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NEW YORK STATE SPECIAL COMMISSION ON ATTICA

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In the Matter of the :

Public Hearings :

at :

NEW YORK, NEW YORK :

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Channel 13/WNDT-TV  
433 West 53rd Street  
New York, New York

April 20, 1972  
10:30 a.m.

Before:

ROBERT B. McKAY, Chairman,

MOST REV. EDWIN BRODERICK,

ROBERT L. CARTER,

MRS. AMALIA GUERRERO,

AMOS HENIX,

BURKE MARSHALL,

WALTER N. ROTHSCHILD, JR.,

MRS. DOROTHY WADSWORTH,

WILLIAM WILBANKS,

Commission Members.

20th

1  
2 PRESENT:

3 ARTHUR LIMAN,  
4 General Counsel

5 MILTON WILLIAMS,  
6 Deputy General Counsel

7 JUDGE CHARLES WILLIS,  
8 Deputy General Counsel

9 ROBERT POTTS, JR.,  
10 Communications Consultant

11 MARC LUXEBURG,  
12 Deputy General Counsel

13 ROBERT SACKETT,  
14 Deputy General Counsel

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16 MR. McKAY: This is the morning  
17 session of the seventh day of the hearings of  
18 the New York State Commission on Attica.

19 Our first witness this morning is  
20 Mr. Thomas Wicker of The New York Times, contin-  
21 uing the testimony that was incomplete two days  
22 ago.

23 Mr. Wicker has been sworn.

24 Mr. Liman, will you conduct the ques-  
25 tioning?

THOMAS WICKER, having been

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1 previously sworn, resumed the stand and

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2 was examined and testified further as fol-

3 lows:

4 EXAMINATION (cont'd) BY MR. LIMAN:

5 Q Mr. Wicker, yesterday Clarence Jones com-  
6 mented in his testimony that by the time the obser-  
7 vers returned to the yard Sunday afternoon they felt  
8 that the ball game was over, and he compared the  
9 rhetoric in the yard to a tribal ritual in which men  
10 knew that they were going to be engaged in battle  
11 with overwhelming force the following day and were  
12 preparing themselves for death.

13 Is that the way it struck you, or --

14 A Well, there simply was a feeling, as I  
15 believe I said the other day, that that was a farewell  
16 meeting, so to speak; there wouldn't be any more;  
17 that something was going to happen, and very soon.

18 We thought -- some of us even thought  
19 later that afternoon or later that night -- so there  
20 was a feeling of the whole thing being over, as you  
21 say, and some of the -- some of the inmates who were  
22 in revolt there certainly seemed to feel and rhetoric  
23 suggested that their lives were very much at stake at  
24 that point and, therefore, some of the people in our  
25 group, particularly those who had friends in the pri-

1 son, and some did, were very emotionally

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2 involved in the whole situation at that time.

3 Q Now, did any of the inmates suggest pri-  
4 vately or publicly Sunday that there might be some  
5 compromise on the amnesty issue?

6 A Not to me.

7 Q And not in your presence?

8 A No.

9 Q When you returned from the yard, would  
10 you describe what efforts the observers' committee  
11 made that Sunday to forestall the inevitable?

12 A Well, I think actually most of the efforts  
13 that we had made were made -- had already been made  
14 by the time we -- the small group I was with that  
15 went into the yard on Saturday afternoon came out.

16 About the last thing that remained in my  
17 recollection and in the formal sense, was we had  
18 gone in there in order, ostensibly, to interview the  
19 hostages and to report on their well-being.

20 So, at that time, particularly -- in that  
21 particular part of the thing I had been one of those  
22 acting as a pool reporter for the Press, which was  
23 outside of the Attica Prison. So, I went out, along  
24 with Mr. Edwards of the Amsterdam News, and held just  
25 a very brief news conference outside.

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1  
2 gave a report to the other reporters on what we had  
3 seen inside the prison that afternoon, what had been  
4 said, what the atmosphere was as best we could ascer-  
5 tain it and what the situation seemed to be.

6 But prior to that, early in the afternoon,  
7 of course, four of us had made the telephone call that  
8 I described the other day to Governor Rockefeller.

9 The observers' group had issued a public  
10 statement, which I think was widely broadcast on  
11 radio in the State suggesting that there was going to  
12 be -- there was going to be a lot of violence and  
13 bloodshed at Attica and suggesting further that  
14 citizens might write telegrams or call the Governor  
15 suggesting that he come to Attica in an effort to  
16 forestall that.

17 Q How did you select the hostages whom you  
18 interviewed that Sunday afternoon in the yard?

19 A We didn't. The prisoners brought them up  
20 one by one and there didn't seem to be any -- there  
21 didn't seem to me to be any particular order in how  
22 they did it.

23 And they had all the hostages lined up  
24 and the original idea was we were going to interview  
25 all of them. As it turned out, we didn't interview

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1 anywhere near all of them, only perhaps

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2 ten, as I recall, because each individual interview  
3 took so long. We just ran out of time.

4 Q Did you ever, during your trips in the  
5 yard, just wander around the yard and talk to people?

6 A Well, a little bit. Mostly on the first  
7 day that I went in there.

8 The atmosphere was freer and easier at that  
9 time and that is the occasion when I described how  
10 they took us over to where the hostages were being  
11 held in the ring of wooden benches and we were able  
12 to wander around a little bit then.

13 Again, members of our group who either knew  
14 people who were in the prison or because their work  
15 as lawyers or social workers had been in the prison  
16 fairly often or -- they felt freer, frankly, to wander  
17 around than I did.

18 I also felt some restraint about doing  
19 that because it was a very alien atmosphere to me.

20 Q Now, you had been told that the inmates  
21 were not willing to accept the twenty-eight proposals.

22 What was your --

23 A Well, not as a package. As I think I said  
24 before, I always felt that the amnesty question was  
25 the key question and if that could have been settled

2 have been more or less secondary. So, I think it isn't  
3 quite correct to say that they rejected the twenty-  
4 eight points out of hand, as one big package.

5 Q But they rejected them as the totality of  
6 what they would get?

7 A That's right, yes.

8 Q By what process did you understand that  
9 the inmates had come to this decision?

10 A Well, firstly on Saturday night, those  
11 who had been in the prison yard when the points were  
12 presented, several of them told me later about the  
13 very strong reaction of the prisoners against that,  
14 and I got my first word on that from Louis Steele.  
15 Later on, I talked at some length with Clarence Jones  
16 about very similar accounts in each case.

17 Then on Sunday, when I, myself, was in the  
18 prison yard, the prisoners left no doubt in their  
19 rhetoric that the sort of amnesty proposal or arrange-  
20 ment we had been able to make was entirely too limi-  
21 ted for what they thought were their needs, and they  
22 were still talking in terms of total and complete  
23 amnesty.

24 Q Did you understand that inmates who dis-  
25 agreed or who were frightened were free to leave

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2 A You mean that the prisoners who were in  
3 revolt would let any prisoner who wanted to go back  
4 into the custody of --

5 Q Yes.

6 A I didn't understand that then.

7 To this moment, I do not know whether or  
8 not that was a fact. I don't know.

9 Q Did people appear to be frightened, to  
10 you, on Sunday? Did you see signs of fright?

11 A Among the prisoners?

12 Q Yes.

13 A No, I don't think I would say I saw signs  
14 of fright, as such.

15 There was -- there was a good deal of just  
16 real emotionalism loose in the yard, so to speak,  
17 and it reflected itself in rhetoric and it reflected  
18 itself in the attitudes of some of the prisoners in  
19 the way they would speak to us, and so forth, but I  
20 didn't see anyone -- there was nothing that was  
21 visibly or demonstrative in fright or fear, no.

22 Q You mentioned that this was an alien environ-  
23 ment for you. Did you have the opinion that the  
24 speeches which you described as emotional speeches at  
25 times represented the views of the majority of the



2 A You mean the speeches that the inmates  
3 were making?

4 Q Yes. About holding out until the end and  
5 being prepared to die?

6 A Well, I think -- you know, I wouldn't be  
7 prepared really to make a generalization about all  
8 those men who were in the yard, so very few of whom  
9 spoke during the whole period we were there, but I  
10 think I could make this statement:

11 When orators would make a great declaration  
12 about holding out to the end and so forth, there  
13 was never any uprising out in the crowd, no shouts  
14 of "No, no," or no one trying to come up and take over  
15 the microphone or no visible signs of disagreement  
16 with that.

17 Now, that doesn't of course necessarily  
18 mean the reverse, that everybody did agree with it,  
19 but certainly that kind of oratory didn't provoke  
20 any visible opposition in the audience.

21 Q Did any inmates take the mike and say that  
22 they wanted to accept the twenty-eight demands as  
23 is?

24 A Not to my knowledge.

25 Now, that's on Sunday afternoon. You under-

2 Saturday night.

3 Q Right.

4 Now, on Sunday afternoon or early evening,  
5 after you had left the yard and after you had held  
6 this Press interview outside, were you present when  
7 the observers met with Commissioner Oswald for the  
8 last time?

9 A Sunday night?

10 Q Yes.

11 A Yes.

12 Q Would you describe that meeting?

13 A Well, it was a very emotional meeting on  
14 all our parts. It was a very wrought-up meeting.

15 We understood by then, or thought we under-  
16 stood, that the prison authorities, the State autho-  
17 rities, had made a decision to recapture control of  
18 the prison as soon as they could.

19 We attempted to impress on Commissioner  
20 Oswald the same view that we had attempted to impress  
21 on the Governor that afternoon, that we thought if  
22 the status quo could be maintained somewhat longer,  
23 that possibly there might be a break in the negotiating  
24 impasse.

25 I felt -- this bears a little bit on your

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1 question of awhile ago. While I say that 771  
2 there were no visible signs of opposition to their  
3 rather adamant position that most of the speakers were  
4 taking there, I felt if there would be a break in the  
5 solidarity of the prisoners -- this, of course, is a  
6 horseback judgment on my part, but I felt it was  
7 much more likely to be in the direction of those who  
8 would want to give up the revolt and accept the best  
9 arrangements that they could.

10 I felt it was much more likely to be in  
11 that direction than that of a more militant leader-  
12 ship who might want to take some more drastic action,  
13 because it was so plain. It seemed so plain to me  
14 that taking any further drastic action on their part,  
15 damaging the hostages or something of that sort,  
16 would have been very much against their self-interest  
17 there.

18 So, I felt that if there were going to  
19 be a change in the situation it would be likely to  
20 be for the better from the point of view of the pri-  
21 son authorities, you see.

22 So, I was among those who advocated whole-  
23 heartedly that if possible the prison officials, the  
24 State officials, hold off on any attack on the yard  
25 as long as they could in hopes of the impasse being

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2           We attempted to get assurances from Commis-  
3   sioner Oswald that there would be no assault on the  
4   prison that night, because some of us, most of us,  
5   in fact, were getting ready to leave, you know, get  
6   a night's sleep and so forth, so we tried to get  
7   assurances from him that there would be no attack  
8   that night, and while he would not give a flat assurance  
9   that could be described as such, I think he managed  
10  to convey, in an indirect fashion, that that wouldn't  
11  happen that night, but he didn't go so far as to  
12  give us an assurance.

13           He was under -- Commissioner Oswald was  
14  under heavy pressure in that steward's room with the  
15  observers there not merely to delay, of course, but  
16  he was under very heavy pressure in sort of an emo-  
17  tional sense, because it was quite clear to me --  
18  if I am permitted to characterize my judgment of Mr.  
19  Oswald's attitude or position, it was quite clear to  
20  me that he personally did not want to act in any  
21  such manner that would cause a great loss of life.

22           I had the impression throughout this  
23  period that Commissioner Oswald much more nearly would  
24  have left to his personal devices -- would much more  
25  nearly have shared our view of the situation than per-

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1 haps some of the views that were being

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2 impressed on him both by his subordinates and colleagues  
3 and by State officials.

4 Now, that is purely a judgment on my part  
5 and I have no -- I have no substantive knowledge of  
6 that fact.

7 Q Well, he is going to testify at these  
8 hearings, and he will speak for himself on these  
9 questions.

10 Did he give you any explanation of why,  
11 having waited four days, he felt that the State  
12 couldn't wait any longer?

13 A Well, he gave many reasons. You know, the  
14 fact that the conditions in the prison were getting  
15 worse, conditions for the hostages were getting worse,  
16 the prison itself was still out of control and I  
17 think that no responsible official could be comfortable  
18 with that situation, you know, but he also spoke of  
19 the pressures that he was under.

20 He mentioned telegrams from other correc-  
21 tional officers around the country. I think that  
22 one of the things that were in their minds also was  
23 that the more nearly the revolt at Attica appeared  
24 successful from the point of view of the prisoners,  
25 the more likely they would have another one somewhere

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2 to us about the fact that he was under very heavy pres-  
3 sure to do something to obtain the release of the hos-  
4 tages.

5 Of course, you have to remember that the  
6 hostages were not merely dummy figures here. There  
7 were wives and sons and fathers who were standing  
8 outside the prison wall. They were right there and  
9 Mr. Oswald, if he was not in daily contact with them,  
10 he certainly was in daily contact with those who were.

11 Q Were you aware that the demands of the people  
12 outside the walls, including the families of hostages,  
13 were to move right in?

14 A Oh, yes. When I went out and briefed the  
15 Press late Sunday afternoon, I was subjected to some  
16 abuse myself, which I thought was entirely understand-  
17 able on the part of those people who were very upset  
18 and worried about their relatives and friends, but  
19 I was surprised to find just in that brief period there,  
20 as I heard people shouting at me from the crowd and  
21 then later when I was through, several of the towns-  
22 people and prison people who were standing there were  
23 themselves interviewed by the radio and television  
24 reporters, and I heard some of the interviews, and I  
25 was a little surprised at the extent to which people

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2 the yard were urging armed attack right away, because  
3 I would have thought, you see, that they would have  
4 been saying "Don't do anything that might endanger  
5 the lives of the hostages," but one of the things that  
6 was true about this whole situation, among other  
7 things, is it was very educational.

8 It's a hard way to learn things, but one  
9 of the things that's really true about a situation like  
10 this, you see, is that logic and reason don't neces-  
11 sarily apply when people are under abnormal pressures.

12 Now, that's perhaps a banality, but perhaps  
13 sometimes you have to be in a circumstance like this  
14 fully to understand how someone who is fearful for  
15 the life perhaps of their husbands or whatever,  
16 really is not thinking rationally and can hardly be  
17 expected to.

18 Q Did you get the feeling from listening to  
19 these people talk that the press of observers from  
20 the left had produced a counter-reaction in the towns-  
21 people's action that they may have had mixed feelings  
22 as to whether they wanted the negotiations to succeed  
23 under these auspices?

24 A You mean the members of our observers'  
25 group?

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1 Q Sure.

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2 A No, I can't say that I got the feeling  
3 that any particular member of the observers' group  
4 caused the townspeople to turn against the whole group,  
5 if that's the point that you were trying to make, but  
6 I felt that by Sunday afternoon -- again, I am making  
7 judgments here that I am perhaps not qualified to  
8 make, but I felt, just in the atmosphere of that  
9 crowd, that the townspeople, particularly those con-  
10 nected with the prison, other correctional officers,  
11 some of the law enforcement people who were there,  
12 I think that they felt that the observers had had their  
13 chance and at that point they were just making things  
14 worse, standing in the way of what they saw as being  
15 the proper course of action, which was to move with  
16 force to retake the prison, and indeed, that was the  
17 case.

18 Q Were any compromises proposed to Mr. Oswald  
19 that night?

20 A Oh, yes.

21 We hauled out all sorts of gimmicks, you  
22 know, that we were trying to work out and the prob-  
23 lem was always, you see -- and this re information  
24 by judgment, the problem was always in this amnesty  
25 question, and as long as no compromise seemed possible

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1 on that, all the other compromises were  
2 short of what was going to be effective. It seems  
3 to me I suggested later on in the night -- we were  
4 kind of foggy about what we were going to be doing.

5 I suggested -- you see, the Commissioner  
6 was trying to get the prisoners to a point, a normal  
7 negotiating team that would meet with him on what he  
8 called neutral grounds, which was somewhere else in  
9 the prison outside of their stronghold.

10 They wouldn't do that, and my impression --  
11 in fact, I know at least the reason that they explained  
12 to me that they wouldn't do that, was because they  
13 wanted to conduct the negotiations in the presence  
14 of the eleven or twelve hundred men who were there,  
15 on the grounds that if three or four men went off and  
16 made an arrangement that might appear to be less than  
17 advantageous to the men who were in revolt, then  
18 those who made the arrangement would be accused of  
19 having sold them out and they wanted to do this in  
20 front of the prisoners.

21 I made a suggestion to the Commissioner that  
22 maybe he could get them to exchange a hostage every  
23 day, you know. If they had -- what was it? Fifty --  
24 twenty-eight I guess it was, hostages, I made a sug-  
25 gestion that perhaps he could get them to exchange a

1           hostage every day in return for an hour of           778  
2           negotiation, which is really a gimmicky kind of thing,  
3           and it just was practically laughed out of the room,  
4           but I made that only to suggest that we were sort of  
5           just grabbing at straws by that time in trying to  
6           work out something, but as long as the impasse remained,  
7           on amnesty, all of that was just fog.

8           Q        You returned to the prison before the  
9           police action the next morning?

10          A        Yes.

11          Q        What time were you admitted, actually, to  
12          the prison?

13          A        Oh, gee, it must have been around eight  
14          o'clock, I think.

15          Q        Were you aware, from the activity out-  
16          side, that this was the morning that they were going  
17          in?

18          A        Oh, yes. We knew by then. Most of us  
19          were pretty sure. I felt morally certain and I think  
20          it has now been relatively well established that the  
21          attackers would have gone in on Sunday afternoon had  
22          it not been for the various efforts of the observers  
23          and our final effort to -- our final arrangement to  
24          go back in there one more time on Sunday afternoon,  
25          and so forth.

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Q Did you or any of the other observers,  
2 to your knowledge, attempt to ascertain exactly what  
3 the assault plans were and what the force would be  
4 that was going to be used?

5 A Yes. We asked questions of that kind, but  
6 they gave us very little information about that.

7 Q Who did you ask the questions of?

8 A Well, I don't remember specific occasions,  
9 but the people that we would have asked would have  
10 been Commissioner Oswald and Commissioner Dunbar,  
11 assistant commissioner Dunbar.

12 I don't recall myself having an opportunity  
13 after the very first minutes that I entered the  
14 prison on Friday afternoon -- I don't believe I talked  
15 for instance to Captain Williams after that.

16 Some members of my group may have, but I  
17 don't remember -- I know I didn't.

18 Q Would you tell us what happened that  
19 morning from your own experience?

20 A Yes.

21 Well, not all of our group came back into  
22 the prison. Some felt that -- I know some felt that  
23 we might be in physical danger ourselves. I didn't  
24 share that view, but some felt that we might be.

25 Some felt, I think, that they would be better

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1 able to find out what was going on and

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2 be in touch with the outside world if they were outside  
3 the prison at that point. But some of us felt, and  
4 consciously so, that perhaps our presence in the pri-  
5 son might, at least, have some kind of ameliorating  
6 effect on what might happen.

7 I don't mean to sound like that we would  
8 go in and be sacrifices, I don't know anybody who  
9 did that, but we thought our presence would be some  
10 help.

11 We were in the stores' room quite early,  
12 perhaps a dozen or fifteen of us, and we were noti-  
13 fied very quickly that Commissioner Oswald had deli-  
14 vered what in effect was an ultimatum to the prisoners.  
15 He gave them an hour, I think, to give up or face the  
16 consequences.

17 We were then ordered by Commissioner Dun-  
18 bar to leave the prison, although, again, it seemed  
19 fairly plain to most of us that nobody was going to  
20 actually carry the order out, but it was delivered  
21 pro forma and one or two of our group there, I remem-  
22 ber State Senator Dunn, for instance, that's state  
23 official, felt that he ought to carry out a formal  
24 order of that kind, so he left the prison yard.

25 But the rest of us remained there and then

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1 the power went off, which signalled the 781  
2 attack, because there was some fear, apparently, on  
3 the part of the authorities, of the prisoners having  
4 been able to electrify barricades and that sort of  
5 thing.

6 So, the power was cut off and there was  
7 this great roaring and screaming of helicopters at  
8 that point. We could hear the loudspeakers from the  
9 helicopters asking -- we could barely make out the  
10 words, but in effect they were saying surrender, and  
11 no harm will come to you.

12 That, in effect, was what was happening.

13 I couldn't hear the rifle fire, because  
14 we had our windows closed and seal against the gas,  
15 which by then was sweeping in. We had asked -- even  
16 after we had been ordered to leave, we asked -- sent  
17 word out to see if a guard could be assigned to the  
18 door of our room, and it may seem exaggerated now  
19 to people who are listening to this, but particularly  
20 one or two of the black members of our group that  
21 wanted a guard there because they -- the atmosphere  
22 was such as to have alarmed them that the observer  
23 group might be attacked.

24 I say particularly the black members felt  
25 that way. I think those fears were exaggerated, but

2 outside the wall, I think that in circumstances of  
3 this kind you know exaggerations are the norm rather  
4 than the exception.

5 So, very shortly after the attack began,  
6 why, our room became, it wasn't filled with gas, but  
7 it was quite -- I mean, the gas was a very noticeable  
8 presence in there and, so far from being -- so far  
9 from being threatening to us, the guard who had been  
10 assigned to the door and showed people who didn't  
11 know how -- with a bucket of water and we wet hand-  
12 kerchiefs and held them over our faces, and that  
13 was to minimize the effect of the gas.

14 Q Was he a State trooper or a correctional  
15 officer?

16 A He was a correctional officer, so far as  
17 I recall, and he was very good in that period.

18 Now, we remained huddled in that room  
19 while the attack went on. Ultimately, we had a view --  
20 can I point --

21 Q Sure.

22 A We were approximately at this point of  
23 the Administration Building, and ultimately we could  
24 see troopers over here on the wall. I say troopers.  
25 I don't know exactly who they were. State forces were

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1 over here on the wall launching gas grenades 783

2 against this building and/or perhaps it was this one,  
3 it's very difficult to make out in the pictures, but  
4 they were launching the grenades from approximately  
5 that guard tower on the wall.

6 So, that was actually all we could see of  
7 the action, other than the helicopters sweeping in  
8 or something, but out at this part of the prison we  
9 had a window looking out on there, too.

10 After some length of time, we had been  
11 able to see them bring the bodies out.

12 Q Were you able to observe the conditions  
13 of the bodies?

14 A Well, no. We were in the second floor  
15 window and twenty-five, thirty yards from where I  
16 am talking about, but they brought -- we could see  
17 bodies being brought out. I didn't see anyone that  
18 looked as if he were wounded.

19 What I saw were what these people appeared  
20 to think were dead men and in one case we saw some-  
21 one just dropped like a sack of wheat, and then we  
22 also were able to see what we took to be some of  
23 the hostages coming out, freed and there was a good  
24 deal of commotion and activity out there, and ulti-  
25 mately we began to get a periodic report from Commis-

1 sioner Dunbar, who came in several times

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2 to tell us what was going on.

3 He told us when the prison was considered  
4 secure and he gave us a rising count of dead in both  
5 prisoners and hostages, but ultimately we got the  
6 final count, that is, the final count that was made  
7 that morning.

8 As you know, there were one or two deaths  
9 as a result of the attack, but that morning we  
10 finally got the final count from Senator Dunn, who  
11 came back.

12 Q Did Commissioner Dunbar give any explana-  
13 tion of the cause of death when he gave you the fig-  
14 ures?

15 A No. I don't recall that we got into that  
16 controversy. We didn't get into the situation there  
17 as to how any of the hostages had died or how others  
18 had died. He just -- he gave us a differentiated  
19 count of how many hostages and how many prisoners  
20 were killed.

21 Q When did you leave the prison that day?

22 A Well, very shortly after the attack was  
23 over and the prison was announced as having been  
24 secured, and Senator Dunn came in and gave us the full  
25 enormity of the number of dead.

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2 I think it was Commissioner Dunbar, who, on behalf  
3 of Commissioner Oswald, said that the commissioner now  
4 requested us to leave and in a quite different fashion  
5 than before. They obviously meant business this time  
6 and the only exceptions were elected officials; that  
7 is, that would include Senator Dunn and Congressman  
8 Badillo and Senator Garcia.

9 Elected officials, he said, could remain  
10 and would be given a tour of the prison later on. It  
11 was not made clear that they would be able to wander  
12 around alone, but they would be given a guided tour  
13 of the prison.

14 I made arrangements with Representative  
15 Badillo and Senator Garcia, that as soon as that tour  
16 was completed they would get in touch with me or my  
17 office at The New York Times and they would tell me  
18 what happened and what they had seen.

19 Then we left.

20 Q By the time you had left the prison, had  
21 you been given to understand that hostages had been  
22 killed by inmates?

23 A Yes. That was our understanding, but  
24 again in this case I don't recall that to us in the  
25 room there definite assertions were made, such as the

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2 I don't think that sort of thing was said. It was  
3 more like, "Nine hostages are dead and twenty inmates"--  
4 or whatever the count might have been at a given  
5 time, and the presumption on all of our parts was  
6 very strong that a dead hostage meant that he had been  
7 killed by the prisoners, because the prisoners had  
8 made it quite plain that that was what they intended  
9 to do and indeed we all thought that's what they would  
10 do and that was one of the reasons that he had based  
11 our discussions the day before, that there was going  
12 to be a great deal of blood shed.

13 Q In view of that impression, which could  
14 have a significant effect on the conduct of correc-  
15 tion officers and others, can you tell me whether any  
16 members of the observer group requested to be present  
17 when the inmates were returned to their cells and  
18 to maintain some kind of surveillance?

19 A In an official way -- I don't know what  
20 would be considered an official request here, but  
21 throughout that period, in particular those members  
22 of our group who had residences in Buffalo and Roches-  
23 ter and in that part of the State, we talked a good  
24 deal about trying to have an actual observer group,  
25 an Omsbudsman so to speak, someone who could be there

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2 what was happening and that desire was certainly ex-  
3 pressed to Commissioner Oswald and others throughout  
4 this period.

5 Now, whether or not there was ever some  
6 kind of an official request by our group as an offi-  
7 cial party to be present, I don't know.

8 Q I wasn't asking about an official request,  
9 but you did, during this period, ask to be present to  
10 observe what was going to happen?

11 A Oh, yes. And that was one of the reasons  
12 that some of us were in the prison on Monday morning  
13 when the attack took place, and it was a reason why,  
14 because we had made such requests, I think, that was  
15 the reason why the State then made exception for  
16 elected officials, like Senator Dunn and Congressman  
17 Badillo, to allow them at least to be given a guided  
18 tour of the prison, but as I understand it -- you  
19 understand that I wasn't there, but it was a guided  
20 tour, it wasn't that they were allowed to wander  
21 around and see what happened.

22 Q Did you feel that the twenty-eight demands  
23 that Commissioner Oswald conceded to represented any  
24 concessions on his part or the part of the State of  
25 New York?

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1  
2 or two really quite significant concessions in there.

3 People's impression differed on this, but  
4 I felt, for example, the point saying that no one  
5 otherwise entitled to parole would lose it merely  
6 for having been involved -- taken part in the revolt.  
7 I thought that that not only represented quite a  
8 sensible judgment on the State's part, but also it  
9 seemed to me it ought to have had a good effect on  
10 the prisoners, because clearly there were a good many  
11 in there who were precisely in that position, but  
12 I think many of the other things, for instance, you  
13 know, freedom of religion, better education system,  
14 and all that kind of thing, not only was that largely  
15 just talk -- I don't mean -- I mean, it's the kind  
16 of thing that's very easy to say is what I mean, and  
17 hence only the actual carrying out of that pledge  
18 later on really would have meant -- on paper, it  
19 means nothing to say that we are going to have a  
20 better education system.

21 So, I didn't think that amounted to very  
22 much. Some of the other points, it seemed to me,  
23 were the sort of thing that the State ought to have  
24 been doing all along. I don't see why the State of  
25 New York, if it is true, to force black muslims to

2 they were in prison. And it didn't seem to me that  
3 there wasn't freedom of religion in prison. So, to  
4 label things like that as concessions on the part of  
5 the State, it seems to me, is quite ridiculous, be-  
6 cause those are the things that any decent society  
7 should have been providing, even for its offenders,  
8 all along.

9 So, while I felt that there were some  
10 points in the package of twenty-eight that made sense  
11 and should have been of value to the prisoners, it's  
12 really quite wrong, I think, to label those as twenty-  
13 eight major steps toward prison reform, as I have  
14 seen them called. It's not so. Not in my judgment.

15 Q What concessions did the inmates make  
16 during those negotiations?

17 A Well, I don't suppose you could say that  
18 they made any concessions, because most of the points  
19 that they asked us to take up with the State, the  
20 demands that they made, so to speak, we did take  
21 up with the State and got some kind of response. Oh,  
22 for instance, they demanded -- they demanded the mini-  
23 mum wage for their work in the prison. Well, the  
24 State response to that was that that would be submit-  
25 ted as a proposal to the legislature. I don't know

1       how many of those prisoners in there followed       790  
2       the activities of the New York State Legislature, but  
3       I regarded that as being a paper promise, at best, and  
4       so, when you say how many concessions did the pri-  
5       soners make, I don't know that they literally made a  
6       single concession.

7               But again, I have to come back to my feel-  
8       ing that the major problem here, the problem here was  
9       the question of amnesty.

10              Now, for instance, we had that point that  
11       was raised there and discussed, that some of the pri-  
12       soners wanted to be taken -- released and taken to  
13       Third World, non-imperialist countries. For example,  
14       you had that point.

15              You had also the point that was raised  
16       late in the discussions -- I believe it's not even  
17       covered in the twenty-eight points, for the dismissal  
18       of Warden Mancusi at Attica.

19              Q       It was covered in the draft of the --  
20       that emerged from the Friday night meeting with the  
21       inmates, but Commissioner Oswald did not accede to  
22       it, so it was not even included in the twenty-eight  
23       proposals.

24              A       Right.

25              So, my feeling is that if we had been able

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1 to -- and it's just my assessment of the 791  
2 situation, but if we had been able to work out the  
3 amnesty point in my judgment then, things like that --  
4 that the Commissioner would not accede to the dis-  
5 missal of Mancusi and that plainly the State of New  
6 York wasn't going to ship all of these fellow off to  
7 Algeria, or wherever it was they wanted to go.

8 I think all of these points would have  
9 been lost and passed over and would have been in the  
10 nature of concessions by the prisoners, had they been  
11 able to get the amnesty thing worked out.

12 I have insisted here, and my feelings are  
13 very strong and very clear about it, that that was the  
14 question all along, that these other things, desirable  
15 as it may have been to get the pork off the diet and  
16 all that kind of thing, all that was peripheral in  
17 my judgment.

18 MR. LIMAN: Mr. Chairman, I have  
19 no further questions.

20 MR. MCKAY: Mr. Wicker, I would  
21 like to ask two questions that have to do with  
22 judgments that the Commission may at some time  
23 have to make.

24 I want it clearly understood that I  
25 have no opinion on the matters now, but I respect

2 You spoke several times about the amnesty  
3 being the key question and, I think, you made  
4 it very clear that it's total and complete amnesty  
5 that was the issue and so, when you talk about  
6 compromise, there really wasn't much room for  
7 compromise or accommodation as far as the pri-  
8 soners are concerned; is that right?

9 THE WITNESS: Yes. I think the  
10 focal points were directed at offenses that  
11 might have occurred during the revolt and up-  
12 rising, not at the original offenses that had  
13 placed people in prison.

14 MR. McKAY: I take it when you spoke  
15 to the Governor on Sunday afternoon, you made  
16 it clear that that was your view?

17 THE WITNESS: Yes.

18 MR. McKAY: Now, the Governor later  
19 said that he didn't believe that he had the power  
20 to grant amnesty and in any event he didn't  
21 favor giving amnesty.

22 Put aside the legal question for the  
23 moment, again, on which I have no position at  
24 this point. Would you have thought that he  
25 should give complete amnesty if he had the power

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2 THE WITNESS: Just a total forgive-  
3 ness of everything that happened there?

4 MR. McKAY: Yes.

5 THE WITNESS: No. I wouldn't have  
6 personally thought so, and I would be inclined  
7 to agree that he probably -- or shouldn't -- I  
8 would be inclined to agree that he probably doesn't  
9 have that kind of legal power.

10 MR. McKAY: Put the legal question  
11 aside.

12 THE WITNESS: I think probably to  
13 him that afternoon was never that he should  
14 grant the amnesty. My plea to him was that he  
15 should come to Attica and make moves of that  
16 kind. That, I thought, would forestall a physi-  
17 cal violent show-down here and it might provide  
18 time in which something could be worked out that  
19 both sides could accept.

20 Now, for example, I said the other day  
21 that if I had it all to do over again I would  
22 have tried to get someone outside of the presence  
23 of this situation to make recommendations to us  
24 as to what might be acceptable here.

25 I'm not an attorney and I don't know what

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2 instance, if there could have been a statement  
3 that could have been worded in such a way that  
4 these rather shrewd prison lawyers would have  
5 believed in, and if it had come in such a way  
6 that they could have believed it from the Governor,  
7 from the Commissioner or whatever, to the extent  
8 that the only -- that they were going to prose-  
9 cute capital crimes to the limit, but leaving the  
10 clear impression that only capital crimes, that  
11 is at that point the death of Guard Quinn --

12 MR. MCKAY: Was the only capital  
13 offense?

14 THE WITNESS: At that point, that  
15 I'm talking about, yes.

16 I think that possibly not there on  
17 Sunday afternoon, but by Tuesday or by Wednes-  
18 day I think that might have been an effective  
19 formula. That's only my judgment.

20 MR. MCKAY: I understand.

21 The other general nature of questions  
22 I wanted to ask is as to the role of observers  
23 in the negotiations.

24 If you were to give advice to prison  
25 administrators in another situation which happily

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1 we hope will never occur, would you again 795

2 suggest the negotiations as proper, leaving apart  
3 for the moment who should do the negotiating?

4 THE WITNESS: Well, I have heard  
5 it suggested since -- not suggested, but argued  
6 rather forcefully since, that the best thing to  
7 do -- and I think it's even standard operating  
8 procedure in some prison circumstances -- the  
9 best thing to do when something on the nature of  
10 the Attica uprising occurs, is to move immediately  
11 right away with force to retake your prison and.  
12 I think that that overlooks, as applied to Attica,  
13 I think it overlooks the size of that thing  
14 there.

15 Generally speaking, I think the people  
16 who advocate that are thinking in terms of fifty  
17 or a hundred people out of control, not twelve  
18 hundred that are out of control in one fourth of  
19 the yard. Even so, I think that is an arguable  
20 proposition and what seems to me to be almost  
21 unanswerable is perhaps that is true, that you  
22 should move with force immediately or perhaps it's  
23 true that you should not do that and you should  
24 sit down and try to negotiate a suggestion, but  
25 it seems to me it is the worst of both approaches

1 to negotiate for four days and then to 796  
2 use -- to move to a violent solution of the thing.

3 If you have already gone for four days,  
4 if the hostages haven't been harmed in that time,  
5 it seems to me that the chances are very likely  
6 that they aren't going to be harmed. The chances  
7 are very likely that the vicissitudes of holding  
8 out there without very much food or water or  
9 sanitary facilities, and so forth, all of those  
10 things -- the likelihood that moderate forces  
11 among the prisoners themselves might take over,  
12 that the fact -- I would have thought, for instance,  
13 here I'm being, I guess, a super-psychologist,  
14 but I would have thought that once a lot of the  
15 rhetorical violence of that episode had been spent,  
16 then perhaps men would begin to think in much more  
17 practical terms of how do we get out of this.

18 So, it seems to me that the worst thing  
19 to have done, I submit in all honesty, was to  
20 negotiate for four days and then attack.

21 I think it's arguable that you would  
22 have had a great deal less bloodshed and much  
23 better situation by moving immediately with force  
24 with sensible and limited force, the minute the  
25 uprising occurred.

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2 given the decision to negotiate in the circum-  
3 stances such as this, what advice would you give  
4 about assembling outside observers to participate  
5 in that negotiation?

6 THE WITNESS: Well, I don't know.  
7 It's very hard to say now. I think that this is  
8 the general matter that has some good aspects to  
9 it, because clearly it helped there -- in that  
10 group -- to have somebody who the prisoners had  
11 some confidence in to have invited up there. On  
12 the other hand, you could see we had entirely too  
13 many people trying to act in that capacity at  
14 Attica, and that limited our ability to agree,  
15 even among ourselves.

16 Secondly, I think that the State itself  
17 should have placed -- you see, I don't know all  
18 the limitations that operated on them, but insofar  
19 as I could see, I think the State should have  
20 maintained a more active role in that going back  
21 and forth between the prisoners and the State  
22 officials --

23 MR. MCKAY: By which you mean that  
24 too heavy a burden was placed upon the observers?

25 THE WITNESS: Yes. It seems to me

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1 in the long run we had nothing to deliver. 798

2 It seems to me the group that was dealing with the  
3 prisoners -- I mean, that group should have been  
4 so constituted that at some point it could make  
5 an agreement.

6 All we were acting as, really, were  
7 letter carriers, really, back and forth between  
8 people, between the two sides. But I don't know.  
9 I think that those situations are always going to  
10 be, so different circumstances are going to be  
11 such that I wouldn't want to try to lay down,  
12 you know, a sort of a firm formula on how you  
13 handle one of these things, and I'm not qualified  
14 to handle that in any case.

15 I would say -- repeating myself -- I  
16 would say that the group we had was too large.  
17 The group we had was asked to or it was allowed  
18 to -- expected to do too much. We do not, in  
19 my judgment, really work out the solution and at  
20 the same time keep the peace.

21 It seems to me that probably the best  
22 role we could have played there would have been  
23 to keep the peace. Somebody else somewhere worked  
24 out a solution and then maybe once the solution  
25 or an effective package had been done, maybe we

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1           could have been a more effective group           799  
2           than we were in selling it to both sides, I don't  
3           know.

4                     One thing is quite clear, that whatever  
5           our group did, whatever else our group did there  
6           failed, so something was wrong with it.

7                     MR. MCKAY:     Thank you.     That's a very  
8           thoughtful answer to my question.

9                     I would like to start the other commis-  
10          sioners' questions with Mr. Wilbanks.

11                    MR. WILBANKS:        Mr. Wicker, we have  
12          been told that one of the reasons that the State  
13          made its assault when it did was their view of  
14          the political structure in the yard.     Dr. Hanson  
15          testified that he felt like the violent forces  
16          were gaining control over the conservative forces,  
17          and therefore he told the State officials, "We  
18          have got to go in now.     The hostages are going  
19          to be killed as the negotiations continue."

20                    You have testified that your impres-  
21          sion was the opposite.     Can you explain what gave  
22          you this impression; what basis you have for this  
23          impression?

24                    It seems to be a very crucial question.

25                    THE WITNESS:        Well, it certainly is,

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1 and I think the Doctor was in the yard -- 800

2 this is the Doctor from the outside --

3 MR. WILBANKS: Yes.

4 THE WITNESS: Not the prison doctor?

5 MR. WILBANKS: That's right.

6 THE WITNESS: You know, his judgment  
7 is his own and no doubt based on very close ob-  
8 servations. I wouldn't want to differ with him.  
9 I only have to go on what I saw, and what I saw  
10 were three things, I think, really.

11 The first was that four days passed  
12 there without any physical harm to these hostages.

13 The second was that I did not sense, but  
14 it's on a less limited exposure than the doctor,  
15 I did not sense a hardening and increasing power  
16 of violent forces in there as against others.

17 I didn't sense that. I may well have  
18 been wrong about it.

19 The third thing was, it never seemed to  
20 me that it made any difference whatsoever that  
21 the prisoners would damage those hostages, because  
22 they had -- prisoners are very shrewd about things  
23 that affect them in this way and they had some  
24 effective leaders in there and it was always  
25 so clearly -- I mean, the minute one of those hos-

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1 tages was killed, it was clear that 801  
2 the game was going to be over and it was clear  
3 that it was going to be over in the most violent  
4 fashion, I suppose that it was true that you  
5 always ran the possibility that somebody would  
6 just lose control of himself or lose control of  
7 the whole situation, you would have a riot-type  
8 situation in there. That was always a possibility,  
9 it seemed to me, a remote possibility, but again,  
10 I think that's a matter of judgment.

11 MR. WILBANKS: Did you know of the  
12 impression of Dr. Hanson that had been told to  
13 the administration?

14 THE WITNESS: At that time?

15 MR. WILBANKS: Yes.

16 THE WITNESS: No.

17 MR. WILBANKS: One inmate testified  
18 yesterday that the vote on the ultimatum might  
19 or would have been different if the inmates  
20 would have known what the score was, so to  
21 speak, that the authorities were going to come  
22 in with guns.

23 I heard your speeches at I think the  
24 American Bar Association meeting back in October  
25 or November, and this is an impression, because

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1 it has been a long time since that 802  
2 speech; but I think there was some comment about  
3 Mr. Kunstler's Third World speech, and my impres-  
4 sion was you said something like this, that --  
5 you can correct me if I am wrong -- perhaps  
6 someone said something that might have been im-  
7 proper, but that others, including yourself,  
8 might have not said things that should have been  
9 said at that time.

10 Now, my question really is: did in  
11 fact the inmates know the score on Sunday, and  
12 if not, did you tell them?

13 THE WITNESS: Well, my impression is  
14 that they knew the score pretty well. The at-  
15 mosphere in the yard was such -- the tone of  
16 the speeches was such, the whole circumstances  
17 surrounding the situation were such -- that I  
18 did indeed feel that people knew the score and  
19 that that was -- that we were at the end of the  
20 line, so to speak. I did not make any speech  
21 to that effect. I didn't make any speech at  
22 all on Sunday. In fact, I never made any speeches  
23 throughout the time there except to introduce  
24 myself.

25 That was not in any way to say that I

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1 shouldn't have made a speech. It may  
2 very well be that I should have done that on  
3 Sunday afternoon or at any other time there.  
4 It may well be that I should have stood up and  
5 said that if the prisoners thought they were all  
6 going to get out of there alive and be flown off  
7 to Algeria, they were kidding themselves. Maybe  
8 I should have said that. I didn't say that. I  
9 didn't say that because primarily in my judgment  
10 that was not the kind of thing at that moment  
11 that was going to be effective. Maybe it would  
12 have been. It may well have been that I thought  
13 that such a statement as that would be endangering  
14 to anybody who made it and those who were with  
15 him.

16 I am not at any point here trying to  
17 picture either myself or the observers as having --  
18 or the other observers -- as doing everything  
19 that they should have done or might have done or  
20 could have done. I'm trying to say that in my  
21 judgment it is wrong -- it was my judgment then  
22 and it is my judgment now to say that if the  
23 observers had only conducted themselves differently,  
24 then the prisoners would have surrendered and  
25 the outcome would have been different.

1  
2 all. I never had the feeling that we had the  
3 power at that time, on that Sunday afternoon, to  
4 make -- to persuade those prisoners with whatever  
5 rhetoric and whatever statements and whatever  
6 facts -- I didn't think we had the power to per-  
7 suade them to accept that package or any other  
8 package short of total amnesty and give up the  
9 revolt.

10 What I felt then and what I feel now  
11 is that might have been done later on. It might  
12 have been done Tuesday or Wednesday. We didn't  
13 get that opportunity. Maybe we didn't deserve it,  
14 and maybe the State wasn't able to give it, but  
15 in any case we did not get that opportunity, and  
16 I hold strongly to my view, despite whatever  
17 might be attributed to me or any of the other  
18 observers, I hold very strongly the view that there  
19 was nothing we could have done on Sunday after-  
20 noon to make the prisoners surrender.

21 That being the case, and turning the  
22 situation around, therefore, we caused them to  
23 hold out or that any member of our group caused  
24 them to hold out, seems to me to be blind to the  
25 facts and trying to duck the truth of what happened

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1 and I will say this: no member of the 805  
2 observers' group ordered any member shot, nor did  
3 any member of the observer group order any force  
4 against any human being, nor did any observer  
5 doubt that when that force was used, there would  
6 be a great loss of life, nor did any member of  
7 the observer group accept the prospect of a great  
8 loss of life as a proper one in order to uphold  
9 the tenets of our society.

10 The responsibility for those deaths  
11 doesn't lie on the observer group, even though  
12 it may be said, by many of us there, that if we  
13 had only done something else, perhaps possibly  
14 we might have been able to get better than we did.

15 MR. WILBANKS: Thank you very much.

16 MR. MCKAY: Bishop Broderick.

17 BISHOP BRODERICK: Mr. Wicker, my  
18 question would be concerning your first appear-  
19 ance in the yard.

20 Did you see any signs of organization?

21 THE WITNESS: I saw signs -- yes,  
22 I thought of organization in the sense of having  
23 the immediate situation under control. That  
24 doesn't necessarily imply that this was a long-  
25 planned situation. I don't know about that.

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precisely would be what I am saying.

Did you feel that this had been planned for some time; was it following a game plan or a master plan?

You see, there is a theory held by a very vocal group that this was kind of Marxist-inspired or revolutionist inspired, and that it had been planned for some time; that these inmates had secretly in certain sections of the prison, had formulated plans for a revolt and this was the day to execute them and --

THE WITNESS: I just really cannot answer that question. There was -- it seemed clear to me throughout the time that I was in the prison yard that the situation was very well organized as to security forces, as to -- they had -- as I testified the other day -- they had a man obviously taking minutes of what was said, typing; they had a loudspeaker system. There was clearly -- for the immediate moment you might say the housekeeping kind of organization.

It looked to me like a pretty good organization, but nothing in that would necessarily suggest that it was long planned, nor can I say

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1 that it wasn't long planned. I simply 807  
2 don't know.

3 BISHOP BRODERICK: The other ques-  
4 tion is on the amnesty deal.

5 We know that -- it concerned itself  
6 specifically with reprisals within the walls,  
7 but I wonder whether at the time in the public  
8 image the people knew this. I think a lot of  
9 people thought that it was complete amnesty and  
10 just letting the prisoners out of prison completely  
11 for whatever crimes they committed before they  
12 went to prison.

13 My question is, did the inmates under-  
14 stand that it was for acts within the walls, so  
15 far as you were concerned?

16 THE WITNESS: Well, certainly the  
17 ones that we were dealing with in -- you know,  
18 the ones who spoke about amnesty and in every way  
19 I was never under any doubt in there that that's  
20 what we were talking about, just amnesty for  
21 all events surrounding the revolt, and it was  
22 really only later, after the whole thing was over,  
23 that I became aware that some people were talk-  
24 ing about amnesty for crimes committed five years  
25 ago, or at least in the past.

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1  
2 your telephone call to the Governor, it was clear  
3 to him, wasn't it, that you were asking him to  
4 come to Attica to speak to the observers?

5 THE WITNESS: Well, I think it must  
6 have been, because I think we certainly made that  
7 point very strongly. Of course, as in any con-  
8 versation, as all newspaper men know, there is  
9 a great possibility of misunderstanding on both  
10 sides, but in this case, four of us talked to  
11 the Governor and my recollection is that he under-  
12 stood the point that we were making, that the  
13 observer group invited him to come to Attica and  
14 talk to the observer group and at no point did  
15 I say "Governor, you know, you ought to come up  
16 here and go in and talk to the prisoners or even  
17 talk to the prisoners from outside," or anything  
18 of the sort.

19 In fact, I think one of the things  
20 that he felt was that that was not a proper thing  
21 for him to do, to be in that kind of contact  
22 with the prisoners, and my recollection is that  
23 in our conversation that one of the objections  
24 that he made to coming to Attica was that he  
25 would immediately be under pressure to meet per-

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1 sonally with the prisoners, and I remember 809  
2 to assure him that that wouldn't be the case,  
3 and that we did want him to come at our invita-  
4 tion to meet with us.

5 BISHOP BRODERICK: Do you think that  
6 would be a probability, his coming to Attica  
7 to speak to you and not going out another hun-  
8 dred feet or so to the yard to the prisoners,  
9 howing he was there?

10 THE WITNESS: I think he was right  
11 that once he physically was present in Attica,  
12 he would have been under some pressure, in some  
13 way, to address himself to the prisoners, either  
14 by an address system or meeting with a small  
15 group of them, or by going into the yard, or what-  
16 ever, although I feel quite certain Commissioner  
17 Oswald wouldn't have permitted the Governor to  
18 go into the yard.

19 By the last day, you know, I guess  
20 starting on Saturday night, we were having to  
21 sign waivers of our personal -- of the State's  
22 liability for our safety.

23 BISHOP BRODERICK: You spoke about  
24 electrifying the barriers, at least the rumor was  
25 that barriers were electrified.

anything to that?

THE WITNESS: I never heard it, but I was told on that day that the reason the power was cut off was to eliminate any such possibility.

BISHOP BRODERICK: Do you think that there was anything to that?

THE WITNESS: I have no idea. I have no idea. The prisoners, I'm sure they must have hae -- among their twelve hundred-odd people, they must have had any number of people who had virtually every form of technical ability, you know, so there may have been something to it. I don't know.

BISHOP BRODERICK: Then in all these proceedings, Mr. Wicker, did you have any contact at all with the Superintendent, Mr. Mancusi?

What role was he playing, or was he playing any role?

THE WITNESS: Oh, yes. I'm certain he was playing a role, although I think Commissioner Oswald, once he arrived, actually took command.

The first evening that we were there, on Friday evening, I think it was after our first --

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1 my first trip into the prison yard, 811  
2 Mr. Mancusi met with us, and Mr. Oswald, and  
3 probably Mr. Dunbar, and as I recall, Mr. Mancusi  
4 was quite vocal at the time. I had the firm  
5 impression that he wanted to take a stronger line  
6 than Commissioner Oswald was at that time willing  
7 to accept.

8 After that, I don't remember dealing  
9 with Mr. Mancusi any further, after Friday even-  
10 ing.

11 BISHOP BRODERICK: Thank you.

12 MR. MCKAY: Mr. Henix.

13 MR. HENIX: Mr. Wicker, I want to  
14 ask you, have you any experience in union nego-  
15 tiations; have you ever, like, covered union  
16 negotiations?

17 THE WITNESS: Well, in the long ago  
18 past I have, yes. And, of course, anyone who  
19 works in the New York newspaper field knows some-  
20 thing about union negotiations.

21 MR. HENIX: In that case, I want to  
22 know, is it your experience in many of the nego-  
23 tiations that take place -- isn't it, as a rule,  
24 you start off with things that are non-negotiable --  
25 I think that both sides understand that this is

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1 where things are at and gradually you 812

2 bring it into a framework where negotiations can  
3 start and take place.

4 THE WITNESS: Well, I think that's  
5 probably so. I suppose every circumstance is  
6 different.

7 MR. HENIX: Yes, under normal condi-  
8 tions.

9 THE WITNESS: Yes.

10 MR. HENIX: So, my question is,  
11 actually: do you feel that the administration,  
12 the part of the administration that you were  
13 exposed to at Attica, took these negotiations as  
14 really serious negotiations in that sense, or did  
15 they feel that these inmates had quite a bit of  
16 nerve to actually take on the institution and  
17 make these kinds of demands and that this atti-  
18 tude was in some way present in the decision-  
19 making; in whatever decisions they came to?

20 THE WITNESS: Well, I think that  
21 attitude was present to some extent, but on the  
22 other hand, I think that the State did undertake  
23 to allow negotiations to go forward.

24 They did invite some members of our  
25 observers' group there, and they facilitated all

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1 the rest of us getting there. I had 813  
2 the feeling all along in my dealings with him that  
3 Commissioner Oswald hoped to negotiate a settle-  
4 ment. I had the feeling that he was under consi-  
5 derable pressure from his colleagues and perhaps  
6 superiors, for all I know, to get the business  
7 over with. And my personal judgment was then that  
8 the Commissioner probably stretched the situation  
9 out longer than it would have been otherwise,  
10 because I think he was more nearly in favor of  
11 negotiating some kind of settlement, perhaps, than  
12 his colleagues, but, again, that's a judgment on  
13 my part and not evidence.

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15 (Continued on page 814.)  
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1  
2 did testify that in one morning--this was when you  
3 testified on the 18th, when you went to District  
4 Attorney James' house, the hospitality there, as  
5 far as you were concerned, was satisfactory or  
6 even more so in the way that breakfast was served--

7 THE WITNESS: Oh, yes. Mr. James couldn't  
8 have been nicer.

9 MR. HENIX: He couldn't have been a nicer  
10 person.

11 THE WITNESS: Oh, yes.

12 MR. HENIX: But I think you also said  
13 that the wives and loved ones and the officers  
14 that surrounded the prison and a combination of  
15 these things in prior testimony were very hostile  
16 to the negotiation because it never really was  
17 clear in their minds as to just where you all  
18 stood.

19 THE WITNESS: That's right, and I think  
20 it would have been quite easy for them to merely  
21 see us as prolonging that period of time during  
22 which their husbands and sons were being held  
23 prisoner.

24 MR. HENIX: So, do you think that this  
25 attitude that was there had anything to do with

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1 the fact that, like you say,  
2 you felt that it would seem for all apparent rea-  
3 sons if things had reached that impass additional  
4 time couldn't do any harm; do you think that feel-  
5 ing had anything to do with pushing things for-  
6 ward, like the feelings in Wyoming County, the  
7 people there?

8 THE WITNESS: Yes. I think it probably  
9 did and the feelings of other correctional offi-  
10 cers, not merely those at Attica, but around the  
11 state who undoubtedly were worried that their own  
12 institutions would go up at any moment. I think  
13 all that had something to do with it and one of  
14 the things that--if I may offer a suggestion,  
15 because I don't know the answer to it. I think  
16 it would be useful to know, because it surely  
17 must have been a very key circumstance in the  
18 decision, what the attitude of the state police  
19 was at this point, because they were the people,  
20 as I understand it, who would have to carry out  
21 the attack largely.

22 MR. LIMAN: We will be presenting their  
23 testimony next week.

24 MR. HENIX: Just one more part. It might  
25 turn out to be a little lengthy, but I doubt it.

1  
2 that the actions taken at Attica served as a deter-  
3 ent against any further prison uprisings in view  
4 of the fact that this was, you feel, one of the  
5 considerations of the establishment that by making  
6 this move they can sort of, you know, express the  
7 point; do you think that point was made?

8 THE WITNESS: Well, I expected, probably,  
9 in the immediate aftermath of Attica, which would  
10 be right up to now--I expect probably that may--  
11 the violence and the deaths that resulted there  
12 may have some deterrent effect in that sense, but  
13 I don't think it will in the long run because in  
14 the long run--in my judgment you know it was the  
15 conditions at Attica that caused the prisoners to  
16 get into that kind of situation to act as they did  
17 and I think that where those conditions existed  
18 and continue to exist, then the possibility of  
19 another Attica on whatever scale is always going  
20 to exist, but I would suppose it's probably true,  
21 that after 43 people died, then probably there is  
22 some--that has some deterrent effect, although I  
23 think we have had a number of these episodes  
24 since, particularly the one in New Jersey, which  
25 followed fairly closely after Attica and I think

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1 another thing has happened that

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2 will overcome that, if there was any deterrent ef-  
3 fect that after the years go along will operate  
4 the other way and that is, I think, Attica. The  
5 very word will become a rallying cry and a symbol.

6 MR. HENIX: It has already. It actually  
7 has already.

8 I have asked this question of Mr. Jones  
9 yesterday, because he, like yourself, is a member  
10 of the press and statements were made here in front  
11 of the Commission by guards that they felt that  
12 even--there were volumes and volumes of materials  
13 written by the press and extensive coverage by the  
14 press even before this Commission was formed, that  
15 the press had rapped him unfairly, like the impres-  
16 sion and the picture that was given by the press  
17 was inaccurate and they were really bad rapped as  
18 bad guys and you, as members of the press, do you  
19 feel that in your reviewing of different articles  
20 were written that this is true?

21 THE WITNESS: That the correctional offi-  
22 cers got a bum rap, so to speak?

23 MR. HENIX: Yes.

24 THE WITNESS: Well, I don't know. I think  
25 that as I tried to say the other day, I think it's

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1 too simple just to put all the  
2 blame on the correction officers. Correction offi-  
3 cers in this state and in many others, they don't  
4 have the training that we would wish them to have.  
5 Indeed their jobs are not jobs that most of us  
6 would wish to have. They operate under very diffi-  
7 cult and dangerous circumstances. It has been said  
8 and said truly, I think, that correctional offi-  
9 cers are in many ways in prison with the prisoners,  
10 so that I have always tried to understand the dif-  
11 ficulties that were involved there and I think  
12 that--I even wrote a piece to that effect, not  
13 that that makes all that much difference, but I  
14 would say that if the correction officers and the  
15 correction system and the state officials of this  
16 state feel that the press mislead its readers as  
17 to what happened at Attica, then one of these cor-  
18 rective for that might be to let the press go in  
19 and see for itself what happened rather than have  
20 official spokesmen who tell you something which  
21 you have no way of knowing if it is true or not  
22 and it's hard for the special spokesmen to know  
23 whether it is true or not.

24 In my own mind, one of the most signifi-  
25 cant prison reforms that could be made at this

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2 value, but it could be done quickly and easily and  
3 that is that there ought to be--that there ought  
4 to be a right of public access to every prison  
5 in this country, Federal, state, local and other-  
6 wise. There ought to be a right of surprise,  
7 sudden access by qualified people and I don't mean  
8 by inspectors appointed by the state and put into  
9 the regular state bureaucracy. I mean by a quali-  
10 fied--by local representatives, local civic groups,  
11 by the press, if that's the instrument that's cho-  
12 sen, or whatever, because prisons are classically  
13 chosen societies and nobody knows what goes on in  
14 there.

15           Wardens don't know what goes on in there.  
16 We had a classic example in that in the reporting  
17 of the supposed deaths of the hostages at the hands  
18 of the guards--at the hands of the prisoners up  
19 there and in my judgment, if those correction offi-  
20 cers and anyone else right up to the governor feels  
21 that the press misrepresented what's there, their  
22 very best corrective is to give the press some co-  
23 operation and some accesss so that the qualified  
24 people and the honest people in the press--because,  
25 you know, it has been my experience, after a life-

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1 time, that most of the members 820  
2 of the press are honest, contrary to public opinion.  
3 If they had some access and could see for them-  
4 selves rather than having to rely upon official  
5 statements, which are of dubious value at best,  
6 then I think there might be a clearer picture pre-  
7 sented to the public, yes. It wouldn't necessarily  
8 have one that would make the correction system feel  
9 better.

10 MR. HENIX: The last part of my question  
11 was in reference, like you were saying, the struc-  
12 ture, administrative structure of prison officials,  
13 the way the orders are passed down, the way orders  
14 are given is very much like the Army.

15 One of the things that we used to view  
16 the officers as people who were doing time on the  
17 installment plan. In fact, when this officer, who  
18 was here and had 34 years into the prison, now, he  
19 had to go live another way, I really had a lot of  
20 empathy for him.

21 Thank you.

22 MR. MCKAY: Mrs. Wadsworth.

23 MRS. WADSWORTH: My question is in the  
24 decision making process. I think it's been most  
25 of our experience that after a great deal of words

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1 are said, that a very few people  
2 make usually the major decisions. Certainly we  
3 all know that the observer rule was unclear all  
4 the way. In spite of this, would you say that the  
5 observers, as a group, had significant impact on  
6 the decisions made as to how this ended?

7 THE WITNESS: As to how it ended?

8 MRS. WADSWORTH: Yes. Do you really feel  
9 that you were part of the decision making?

10 THE WITNESS: Well, I certainly don't  
11 feel that we had any part in the decision finally  
12 to attack the prisoners there because I don't know  
13 --then they have been--you see, we had state legis-  
14 latures, for instance, flown in and out of our  
15 group and so forth and there may have been some-  
16 one of those who advised commissioner, or Mr.  
17 Douglas, whoever, that the game was up and he had  
18 to attack. I can't say as to that, but generally  
19 speaking the sense of the observers group was cer-  
20 tainly not that at the sense of the observers  
21 group, the gentle--the nearest thing that we had  
22 to a consensus was that that on that Sunday was  
23 that we hoped for more time and we put out a  
24 statement that was pretty nearly unanimous among  
25 us, certainly by a large number of our group,

1 urging the people to write and

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2 telegraph the governor to come to New York.

3 All of that we were trying to delay and  
4 forestall an attack, so I don't think that we had  
5 any part in that.

6 If you mean in some sort of an effective  
7 way did our activities there contribute towards  
8 what they finally did, why, then certainly that's  
9 true in the sense that we weren't able to work out  
10 a solution that both sides could accept. I think  
11 that's true.

12 I think, as I said earlier, we had ano-  
13 ther effect in that our presence there tended to  
14 delay the final assault. I'm certain in my own  
15 mind it would have been on Sunday if we had not  
16 been there, so we had all those actions, but I  
17 don't think that--I can't think in what way any-  
18 thing--I don't think the observers group, at any  
19 point, would have lent any weight to the decision  
20 that ultimately was taken, not as a group, cer-  
21 tainly.

22 MRS. WADSWORTH: It was a very effective  
23 group of people I would have thought. I know that  
24 since you're interested in Attica you have been  
25 giving a great many speeches around the country

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2 body listening?

3 THE WITNESS: Well, they are usually lis-  
4 tening while you talk. I had the feeling myself--  
5 I have said before that prison reform is in some  
6 ways kind of this year's issue. We had hunger for  
7 a while and then ecology and now we have prison  
8 reform. But, I think the thing goes a good bit  
9 deeper than that, not to make my speech to the  
10 Commission, but I think that it is so plain that  
11 our prisons contribute to rather than lessen the  
12 incidents of crime in America; I think that the  
13 public interest in doing something about the way  
14 we deal with offenders is so great and is so evi-  
15 dent that I am inclined to think that through a  
16 combination of gradual public awareness and in-  
17 creasing prisoner activity this is all going to  
18 come home to the public.

19 In my general observations over the  
20 years, cynical perhaps, is that we don't have  
21 political generals in this country who form armies.  
22 We have political armies that form and then they  
23 tend to find their generals and in my judgment,  
24 at some point in the foreseeable future the army  
25 that I think is forming up slowly and surely to

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1 do something about these dis-

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2 reputable and outrageous dungeons that becast  
3 people like animals, I think the army is forming  
4 and when it is formed it will find its general  
5 and then something will form.

6 Just to make one more paragraph out of  
7 my speech. It isn't, after all, a really tre-  
8 mendously overwhelming problem in terms of cost.  
9 It is a finite problem. We know how many prisons  
10 there are and how many prisoners there are. There  
11 are a lot of things that can be done and in piece-  
12 meal fashion are being tried here and there. This  
13 is not one of those social problems so many of  
14 which we face that seem overwhelming in their  
15 dimensions and absolutely monstrous in what might  
16 be done. I mean, I don't think it is at least--

17 MRS. WADSWORTH: At any part of these  
18 features, Mr. Wicker, and my last part you touched  
19 upon and your answer to Mr. Henix's question, be-  
20 lieving as I do that you have had a great exper-  
21 ience and certainly a great emotional feeling  
22 about this issue, would you say that the major  
23 thrust which you would like to see or one of the  
24 major thrusts that you would like to see come  
25 out of a Commission like this, after we gather

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1 so very much material, I hope

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2 it goes somewhere.

3           Would you think that one of the major  
4 thrusts might be this openness which you were  
5 describing in answer to Mr. Henix's question, an  
6 openness about prisons to the public?

7           THE WITNESS: Well, yes. I think so,  
8 certainly. Some systems are being taken on--to  
9 a very inadequate degree the Federal prisons have  
10 listed their regulations--if Federal prisons  
11 have listed their regulations about communica-  
12 tions with their family--it is quite inadequate,  
13 but just the other day the Washington Post won  
14 a suit, at least in the lower Federal Court, for  
15 a reporter to have access to at least to inter-  
16 view prisoners. So, I think that's on the move  
17 and certainly it seems to me that is this Commis-  
18 sion, after its findings and in its wisdom,  
19 thought that was a good idea, as I do, why, I  
20 believe, you know, the way to the Commission be-  
21 fore it would be very efficient indeed.

22           MR. MCKAY: Mrs. Guerrero.

23           MRS. GUERRERO: Mr. Wicker, I have  
24 learned, after I became a member of this Commis-  
25 sion, that according to law, when hostages are

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1 taken by inmates they are sup-

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2 posed to be held immediately by force, if needed.  
3 Do you feel--do you feel more people would have  
4 been killed if the prison had been taken on Thurs-  
5 day rather than on the following Monday as it  
6 happened?

7 MR. McKAY: Mr. Wicker, would you hold  
8 your answer for just a moment while the Reporter  
9 changes his tape.

10 THE WITNESS: That is a very difficult  
11 question and I am not at all qualified to answer  
12 it, but I will say this: since the episode at  
13 Attica, I have put in some time trying to learn  
14 something about these matters that I didn't know  
15 much about before and I found, I'd say, a number  
16 of people who do know something about prisons in  
17 a professional sense who feel that that indeed is  
18 the best procedure, that when you have an uprising  
19 of this kind, if you move immediately before the  
20 prisoners have time to organize before they have  
21 time to perform defenses, before they have time  
22 for leaders really to emerge and so forth, that  
23 you are likely to escape with less damage than  
24 otherwise.

25 Now, whether or not that was possible

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1 at Attica, I can't say and I 827  
2 think, you know, there really isn't any precedent  
3 for Attica because generally speaking we haven't  
4 had prison revolts of that size before, so what  
5 might be effective when you are talking about 25  
6 or 50 men might not be with 1400 or so.

7 Incidentally, you mentioned what the law  
8 is. I don't know the law about that, but I am  
9 told that in California the practice is--and that  
10 all correctional officers are so informed and every-  
11 body understands that a correctional officer who  
12 is held hostage is expendable; that that's part of  
13 the hazards of the game for a correction officer  
14 and that the state is not going to negotiate on  
15 his behalf anything; that he is expendable.

16 MR. LIMAN: It is allegedly the law of  
17 the prisons, the custom. It's not law in the sense  
18 of a statute.

19 MRS. GUERRERO: That's what we were told,  
20 too, that the idea was to do it right away and that  
21 there would have been less loss of life.

22 THE WITNESS: Well, I certainly think, as  
23 I said before, that after 4 days had passed, 5, 3,  
24 whatever it might be, clearly the prisoners have  
25 had more time to organize; they have had more time

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1 to plan what they will do in  
2 the event of an attack; they have had perhaps more  
3 time, particularly when they negotiate circumstances  
4 attained, as it did in Attica, they have been per-  
5 haps encouraged to believe that something can be  
6 worked out. They may have gotten, as I believe  
7 you had testimony to suggest, they may have gotten  
8 a feeling of themselves in the sense as being large  
9 figures on the stage, so that all of this becomes  
10 more important in a way. I think--I just can't  
11 find any logic that will support the idea of nego-  
12 tiating for 4 days and then attacking. It seems  
13 to me once the negotiating process begins, you  
14 really have to play that out to the end of the  
15 string and, of course, I suppose that's what the  
16 state officials thought that they had done here.

17 MRS. GUERRERO: Thank you very much.

18 MR. MCKAY: Mr. Rothschild.

19 MR. ROTHSCHILD: Mr. Wicker, I am con-  
20 fused and puzzled and I think perhaps if we could  
21 go over a few of the things you have said and get  
22 them in context, I would be unpuzzled, at least I  
23 have that hope.

24 When you first testified the other day  
25 you indicated that you went to Attica with the

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1 understanding, I believe, that

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2 the observers were really to be observers of some-  
3 one else's negotiations.

4 THE WITNESS: Yes.

5 MR. ROTHSCHILD: And that didn't come  
6 about and from that time the roles were cast in a  
7 situation which really were in retrospect quite  
8 alien. Let me say this, I'm not trying to criti-  
9 cize the observers. I think most of you did some-  
10 thing quite courageous and did something which  
11 was quite out of the norm for us and all of us  
12 are grateful to your efforts there.

13 I am puzzled about your role. You in-  
14 dicated a few minutes ago that many of the obser-  
15 vers ordered the use of force to reduce the up-  
16 rising. I guess that really wasn't in their power  
17 in a sense. The observers really didn't have the  
18 responsibility for the law and order of the cor-  
19 rectional establishment of the State of New York  
20 and with that responsibility went certain obliga-  
21 tions, which were not really put upon the obser-  
22 vers and I am puzzled, because we also have had  
23 a good deal of information in the hearings and  
24 questions relative to the Sunday afternoon speeches  
25 and you have made quite a stalwart defense in the

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1 fact that they did not cause  
2 what happened on Monday and certainly there is no  
3 debate on that. But I think in fairness to the  
4 state authorities, and I don't think any of us  
5 have yet made up our minds and I don't think we  
6 ever will as to who the good guys were and who  
7 the bad guys were, because I suspect nothing is  
8 quite that simple. Was not, in a sense, the ob-  
9 servers role, as it became, not as any of you  
10 desired it to become, I don't think, a role of  
11 perhaps influencing attitudes as much as anything  
12 else and being a messenger, as you said, between  
13 the two parties, but you were more than a messen-  
14 ger, I think, and in that context, and in retro-  
15 spect, and only in retrospect, do you think that  
16 the Sunday evening affairs did in fact raise ex-  
17 pectations beyond that point which reality might  
18 have suggested they should have at the level which  
19 reality would have suggested they should have been  
20 asked?

21 THE WITNESS: You mean the Sunday after-  
22 noon session when we were in there?

23 MR. ROTHSCHILD: Yes.

24 THE WITNESS: Well, it's a hard judgment  
25 to make. I don't think so. I suspected, if you

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1 read the cold record, you might

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2 think so from some of the remarks that were made,  
3 but I think it quite arguable, perhaps, that I  
4 or someone--I am as good a nominee as anybody--  
5 that I should have made a very cold turkey speech  
6 and said, "You know, you guys have had it." I  
7 think that's arguable, but--and in--

8 MR. ROTHSCHILD: How about the reverse--

9 THE WITNESS: I think in many ways I  
10 should have--I am coming to the reverse. I am say-  
11 ing I don't think the reverse is true and in a  
12 sense I have to ask you to take what I say on  
13 faith because I'm saying it so much by the atmos-  
14 phere of the moment. I don't think when we left  
15 that prison--when we left that prison there were  
16 men--there were prisoners with tears streaming  
17 down their faces. There were black men who came  
18 out of the crowd--by then we didn't have all this  
19 chain stuff or linking of arms, it was all a mass,  
20 black men who came out of that yard and threw  
21 their arms around me, for example. I'm trying to  
22 judge by the atmosphere and I'll tell you: every-  
23 body knew it was over in there. I mean, and yet  
24 I can't prove it by any given statement and maybe  
25 I am even wrong about it, but if my judgment as to

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2 yard is wrong, why, then, as many of my critics  
3 maintain, I don't belong in the newspaper busi-  
4 ness. I have been making judgments like that a  
5 long time and so while I am saying that possibly  
6 we should have said things that we didn't say, I  
7 do not believe that the things that were said con-  
8 tributed to a feeling on the part of the prisoners  
9 that they ultimately were going to win if they just  
10 simply held on. I don't see how that could be pos-  
11 sible in the atmosphere there that took place there.

12 Now, you know when one of those black bro-  
13 thers, as they referred to them, on our group made  
14 a speech to the black brothers who were in the pri-  
15 son yard, who were imprisoned there and said that,  
16 you know, in--let us say I'm just paraphrasing in  
17 effect said--talked of solidarity and he talked of  
18 ultimate--ultimate vindication of what they be-  
19 lieved in an so forth--reduced to cold print that  
20 might look like you are urging them to hold out,  
21 but in context of the moment, what you are saying  
22 is--what I thought they were saying was, what I  
23 took them to be saying was that you fellows have  
24 fought a good fight and we are going out there to  
25 continue to fight the good fight and one of the



1 things that, you know, as I  
2 say people were saying to me, knowing who I was  
3 and so forth, men would grab me by the arm and  
4 they would say, you know, you have got to carry  
5 on the fight for us outside, that kind of thing.  
6 So, I don't want to make too strong a case out of  
7 it, but I had the feeling and I thought everybody  
8 else in the yard had the feeling that the ball game  
9 was over and that we were saying goodbye to men  
10 who were in many cases--were going to be dead the  
11 next day, which indeed proved to be true.

12 MR. ROTHSCHILD: Let me ask one other ques-  
13 tion in this confusion.

14 The observers were finally cast, almost  
15 at least by some people, were requested--it was  
16 felt they should have been cast almost in the role  
17 of a mediator. On the other hand, again looking  
18 at the cold record, many of the observers, I guess  
19 the majority, I don't know, were in fact there at  
20 the request of one party at the dispute, the in-  
21 mates. So that in a sense, judging agin from the  
22 part of the Commissioner Oswald or whomsoever in  
23 fact had to make a judgment that was--that he had  
24 to make, do you suppose that that was a group that  
25 he could really look upon an impartial group be-

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1 cause it was not so selected;

2 it wasn't their purpose.

3 THE WITNESS: I doubt it very seriously.

4 I would think certainly by the time Sunday night,  
5 when we had the long session with him in the ob-  
6 servers room, I think he should have had, if he  
7 was--I observed the man to do, he should have had  
8 the feeling that there was great sentiment in that  
9 room which was in fact, I mean, in the given situa-  
10 tion in favor of the prisoners. That's to say  
11 not to have an armed attack on the prison, to let  
12 the situation go along for a while and see if it  
13 could be worked out on some other basis. I don't  
14 think--he couldn't have had any doubt that there  
15 was sentiment in the room there. Hence, what you  
16 say is true and I think circumstances so decreed.  
17 The state had the force and the state, as you put  
18 it, had the decision to make as to whether or not  
19 to use that force. Ultimately, certainly at some  
20 point, not necessarily in my judgment, to the  
21 point that they did make that decision, but ul-  
22 timately at some point they had to make such a  
23 decision, use force or not use it. That being the  
24 case, since all of that power belonged to them,  
25 I think it's natural in a way and it was indeed

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2 could have worked, we became in so many ways the  
3 advocates of the prisoners, not the advocates of  
4 the prisoners necessarily in an overall and total  
5 sense, but the advocates of prisoners in that par-  
6 ticular situation. When we said don't attack yet,  
7 we were in effect being advocates of the prisoners.  
8 I don't think there is any doubt about that, but  
9 we were being advocates of the prisoners in that  
10 point, certainly in my case, and I think in most  
11 of the others, only in an effort to avoid the final  
12 outcome, the final attack.

13 MR. ROTHSCHILD: I think that covers--I  
14 have asked these really--I am concerned, really,  
15 because when you spoke the other day it seemed to  
16 me that in the end--and the record will state what  
17 it states--I sense that you felt that the state had  
18 justified what they did on the basis of what the ob-  
19 servers had said and what had happened on Sunday  
20 evening and I think that's unfair, in a sense,  
21 that's not what you really meant it, but that's the  
22 way it came to me, an unfair allegation in a sense.  
23 I think the state had some responsibility which  
24 they exercised on the basis of what information  
25 was appropriate for them to observe.

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1  
2 If I left that allegation in your mind, it would  
3 be unfair, I think. No, I have said--I don't  
4 know what--if I have understood Mr. Oswald and  
5 the governor and all, they felt that they had  
6 to retake the institution for the reasons of their  
7 public responsibility and so forth. I have differed  
8 with that as a matter of judgment. I have never  
9 differed with the fact that ultimately they had to  
10 make that decision, make a decision on that ques-  
11 tion, to the extent that I have recited here and  
12 elsewhere the idea that the observers or any mem-  
13 bers of the observers inflamed the resistance of  
14 the prisoners. I resist that idea very strongly  
15 to the extent that I have--it's not because I say  
16 or that I know that the state is trying to blame  
17 the whole debacle on us, but there has been a  
18 good deal--there has been a good deal of specula-  
19 tion and writing in the press about members of  
20 our group--about me, as far as that's concerned.  
21 I was accused by one of my fellow writers of  
22 criminal naivete and that's a very hard--

23 MR. ROTHSCHILD: It's hard to prove.

24 THE WITNESS: That's why it's such a  
25 hard charge to make. Now, you don't assert for

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2 leave the impression, if I did leave it with you,  
3 that the state is trying to blame what happened  
4 on us. They may have been or they may not be,  
5 for all I know, but there has been a good deal of  
6 public comment, there has been writing that I'm  
7 sure every member of the Commission has read that  
8 has said that action of some of the members of  
9 the observers group really led to what happened  
10 on Monday morning and that is the idea that I  
11 resist.

12 MR. ROTHSCHILD: Would you figure would  
13 be fair to summarize what I have been trying to  
14 say that the observers had a role to play which  
15 was--as a matter of fact, if you look at the make  
16 up of them and as events developed, they played  
17 in a reasonably consistent and predictable fashion  
18 that the state had a role to play which was quite  
19 a different role, involved from quite different  
20 standpoints which they also made in what would be  
21 a fairly consistent fashion in view of the infor-  
22 mation at their hand and to mix the two is pro-  
23 bably to do an injustice on both.

24 THE WITNESS: Well, I agreed with you  
25 until where you got to where you said to mix.

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1  
2 observers are alleged to have made the part to go  
3 in or not go in. The state is saying that they  
4 didn't listen or didn't follow the advice of the  
5 observers. It seems to me that they were operat-  
6 ing from what--different standpoints.

7 THE WITNESS: I think that's quite true.  
8 I don't fault Governor Rockefeller, for example,  
9 for not taking the advice of the observers, as  
10 such. My criticism of him, any that I have made,  
11 is the fact that I think at that time the course  
12 of action that was suggested to him was the pro-  
13 per course of action for him to take.

14 No, there is a subtle distinction I'm  
15 making here. I'm not criticizing him for not  
16 taking the advice of the observers. It happens  
17 I think the advice of the observers was right.  
18 I'm criticizing the decision he made in not com-  
19 ing to Attica, which he did for reasons of his own,  
20 but in my judgment would have had a salutary ef-  
21 fect on the prisoners and would have given us 2  
22 or 3 days more time and what would have been the  
23 difference in doing what you did on Monday than  
24 doing it on Wednesday and I think it was a gamble  
25 well worth taking, so you come to a question of

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2 MR. ROTHSCHILD: I have no quarrel with  
3 that.

4 THE WITNESS: Conflicting judgment.

5 MR. ROTHSCHILD: Thank you.

6 MR. MCKAY: Mr. Wicker, you have been  
7 extremely helpful in answering questions. I won-  
8 der if there is something you would like to tell  
9 us independently of any questions?

10 THE WITNESS: No. It seems to me that  
11 --it seems to me that on this subject and most  
12 others I have had more than adequate opportunity  
13 to make my views known.

14 MR. MCKAY: Which you do for us--which  
15 you share with us some of your columns that you  
16 made and if your speeches have been reduced to  
17 writing, copies of those in which you stated your  
18 opinions in more detail than you did here?

19 THE WITNESS: Yes.

20 MR. MCKAY: We are grateful for your  
21 being here today. You have been most helpful.

22 MR. LIMAN: Yesterday we put on our  
23 first inmate witness on conditions in the yard  
24 and on how the inmates were reacting to the nego-  
25 tiations. That was Mr. Carpenter who told us

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1 about his viewpoint and about

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2 how, even though he came to the yard by following  
3 a crowd, by the end he felt that he was there by  
4 choice.

5 Today we have another witness, an inmate  
6 at Attica, who will tell his prospective on the  
7 events in the yard. This is Mr. Francis Huen,  
8 who will be examined by Judge Willis.

9 F R A N C I S J O S E P H H U E N, was sworn  
10 by Mr. McKay and testified as follows:

11 MR. WILLIS: Before beginning with Mr.  
12 Huen, I would like to say that in our investiga-  
13 tion we were assisted by some very fine young  
14 people and Mr. David Parker, sitting to my right,  
15 next to Mr. Liman is a law student at Yale Law  
16 School and was extremely helpful in preparing  
17 Mr. Huen for coming here.

18 EXAMINATION BY MR. WILLIS:

19 Q Mr. Huen, how old are you, sir?

20 A I will be 36 in August.

21 Q Where were you born, sir?

22 A Yonkers, New York.

23 Q What is your education?

24 A Eighth grade.

25 Q Are you married?

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