MR. MC KAY: Mr. Carpenter, thank you very much for being with us today. We look forward to seeing you again next week.

THE WITNESS: Thank you very much.

MR. LIMAN: Clarence Jones.

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

CLARENCE JONES, called as a witness having been first duly sworn by Mr. McKay, was examined and testified as follows:

EXAMINATION BY MR. LIMAN:

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

A My name is Clarence Jones.

Q Your occupation?

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

Q You are also an attorney?

A Yes, I am.

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

A Well, I've, as you have indicated, I've practiced law. I have for four years or more, I was an officer in an investment banking firm. Prior to that time I ran an insurance enterprise. My background has
been one principal of law and business. I have had concurrent with that, I served in activities involving civil liberties and civil rights. I served as a special counsel to the Southern Christian Leadership Conference. To Lawyer's Constitutional Defense Committee, et cetera.

Q  How did you happen to go to Attica?

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

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

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

Q  Then on Friday morning did you receive a telephone call from Mr. Van den Houvel?

A  Yes, I did.

Q  Did he tell you that he had heard that you
That's correct. He had, I think he said in effect that a Mr. Robert Douglas had been trying to reach me and that was sort of the first, I suppose definite confirmation that I had been invited.

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

Did you speak to him on Friday?

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

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

No. There was not any specific instruction or any specific instructions. No specific mandate of any kind. There was only the general statement that the situation at Attica was critical. That the correctional authorities and the State was trying to resolve the situation and one element of their effort was to try to bring some of the people that the inmates had invited and I was one of several people that they were trying to bring up.

You flew there Friday afternoon?
A Yes, Friday afternoon from the Butler Aviation Terminal at LaGuardia Airport.

Q Were you accompanied by Congressman Badillo?

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

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

Q When you arrived at Attica late that afternoon, were you briefed by anybody?

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

Q With other private citizens?

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

Q How was the situation described to you?

A As critical.

Q Did they say that there was any negotiation going on?
A Yes. We were informed that earlier that day that Commissioner Oswald had been inside the cell block D, or it may have been cell block A, but probably cell block D, and had had some conversations with the inmates and that since that time or during that interval, the State of New York and the Department of Correctional Services were trying to gather together those people that the inmates had invited while this process of negotiations as to how to best settle the matter, was continuing.

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

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

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

A Yes. After a discussion that took place not just with Commissioner Oswald, but with Walter Dunbar and Superintendent Mancusi and other--there were some State officials there. When I say State, I think
assemblymen, perhaps, another member of the observers committee who had by that time arrived.

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

Q And what happened there?

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

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

The inmates--I think that--I don't know the exact period of time between the time that Commissioner Oswald was last in the yard on Friday morning on the last time he had conversations with them, but my impression was on coming into the yard that the inmates regarded this as somewhat of a partial fulfillment of some of the things which they had, which they had requested at that time, namely, that there be certain named people to come up to Attica and that late after-
noon some of the persons that they had in fact re-
quested did in fact arrive.

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

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

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

Q Speaking publicly?

A That's right, speaking publicly. They had a
hand mike and a public address system, speaking publicly
both to their fellow inmates as well as to the observers
as to, you know, why this situation existed. And then,
you know, they spoke about their grievances. They spoke
about the conditions at the prison. They asked--they
wanted very much for the observers to understand, you
know, at least both in general terms and in some specific
terms what their complaints were. And, of course,
the observers in turn, were asked to, you know, to say
something or to identify themselves.
11 Q After you left the yard that evening, what did the observers group do?
   A We went back to the administration building, to the same room that had been set up, I guess, as the meeting room, or the command post for the observer's committee. We had some cross discussion among ourselves. Other members--other persons who had been invited by the inmates had arrived or were arriving.

   Q At this time Bill Kunstler arrived and some others. Between your first and second trips in?
   A Friday night, I think, yes, I think William Kunstler arrived. Tom Wicker arrived. I'm not sure what other persons arrived.

   Q Did you have discussion within this group of what your role should be?
   A Yes. There was--well, there was a discussion of this question of what our role should be, not as a separate isolated subject matter of discussion, but it was sort of pervasive. It sort of would come up at any given time.

   Q Were there different views on this?
   A I would say that there were--I would say that there were different views, yes. When I say different views, I think that different not necessarily antagonistic or not necessarily views which were adverse to one another
but just different and in fact the differences or the different views expressed was really both in terms of statement as well as a kind of asking rhetorical questions, that is, if you recall as I did as I was driving down here that on one of the mimeographed sheets that the inmates initially had their initial demands, when they referred to the parties, the named persons that they wanted or that they demanded to come, they used, I just recalled this, they used the word, they want Bill Kunstler, so and so, so and so, Clarence Jones, Tom Wicker, but before their names they used the word "to negotiate through," or they used something like that.

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

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

Q How did you conceive your role?

A I conceived my role and what I thought was the role that the circumstances required of the observers and certainly as expressly stated in that demand, is that we were an agent, a conduit. The inmates wanted to
use us to negotiate their demands through us.

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

I think they were, that they wanted to--you
know, that they obviously had a whole set of historical
experiences with prison authorities, to put it mildly,
which would lead them to believe that if they were going
to seriously have discussions with the prison authorities,
and if they were to trust, trust having accurate com-
communication of what they wanted as well as an accurate, you know, an accurate communication as to what the prison authorities were saying to them, that they felt that they would probably better receive this by using the so-called outside observers.

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

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

Now, having said that, that does not mean that being an instrument through which communication between the prison authorities and the inmates could be channelled, does not mean that in the process of that communication that you could not very strongly and as effectively as you could, try to persuade, try to persuade the prison authorities of the point of view that was being advocated by the inmates and conversely, we tried to a limited degree to try to, you know, advise the inmates or to indicate what at least appeared to be practically possible in terms of our understanding.
So that it wasn't, it wasn't an either/or choice, that one had to either be a sterile instrument which you merely transmitted points of view and not to have any patience or feeling in which you could, to use your words, advocate if necessary, a position, a point of view on behalf of the inmates for the purpose of getting the authorities to understand with as much clarity and depth as possible, what the inmates were trying to say or as the inmates would say, and as I would say, where the inmates were coming from.

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

A Late Friday—that's right, Friday night.

Q That was the long session?

A Long session in which what we tried to do is that—what we tried to do and what was done is that we took down, we actually wrote down all the various demands that we expressed by the inmates. Not just the initial five or 15, but every grievance, everything which was the subject matter of a demand. We tried to
purpose in doing this was, of course, so that we would be sure that we had sort of collected all of the things which the inmates had expressed so that when we went back to our, you know, to our meeting room when we left Cell Block D, we would in fact have before us the various demands and we could go, we could go down them one by one both among ourselves and eventually with the prison authorities to see which of them were possible.

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

A That's correct. That's correct.

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

A Yes, but what happened, I believe, if my recollection—I think it is accurate, is that late—late Friday night we had had—after we had compiled this list, this master list of all of the demands which had been expressed, we had a discussion both among ourselves, I think at some point with Commissioner Dunbar—at this point I don't know whether Commissioner Oswald was there Friday night. I believe at one stage
a member of his family, his wife wasn't feeling well. But we tried to go through these and what emerged out of our discussion was the question of amnesty. Both, you know, civil as well as criminal amnesty.

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

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

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

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

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

A As a result of that meeting and as a result of that morning discussion we, together with the District Attorney, that is, you know, we had a discussion with him, I must say, the three members of the committee.

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

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

That's what we tried to get. We tried to
get something--well, we tried to get absolute amnesty
but what we in fact got in my judgment was something
less than that but something much better than nothing at
Q When you returned with that to the observers committee, Mr. Jones, did you receive some reaction from some of the other observers to this letter?

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

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

We pursued the question as to what the possibilities were and having pursued that question, this is what we were able to achieve. The ultimate decision is up to the inmates as to what significance, if any, the James letter was to have in terms of how they felt about the possibilities of resolving the rebellion.
Q  When you returned to the institution, did you then participate in the negotiations of what has come to be known as the 28 demands?

A  Yes. With Commissioner Oswald.

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

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

Q  Basically--

A  Basically it was Commissioner Oswald?

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

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

Q  Would you describe briefly how the negotiating process worked with Commissioner Oswald and where you met the major resistance?
A Well, essentially we had this master list of demands and we sat down with him and said let's take it from the top. Let's just go through each one of them.

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

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

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

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

Q What did he say on that?

A He said in effect that he could not do that. If he didn't say he could not, he said that he would not. Perhaps that's what he said. Also there was a question about a prison doctor. I believe a Dr. Williams, which was the subject of some very strong criticism and complaint on the part of the inmates. They wanted another prison doctor or--and that the inmates wanted
very strongly and in this regard he--while he didn't say that he would replace Dr. Williams, he seemed to indicate that he would--that he is receptive to having an additional doctor, someone in addition to Dr. Williams, to be added to the medical staff. He--the question of amnesty, he said he had no power and he said that you went to see the District Attorney and the letter from the District Attorney speaks better than anything I can say.

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

A Question of what?

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

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

And the demands, I must say, I don't recall—I mean I do recall most of the 28 demands. I don't recall all of the master demands. But most—the 28 demands really was a distillation of those things which were quite reasonable and certainly were things which—that the Commissioner, certainly the prison authorities, if they were serious in being responsive to the complaints of the inmates, had the capacity, you know, to really be responsive. The demands, I'm trying to say, the eight demands which resulted, I thought they were rather elementary and not rather—you know, not revolutionary, not earth-shaking in terms of common standards of fairness and decency and not what I would call humanity in our society today.

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

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

Q You then got a signed list of 28 proposals. Was there discussion among the observers committee as to what your role should be with respect to presenting these 28 signed proposals or demands?
Tell us what the different views were in the observer's committee and what was finally decided?

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

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

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

Q The inmates had also asked for a representative of the Black Panther Party and in particular either Hewey Newton or Bobby Seale. He arrived Saturday night.

A That's correct.

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

A Yes, there was some discussion and the discus-
sion presently centered on--there was an assumption and an acceptance by and large that he had been asked by the inmates to come just as other members of the observers committee had been asked to come and that therefore, it was important that Bobby Seale or H"ewey Newton go into Cell Block D and to demonstrate to the inmates that in fact they were there. In the case of Bobby Seale that he was there.

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

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

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

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

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

He was not advocating or recommending those 28 demands, that is, their acceptance of those 28
demands as a basis for resolving the dispute. He made it very clear that that was ultimately up to the inmates to decide. He said further, however, that he might have an opinion about these demands later, after conversing with what he described as the central committee of the black panther party but until he had an opportunity to discuss it with his colleagues in the black panther party, his position was one of supporting their struggle, of recognizing the legitimacy of many of their complaints and you know, then leaving.

Q Was the mood of the observer group one of optimism that these 28 demands would be accepted?
A The mood of some of the members of the observers' committee was hopeful.

Q Were you hopeful?
A I had a guarded hopeful optimism.

Q Was it affected by the news of Officer Quincy's death that day?
A Was my optimism affected, yes, personally it was and I think that learning--I don't know at what time on Saturday the inmates in cell block D learned of the death of Officer Quincy. But I, you know, so I'm sure when they did learn of it, it only gets back to the earlier question I raised, the question of amnesty, while it was important Friday night, certainly was very
So you asked me, you know, what was the opinion. I said, yes, my own opinion was one of guarded optimism.

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

A That's correct.

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

A Many members of the observers' committee.

Q You chose to stay or did you stay?

A Yes, I chose to stay.

Q For what purpose?

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

Someone, knowing the feeling of the inmates, someone from among the observers' committee had to get up and to present the 28 demands, the letter from District Attorney Louis R. James and in effect had to
present to the inmates a picture as to the results and limited achievements of negotiation that had occurred so that the purpose of going in and reading the demands of the letter on Saturday was really like a report back.

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

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

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

A Well, I felt very strongly from my own view of the development of events. I felt very strongly that Attica and the observers and inmates, that we were all like participants in a Greek tragedy and that I had a very great sense that Saturday night was likely to be a turning point because I had a sense as a result of recalling and thinking back to the process of discussion and negotiation with Commissioner Oswald that there was probably very little room--not saying that there was
no room but that we had come a long way in terms of what we were likely to be able to get and so, while I was disappointed that we were unable to present a package of great success, I felt that, nevertheless, that we had to make the maximum effort to clear indicate to the inmates that this was about all we were likely to get and so that I preceded my verbatim reading of the 28 demands and the letter from District Attorney James with a short speech and the substance of the speech was that--this has been described as a political struggle.

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

It's one thing to have, you know, when you have one kind of political power under one circumstance,
you are able to achieve certain kinds of things. When you have less power, perhaps you are unable to achieve everything.

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

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

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

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

It's not that we are recommending it as, or that
we are advocating it. It's just that the reality of the negotiation processes, that this is the best we were able to achieve and that they had to understand what that meant within the context of the actual circumstances.

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

Q And what happened?

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

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

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

"This is a sell-out." "This is not what--this is not good enough," in effect.
There was not only a criticism of the fact that the demands which Oswald had accepted did not contain all of the ones which they requested, specifically amnesty and the question of Mancusi but there was indirectly a criticism of the observers' committee, certainly criticism of me for having read and even presented these demands.

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

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

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

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

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

Q And who was that?
Q Would you tell us as best you recall it what Mr. Kunstler said?

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

Q Was the reaction to his speech also negative?

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

Q To the proposals?

A Yes, the reaction to the proposals continued to be negative but the reaction to his speech was in the negative and some of it--and even under some of the scathing criticism of some of the inmates, at one time they said, for example, "We don't hold Brother Jones responsible. Don't misunderstand us. He presented this.
But we're just telling him and the rest of the observers that's not enough."

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

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

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

Did you feel that to make a recommendation on the merits of these demands, that the inmates should accept them would have counterproductive in the circumstances?

A I wouldn't say counterproductive. I would say that--I would say to advocate their acceptance unequivocally rather than to clearly indicate that this is the best that
we were able to achieve and leave the decision to the, if we had advocated their acceptance, we, at least I would have considered that to have gone beyond the role of what an observer should have done.

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

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

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

A Well, I'm not sure to tell you the truth, at the
time I didn't have any, any clarity,
any precise thoughts as to the procedure that should be
followed with respect to whether they should adopt
or reject the proposals.

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

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

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

A I'm not sure. It is possible. It is possible
that one of the inmates in the public discussion or the
public rejection of these proposals may have in the course
of the speech said, "Is that right?" I mean, "Am I
right" and sort of kind of ask for an affirmation from
the audience but I don't recall that there was a vote.

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

A That's correct.

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

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

Q The second turning point came on Sunday?

A The second turning point came on Sunday. A last minute effort to persuade the governor to come. The inmates' rejection and the governor's failure to come to Attica, in my judgment, those two things combined completed the tragedy. Completed the tragedy I spoke about.

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

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

Q Was the request that the governor to come basic a request initiated by the observers' committee in order to avoid what you saw was the pending tragedy?
A Yes, yes. The request, as--the request for the governor to come was an effort on the part of the observers' committee to really prevent what actually occurred.

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

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

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

Q You had a discussion first among the various observers?

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

Q What was your judgment at that point?

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

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

We could see preparations going on to retake
cell block D by force. And so recognizing, I suppose, the helplessness of our own situation, the helplessness that we were unable to bring about a successful negotiation and helpless to prevent both, you know, a kind of desperation escalating as well as certain preparations on both sides, escalating, we called—-we, I am saying we had a discussion among ourselves and Tom Wicker and Herman Badillo and John Dunn, myself—not the only ones—-except it was somewhat—-we somewhat initiated the idea or conceived the idea and then in fact initiated the step of calling the governor to speak to him on the phone.

Q What did you say to him?

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

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

Positions which would make it impossible to change. Positions from which there could be no retreat. And I recall that I said to the governor, he asked me over the phone, "Well, Mr. Jones, are they interested
in, are they interested in confrontation, or are they interested in settlement, you know, if all they are interested in is amnesty, I don't see what value I can--you know, what I can, what I can do."

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

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

And we didn't ask the governor, we pleaded. We pleaded in the name of humanity to please come up to Attica to meet with us so that by meeting with us, at least it was certainly my opinion and I think I speak in this sense for the other persons who spoke to him, I think there was a probability it could have given us more time, it certainly would have given us greater credibility with the inmates, an ability to return into cell block D and to say that not only has Commissioner Russel Oswald agreed with your 28 demands, in my judgment, you know, we will never know because history can never be repeated.
We'll never know what the result, if any, what the impact, if any, it would have had had the observers been able to go back into cell block D and say, we have met with the governor of the State of New York.

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

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

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

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

I suppose, as I said, I had guarded optimism on Saturday and I suppose that subjectively as I reflect
back on my own state of mind, which may have colored my judgment, I suppose that desperately, so desperately wanting to avoid bloodshed I may have heard, I may have gotten a certain intonation, a certain feeling from the conversation but I was left with the impression which I spoke with him that he was going to seriously consider and that when I finished talking with him on the phone it was unclear, it was unclear to me as to whether he would come or would not come.

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

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

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

In fact, we made it very clear to him that--he was being asked to meet with us. It would have been possible, I felt very--I felt it would have been possible for him not to have been caught up in events and to feel that he had to go.
Q You didn't have the authority, as you made clear, of the inmates to make any such commitments, I take it?

A Make any commitment to him?

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

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

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

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

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

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

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

Q What was your sense of the situation?

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

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

A I felt that—well, I felt that under the circumstances that in light of the rejection by the inmates of not the 28 demands.

They were holding out—they wanted those 28 demands. What they wanted was amnesty. I felt that the
failure of--the failure to provide amnesty for them and the failure of the governor to come to meet with us and that--and the question of amnesty would have been the subject of discussion.

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

Q Did you think that amnesty was required to prevent the bloodshed?

A Yes, I do.

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

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

Q He said he did not feel it was appropriate to grant it. He didn't just put it on the basis of power?
A That's correct.

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

A I disagree with that.

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

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

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

Q You mean the observers, postured the observers?

A I am sorry. Postured us in a position in contradiction to which we described on Saturday. We expressly said that we were not recommending their
sentence. We were saying it's for them to make the decision. We were telling them that this is--this was the best that they were likely to get so that while you might think it's a matter of a fine distinction when you look at it, it in effect put the observers in the advocacy position of advocating the position of the state authorities or certainly Commissione Russel Oswald rather than in the position that, yes, this is the best we negotiated, this is the best we could get and you should know that this is the best that we could get and we think that you have to do some serious thinking as to whether or not you should accept this because this, in our judgment, we the observers don't think we can get a better result.

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

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

On Sunday, we went back in Sunday night.

Q  You went back in after this note?

A  Oh, yes, that's right.

Q  Why did you go back in?

A  It may have been because we were requested to go back in by the inmates. I'm not sure.
Q Was it in part to explain to the inmates that you had not sold them out and to reject this note that had been sent in by Commissioner Oswald?

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

Q These were releases--

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

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

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

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

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

Q You felt apprehensive in going back into that yard?

A I felt that there was a 50-50 chance that I
would come back. It was just equally possible for something to explode, for the possibility that in desperation the inmates would hold some of the observers hostage to keep us in there or that something would trigger, some event.

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

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

The Kent State state of mine. Under the tension, under the tension of guards who have not had any sleep with heavily armed loaded weapons, where you would walk past a guard and you could see the perspiration on his hand or on his brow and you know, anyone who has the slightest familiarity with weapons if you have been in the army, I don't know what position they were holding those weapons, whether they were on safety or not but
I thought that if there ever was a time for an accident, an accidental shot to be fired, just a guard who couldn't take it to just flip out and to fire out of desperation, hostility and anger, if there ever was a time it would have happened on Sunday or it may have happened--it also could have happened or Saturday but I certainly felt it on Sunday.

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

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

I guess we have to give our reporter a moment to change his paper.
Well, the proceedings were, first of all, an inmate -- some of the inmates who greeted us, greeted members of the observers' committee, greeted us with tears in their eyes, which said in effect that they felt they had been betrayed.

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

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

I have to -- I believe, and I don't know whether
any observer has said this, but I believe that each observer who went in on Sunday owes their life to the inmate leadership, and specifically I was very impressed with the discipline.

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

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

Q And you then went into D yard?

A Then we went.
Q What was the mood of the proceedings that then took place?

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

Q Buffalo?

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

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

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

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

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

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

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

Q Did the observers get caught up in this atmosphere?

A Some of the observers spoke also about, you know, spoke about -- you know, with an understanding and some compassion, and spoke, I suppose you could call it
I'd say you'd have to fully understand Sunday, you have to appreciate that observers and inmates had pretty much come to the conclusion that -- had certainly come to the conclusion that there was some certainty that some among us were going to be killed. That was very clear.

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

Q Fifty/fifty in terms of what?
A Whether or not, in terms of the observers, whether or not we would return out of there safely.
Q You did not speak in the yard on Sunday, as I recall it.
A No, I did not.
Q Why?
A Well, my mood on Sunday was one of such total resignation, of such total despair, that I didn’t think that there was anything that I could say, anything that I could say that would -- that had the capacity of having any significant impact on the events as they were taking place in the yard, because the context in which speeches were made on Sunday is that these were speeches of people who have come to accept the fact that death is but a few hours away, and I began to think about my own
circumstances and to think about my colleagues and the inmates and my children, and I just knew that -- I was watching, watching these events inextricably taking place and knew with a certainty that they were going to result in bloodshed, and I also felt very sad that some of the very people that I was sitting next to, inmates, inmates whom I had talked to, that I was convinced that they were going to be killed.

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

A Oh, yes.

Q It was way beyond that?

A It was way beyond that.

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

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

Well, essentially what you had was a pre-death rite. That is what took place on Sunday. People knew that some among them, many among them, how many they did
not know, were going to die.

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

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

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

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

Q Other observers?

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

Q So you left the yard Sunday night feeling that
the inmates would not harm the hostages as long as the State did not attempt to retake that yard, but that if the State attempted to retake the yard, there would inevitably be bloodshed?

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

But I also believed that if something was initiated against the inmates, that there was some possibility that something would happen to the hostages.

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

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

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

Subsequently, whatever happened to the inmates, it appeared that perhaps the inmates even in death or even
under fire power, showed more humanity to the hostages than they themselves thought they were capable of showing.

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

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

Q On Sunday, when you were speaking to the Governor and Congressman Badillo spoke to him, did Congressman Badillo express concern about the effect that an assault would have if it took place on Sunday?
Q Did the Governor indicate that he would hold off for one day, words to that effect?
A I'm not sure what the Governor indicated in his conversation with Congressman Badillo. I do know, since I heard the conversation of Congressman Badillo, the conversation said, look, in effect it said look, I think you should come to Attica. I disagree with any action you may take but even from your standpoint, you couldn't choose a worse time to initiate such an action, on a Sunday, 1:45 or thereabouts. You know, Sunday afternoon.

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

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

Q Did the observers discuss the possibility of going to Pocantico Hills to see the Governor?
A Yes.

Q What was decided with respect to that?
A I don't recall, but for one reason or another,
it didn't take place.

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

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

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

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

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

A I didn't leave Attica on Sunday night.

Q You stayed over?

A Yes. I didn't -- as many of the other inmates, I had very little sleep, and some of the inmates decided to sleep --
Some of the observers decided to stay actually in the room, in the administration building, out of a sense of resignation and a sense of sheer physical fatigue.

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

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

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

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

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

MR. LIMAN: I appreciate it. I don't have
any questions, but I'm sure some members of the Commission do.

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

EXAMINATION BY MR. MC KAY:

Q How many observers went in at that time?
A Oh, I would say at least ten.

Q Did Commissioner Oswald or any of the prison officials seek to persuade you not to go in?
A Yes, they did. And they certainly made it very clear we were going in at our own risk.

Q That is really what I was wondering about, when they asked you to sign the releases, you could interpret that as meaning that they thought it would be better if you did not go in?
A That is correct, or that if we did go in, they didn't want to have any responsibility or any liability for the consequences of our being there.

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

If that is correct, why would they have felt that?
A I don't know. I can only conjecture as to why they may have felt that. They may have felt that because
they were part of the decision process or they were participants in a decision making process where the decision had been made that there would be no further negotiation and -- no further negotiation concessions, and at some appointed time, whether on Sunday or on Monday, that they were going to assault cell block D.

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

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

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

A That is correct.

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

A That is correct.

MR. Mc KAY: Thank you.

Mr. Henix, have you questions?
MR. HENIX: No. I just have one.

EXAMINATION BY MR. HENIX:

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

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

Was that a difficult decision for you to make?

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

I thought very seriously on Sunday as to whether or not it was advisable to go back. I thought very selfishly as to whether or not -- I'm not an expert, neither my avocation or my professional life is involved in prison reform, but I was part of a group who
had been asked to try to their utmost, to try to prevent this tragedy from occurring, and I suppose that on Sunday, my reason for going back was kind of -- I think there were other observers who shared some part of the point of view I have.

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

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

Q I have only one more question.

Did it occur to you that if the inmates did decide to hold you after having signed that waiver, do you think that the hands of authority would have been stayed if the Committee would have been held and had been added to the hostages?
In view of the attitude of the State troopers and the police and everyone you had witnessed, in this eventuality -- I know it is hypothetical.

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

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

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

MR. HENIX: Thank you.

MR. MC KAY: Mr. Wilbanks.

EXAMINATION BY MR. WILBANKS:

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

You were in charge, you were reading a list of the negotiated demands. Did the inmates ever make any concessions or is Mr. Oswald accurate in that portrayal? We have given everything, they have given nothing. Is
A I think, for example -- you might -- someone might say the inmates didn't give anything. While this demand to go to a non-imperialistic country was an initial part of the demand, that was never a condition precedent. It did not ultimately end up being a condition precedent to any settlement, a peaceful settlement. So that I think that when the inmates in fact said okay, we agree that we don't want to go to a non-imperialistic country, in fact the way in which they focused on other demands and dropped an emphasis on that and concerned themselves with the broader questions of improvement of prison conditions and the question of amnesty, there were-- I'm trying to think.

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

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

any of the demands which had been granted.

It is unfortunate this is so, but it is my

view that the observers were placed in an intolerable

position at the end.

We couldn't -- all we could do is ask for

amnesty. All we could say to the inmates is that we

tried to communicate -- I mean we did communicate your

demand for amnesty and we tried to -- and we did explore

the maximum possibilities as to how far the District

Attorney would go with the letter from Louis James, but

it ultimately became clear that the solution was outside

of anything that the observers could do, and that the

solution lay in the hands of the Governor of the State of

New York and correctional authorities.

Now, Dean McKay is a very distinguished lawyer

and professor of law, and I know that the question of

what executive -- you know, what a person with executive

power can do in criminal circumstances is a very difficult

question.

I frankly think that circumstances developed

where it no longer became a legal question. It became

a question of priorities.

If you discuss the question of amnesty in terms

of the existing parameters of law, constitutional
authorities, as I generally understand them, you are already discussing them within a limited framework.

So to me the solution of Attica was ultimately a question, not a legal question, that is, the resolution of amnestiy was not a legal question, was not a constitutional question. It was a question as to whether or not if you are a chief executive officer of a State, you consider the preservation of human lives more important than the risk of breaking the symmetry of law, and I said this before.

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

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

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

THE WITNESS: I have no prepared statement. I only want to say that -- say what I have said on other occasions, and that is that Attica raises very serious questions for the people of the State of New
York, and equally raises questions for our society.

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

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

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

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

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

Attica says to me that if you are concerned about the conditions in prisons, be concerned not out of a sense of social justice, be concerned not out of the sense of general humanity, though those things are good, but be concerned in your own self-interest because there are studies which apparently indicate that 90 or 95 percent of the inmates in our prisons today will at some time, either at the expiration of their sentence or by parole, return to the society.
Now, we have to be concerned how that person returns. If you take a person and dehumanize him and brutalize him for an extended period of time, I think that person is likely to react with the same kind of conditioned response as the famous Pavlov rat.

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

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

Attica says to me, very tragically, and
I certainly see this when I see the faces of the children on television at Willow Brook, is that you probably can tell where American society is coming from in 1972, where its true values really are if you examine how it treats its fellow human beings in its prisons and how it treats its children.

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

They're saying to us -- I heard the last part of the testimony of a former inmate -- that, you know, they're saying look, we committed our crime and we're here presumably to pay our debt for having done that, but it is as if in our society, which has such elaborate structures for the preservation of human rights prior to being involved with the law, while you are involved in the court system, it is as if the moment a person becomes
convicted and sentenced, is that this elaborate structure of legal and human protection somehow is set aside, and that while the law says that one convicted of certain crimes is civilly dead and certain rights are taken away from them, the law has in fact been interpreted, prison administration has in fact been interpreted as if not only a person is civilly dead but they are in fact a non-person, a non-human being, that somehow being in prison gives the State authorities, the prison authorities the license to strip inmates of elementary ingredients of human dignity; and Sunday night at Attica, inmates, old inmates, young inmates, had tears in their eyes because they remembered, as I remembered hearing one of the inmates say so eloquently, that if we cannot be treated like a human being, can only be treated as an animal, and if the choice between accepting that condition and dying like a man, then our quest for elementary human dignity is that we choose to die like men.

The question of amnesty, as I said, was a moral humanitarian question. It was not a power question or a constitutional question. It was a simple question as to whether or not inmates and hostages, their lives were sufficiently important as
to work out a negotiated settlement which would have avoided an armed confrontation and assault on cell block D.

Thank you.

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

THE WITNESS: Thank you.

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

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

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STATE OF NEW YORK )
COUNTY OF NEW YORK)

I, LEON ZUCK, a Shorthand Reporter and
Notary Public within and for the State of New
York, do hereby certify:

That I reported the continued proceedings
in the within entitled matter (pages 615-755) and
that the within transcript is a true record of said
proceedings.

I further certify that I am not related
to any of the parties to this action by blood or
marriage and that I am in no way interested in the
outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set
my hand this 23rd day of April 1972.

[Signature]

LEON ZUCK