapons, where you would walk past a guard and you could see the perspiration on his hand or on his brow and you know, anyone who has the slightest familiarity with weapons if you have been in the army, I don't know what position they were holding those weapons, whether they were on safety or not but

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I thought that if there ever was a time 733
for an accident, an accidental shot to be fired, just
a guard who couldn't take it to just flip out and to
fire out of desperation, hostility and anger, if there
ever was a time it would have happened on Sunday or
it may have happened--it also could have happened on
Saturday but I certainly felt it on Sunday.

I think many of the inmates felt that they
faced an equal danger from being destroyed by reason of
an action on the part of the guards as by reason of the
action on the part of the inmates.

Q Could you describe briefly what the provisions
were in the yard that Sunday when you were in.

I guess we have to give our reporter a moment
to change his paper.

A Well, the proceedings were,

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first of all, an inmate -- some of the inmates who greeted us, greeted members of the observers' committee, greeted us with tears in their eyes, which said in effect that they felt they had been betrayed.

And they felt this and that feeling, coupled with the desperation of their circumstances at that time, they, too, knowing from their own observations as well as from what we had told them, knowing that there were extensive preparations, fire power, water hoses, other things to come into cell block D, they felt that their time was short and that part of their fear, suspicion, anger, determination, all of these things combined together, gave you a sense that many of them felt that this was, you know, just hours before the battle and that people that they had trusted had abused their trust, and I think it is only by virtue of the ability of some of the inmate leadership to want to believe to fight against, I'm sure some very gnawing questions as to whether or not these observers were for real.

It's fighting against that feeling and ultimately placing their trust once again in the observers, after an explanation had been made, really prevented any harm from coming to the observers.

I have to -- I believe, and I don't know whether

1 any observer has said this, but I believe

735

2 that each observer who went in on Sunday owes their life
3 to the inmate leadership, and specifically I was very
4 impressed with the discipline.

5 You know, there is a lot of talk about Black
6 Muslims in our prisons, but I can tell you from personal
7 experience that in my judgment, had it not been for those
8 inmates who were Black Muslims in the leadership and who
9 had a sense of responsibility and who have -- who gather
10 their bond, the man's word is his bod -- I would say that
11 if I ever were in prison circumstances again and I ever
12 wanted to rely on any inmate and to what would or what would
13 not happen to me, I would accept the representation of an
14 inmate who was a Black Muslim before I would accept the
15 representation of anyone else.

16 I think that in effect some of those inmates
17 who were Muslims really, once they -- the observers had
18 explained to them what actually had taken place, they acted
19 in a way in which they said that while they could not
20 guarantee that none of the observers would be harmed, it
21 was clear to us that if any harm came to the observers,
22 it first had to come to the Muslim inmates who were guard-
23 ing us and who had given us their word.

24 Q And you then went into D yard?

25 A Then we went.

ceedings that then took place?

A Well, the mood? There had been a cameraman, a young black TV cameraman from, I think --

Q Buffalo?

A Right. I think from Buffalo. He had been in there for some time. They had -- the inmates had asked for the news media, they had asked for representatives of the news media to come in so that both -- so that the outside world could see that the hostages were not harmed, and also so that they could hear from the hostages themselves, and Sunday, a good part of Sunday evening's time in cell block D was representatives of the media.

There was Randy Garcia from the Daily News, I think. There was Tom Wicker who functioned in a repertorial capacity, interviewing people.

And then there was a reporter from the New York Amsterdam News and a photographer who had been engaged by the New York Amsterdam News to come in and, you know, to take pictures as well as to interview the inmates.

So a great deal, a substantial part of the time on Sunday night was not only inmates themselves speaking to the news media, but the hostages being interviewed, and if you recall, if you recall, that was a moment of great sadness, a moment of great concern, because I knew,

1 I felt very strongly that Sunday was

737

2 the last time.

3 Q Was there a euphoric quality to some of the
4 speeches?

5 A There was a euphoria only in the sense that I
6 suppose if a person has passed over the threshold questio
7 of fear concerning whether or not they are going to die,
8 and if they have passed over that question and have in one
9 form or another resigned themselves that this is a likeli-
10 hood, likely to occur, then they begin to consider the
11 reasons why they might have to die, and those reasons were
12 expressed in euphoria.

13 The inmates would talk with tears in their eyes.
14 They would -- they felt that they were making a principle
15 stand, right or wrong, whether or not it was a right deci-
16 sion, whether or not they should have accepted the 28
17 proposals, but they felt -- not a question of whether the
18 observers or anyone else felt, they felt that they were
19 making a principle, semi-political statement by their
20 position.

21 Q Did the observers get caught up in this atmo-
22 sphere?

23 A Some of the observers spoke also about, you know
24 spoke about -- you know, with an understanding and some
25 compassion, and spoke, I suppose you could call it

1 euphoria.

738

2 I'd say you'd have to fully understand Sunday,
3 you have to appreciate that observers and inmates had
4 pretty much come to the conclusion that -- had certainly
5 come to the conclusion that there was some certainty that
6 some among us were going to be killed. That was very
7 clear.

8 And as I said in my own judgment, that I thought
9 it was fifty/fifty.

10 Q Fifty/fifty in terms of what?

11 A Whether or not, in terms of the observers,
12 whether or not we would return out of there safely.

13 Q You did not speak in the yard on Sunday, as I
14 recall it.

15 A No, I did not.

16 Q Why?

17 A Well, my mood on Sunday was one of such total
18 resignation, of one of such total despair, that I didn't
19 think that there was anything that I could say, anything
20 that I could say that would -- that had the capacity of
21 having any significant impact on the events as they were
22 taking place in the yard, because the context in which
23 speeches were made on Sunday is that these were speeches
24 of people who have come to accept the fact that death is
25 but a few hours away, and I began to think about my own

1 circumstances and to think about my 739
2 colleagues and the inmates and my children, and I just
3 knew that -- I was watching, watching these events
4 inextricably taking place and knew with a certainty that
5 they were going to result in bloodshed, and I also felt
6 very sad that some of the very people that I was sitting
7 next to, inmates, inmates whom I had talked to, that I was
8 convinced that they were going to be killed.

9 Q You felt that it would have been futile in
10 all of these circumstances which you have described to
11 try to sell the 28 demands again?

12 A Oh, yes.

13 Q It was way beyond that?

14 A It was way beyond that.

15 Q And I take it that the same was true of the other
16 observers, nobody made the effort at that point in trying
17 to --

18 A I understand from other cultures and reading
19 about other cultures that at certain times before battle
20 where warriors go out, where they know they're not going
21 to come back, that they engage in certain rites and so
22 forth.

23 Well, essentially what you had was a pre-death
24 rite. That is what took place on Sunday. People knew
25 that some among them, many among them, how many they did

1 not know, were going to die.

740

2 Q Did any of the inmates on Sunday propose to you
3 or in your presence any kind of compromise on this issue
4 of amnesty?

5 A No, no compromise on the issue of amnesty, but
6 an indication that they -- nothing would happen. It was
7 said to me that nothing -- we must let the authorities know
8 that nothing will happen to the hostages, not a hair on the
9 hostages' heads will be touched.

10 No hostage will be harmed as long as no act of
11 armed attack is initiated against cell block D, and it was
12 further said that nothing would happen to the hostages
13 and that they wanted to keep open the channels of
14 negotiation.

15 Now, this statement which was communicated to me
16 and to other inmates, of course --

17 Q Other observers?

18 A I'm sorry, other observers -- took place within
19 the context that both sides were making preparations. You
20 could see there were trenches being dug. They were
21 preparing to defend themselves in cell block D as best as
22 they could, and we knew that there were preparations on
23 the other side, both those which we could see from cell
24 block D and those which we could see outside.

25 Q So you left the yard Sunday night feeling that

1 the inmates would not harm the hostages
2 as long as the State did not attempt to retake that yard,
3 but that if the State attempted to retake the yard, there
4 would inevitably be bloodshed?

5 A That was what I believed. I believed on Sunday
6 that as long as nothing was initiated against the inmates,
7 that nothing would happen to the hostages. I believed
8 that.

9 But I also believed that if something was
10 initiated against the inmates, that there was some possi-
11 bility that something would happen to the hostages.

12 Now, I have often reflected on my feelings about
13 this, and I think that what actually happened, I wasn't --
14 obviously I wasn't there at the time of the attack, that is,
15 inside cell block D.

16 But, you know, sometimes a person who threatens
17 and who threatens to do something as an act of defense or
18 survival, sometimes just sheer humanity takes over.

19 Now, I must -- I was torn. I was really torn
20 as to whether or not, when I left that yard I said if
21 they attack those inmates, will they in fact kill the
22 hostages, harm the hostages. I believed at the time that
23 they would, on Sunday.

24 Subsequently, whatever happened to the inmates,
25 it appeared that perhaps the inmates even in death or even

1 under fire power, showed more humanity

742

2 to the hostages than they themselves thought they were
3 capable of showing.

4 You know, we will never know. But certainly,
5 and I say -- you may say why do you believe that nothing
6 would happen to the inmates unless action were initiated,
7 and that is because I had come to rely on the representa-
8 tions of the inmates with respect to the safety of the
9 observers.

10 And I believe that there was an element of
11 understanding that was part of the inmate leadership, you
12 know, understanding which said that the hostages are our
13 ace and our trump card, and in order to clearly indicate
14 that we want to continue to negotiate, we have to make it
15 unequivocally clear that no harm will come to the hostages,
16 and on Sunday, part of what the inmates were trying to do
17 was to demonstrate, both to the observers and to the
18 public, that the hostages had blankets, that they certainly
19 received more food than many of the inmates, that the
20 inmates, in quotes, were going out of their way to see
21 that the hostages were not harmed.

22 Q On Sunday, when you were speaking to the Governor
23 and Congressman Badillo spoke to him, did Congressman
24 Badillo express concern about the effect that an assault
25 would have if it took place on Sunday?

1 A Oh, yes, he did.

2 Q Did the Governor indicate that he would hold off
3 for one day, words to that effect?

4 A I'm not sure what the Governor indicated in his
5 conversation with Congressman Badillo. I do know, since
6 I heard the conversation of Congressman Badillo, the
7 conversation said, look, in effect it said look, I think
8 you should come to Attica. I disagree with any action
9 you may take but even from your standpoint, you couldn't
10 choose a worse time to initiate such an action, on a
11 Sunday, 1:45 or thereabouts. You know, Sunday afternoon.

12 Knowledge of such an attack would be inflammatory,
13 would inflame the communities most concerned, principally
14 the black community and the Puerto Rican community.

15 I don't know what the Governor's response to
16 that -- I think that Herman Badillo was trying, as well he
17 should, and he did very ably, he was trying any way he
18 could to reach him, to persuade the Governor to come and
19 not to do something, even if it meant he had to appeal to
20 certain political instincts.

21 Q Did the observers discuss the possibility of
22 going to Pocantico Hills to see the Governor?

23 A Yes.

24 Q What was decided with respect to that?

25 A I don't recall, but for one reason or another,

1 it didn't take place.

2 Q When you left the yard on Sunday after this
3 experience that you described and this sense of doom, did
4 the observers make an effort now to try to buy more time
5 from the State or to get some further concessions?

6 Did you try to prevail upon Commissioner Oswald?

7 A I think we did, yes. I think we did. I'm sure
8 we did. I'm sure that -- I don't remember the specific
9 details but we must have -- in fact, I am sure we did.

10 Q Was there any proposal of trying to offer the
11 inmates a limited amnesty in which you would commute any
12 death sentences?

13 A I think that that may have been -- may have been
14 under some consideration. But, you see, while this kind --
15 while these conceptual possibilities and discussions were
16 taking place, the hard, cold preparations for military and
17 para-military and possibly armed assault were taking
18 place.

19 Q When you left Attica on Sunday night, you felt
20 it was really the end?

21 A I didn't leave Attica on Sunday night.

22 Q You stayed over?

23 A Yes. I didn't -- as many of the other inmates,
24 I had very little sleep, and some of the inmates decided
25 to sleep --

1 Q Observers? 745

2 A Some of the observers decided to stay actually
3 in the room, in the administration building, out of a sense
4 of resignation and a sense of sheer physical fatigue.

5 I went back to a nearby motel where I had been
6 staying, though I hadn't been there for a period of time,
7 to try to get some rest.

8 So I did not stay in the room as most of the
9 observers had done on the earlier nights. We either slept
10 on the floor or slept on a desk or just sat up and didn't
11 sleep at all.

12 Q On Monday, of course, the police action took
13 place and you couldn't get back in?

14 A Monday morning I had some difficulty in getting
15 some transportation from the motel to the -- back to the
16 prison.

17 And when I was driving up in the car, I could
18 see the helicopters were poised and I think it -- I must
19 have arrived about 8 o'clock, maybe 8:15, but I arrived
20 too late, maybe ten to fifteen minutes after the
21 authorities had decided that no further observers, no
22 persons other than the State police and National Guard
23 personnel would be permitted, and so I and other observers
24 were not permitted back into the building.

25 MR. LIMAN: I appreciate it. I don't have

1 any questions, but I'm sure some
2 members of the Commission do.

746

3 MR. MC KAY: Mr. Jones, I am interested in
4 the Sunday night affair.

5 EXAMINATION BY MR. MC KAY:

6 Q How many observers went in at that time?

7 A Oh, I would say at least ten.

8 Q Did Commissioner Oswald or any of the prison
9 officials seek to persuade you not to go in?

10 A Yes, they did. And they certainly made it very
11 clear we were going in at our own risk.

12 Q That is really what I was wondering about, when
13 they asked you to sign the releases, you could interpret
14 that as meaning that they thought it would be better if
15 you did not go in?

16 A That is correct, or that if we did go in, they
17 didn't want to have any responsibility or any liability
18 for the consequences of our being there.

19 Q Putting aside that pragmatic consideration, it
20 sounded to me as though they must have decided it would
21 not be useful for you to go in at that time.

22 If that is correct, why would they have felt
23 that?

24 A I don't know. I can only conjecture as to why
25 they may have felt that. They may have felt that because

1 they were part of the decision process

747

2 or they were participants in a decision making process
3 where the decision had been made that there would be no
4 further negotiation and -- no further negotiation conces-
5 sions, and at some appointed time, whether on Sunday or
6 on Monday, that they were going to assault cell blcok D.

7 I must say here, by the way, I am convinced,
8 as I look back in retrospect, that an assault probably
9 would have taken place on Sunday but for our telephone
10 call to the Governor.

11 I think just a combination of when we called and
12 our plea just put it over until the next day. I'm
13 convinced that under whatever the game plan was, the plan
14 really was to mount an assault on Sunday, and only the
15 last minute intervention and pleas of the observers caused
16 the delay until Monday.

17 Q So it is your conclusion that a decision had
18 been made by Sunday night not to postpone it beyond at
19 least Monday morning?

20 A That is correct.

21 Q And that for that reason, they preferred that you
22 not go in at all?

23 A That is correct.

24 MR. MC KAY: Thank you.

25 Mr. Henix, have you questions?

1
2 have one.

3 EXAMINATION BY MR. HENIX:

4 Q You know, I guess, I have never been confronted
5 with a situation of this intensity in prison, and one of
6 the first questions was asked by the Commission for a
7 description of your resume, what things you have achieved
8 and done which I found very impressive, and you did speak
9 about if the Governor had come and the possibility of
10 this tragedy might have been avoided.

11 And in spite of your own achievements, you went
12 into the prison when you seemed to me to have so much to
13 live for and your position in the society was where you
14 could benefit a great deal from it.

15 Was that a difficult decision for you to make?

16 A It was a difficult decision but I think I was
17 involved in a process, as I look back on it, a process
18 which was evolving and which at each stage it made it more
19 difficult to retreat from, or I should say not involve
20 oneself.

21 I thought very seriously on Sunday as to
22 whether or not it was advisable to go back. I thought
23 very selfishly as to whether or not -- I'm not an
24 expert, neither my avocation or my professional life is
25 involved in prison reform, but I was part of a group who

1 had been asked to try to their utmost,
 2 to try to prevent this tragedy from occurring, and I
 3 suppose that on Sunday, my reason for going back was kind
 4 of -- I think there were other observers who shared some
 5 part of the point of view I have.

6 I don't think my particular point of view was
 7 unique. I was concerned as to whether or not the inmates
 8 felt they had been betrayed, and when a man's life is at
 9 stake, when inmates are faced with the question of death,
 10 maybe it was foolish and maybe to some it might have been
 11 heroic, but I think that since I felt very much that the
 12 observers, under the intention of the circumstances, owed
 13 their lives to the inmate leadership, that I was prepared
 14 to run the risk of trusting, as the inmates had trusted
 15 me and the observers.

16 They had reposed a great deal of trust in us
 17 and I was prepared to repose trust in them, that they
 18 believed that we didn't try to betray them and that they
 19 would try to protect us.

20 Q I have only one more question.

21 Did it occur to you that if the inmates did
 22 decide to hold you after having signed that waiver, do
 23 you think that the hands of authority would have been
 24 stayed if the Committee would have been held and had been
 25 added to the hostages?

State troopers and the police and everyone you had witnessed, in this eventuality -- I know it is hypothetical.

A No, it is not hypothetical. I thought about it.

I was convinced, I had not the slightest illusion that if Clarence Jones -- I can only speak for me -- if Clarence Jones was perhaps held hostage, that the State authorities would not have held off.

I would have been just another person in that yard. Once they had made a determination to assault the prison, I mean clearly, I'm not part of the correctional staff, and clearly if they can make a decision to go in where there are correctional officers as well as guards in there, imagine what they're going to do to a black newspaper publisher.

MR. HENIX: Thank you.

MR. MC KAY: Mr. Wilbanks.

EXAMINATION BY MR. WILBANKS:

Q Mr. Oswald I think has been quoted as saying that we have given everything and the inmates have given nothing.

You were in charge, you were reading a list of the negotiated demands. Did the inmates ever make any concessions or is Mr. Oswald accurate in that portrayal? We have given everything, they have given nothing. Is

1 that accurate?

2 A I think, for example -- you might -- someone
3 might say the inmates didn't give anything. While this
4 demand to go to a non-imperialistic country was an initial
5 part of the demand, that was never a condition precedent.

6 It did not ultimately end up being a condition
7 precedent to any settlement, a peaceful settlement. So
8 that I think that when the inmates in fact said okay,
9 we agree that we don't want to go to a non-imperialistic
10 country, in fact the way in which they focused on other
11 demands and dropped an emphasis on that and concerned
12 themselves with the broader questions of improvement of
13 prison conditions and the question of amnesty, there were--
14 I'm trying to think.

15 There were a couple of -- I think, for example,
16 they were prepared to accept Oswald's good faith
17 representations that certain things which in fact he could
18 do, such as having the minimum wage law applied, they
19 were prepared to accept his good faith representation
20 that he would work -- you know, that he would recommend to
21 see that it was applied.

22 But they would only do this if it was
23 concurrent with amnesty, do you follow me? In other
24 words, the absence of the amnesty question, the absence
25 of any giving on that raised in their minds whether or not

1 they could rely on any of the demands,
2 any of the demands which had been granted.

3 It is unfortunate this is so, but it is my
4 view that the observers were placed in an intolerable
5 position at the end.

6 We couldn't -- all we could do is ask for
7 amnesty. All we could say to the inmates is that we
8 tried to communicate -- I mean we did communicate your
9 demand for amnesty and we tried to -- and we did explore
10 the maximum possibilities as to how far the District
11 Attorney would go with the letter from Louis James, but
12 it ultimately became clear that the solution was outside
13 of anything that the observers could do, and that the
14 solution lay in the hands of the Governor of the State of
15 New York and correctional authorities.

16 Now, Dean McKay is a very distinguished lawyer
17 and professor of law, and I know that the question of
18 what executive -- you know, what a person with executive
19 power can do in criminal circumstances is a very difficult
20 question.

21 I frankly think that circumstances developed
22 where it no longer became a legal question. It became
23 a question of priorities.

24 If you discuss the question of amnesty in terms
25 of the existing parameters of law, constitutional

1 authorities, as I generally undersatnd
 2 them, you are already discussing them within a limited
 3 framework.
 4

5 So to me the solution of Attica was ultimately
 6 a question, not a legal question, that is, the resolution
 7 of annexty was not a legal question, was not a constitu-
 8 tional question. It was a question as to whether or not
 9 if you are a chief executive officer of a State, you
 10 consider the preservation of human lives more important
 11 than the risk of breaking the symmetry of law, and I said
 12 this before.

13 So there is an unbroken precedent now, that of
 14 annexty never having been granted in the State of New York,
 15 and so you have a symmetrical situation of law in the State
 16 of New York but you have 42 people dead.

17 I say human lives are far more important and I
 18 must say, I don't know how many questions you have but I
 19 would like to make a very brief statement growing out of
 20 this matter.

21 MR. MC KAY: I was just going to suggest
 22 that to you, Mr. Jones, unless there are more questions.

23 THE WITNESS: I have no prepared statement.
 24 I only want to say that -- say what I have said on
 25 serious questions for the people of the State of New

our society.

Attica, of course, among the questions that it raises, raises the issue as to what are prisons for anyway. Are prisons or do prisons exist as warehouses for human baggage in which a warehouse receipt is issued and human baggage is put under the temporary custody, be it one year, five years or twenty, of the baggage keepers?

Or do prisons exist really as a place to provide the means and opportunity for those people, for whatever reason, who are out of step with society, have broken society's rules and therefore need a place and a period of time in which they can be reconditioned and thereby readmitted to the society.

I'm sure it is not going to be any surprise to you, inmates who have testified must have mentioned, or observers must have testified that to the inmates at Attica, and I suspect the inmates of any of our prisons today, having had the daily experience of non-meaningful or what they would call Mickey Mouse programs of rehabilitation, they don't believe that society at large is serious about rehabilitation, and moreover is that when it comes to the question as to, in terms of the values of the surrounding

1 society as to who should be rehabi-
 2 litated, I would suspect that many inmates would think
 3 it is not them but the society from which they have
 4 come.

5 Some people would say well, we have heard
 6 this social talk a lot and every individual is
 7 responsible for his individual act.

8 That is true, but the fact of the matter
 9 is that society by definition means that you live
 10 with someone else, and the other issue raised by
 11 Attica is if prisons are not to be custodial warehouses
 12 for baggage, then something has to be done in order
 13 to prepare the society from which the inmate has
 14 come as well as the inmate himself, for the day that
 15 he eventually returns to society.

16 Attica says to me that if you are concerned
 17 about the conditions in prisons, be concerned not
 18 out of a sense of social justice, be concerned not
 19 out of the sense of general humanity, though those
 20 things are good, but be concerned in your own self-
 21 interest because there are studies which apparently
 22 indicate that 90 or 95 percent of the inmates in
 23 our prisons today will at some time, either at the
 24 expiration of their sentence or by parole, return
 25 to the society.

1
2 cerned how that person returns. If you take a person
3 and dehumanize him and brutalize him for an extended
4 period of time, I think that person is likely to
5 react with the same kind of conditioned response as
6 the famous Pavlov rat.

7 If every day a guard brutalizes an inmate,
8 the guard, the prison, they are creating the kind of
9 person who is going to return to the society.

10 So that ironically enough, it is those of
11 us who live in Manhattan and Beverly Hills and Ohio,
12 in the State of New York, those of us who live in
13 Forest Hills and Riverdale, in the Bronx, throughout
14 our State, those of us who are on the outside, we
15 have the capacity to determine whether or not persons
16 returning to this society are going to be peaceful
17 people, are going to be violent people, and from what
18 I have seen in a very limited basis in prison, and
19 certainly from what I have been told, you treat a
20 person like an animal and when he comes out, he is
21 going to treat you like an animal, and that is
22 the choice, so perhaps Dostoiovsky was not wrong,
23 that he was right that the prisons of our society
24 are very much of a mirror as to where the society is.

25 Attica says to me, very tragically, and

1 I certainly see this when I see the 757
2 faces of the children on television at Willow Brook,
3 is that you probably can tell where American society
4 is coming from in 1972, where its true values really
5 are if you examine how it treats its fellow human
6 beings in its prisons and how it treats its
7 children.

8 So that we have got this Commission, been
9 hearing a lot of testimony from different people.
10 To hear testimony and to hear inmates, different
11 officials come and tell you what happened at Attica,
12 of course, is your charge, and is necessary, but I
13 hope that somewhere out of these hearings will come
14 a focus as to really what our prisons are for,
15 because that is what the inmates are saying in one
16 form or another.

17 They're saying to us -- I heard the last
18 part of the testimony of a former inmate -- that, you
19 know, they're saying look, we committed our crime
20 and we're here presumably to pay our debt for
21 having done that, but it is as if in our society,
22 which has such elaborate structures for the
23 preservation of human rights prior to being involved
24 with the law, while you are involved in the court
25 system, it is as if the moment a person becomes

1
2 this elaborate structure of legal and human protection
3 somehow is set aside, and that while the law says
4 that one convicted of certain crimes is civilly dead
5 and certain rights are taken away from them, the law
6 has in fact been interpreted, prison administration
7 has in fact been interpreted as if not only a person
8 is civilly dead but they are in fact a non-person,
9 a non-human being, that somehow being in prison gives
10 the State authorities, the prison authorities the
11 license to strip inmates of elementary ingredients
12 of human dignity; and Sunday night at Attica, inmates,
13 old inmates, young inmates, had tears in their eyes
14 because they remembered, as I remembered hearing
15 one of the inmates say so eloquently, that if we
16 cannot be treated like a human being, can only be
17 treated as an animal, and if the choice between
18 accepting that condition and dying like a man, then
19 our quest for elementary human dignity is that we
20 choose to die like men.

21 The question of amnesty, as I said, was a
22 moral humanitarian question. It was not a power
23 question or a constitutional question. It was a
24 simple question as to whether or not inmates and
25 hostages, their lives were sufficiently important as

1 to work out a negotiated settlement 759
2 which would have avoided an armed confrontation and
3 assault on cell block D.

4 Thank you.

5 MR. MC KAY: Mr. Jones, we thank you for
6 that statement and for being with us today. You
7 have made a very important contribution.

8 THE WITNESS: Thank you.

9 MR. MC KAY: The hearing is recessed
10 until tomorrow morning at 10 o'clock.

11 (Time noted: 5:45 p.m.)

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