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2:00 p.m.

MR. MC KAY: This is the afternoon session of the fifth day of the public hearings before the New York State Special Commission on Attica.

At the conclusion of the hearings this morning our general counsel, Mr. Arthur Liman, had completing his questioning of our witness, Lieutenant Maroney. We are now ready to turn to questioning by members of the Commission.

Mr. Henix, I believe you have questions.

MR. HENIX: Yes, I have.

EXAMINATION BY MR. HENIX:

Q It seems that Mr. Maroney and I were in service at the same time. In fact you said you were in Elmyra in 1946.

A I beg your pardon, Mr. Henix. Will you please speak up.

Q Did you say you were at Elmyra in 1946?

A Yes. I went there in April 1946.

Q I was saying I was there at the same time.

But my question is, Mr. Maroney, and I can't say either that I have anything uncomplementary to say about you, just like you probably don't remember me for

2 But my question is this. In your 34 years
3 of service, have you any knowledge of a correction
4 officer being brought up on charges for say, beating
5 or brutality toward an inmate?

6 A I can recall a few instances but not specific.
7 I can't recall any specific instances or names but I
8 can recall it.

9 Q Thank you. I have been pressing now every
10 day that we have been on TV to get someone to really say
11 that they have some knowledge that this type of behavior
12 have gone on from time to time.

13 A Excuse me a minute now. When you said charges,
14 that's legal charges. I know of officers that have been
15 brought before the superintendent or the warden because
16 of charges or accusations of brutality. I would like
17 to put it that way.

18 MR. HENIX: Thank you.

19 MR. MC KAY: Mr. Carter, have you ques-
20 tions?

21 EXAMINATION BY MR. CARTER:

22 Q Lieutenant Maroney--here I am over here. You
23 stated in your testimony that you were afraid that there
24 was going to be some disruption for over a year you had
25 been concerned about that?

... that's right.

2 Q And in answer to a question by our general
3 counsel about what kind of training you had done to
4 prepare--rather you answered a question like that.

5 Let me put at least what I would like to re-
6 gard as a more fundamental question.

7 What were you doing, and by you, I mean the
8 administration and the people there, during that year
9 to get to the causes of the unrest, to try to find
10 out what was--why this, you know, this thing was build-
11 ing up?

12 What were you doing about that?

13 A What I personally was doing?

14 Q Not what you were personally doing. What was
15 the administration, the people at the staff, was anything
16 being done about that?

17 A Not on a broad scale plan, I do not believe
18 so.

19 Q Was anybody really trying to find out, you
20 know--we have heard officers say that they felt something
21 was going to blow. Was anybody trying to find out--

22 A Yes, there were several of us in the prison
23 that were concerned about it and quite conscious about
24 it. And we were trying to get at the root of the prob-
25 lem and trying to find out who was responsible for it



2 Q What did you do in trying to do that?

3 A Well, what we have, you know, we have the
4 prison grapevine and I would have my sources of infor-
5 mation to collect this information. I would pass it on
6 to my superior officers and if we did have a trouble-
7 maker in the prison, somebody trying to stir up trouble,
8 we would try to get him transferred to another cell
9 block and if that was not the answer, we would try to
10 get him transferred to another institution.

11 That's an old prison procedure.

12 On the other hand, if a prisoner did have a
13 problem that I or we could solve, we did try to straight-
14 ten him out by cutting red tape. That's what I call
15 cutting red tape. Trying to help the prisoner out.

16 Q One final question. Did you seek to find out
17 whether there were any conditions in the prison that
18 needed to be--that were the cause of the unrest?

19 A Yes. Yes, I did personally, yes.

20 Q What did you find out about that?

21 A Well, I found out there was a lot of dissatis-
22 faction with the food and the Black Muslims were com-
23 plaining about so much pork being fed and the dishes
24 were dirty. There were several complaints about the
25 dishes. And sometimes they would not have enough dishes

2 mealtime, they would have to hurry around and pick up
3 some dishes that were used, rewash them quickly and
4 reuse them over again for the same meal. That was one.

5 Another complaint is about the prices in the
6 commissary. That was later straightened out. A lot of
7 things were straightened out as time went on, which
8 I think would have, if Mr. Oswald had kept on going.
9 But there was always something came up which we could
10 as individual officers, try to straighten out our-
11 selves. We were so-called counsellors or advisers,
12 mothers or fathers. If you took an interest in your
13 work.

14 MR. MC KAY: Are there other questions
15 from the Commission?

16 I have just one factual question,
17 Lieutenant Maroney, but first I want to make sure
18 that you recall that you are entitled to make a
19 statement to the Commission and to the public
20 if there is something in addition that you would
21 like to say. So as soon as I have given my ques-
22 tion, if there is something you would like further
23 to say we would be most glad to hear it.

24 BY MR. MC KAY:

25 Q When you took the inmate to HBZ on September 8,

2 was sparsely furnished because it was the only cell
3 available?

4 A I believe so, to my knowledge. We done
5 things so quick that night, we were under the impres-
6 sion we had to do this job and get it over with before
7 6 o'clock so the institution would not have to pay us
8 overtime so we took the inmate upstairs, the third
9 floor, we asked the officer up there what cell was
10 available.

11 He said the one on the end. So we took the
12 inmate down there and put him in a cell.

13 Q Am I correct in recall there are some 50
14 cells in HBZ?

15 A Approximately, yes.

16 Q You mean that the others were all full of
17 inmates at that time or that they simply weren't ready
18 for occupants?

19 A No, they are always ready. They are always
20 ready.

21 Q So there were essentially 50 occupants in
22 HBZ at that time?

23 A I couldn't actually say now, sir. I don't
24 recall.

25 MR. MC KAY: Thank you.

2 own?

3 THE WITNESS: I believe so, yes, if
4 you give me a minute or two here.

5 MR. MC KAY: Sure. Please go ahead.

6 THE WITNESS: I would like to say something
7 in reference to this incident of September the 8th
8 in reference to taking this inmate to HBZ.

9 We all deal in human nature. Working in
10 a prison, an institution, you are dealing with
11 human nature, human emotions and everybody has a
12 different set of emotions but we have a rule, an
13 ironclad rule in our rule book, even if it is an
14 old one. That we are not allowed to use brutality.
15 We are only allowed to use a certain amount of
16 force that's necessary to subdue one or two inmates.
17 But knowing the tense situation in the prison in
18 the past few months before September 8, I took
19 a special interest in this case and made sure that
20 this man was not harmed or roughly handled any more
21 than absolutely necessary to keep him in custody
22 and place him in his cell.

23 That's in reference to this particular
24 incident.

25 In closing I would like to say the prison

8 was overloaded. There was too many prisoners 410
2 there to be comfortable. And every time a pri-
3 son gets overloaded the usual procedure is to over-
4 load every department in the prison.

5 That's why there was some idle men
6 in every department. Every department or every
7 gang--every place in the prison that an inmate is
8 assigned to has to be overloaded when the prison
9 is overloaded and that strains the budget, it
10 strains the kitchen and mess hall, it strains the
11 supervisory help and strains everybody.

12 It is not a good situation. There is
13 only room for 1900 some inmates there and we were
14 up over 2200 that particular day.

15 Now, two or three years ago the reforma-
16 tory law was changed. I don't know exactly how
17 it was changed but we started knowing these
18 young inmates coming to Attica. White and black
19 both. Inmates 18 and 19 years old. They do not
20 belong there. We got hardcore prisoners there.
21 We did have. I don't work there anymore. 40 or
22 50 years facing them. They have no morales, no
23 scruples or anything else. Their only idea is
24 to do their time, live in there peacefully and
25 get out. There is no place for a youngster in

1 Attica prison or any big prison. You would
2 be surprised at the things that go on in there.
3 That has went on. We have no means to prevent it.
4 We try to slow it down or try to stop it. It's
5 really disgraceful, those young fellows going
6 to Attica Prison or any big prison. They should
7 belong in a reformatory or camp.

8 If you want to spend any money at all,
9 forget the older fellows, their die is cast.
10 Spend it on the young people. Try to form their
11 lives a little bit different so they don't end
12 up 40 or 50 years old dying there. I have seen
13 men die there in the prison hospital, in that
14 back ward. Anywheres from ten to 15 prisoners in
15 there, anywheres from 70 to 90 years old.

16 They just lay there and die, wait for the
17 end. Some of them had started out in Lincoln Hall
18 or that other boy's hall down on the Hudson, Elmyra
19 Reformatory. It's just a waste. If I had anything
20 to do with it, I would spend money on young people.
21 That's where it belongs.

22 Thank you.

23 MR. LIMAN: We thank you for your state-
24 ment, Lieutenant.

25 MR. MC KAY: We thank you very much for

1 10 being with us today. We appreciate your co- 412
2 operation.

3 (Witness excused.)

4 MR. MC KAY: I believe Mr. Liman has a
5 statement he would like to make on behalf of him-
6 self and on behalf of the Commission.

7 MR. LIMAN: I believe that it is
8 appropriate to make some comment on the purpose of
9 presenting witnesses whose testimony at first
10 blush may appear to be inconsistent.

11 The way in which a man interprets facts
12 and what he believes controls his actions and as
13 a result, we are as interested, in most cases
14 in what a witness' opinion was and what he believed
15 as in what he actually saw.

16 For example, we have been asked why phy-
17 sical brutality was not one of the items enumerated
18 by David Addison yesterday in his list of inmate
19 greviences, why it was not included in the July
20 Manifesto of the inmates and why it was not included
21 in the September demands of the inmates in the
22 yard.

23 Now, we have interviewed over 1600 inmates
24 and we have found that the burden of their com-
25 plaint is against what they consider to be psycho-

2 They say that psychological brutality
3 leaves them with scars. Psychological brutality
4 and discrimination leaves them with scars that
5 do not heal, whereas a bruise can.

6 Most inmates we saw, the overwhelming
7 majority of inmates we saw said that except for
8 the events of September 13, they were neither
9 subject to physical abuse by correction officers
10 or witnessed physical abuse. In those cases in
11 which inmates said that there was physical confron-
12 tation, there tended to be a conflict with correc-
13 tion officers either denying that it existed or
14 saying that it was reasonable force necessary for
15 either self defense or to subdue an inmate.

16 But what was important in the context of
17 the events that occurred was that most inmates we
18 interviewed believed that other inmates were beaten
19 in the elevator on the way to the box, that this
20 was a procedure that was followed and even though
21 they had not experienced it, they held this belief
22 with the same degree of conviction we found in
23 our interviews as if they had seen it.

24 Thus, to take the events of September 8,
25 which you have heard testified about, you will re-

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fied that because he was confined to his cell he could not see what was going on in the cells down the gallery. Nobody else could. You can't see into somebody else's cell when you're locked in. He and the other inmates in that gallery heard noises. They heard yells. They saw an inmate being carried out and the interpretation which Mr. Mace gave to that event is an interpretation that we found was widely shared by the inmates in that gallery and was communicated throughout the prison by the prison grapevine which Lieutenant Maroney testified about.

Inmates were in no position to verify what happened. None of them was permitted to escort the inmate to the box. That wasn't the normal procedure. As a result, because inmates cannot have full access to the facts, rumor becomes a dominant fact in the life of a prison and that is not only for inmates but as we proceed with the testimony and in particular to the events of September 13, I think you will see that rumor has an effect on the conduct of others, including correction officers on that day.

Now, I saw this with reference to testimony

factor that I feel should be borne in mind in listening to the testimony that will follow as well.

Dr. Hanson testified today about his opinion of the structure in the yard and he characterized it as a tyranny, I believe, at one point. Commissioner Wilbanks referred to the fact that another witness had told us that he thought that it was an Athenian democracy.

Two men were giving their opinions about the same set of circumstances but they perceived these things differently and it is absolutely crucial, the Commission feels, in understanding the conduct of men in these very, very difficult circumstances to bear in mind that people will perceive the same events differently and that is particularly so when you're talking about a situation in which great cultural gulfs existed.

We therefore ask that this listening to the testimony that follows, that every listener, that every reader bear in mind that we are interested in the beliefs that people obtained, whether they were correct or not correct because we believe from this extensive investigation that those



2 course of events.

3 MR. MC KAY: Thank you, Mr. Liman.

4 Before you call Mr. Wicker, I would like
5 to make one brief statement.

6 The security officers have just advised
7 me that there has been another bomb threat today
8 as there was yesterday. There is some evidence
9 that it is the same person who called in yesterday
10 and as you all recall, that proved to be without
11 foundation. I do not plan to recess the hearing
12 but obviously anyone who is nervous about the
13 possibility of danger may leave at any time.

14 Let me tell you the precautions that
15 have been taken. The Police Department Bomb Squad
16 searched the building this morning before any of
17 us came. They found nothing and all persons who
18 entered the building since that time have been
19 searched as to any briefcases or packages or par-
20 cels that they carried.

21 I do not believe that there is a serious
22 threat but obviously each person has to make his
23 or her own determination in that respect. So if
24 at least the counsel and the Commission are willing
25 to continue, we will go ahead and I hope Mr. Wicker

2 MR. LIMAN: Mr. Wicker.

3 MR. MC KAY: Mr. Carter wants it to be
4 known when he leaves it is not because of fear
5 but because of other obligations.

6 Mr. Wicker, will you rise to be sworn.

7 T H O M A S G R E Y W I C K E R, called as
8 a witness, having been duly sworn by Mr. McKay,
9 was examined and testified as follows:

10 EXAMINATION BY MR. LIMAN:

11 Q Mr. Wicker, would you state your full name
12 for the reporter.

13 A Thomas Grey Wicker.

14 Q And your occupation?

15 A Writer.

16 Q And are you a writer for the New York Times?

17 A Yes, I am.

18 Q Mr. Wicker, how did you happen to go to
19 Attica during September?

20 A Well, on September--on the Friday before the
21 unfortunate violence at Attica, let's see, I suppose
22 that would have been the 10th of September.

23 Q You can use days of the week if that's easier.
24 Friday was September 10, but there is no reason for you
25 to give dates. Days are just as understandable.

2 in Washington received a telephone call from the office
3 of Assemblyman Arthur Eve who said that my name had been
4 included on a list of names that prisoners who then in
5 revolt at Attica had asked to come and observe the
6 proceedings there and Assemblyman Eve's office had asked
7 if I could possibly come. I found I could get a flight
8 out almost immediately to Buffalo. I was told if I
9 could get there, that then either by helicopter or auto-
10 mobile the State Troopers would get me to the Attica
11 Prison, so I did that.

12 Q When did you arrive at the Attica Prison?

13 A Late in the afternoon of Friday, September 10.
14 I would suppose in retrospect it was about 4:30 in the
15 afternoon.

16 Q Had you ever been to Attica or any other pri-
17 son in New York State before that?

18 A That to any other prison in New York State,
19 no.

20 Q Had you written a piece about George Jackson?

21 A Yes. Some weeks, just a relatively short
22 time before this, of course, the death of George Jackson
23 had taken place in the San Quentin Prison in California
24 and I had written about that at that time. And I'm told,
25 it's speculation on my part, but I'm told that that

2 and it was well known in the prisons of the country.
3 I can't testify to that of my own knowledge, but I've
4 been told that.

5 Q In any event you were asked for by the inmates?

6 A Yes.

7 Q When you arrived at the prison, who did you
8 see and what did you do?

9 A Well, a State Trooper drove me from Buffalo
10 to the Attica Prison and then when I arrived at the
11 prison itself, one of the first people I saw inside was
12 Captain Williams, I think, the State Police Officer
13 who was in command of the troopers there. And at the
14 main gate of the prison. And then I saw him inside. I
15 was welcomed very cordially and the hopes expressed
16 that I would be able with the other observers to help
17 in the situation.

18 I was taken directly upstairs in the adminis-
19 tration building to what the sign said was a Steward's
20 Room and there I met Commissioner Oswald and very shortly
21 Assistant Commissioner Dunbar, and Warden Mancousi.

22 Not all at once, but within a very short period
23 of time.

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2 they expected you to do?

3 A Yes. I talked briefly in the sense of being
4 briefed by Commissioner Oswald and there I began to get
5 some idea of what the problem was.

6 He told me that he had been in the prison yard
7 that morning and had felt, as I recall it, himself some-
8 what threatened. He was not going back in the prison.
9 I didn't feel that that was safe but he hoped that our
10 group could go in and both find out precisely what it
11 was that the prisoners were demanding towards settlement
12 and perhaps be able to help negotiate a settlement there.

13 Which was something of a surprise to me because
14 I had come there under the impression basically that there
15 was already a negotiating process going on.

16 That the state had its representatives and the
17 prisoners there and I suppose I had a very euphemistic
18 idea about what was happening and I thought that this
19 orderly process to be going forward and that the prisoners
20 being wary of things had asked for a group of people they
21 could trust, thought they could trust, to oversee this
22 and perhaps underwrite the settlement.

23 That didn't turn out to be the case at all.
24 It turned out, rather than being observers as such we
25 were more and more cast in the role of doing the negotiating

2 Q In fact, by the time you arrived, Commissioner
3 Oswald made his last visit into the yard so you were
4 now, you and the other observers were the only link
5 between the administration and the inmates themselves?

6 A That's right. Except there would be some ex-
7 changes on occasion between Mr. Oswald and Mr. Dunbar and
8 others at the main barred gate, the barred gate between
9 them and some representatives of the prison.

10 Usually on a tactical matter as to whether we
11 could come in or not.

12 Q After you arrived at the prison, did you have
13 any discussion with any of the other observers and I
14 will ask you to indicate who was there, as to what your
15 role would be?

16 A We had continuing discussions through the week-
17 end as to what our role would be and how to play it.
18 I would say the largest number of the observer group
19 was already there when I arrived. Some few arrived later.

20 But by early Friday evening practically anyone
21 who later took any great part in the efforts was there.
22 We had continuing discussions from the beginning as to
23 precisely what we should do, what role we should be
24 playing, were we to view ourselves as representatives
25 of the prisoners, were we to view ourselves as representa-

3 tives of the state. Were we purely neutral 422
2 go-betweens. Were we in fact negotiators. Events soon
3 settled that. We had to be more or less.

4 But I think that there was always some division
5 within the group as to precisely how we ought to play
6 our role.

7 Q That division persisted right through to the
8 end?

9 A Yes, I think it persisted in a conceptual sense
10 but by the end of the weekend, events were moving so swift-
11 ly that we were all acting pretty much together, despite
12 the fact we might have had some semantic differences
13 about what we were doing and the whole group, as you know,
14 joined in a statement on Sunday afternoon addressed to
15 the public.

16 Q Before you went into the yard on Friday, did
17 you have any meetings with the observers as to what you
18 should do in the yard?

19 A Yes. We went into the yard, my recollection
20 is about a half hour or 45 minutes after I got there,
21 late Friday afternoon, still daylight. Not very bright
22 daylight but still--but we had considerable discussions
23 beforehand.

24 By then there had already been some exchanges
25 of papers and documents between the people who had gone

2 Q Including Mr. Eve and Mr. Schwartz?

3 A I think Mr. Eve and Herman Schwartz had been
4 in already, yes. So there was a basic rudimentary
5 notion of about what the prisoners were demanding.

6 What we really said about doing that first
7 time that I was there, so many of us were new to the
8 place. We had just been summoned there or arrived and
9 I think we all wanted to see what was happening there,
10 get a sense of how the land lay and who it was we were
11 dealing with and the physical circumstances, the kind of
12 treatment we would get, the attitude that the prisoners
13 would hold.

14 My recollection is we went in first there
15 late Friday afternoon more nearly in that preliminary
16 sense than in any sense of that moment going in and trying
17 to hammer out something that might last.

18 Q Was Mr. Cunstler with you when you first went
19 in on Friday?

20 A No, my recollection is he came after that
21 first visit. Early Friday evening but after the first
22 trip I made to the prison.

23 Q You understood you were asked for by the inmates.
24 Were there other members of this observers' group who you
25 understood were not asked for by the inmates but were placed

2 A That's correct. It was a very ad hoc group,
3 I must say. There were some of us who were there be-
4 cause our names had been on the prisoners' list or--in
5 one or two cases organizations to which people belonged
6 had been listed by the prisoners.

7 There were others who were asked by the governor
8 to come up there. Then there were others who I think
9 simply by circumstance were there. One or two people
10 who--whose line of work generally interested them in this
11 sort of thing.

12 Attorneys, people who were interested in prisons
13 who made their way there and before the whole situation
14 became formalized sort of made themselves members of our
15 observers' group.

16 Q Mr. Wicker, when you went in that first time
17 on Friday afternoon, did you do much more than simply
18 introduce yourself and say that you were there?

19 A No. That's right. As I recall it, we went
20 in and each of the observers who went in then stood up
21 and gave his name and affiliation, as in my case, Wicker
22 of The New York Times and so forth.

23 And then we were escorted by the prisoners
24 to see their prisoners, the hostages which they had in
25 another part of the yard. We went and saw them and spoke

6 briefly with the hostages at that time.

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2 And then there was almost no real negotiating
3 or discussion or even speech making at that point and
4 we left the yard and went back outside.

5 I would think it was not much more than a half
6 hour or 45 minutes we were in the yard.

7 Q It was still light when you came in the first
8 time?

9 A Yes.

10 Q Would you tell us how the yard and its organiza-
11 tion and mood struck you at that time?

12 A Yes. On this layout of the prison that you have
13 here, we entered from the Administration Building and went
14 through this half way down the long tunnel there towards
15 what I believe is known as Time Square where the corridors
16 intersect. No, half way there, that's right.

17 And then there was a door opening out to the
18 right into what is called the A-yard, is that correct?

19 Q That's correct.

20 A We went at an angle across A-yard to the other
21 corridor there. A-yard showed signs of great excitement
22 and upheaval there.

23 For instance, just as we went through the door
24 in the yard, there was what I took to be a guard's booth
25 against the wall there and it was burned. On a table

17 in there were the remnants of a plate and
2 a meal, all of which were sort of charred in some kind
3 of a fire there. It was like a big playground.

4 There were prisoners up on top of the roof of
5 that long corridor we came through, all along there. See-
6 ing what we were doing. And they mobilized there in the
7 A-yard between the two corridors and right in through
8 there and there was great counting off and organizaing
9 of the column.

10 We went through in two's. They wanted us to
11 march by two's and they took very careful counts. I
12 suppose to make certain as many came out as went in, which
13 I welcomed that procedure at that point.

14 We then went through the corridor by two's. They
15 let us go through two at a time. Very heavy clanging
16 metal doors on either side. We went through and into the
17 D-yard which was the seat of the revolt. The most
18 impressive sight there--of course there were what seemed
19 to me to be thousands of men in the yard. I believe in
20 fact it was 1,400 or thereabouts.

21 Q Twelve hundred.

22 A But it seemed to be a great many more. It gave
23 the impression of being a great many more than that. And
24 the group that had been formed as a security attachment
25 had formed sort of a human chain between our observer

2 of the prisoners. The human chain had linked arms and
3 they were facing in opposite directions. One man would
4 be facing this way and the other the other way.

5 They linked arms and it looked to me to be a
6 very strong cordon and there didn't seem to be any sense
7 that they needed that kind of cordon between us. The
8 prisoners in the yard were very quiet.

9 Q You didn't feel threatened at that time?

10 A I didn't feel threatened at that time but I
11 felt less threatened when I saw that cordon. It was in
12 sort of a long curve up towards the, what I took to be
13 the front of the yard. Where you have your pointer there.

14 There was a collection of tables and some
15 rudimentary roofing and so forth up there were prisoners
16 seemed to have their headquarters. All very well
17 organized. And they had a public address system.

18 They had at least one typewriter I saw. Some-
19 body was typing away there. Sort of keeping minutes of
20 what happened. And then after we had all introduced
21 ourselves, they then, using the same kind of human chain,
22 they swung it back towards the far wall of the D-yard
23 and right about, if you will move your pointer just a
24 little bit farther towards the wall there, right about
25 there, there was a circular area they had marked off,

9¹ they had taken benches and demarked a

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2 circle in the yard with the benches as sort of a knee-high
3 wall and inside that circle was where they were keeping
4 the hostages.

5 The hostages all appeared to have mattresses,
6 blankets. They were all dressed mostly in what looked
7 like prisoners' costumes. I can't remember precisely
8 what they all had on. Just as many of the prisoners
9 had done. Some had taken blankets and cut holes in the
10 blankets and were wearing them as ponchos.

11 They were in a confined circle, and as near
12 as one could tell the circle was being maintained separate
13 from anyone else and they did have sort of a enclave there.

14 If you have been in that yard, and I am sure
15 you have, it was very near a handball court that's built
16 over on the side.

17 Q Mr. Wicker, what was the mood of the hostages
18 as you perceived it and the prisoners as you perceived
19 it then?

20 A The hostages at that time, naturally, they were
21 very grave and solemn and they were not at all talkative.
22 Several--they answered questions when we put the open
23 question to them, "How are you feeling, how are you
24 being treated," and so forth.

25 They said, "We're being treated well. We're

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hurt." They didn't volunteer much information. I was not able to tell, and I still don't have a solid judgment as to whether they were actually speaking spontaneously or whether they were being instructed to say what they were saying.

In any case, they were being quite guarded about what they said. They did appear, as near as one could tell, in a relatively quick examination, they did appear to be in relatively decent shape.

There was no one who was visibly badly hurt or injured or sick any anything of that sort.

As for the prisoners, at that particular stage of the game, more so than any other time I was in there, there was a certain, I don't want to overstate it but there was a kind of lightheartedness about it. I don't mean to imply that everybody was skylarking or there was a picnic atmosphere. At that particular time I didn't feel what I felt later, which was a gathering sense of despair and frustration, perhaps even fear.

At that time I think, certainly I felt and I suppose the prisoners had some reason to feel, we all did, that perhaps something was going to be worked out.



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did you address them through some kind of PA system?

A Yes, there was a public address system in the yard. I don't know where it came from and it was reasonably effective, or it seemed to be and the great mass of the prisoners sat out in the yard.

They sat on the ground and they seemed to be hearing everything that was being said.

Q Were you instructed at all by the inmates as to what role they wanted you to play? Did they define any role for you?

A Well, it seemed quite clear to me from the start there that the inmates accepted us and expected us to be their representatives in a sense. Particularly I suppose those that they themselves had invited to come up there and they seemed to feel that we, to some extent, understood their plight and sympathized with it and that more so than the state officials who, after all, had their own particular roles to play and their own interest in the situation, that they seemed to feel that we would represent their interests and that they never seemed to view us very much at all either as neutrals or as representatives of the state.

They seemed to think that we were the men who came there to represent them, you see.

2 that you were the negotiators for the prisoners?

3 A Did I personally have that, when I came there?

4 Q Yes, sir.

5 A No. Not when I came there. But that wasn't
6 any deliberate misleading on anyone's part. It was just
7 that I was summoned up there very quickly. I hardly
8 knew what was going on other than what I read that
9 morning in The New York Times about the revolt.

10 I did not myself talk to Arthur Eve. His
11 secretary talked to my secretary and I later called
12 his secretary back. So my own misconception was that
13 we were coming there, as I said earlier, to oversee
14 and perhaps underwrite and negotiate a process going
15 on between prisoners' representatives and state officials.

16 That was the view I had. In fact, I arrived
17 there in Attica without even so much as a suitcase or
18 toothbrush or a clean shirt because I thought I was
19 probably going home that night.

20 Q Some observers have told us that the inmates
21 made it clear to at least them that they did not want
22 the observers to negotiate for them. Did you have
23 that impression?

24 A No, I never had that impression and I don't
25 see how that really could have been the case because--unless

13 the mean that they wanted us to negotiate 432
2 as their all out partisans. Perhaps they didn't have
3 the feeling we should negotiate as neutrals trying to
4 make a bargain acceptable to both sides but I don't
5 see how it could be said that we weren't expected to
6 negotiate because that in fact is what we were being urged
7 to do at any given time, given a list of demands by
8 the prisoners and urged to get the state officials to
9 accept them, which it seems to me is a negotiating
10 process.

11 Q After you left the yard the first time, did you
12 have another meeting of your group of observers?

13 A Oh, yes. We went on for quite a while on
14 Friday night.

15 Q By that time Mr. Kunstler had arrived, is that
16 correct?

17 A Yes. And several other members of the group.
18 It's a little unclear in my mind who arrived when. I
19 am reasonably certain William Kunstler arrived after
20 this entry into the yard.

21 Q Did you make any effort to organize yourself along
22 any kind of structural lines?

23 A We did. Mr. Eve acted almost from the start
24 and for natural reasons, I think, as a chairman, because
25 it was his assembly district and he had been instrumental

2 He has an official state position. In addition to
3 which my impression of Arthur Eve from the start was
4 he had certain natural leadership qualities and he rather
5 naturally took charge of the whole meeting, I think.

6 And virtually everyone acquiesced in that.

7 At some point we even took an informal vote to confirm
8 that arrangement. I don't think it was at that point.
9 I think it was quite early on Saturday morning we did
10 that.

11 Q Were you trying, Mr. Wicker, to achieve an
12 agreement that would end this without violence, is that
13 what your objective was?

14 A Yes. That was the way my mind ran from the start.
15 I freely admit in any articles that I have written about
16 it since, I had certain sympathies for the prisoners
17 and particularly the human plight they were in and for
18 everyone else who was involved in the situation but from
19 the very start, my personal attitude was, and I can't
20 speak for any of the others because we had a wide variety
21 of personal views and experiences in that room, the
22 observers group, my personal attitude was that the
23 desirable end result was one that would cost no human life.

24 If we could get a settlement of that situation
25 without bloodshed or death, that was what I hoped to work

2 I don't want to sound like I was willing to accept
3 any settlement because obviously that's too broad a
4 statement but that was my principal objective.

5 Q Mr. Wicker, without giving any names, did
6 you sense that there was some observers who felt it
7 more difficult to compromise on principal in order to
8 achieve such an end?

9 A I think that's right. There were members
10 of the observers group who felt more, both more ideologically
11 and out of their professional experience, some attorneys,
12 some not attorneys, others, that there were very solid
13 grievances and very justified political attitudes on display
14 among the prisoners that had resulted in this upheaval
15 and I think that group of people felt more strongly than
16 I, or those few people felt more strongly than I that
17 a settlement, if we could get one, ought to recognize
18 these legitimate grievances.

19 That was fine with me. I wanted to recognize
20 legitimate grievances and probably remove them too but
21 I think more so than some others. I was perfectly willing
22 to accept a settlement that would have meant no loss
23 of life without going into some of the more--without
24 the ideological attitudes.

25 And I must be frank about it, I think there

2 so than I felt very pragmatic about it. And felt
3 that, even more than I that the thing to do was to get
4 the thing settled, no matter what happened, who were
5 simply not interested at all in the political grievance
6 notion.

7 Q Mr. Wicker, when you went back into the yard
8 later that night, did you make an effort to ascertain
9 what it was that the inmates wanted?

10 A Yes. That was the major burden of the long
11 session that we had in the prison yard later and early
12 Saturday morning, a session of several hours.

13 Q How long did that last, that session, do you
14 remember when you finally left the yard?

15 A Yes. It seems to me it was about three o'clock
16 in the morning. It was at least that early in the morning
17 and that the whole session went on the better part of
18 four hours.

19 Q Did you understand that before you entered the
20 yard late that night to find out what it was that the
21 inmates wanted, that they had sent out certain written
22 demands?

23 A Oh, yes. We had that in writing already.

24 Q You had one that contained what has been referred
25 to as five demands?

Q Then there was another one that had 15 so-called practical proposals?

A Right.

Q And the one that had five demands included the demand for a complete amnesty and for speedy and safe transportation out of confinement to a non-imperialist country.

Did you recognize, before you returned to the yard on Friday night to ascertain what it was that the inmates really wanted, that these particular demands for amnesty and flight to a non-imperialist country might be difficult to obtain in the negotiation?

A We certainly did on the amnesty. I remember that one of the things that Mr. Kunstler said immediately when he first arrived--of course, he is an attorney quite experienced in these matters--I don't mean in prison revolts but in this kind of negotiating and bargaining.

One of the things he said right away confirmed what I had been thinking since I had gotten there, which was that the amnesty ultimately would be the key to it. That that was the demand that really mattered out of them all.

Then, I can't speak for the other observers

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18 but the second point that you mentioned there, 437

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3 that is, the speedy transportation to a neutral non-
4 aligned country, I personally never took that seriously.
5 That struck me as being a rhetorical point and I had
6 some reason to believe as I watched the weekend unfold
7 it was primarily a sort of a pet point from a small
8 group of prisoners and I for one never took that
9 seriously and still don't.

10 I believed then and believe now that if we had
11 been able to arrange an amnesty, all of these other
12 points that seemed in dispute then would have fallen
13 very quickly into line.
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3 for asylum seemed to be a pep point of a small group
4 of prisoners.

5 Could you give us some idea of how many
6 prisoners you estimated really were making that demand
7 as opposed to the total group?

8 A It would be really a kind of a horseback
9 judgment, but on at least two occasions, as I recall
10 it, one of the prison orators, and we had some very
11 spectacular oratory.

12 One of the prison orators would bring up this
13 point about going away to a neutral country and asked
14 for a show of hands as to how many wanted that.

15 Here again, some of the observers that I
16 talked to recently dispute my recollection of it.

17 But you never had the sense that there was
18 a great throng out in the crowd that was interested
19 in that particular point.

20 I never saw any overwhelming show of hands
21 and after one of those occasions a prisoner came up
22 from the audience and asked to speak and the prisoners
23 were quite democratic about this.

24 Anyone who came up and wanted to speak,
25 they worked him into the line-up. He spoke very
briefly but to the point. He said he wasn't at all

2
3 he was interested in was amnesty.

4 Q Did he get any cheers?

5 A He got considerable cheers. Here again, I
6 am stating my impression was he got a big ovation and
7 that there weren't very many hands for the trip to the
8 third world countries.

9 There were other observers who felt that was
10 a big demand and a big item of interest to the prisoners.
11 I just didn't feel that. I didn't get that sense of it.

12 Q How free did the observers feel to urge
13 inmates in that yard to withdraw demands that you
14 considered to be impractical or unreasonable?

15 A I don't know that we actually urged them to
16 withdraw particular demands in that sense.

17 The nearest thing I think to what--would be
18 similar to what you're talking about was during the
19 session of Saturday night. Not the one that I'm
20 talking about now. The session of Saturday night.

21 There was--when we presented the very limited
22 agreement that we had been able to work out with
23 District Attorney James and Commissioner Oswald and
24 the whole complex of amnesty questions.

25 We had a very limited agreement and when
we presented that to the prisoners, Mr. Clarence Jones

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3 ment and then Mr. Kunstler, who was by then acting
4 as the prisoners' attorney and spoke to them very
5 forcefully, both of those men, in particular, made
6 very forceful speeches trying to convince the prisoners
7 that this was the best amnesty arrangement they were
8 going to be able to get.

9 That we were not going to be able to get a
10 more sweeping amnesty and that, therefore, they should
11 understand, it was not necessarily our place to tell
12 them that they should accept it but that they should
13 understand that that was the best amnesty offer they
14 were likely to get and that holding out for a better
15 offer was not likely to produce it.

16 Q Mr. Wicker, were you in the yard when those
17 speeches were made that you are referring to?

18 A No, I was not.

19 Q You mentioned it was said that they were
20 the best arrangements that could be obtained.

21 Were you sensitive about the fact that you
22 were dealing with a group of inmates whose lives
23 essentially had been out of their control who now for
24 the first time had some control over their destiny
25 and that you couldn't really make outright recommenda-
tions to them?

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3 had a very considerable control over the destinies of
4 what was happening there because of their control over
5 the hostages of which we were always well aware.

6 We could, of course, make outright recom-
7 mendations but here, again, this was a product of the
8 varying attitudes within the observer group.

9 We felt all the way through there and I
10 know in particular that some of the minority members
11 of our group felt that the prisoners really had to
12 decide in the long run for themselves what it was
13 that they were to do, that we couldn't, in the first
14 place, given the position we were in, we had no power
15 to deliver anything.

16 We couldn't guarantee any kind of arrange-
17 ments or anything of the sort, so we felt that the
18 best our group could do was to present to them our
19 judgment of what the traffic would bear, so to speak,
20 what the situation would warrant.

21 And then let the prisoners themselves decide.
22 After all, it was their lives that would be at stake
23 and not ours if there was to be what ultimately
24 occurred, an attack on the prison. It was their
25 fortunes at stake if they were recaptured.

It was their paroles or their early release

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5 or their good behavior records or whatever 442

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3 it might have been that was at stake and not ours and
4 they had to make their judgments pretty much for
5 themselves, we thought. We thought they would.

6 Q When you went in Friday night for the second
7 time with Mr. Kuntsler, you listened to the inmates
8 and out of that discussion and out of the prior
9 written demands that had been delivered, you and the
10 observers really put together a list of what it was
11 that the inmates were asking for; am I correct?

12 A That's right. That was the main business of
13 that long night's session.

14 They--the inmates read off some of their
15 demands, some of which they had already put on paper
16 for us earlier. They introduced one or two new points.

17 At this distance from the event, I am not
18 too clear what it might have been now that night,
19 although it seems to me that, for instance, that a
20 demand, as I recall, that either there be a Spanish-
21 speaking doctor or a Spanish-speaking interpreter
22 working with the doctor.

23 It seems to me that was a new element that
24 was introduced that night.

25 Q That's in the list of proposals that emerged
out of that night.

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tell everybody how you went about really compiling the list of what the inmates wanted so that you could negotiate with Commissioner Oswald.

What did it take to get something on this shopping list?

A Well, it didn't take too much.

Mr. Kuntsler, who went in there that night for the first time, almost immediately, once he was in there--of course, his reputation preceded him. The prisoners knew a great deal about him and he was asked almost immediately by the prisoners--by a prisoner representative to become their attorney, to act officially as their attorney.

He agreed and this was put to a general-- not to a vote of the audience, but the audience gave a big shout of approval with a sort of a voice vote so as I recall it Mr. Kuntsler sort of took charge of that process and he would write down what it was that the prisoners were demanding and one of their speakers would make several points and generally discuss it in some detail, perhaps even ask someone from the audience to come up and be graphic about it or anecdotal about why that was a point that was needed.

2 some other speaker to take over for a while.

3 For instance, I remember they introduced a
4 man from the metal shop, a worker from the metal
5 shop to make the point about how the metal shop workers
6 were being systematically cheated, he said, out of
7 what they earned in the metal shop.

8 He had facts and figures and he made this
9 allegation and the prisoners obviously understood it.
10 Great cheers went up. It was totally--I couldn't
11 figure out how the supposed racked was working. I
12 wouldn't say it was or it wasn't.

13 That was the kind of thing that they did.
14 And they produced a Spanish-speaking prisoner who
15 made the point about the Spanish-speaking doctor,
16 for instance. Or that there should be a Spanish-
17 speaking interpreter there.

18 And gradually, as the evening wore along,
19 each point was put forward with varying degrees of
20 fervor and emphasis, depending somewhat on the speaker.

21 Q Was amnesty discussed that night?

22 A Oh, yes. Amnesty, to my knowledge, was
23 constant on this throughout and the demand was always
24 for total and complete amnesty.

25 I think it should be made clear because I

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8 discovered in just general discussion with 445
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3 people since then that a lot of people apparently
4 assumed the prisoners were demanding amnesty across
5 the board for even those crimes for which they had
6 been convicted that had brought them to Attica in
7 the first place.

8 That was not the case. It was never my
9 understanding that that--the total and complete
10 amnesty was directed at any form of prosecution or
11 retaliation for the revolt itself. It was never a
12 question of being forgiven crimes they had been con-
13 victed for earlier.

14 Q Did it appear that the inmates were appre-
15 hensive about prosecutions for participating in this
16 uprising?

17 A Oh, yes, because there had been, you know,
18 in--I didn't know much about it at the time, but in
19 previous months there had been uprisings of one kind
20 or another, I think at the Greenhaven prison, in the
21 Tombs here in New York City.

22 And they were well aware of the fact that
23 some--let me put that somewhat differently.

24 They believed very fully and made us aware
25 of their belief that there had been reprisals after
those episodes.

2 story that went the rounds, there was a prisoner, as
3 I recall it, at Greenhaven had been--

4 Q You mean for Auburn, I think.

5 A Auburn.

6 (continuing) --had been prosecuted for
7 larceny for possession of one of the guard's sets
8 of keys and that sort of thing.

9 And there were stories that after those
10 uprisings in the Tombs and elsewhere where prisoners
11 had been beaten. And that there will be physical
12 brutality used and so forth.

13 I'm not making this allegation, but it
14 was quite clear to me--because I don't know the
15 circumstances, but it was quite clear to me that the
16 prisoners fully believed these stories.

17 Q Mr. Wicker, did it also appear to you that
18 amnesty had the support of most of the inmates in
19 the yard, it was a popular demand?

20 A That's right. As I said earlier here, I
21 soon came to the belief, my own personal feeling was
22 that amnesty was the point. That if we could arrange
23 an amnesty that would be satisfactory to the prisoners,
24 why, the other points were of definitely secondary
25 importance to them, not unimportant, but secondary

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3 Q After you left the yard that night, what
4 did you and the observers do about trying to bring
5 about the agreement that would end this peacefully?

6 A After we left there early Saturday morning?

7 Q Yes.

8 A For two or three hours, then we met in that
9 observers' room and I think I should explain here
10 that, so that one would have a clear idea of how the
11 observer group functioned or didn't function.

12 I think I should explain first, in addition
13 to not having had any sleep that night, many of us
14 had been up for quite a while. This was not a group
15 that was in every way congenial.

16 We had everyone from--we had Republican
17 State Senators and quite militant members of minority
18 groups and we had a whole variety of people in there
19 and all of whom, including myself, were of extra-
20 ordinary loquacity, it seemed to me, so we went around
21 and around and around, for a lot of the time, trying
22 to decide what to do.

23 It was not a group that could easily come
24 to a unanimous decision, as I said.

25 Q So you had negotiations with the observers
as well as your role of negotiating between the inmates

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and the administration?

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A That's right.

And finally I should put into this rather jumbled equation the fact that this was for all of us an extremely emotional occasion necessarily on this long session when we had been in the yard that night.

Several events occurred that had been frightening at the very least. We were, in many ways, I was certainly moved by the eloquence of the prisoners and by their plight.

We were at the same time quite concerned for the safety of the hostages and we began to feel more and more that a lot of this bore directly on our shoulders in ways that I, at least, had not anticipated when I first came up there.

I hadn't understood I was walking into that kind of responsibility so this was not an easy sort of thing to work out.

So for two or three hours thereafter we came out of the prison in the early morning hours of Saturday and we discussed what to do. It was at that time, as I recall it, that Mr. Eve was sort of formally confirmed as our chairman.

We appointed, after a good deal of discussion,

12 we appointed an executive committee, because
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3 many of us felt that the size of the group, which I
4 suppose at that time was certainly well over 20--it
5 many have been as many as 30--we felt it was unwieldy
6 at best and we were going to spend more time talking
7 than doing, so we appointed an executive committee.

8 Then a group was appointed, myself and
9 Clarence Jones and Julian--

10 Q Tepper?

11 A (continuing) --Julian Tepper were appointed
12 to visit District Attorney Louis James in Warsaw and
13 see what his actual attitude was on the question of
14 amnesty.

15 We understood he would be a very key figure
16 in that matter and all we knew at that point was on
17 the Friday afternoon preceding, Mr. Oswald, Commissioner
18 Oswald called him and asked him the same question and
19 had relayed to us Mr. James' answer that he could not
20 give an amnesty but we didn't know how rounded that
21 answer was, what exceptions there might be possible,
22 to what degree he held that view, how open he might
23 be to persuasion.

24 We didn't know any of those things, so we
25 decided we should talk to him personally and Tepper
and Jones and I were delegated to do that.

2 Attorney James?

3 A We drove over to Warsaw Saturday morning
4 arriving there around 8:00 o'clock in the morning.
5 It's about half an hour drive from Attica to Warsaw.

6 And we met at his house and Mrs. James very
7 kindly provided us with breakfast. We talked around
8 the breakfast table in his dining room that morning
9 and later in his office in Warsaw.

10 Q Give us the substance of what happened
11 there and what came out of it.

12 A Well, Mr. James turned out to be, in my
13 judgment, a good deal more flexible on the issue of
14 amnesty than the flat no that we had gotten over the
15 telephone the day before would seem to indicate, once
16 we talked to him about the situation.

17 I thought that he was most forthcoming and
18 he agreed and put into writing, he wrote out the
19 statement himself. He agreed on two points that I
20 thought were very important.

21 The first of which was that he would
22 prosecute only for, that he would bring criminal
23 charges only against specific individuals for which
24 specific evidence linked them to a specific crime.
25 That was the first point.
