In fact, I think on Friday night some inmate, who may have been so dehumanized through that system did in fact, I assume, attempt to charge us, but because there were three rings of inmates that surrounded us and sat on the ground where no one could reach us, they were able to stop and subdue him.

I have seen mental cases in those institutions of people who shouldn't be in there because they have a mental problem and the inmates knew that there were men in there; that if given the opportunity, who may have been beaten by a guard and who felt he had nothing to lose, that this was his opportunity -- he might have in fact killed a hostage.

And they provided protection. So, there was no question that they felt there may have been men in there that would have thought nothing of taking the life of a hostage.

Q If you had the sense that all factions had to agree, were you still hopeful that any agreement could be worked out?

A Well, sir, I wouldn't have gone in there on Sunday afternoon feeling that the Governor of the State had set me up to get killed. I love my wife and five kids, and I love them more than the Governor
and all of them put together, and if I didn't think anything could be accomplished -- I am no hero. I broke down and cried that Sunday afternoon because I was scared to death, but I felt that something could be hopefully accomplished and that if we did not go back that the lives of the hostages might have been in fact taken, because the leadership would not be able to confine those that might have felt that these guards represented my oppressor and I in fact must kill them.

And we went back in there to save the lives of the hostages and all of them, you see, because the system was beginning to hopefully deteriorate the men in there where some of them in there could not maintain control, and that was a serious question of credibility of the men who were negotiating were also somewhat in a very tense time, you see, and they needed support as far as keeping things quiet and down. And I don't know what kind of forces were being actually deployed in there, but with such a vast and large group, I'm sure that there were men in there who had been beaten by the nigger stick that frankly would have loved that opportunity to have gotten back at his prisoner.

Q You have talked about private conversations
and also here about fear and of going in the yard that day.

You went in for what purpose, finally, when you went in with the newspapermen?

A  Well, the final purposes were two.

I felt that if I never went in there again, and a massacre took place, that I was dead. Okay?

That inmates or former inmates or relatives would have killed me because they felt that we had lied to them and not been honest with them.

And I told the Commissioner -- in fact, when we discussed it after, among ourselves, and I repeat I was very scared and frightened, I said that I have got to go back. I have got to go back because I don't want that massacre to take place and for those men to feel that we have not been honest with them.

And I said, "You know my life," as I told the Commissioner, didn't mean whether or not I died in there with them or whether or not somebody killed me there afterwards, and we felt it was imperative. Bill Kunstler, as the attorney, agreed to go back with us so that he could tell them as their legal counsel the events that had in fact taken place and that in fact the State had set us up to get
killed.

So, we went back.

One, I think, to reestablish credibility, okay? To reestablish credibility which was very important to me.

Number two, to ascertain whether or not anything had, in fact, been done as far as the discussion they went through that evening. To also let them know why we had not come back earlier and so forth, when we had told them what had really happened and I would like to also say that the question of being sent to a non-imperialistic country was voted down. That was taken by a democratic vote.

On Sunday, they even sort of diminished on the issue of Mancusi, because the feeling was he is nothing but a racist, and if you remove him they will just send another racist.

So, that was no longer a sticking issue. Amnesty was somewhat of a still sticky issue.

I think Bill Kunstler discussed with them, and he told the Commissioner after we came out of there on Sunday "Let's not talk about total amnesty. Let's talk about negotiating the question of amnesty twenty or thirty years, life, especially for those men who might be identified in the life or
And Kunstler discussed this with them and I'm sure he discussed it with some of the inmate leaders there in the yard and so the question of total amnesty might have been at that particular time with more time a negotiable item, and again, Officer Quinn had died, men could be fingered for his death and in the State of New York certain inmates could have gotten the chair.

So, you are dealing and they were dealing with the lives of some of their fellow inmates and they had professed unity; they had professed togetherness and that we are one body concerned about every single individual in here, so it was very, very difficult for them to abandon any man or group of men in that yard who might in fact be fingered for the death of Officer Quinn and be getting the chair; so we knew that this was a thing that, you know, would be, but I think Bill Kunstler expressed and I did not -- was not fully aware of the kinds of conversations because again while things were going on, individuals, at time, were discussing with the leadership various positions.

Q These were private discussions that they were having around the table as opposed to public
speeches that were being made?

A Right.

Q Was there a difference, Assemblyman, between the rhetoric in the yard which those of us who heard the tapes of the proceedings then have heard of the demands for full amnesty uttered both by hostages, inmates and observers on Sunday, and the private discussions that were taking place around the table?

A Yes. I believe that, you know, again, if you negotiate and your not-negotiating, you know, talking with the industry itself, but you are negotiating through a third party, it becomes very difficult for you to give up on your chief negotiating item, and their item was "the lives of the hostages and also total amnesty."

And frankly I think if Oswald and the Governor had let us go back on Saturday, had not done subsequently the events that subsequently happened, I don't know what would have been their response, but when our credibility was shattered, you see, and other things happened, then, you know, men were somewhat left at a position to say "Who in the hell can we believe if they are willing to kill Assemblyman Eve? He is part of the system."
You had problems. It was just unfortunate that the people were making decisions in a little room, and I say that the Governor was making them at the advice of Bob Douglas, who had no knowledge of really what was going on, because they had never been in that block.

I don't believe Oswald would have made the decision, frankly, that was made by Bob Douglas.

Q When you went in the yard on Sunday, you felt that the Governor's visit to Attica held the key to a peaceful resolution?

A Right.

Q Was one of the purposes of going in on Sunday and interviewing the hostages to focus public opinion on this issue --

A Right.

Q -- and mobilize political pressure on the Governor to come?

A That's right.

Q And that was part of the reasons for the rhetoric that --

A No. First of all, the inmates made that determination with the hostages. I don't know how they came up with the determination that the hostages wanted to talk to the Governor. I assumed the hos-
tages said -- and they knew and they evidently felt -- again, these were determinations they were making without our being present, that the hostages wanted to talk to the Governor, send a message to the Governor, and we then provided the vehicle by asking the State to allow the, you know, black and Puerto Rican reporters in and that brought my asking Tom Wicker and John Dunn to go to interview the hostages so that they could ascertain whether or not these men were saying it sincerely or whether or not they were under any great threats, or whether or not somebody was standing over them with a knife or something, and this is why I did not want to do the interview.

This is why I did not want to bring the message out to the Press. This is why I asked for white men to do it instead of a black or Puerto Rican.

Q Assemblyman, why didn't any of the observers on Sunday repeat what they had said on Saturday, namely, that the twenty-eight proposals were the best that the inmates could get?

A Well, first of all, when we went back into the yard we had to deal with a very serious problem initially. When we were led into the yard, the inmate who led us in from the gate into A-yard -- and
we had to go through A-yard to get into D-yard

stopped us in A-yard without any other inmates around
and he said "Why did you lie to us; why did you betray
us?"

He said, "the men in there, many of them
want to kill every damn one of you."

He said, "You stood at the gate and you
told me one thing."

In fact, he walked in -- when we walked
in the yard, the initial thing he said "Why can't
any of you look at me?"

He said, "Why can't any of you look at
me?"

He said, "All of you are looking down.
All of you are looking away."

He said, "Why can't you look at me?"

He said, "The men, the men in there want
to kill you because you have betrayed us."

So, initially -- initially the tone had
been set that our credibility was in fact like nil.
We responded by saying the State troopers are look-
ing, the guards are looking through the window. We
have ahd to sign waivers. The Governor has set us
up to be killed, and if any of you hit us, attack
us and the State is able to see it, then that is their
signal and their excuse to come in and not only kill you, but kill all of us. We are as expendable as you are."

And one of the observers-- who had the greater credibility than all of us -- spoke up and said, "Yes, the others are telling you the truth. The State has played the same old game, divide and conquer and then kill them all."

And then he said, "These Brothers have been put into a trick." And he said, "They are not responsible for what the State has done."

Now, when we went into the yard, this was discussed again, and the message that we had sent to the Governor was read and then subsequently that Oswald had given the one inmate to give to them. And it was discussed about, you know, the same old game of the system pitting people against people; using them against each other and hopefully to justify their actions, to kill them all.

And these kinds of things were discussed.

And the inmates said, "We are not going to fall into that game. These brothers have been honest with us, but this is how the system works."

So, at that particular time, anything -- literally almost anything, I think, that the State had
said before was still questionable, very questionable at that time, and only the Governor -- and I repeat, if Oswald was willing to set me up

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Only the Governor's presence at Attica could have resolved that particular thing at that time or given more time to re-establish—to re-establish that in fact they were going to live up to whatever they had agreed upon, you see.

Now, we spent a lot of time re-establishing our credibility, because, frankly, in that yard you didn't know if the guy who walked up to you, even to guard you and protect you, might in fact not turn on you. You have no assurance what would have happened to you.

So, when we went back in there the whole question of re-establishing our credibility was in fact of great concern.

Q You were placed on the defensive right from the beginning by the Oswald note?

A That's right. Very, very much so.

And, you know, the meeting started off with many of us making statements. I made one—I think all of us made a statement, basically in the yard. The inmates, first of all, made statements and we then spoke and then we got into the question of interviewing the hostages and then we were supposed to stay in there only one hour.

I asked for one more hour. They gave us another
hour because Dunbar had told us to be out at five.

Q Who gave you the other hour, the state?

A Yes. We sent Clarence Jones, I think it was, back to the A-gate to tell the state that we wanted to stay in for more time so they would give us another hour, and we went through a very emotional thing in that yard, all of us, because I think a lot of us, for the first time, realized that "The political system really didn't care about us" and that we were in fact equally as expendable as the inmates, because I thought, you know, being a member of the state legislature, that I was a fairly important black man and I found out that I was, you know, nothing but a black man that could be, you know, eliminated very easily as the inmates.

That's a very shocking thing to realize that, you know, the Governor of my state would in fact jeopardize my life and thought nothing of it.

In fact, I credited that if Tom Wicker had not gone back in there with us, that I don't know what might have happened, but I think that Tom Wicker was probably more valuable than any of us in there because I think Bill Knustler and Art Eve said absolutely nothing and I say that Tom Wicker really saved my life.
Q    In all of these circumstances and having had experiences in dealing with inmates and people who have a great deal of disbelief about the system, do you think it would have done any good to repeat the statements of Saturday night that this was the best that the inmates could get?

A    Well, I think we had said that, and you must realize that some of the most sophisticated gentlemen I have ever met in my life, that given the opportunity for an equal degree of education and a full access to the system, could be president of the United States of America and that had been around and been some of the sharpest guys in the streets that had been street educated very well and that could determine and knew what was going on.

There was no question in my mind that the men who were acting as negotiators were the same kinds of men that we have in our community, that when any riot takes place in the black community there is always those who come out, who try to stop the riot and try to attempt to negotiate between the black community and the political system that has created the condition and that's how I looked upon the changes, the--upon the guys that handle the negotiation, that a riot had happened, the inmates had stopped it
themselves and that a very difficult and very negative thing had happened, but out of it they should try to negotiate something very positive and that's what I saw the negotiators, as men that had a great degree of credibility and confidence of the inmates who were attempting to negotiate with the system and who understood it and in fact understood it better than I did, and so, when you get to the question of when you present the facts to them, and the facts alone, they were capable of making and reaching the kinds of decisions that they had to make effecting their own lives and all they wanted for us to bring back to them was in fact the fact that the truth and I think our efforts on Saturday in fact with the limitation of time we had of one hour--we were trying to put in that one hour.

In fact, again, our own credibility had to be, you know, brought back.

The interview of the hostages we felt had to take place, but because we asked for more time we had more time. In fact, most of us were willing to stay in there almost inevitably if we felt that that could in fact help, but the inmates ordered us out of the yard just before 6:00 and I will never forget the one inmate who said "It's getting dark outside. The
state troopers and the correctional people might not be able to see inside. They may think or may not know that we have not hurt any of the observers and if they think that we have hurt them they may come in here and not only kill the hostages and the inmates, but also kill the observers; that they have shown that they do not in fact value their life."

And he said further that if a massacre takes place, we want these observers to be able to tell the truth about what happened at Attica; that in the final analysis, if the lives of the hostages and the inmates are lost by virtue of this massacre, then the world must know that animals were not in D-yard, but outside running the government and the system.

Q These were the words of an inmate to you?
A Of an inmate.

Q Were these the parting words?
A These were the parting words. Then he said, "Let's get these men out of here. Let's not jeopardize their lives, you know, let them get out of here and get this message to the Governor and hopefully the Governor will basically be convinced, you know, that, you know, he needs to come."

And I think all of us expressed--at least I expressed that I was asking the Governor to come.
I felt that the hostages asking him to come would be very important because many of the hostages talked about wives, their children; that they felt many of the changes that the inmates asked for should take place and they said, you know, "Governor, if you care about our lives, you know, just come to Attica" and, you know, I frankly felt that this might help because these were white people, they were employees of the State of New York and they were saying, you know, just come to Attica and talk to the observers committee and everyone said just talk to us.

I don't think anyone made reference about coming in and talking to the inmates because they had our copy of our message because we took in a written copy when we went in the second time, so that it could be read emphatically and very clearly.

Q Now, Sunday evening after you left the yard did you make some last-ditch efforts to persuade the Governor to come?

A Yes. We talked with Oswald extensively in the room. Some of us wanted to have a press conference. Some of us wanted to have a press conference attacking the state for its actions, attacking the Governor for his intranse position
at that time and hopefully to mobilize pressure.

In fact, I remember about 3:00 that day I called my office and asked my secretary to call Rev. Abernathy, to call Roy Wilkins, to call any national figure, you know, Minister Fairkind, Elijah Mohammed.

I said "Call every black leader in the world, you know, and anybody who you can think of and get them to call the Governor to ask him to come or get them to come to Attica.

After that the phone was cut off. We couldn't make any calls after 3:15. I think that was the last call that went out to organize national black leaders.

Q That was 3:15?

A 3:15, 3:30, something.

But it was before we went back in the yard the last time. I made and I asked my girls to please call and ask--get every living soul you can reach to call the Governor and to in fact see if they can come.

I think Abernathy had stated that some people did call him and ask him to come to Attica, but he had another appointment.
Q What did Oswald say that night when you pleaded with him?

A Oswald—Knustler discussed to him this negotiating on the amnesty thing, you know, 20, 30 years, life, and so forth, let's sort of talk about that, so we could say that men wouldn't get the chair and you know, other sorts of things and that was all in the legal aspect.

Oswald said to us, and he said, you know, that he had done what he felt he could. In fact, on this press point we were somewhat divided, but after listening to Oswald and feeling that he was really trying to be objective, even though Knustler, who I think is one of the greatest guys when it comes to wanting to talk to the press, he loves to talk to the press.

Bill Knustler said, you know, "Ease off of Oswald. Give him a break. Let's not have a press conference. We think the man is really trying to do a job, Let's wait and meet with him tomorrow. Maybe the Governor—maybe he can make a decision tonight to force the Governor here."

We just thought that anything might happen, but Oswald said to us, he was under great pressure. He had gotten telegrams and calls from all over the
nation and world, I imagine, and then he talked about two people who's relatives were in there, some women from the particular area, who said, now, they wanted him to go and do whatever he had to, but he also singled out a man who was on TV, that he spoke of, who had a son in there and he said, "You know, this man's son is in there and he is saying I should go in there and even bum them all and that's when I really began to realize that people outside had been dehumanized to a great degree.

And he said he was under great pressure and he didn't know what to do. He was someone alone in that room where decisions were being made and thought of a sympathy developed for Oswald, that he was our hope of getting the Governor and Bob Douglas to change.

Q He was Hamlet, like, in the room?

A Yes, something.

And he said, you know "I am going to go in tonight. Meet me back here tomorrow morning and we will talk about it further. Let me think over it, pray over it, whatever else it might be."

Q Did you ever get another change to speak to Commissioner Oswald?

A No. When we got back in there the next
morning and when a number of us had gotten into the observer room, I asked if I could speak to the commissioner, because then we couldn't go out of the room unless we got permission from a correctional officer who was our guard over the door and the deputy commissioner came in and said that Oswald could not speak to us and was not allowed to speak to us anymore, would not be, and that's when we reached sort of a conclusion that they had made a determination to go in.

Q That was on Monday morning?
A That was Monday morning.

Q Now, you mentioned that one of the purposes you thought could be served by the Governor's visit was for him to observe the mood of the troopers and correction officers outside the--

A Not only to observe them, but I think to get our interpretation of the mood and the situation as we saw it.

Q Would you describe for us the mood as you saw it and how it reflected itself and manifested itself towards you?
A Well, as I mentioned prior to that, one guard had called me a boy on Saturday after Officer Quinn--I was no longer assemblyman with this particular
individual, I became boy, and that's one of our first symbols among blacks, the racist system when they lose respect for our manhood.

When I had the experience with the woman in the restaurant who said that Senator Bobby Garcia and I, and just us, because Tom Wicker was there also, that they hoped they killed all of us; of the guard who subsequently brought our food in and who said that if he knew he was bringing this particular thing in to us that he would not have brought it; of Herman Badillo who went to get some food because sometimes they forgot to feed us for like hours and almost a day and went to get some food from the Kiwaniis Club that had been set up inside the walls.

Q The Lyons Club?

A The Lyons Club. I'm sorry, I don't want to blame the wrong club. The Lyons Club. And the man told him that the food was not for his consumption, that he was looked upon as an enemy.

I imagine this was the concept, but subsequently a young man who was working there whose father was in there as a hostage, Herman Badillo told us did come over to him and gave him a sandwich and said that all of us don't feel that your efforts are not valid and that you are trying to resolve the problem,
but the guys who were there at the main table--so, we had had little indications--

Q That man was the son of a hostage who was killed during the police action, Mr. Harding?

A Yes. He was subsequently killed, I am told, but the young man felt that we were there trying to, you know, resolve the problem, where some of the others felt that maybe we were not.

So, we felt that these were valid symptoms of the feeling inside and that Officer Quinn had died and, you know, it's like in human circumstances that I know if I have a colleague who is very close to me and he dies, I am going to be very angry and that anger is mostly intensified within the first two or three days.

As time goes on, sometimes that anger--when we have a time to discuss it and realize certain things, sort of diminishes; so, Sunday and Monday was very critical in that if they sent people in, the whole kind of psychologically and emotional situation was in fact, very, very dangerous.

Q You have been speaking of correction officers--

A Right.

Q What about the mood of the state police? How do you feel about that?
A Well, the state troopers are very well trained and they in fact, I commented them on Saturday evening or Sunday--yes, Sunday, by saying "Gee, I wish the correction officers are as trained as the state troopers because they were evidently able to hide their feeling and their bitterness because they still called you Assemblyman Eve. They showed you a great degree of respect and I attributed that to their "training" and I commented on that, but subsequent as they went into the yard I guess many other things came into their mind, but I didn't know who was going in first.

We felt that the state troopers were, but we didn't want any of them--we didn't want anybody to go in because our message was if you send the troopers in, a massacre will take place and I agree--I wanted you to remember that that message was not made by just the black and Puerto Ricans there or the black and Puerto Rican legislators; that was agreed upon by Sen. McGowan, Assemblyman Emery and Assemblyman Walkly. Okay? The guys who represented that area who agreed to the text of that message that if you send the troopers in, Governor, a massacre is going to take place.

Q Now, you were particularly concerned about
the result of a confrontation where you had an all white force and you had a population in the yard which consisted not only of people who were convicts, but also largely black.

Was there any discussion at all in your presence with any of the officials about trying to get an integrated unit, national guardsmen or some other forces to participate in a retaking, if it had to take place?

A No. I don't think--you know, again, we did not know that they were going in until Friday--Monday morning. At that particular time we were cut off with any communication with anyone who was making decisions.

So, on Sunday we were dealing with a whole series of questions where we didn't even want to say that "Hey, are you ready to go in" because if I felt that they--you know, that Oswald was not going to live up to his word to talk to us again the next morning, then we would have had the press conference that night; we would have done a lot of other things, but, again, you know, many of the observers felt that he is trying to be reasonable, he doesn't want to go in, he is going to give us a chance to talk to him again tomorrow and maybe, you know, a guard can reach
him that night or somebody else and things would change.

But, when we were cut off the next morning, we didn't even have a chance to talk about, you know, who is going to be sent in, what kind of troopers are going to be sent in and so forth, because the first request when they said to us we cannot talk to them and after they told us that they said they wanted all of us to leave, and then we had discussed among ourselves that we were safer inside that building on the second floor than outside with the townspeople and that secondly, we wanted to stay in there so that whatever we could see--because we couldn't see in the yard, we were blocked off from seeing there.

But, we felt that we should stay in fact in that room for security measures and also for what we could, you know, subsequently see, be whether wounded or anybody who came out.

Q Now, assemblyman, you were kept in this room during the period of the police action and the taking the institution and then there came a time when Mr. Dunbar took you on a tour of the institution after it had been secured, took you on a partial tour.

A Right.
Q Would you tell us, first, who went on this tour with Mr. Dunbar on Monday morning?

A On Monday morning after the massacre and the state had informed us that they had secured the facility and that all the wounded had been taken out, the dead, and that the inmates had been transferred to C-block, that it was safe for us all to leave; that a group of state legislatures were coming and they wanted to give them a briefing on what had happened.

I said that I wanted to stay and be a part of that briefing process.

Senator Bobbie Garcia said he wanted to stay and so did Herman Badillo and we asked the other observers "Is it all right for us to stay; do you think we should?"

And they all agreed that we should stay for the briefing because they made it clear they were not going to brief any observers who were not in fact legislators.

I think it's important to understand some of the feelings that went into that yard. Prior to that when we were sitting in the room we had individuals observing what was happening out in front and Julian Tubber--Tibber--Topper--
A Tepper, yes, from the Washington law firm was our observer at one window and he kept telling us about, you know, the wounded hostages that were coming out and then they brought out a black inmate that we assume were wounded and we all went to the window to see if he was one of the leaders and also to see what kind of condition he was in.

My first reaction was, you know, see if it was one of the leaders who was handling the negotiations and we went to the window and we saw—we stayed there. The man moved and we assumed that he was alive and then we saw two other men, after he was put down on a stretcher, we saw two other men come over, pick up that stretcher with this man's body on it, walk several steps and slam his body to the ground as hard as they could and we said, "Gee, what really happened inside that yard?"

But when—when these 50 legislatures came, many of them had come from all over the state. I think Dominick DeCarlo, chairman of our codes committee, had flown from New York City and there were others there who came from the Buffalo general community, Senator Lafonse and McGowan and several others, but the group numbered some 10 to 15, I'm not
Dunbar came in with Mr. Curtis (phonetic)—I think his name is—from Council 82 in the room and he said he is going to give us a briefing.

Q Council 82—that was the correction officer's union?

A Yes. Of the correctional union and he began to tell us that they had no choice; that they knew that two hostage's throats had been slashed or killed since Saturday.

Q Who said that?

A Walter Dunbar, and I said to him, "You mean to tell me that you knew that two hostages had been killed since Saturday? You allowed us to go in and out of that yard and the Governor endangered our lives because we were dealing with a more difficult situation than we were dealing with before, with just Officer Quinn's death, which could have been done in the overtaking of the institution, but not in fact premeditated, but when he told me that you knew that two guards had been killed since Saturday and you did not exchange this information with us, you were in fact playing with our lives because any man who killed those two guards on Saturday knew that they could get the chair and so another life
really didn't mean very little and he said, "Yes, they knew, but they did not tell us," that was the first upsetting statement.

They also told us that he told us that he was a former naval officer and that he had had experience in so-called, you know, attacks and take-overs and that other men in there had had certain military experience and he told us how the helicopters flew over and how they--one of the inmates told them to give up, they would not hurt them and so forth and how they dropped the tear gas and used tear gas that had never been used in the state, it was very strong, very sensitive, and that, you know, it was so strong that we got cases of it.

I would also like to say that prior to our going in, we asked for gas masks that Monday morning. I asked as chairman of the group for them to give us gas masks and when they were about to go in and the helicopters were flying over, we knocked on the door and asked for our gas masks and the deputy commissioner, not Dunbar, I believe, but one other, came to us and said that the truck with our gas masks got lost.

So, we then asked for a jug of water in order to put water in our mouths, put it on our handkerchiefs and to hopefully protect ourselves in any way we could
so we sat in that room without any gas masks.

Now, he went through to tell us about the attack and the D-Day and the strategy and so forth.

He said it was a miracle that they got so many hostages out who were not killed, that their estimate was it was 8 or so that was killed and X number of inmates who were killed.

Q Did they tell you how the hostages were killed?

A At that particular time he didn't go into any real great detail. He just gave us the statistics and how they were killed--I mean, so many. Then he called on Mr. Curtis (phonetic), who is president of Council 82, whom I never met, but who had attacked me in the press because I had attacked the treatment of inmates at Auburn Prison by some of the correction officers, but Mr. Kirk has said to a group of legislators that they were basically responsible for what took place at Attica. I think it's very appropriate to repeat what he said.

He said, "You gentlemen, when you practice discrimination, when you deny people equal education, equal job opportunities, decent housing, when you created a society that created crimes," he said,
"You create a society by your actions, legislative or administrative," and he said, "You created a society that created criminals and then you send them in to us in a physical structure which is not physically capable to do the kind of rehabilitation that should be done" and he said, "Then when we ask you for money to retrain our correctional officers to deal with the kind of people that you created in your society and made a criminal of," he said, "Not only did you not give us the money to retrain our correctional officers to deal with this kind of situation, but you cut our appropriation so that we had less men in this institution than before to deal with an institution by virtue of its physical structure is hardly to maintain good security."

And he said, "You, many of you in this room are responsible and you helped contribute to it."

I was shocked, because I didn't expect him to come in that way, and then he said further--he said, "Many of the men who have come out of there who were hostages have told me that they owe their lives and that they were protected by men who believed in the Black Muslim religion, the men who were followers of the Black Muslim religion. They offered them the
greatest degree of protection for the whole duration that they were in there and I asked him to repeat--he repeated it and I said to my colleagues, "For three years I have attempted to let you get people to practice their own religion." I said, "I am not a Black Muslim. I do not know fully what their teachings are and they have been a positive aspect in my community, and if they were able to strengthen men to make their lives--then I think it's a good thing," and I said, "I hope you will allow people to practice their own religion."

After that they cut it off and we went out into the yard. He took us on a tour in an area called Times Square, which is the second floor level overlooking the yards. That's the area there, the grey area in the center of the yard.

Q: Now, would you say he took you--this was Mr. Dunbar?
A: Dunbar and one other lieutenant or captain that walked over.

So, he came out to the front of A-block there and went upstairs and then walked out on Times Square. Deputy Commissioner Dunbar walked us about half-way up to the Times Square area, down a little further, say generally a little further--yes, about right in
there and he said "This is where the inmates brought some of the hostages" so we could see.

He said they bind them up in a position of execution and he said, "We had given them the ultimative of one hour and one hour was almost up" and he said, "We saw one of them take a sharp instrument and he demonstrated--stamped a hostage in the stomach and we assumed he was dead, and he said, "We saw another one take a sharp instrument, and slit the hostage's throat and we assumed he was dead."

He said, "But we still didn't go in."

He said, "Not until we saw what an inmate did to young Officer Smith." He said when we saw this inmate take young Officer Smith--he called out the young man's name, because his father was the one who was on TV the night before saying "Go in there and bum them all."

And so the idea that I got in my mind was maybe the inmates saw it and they evidently saw it, and I said, "Maybe they singled him out, maybe this is the reason."

Q What did he say he saw happen?

A He said he saw this inmate take a sharp instrument, cut out this man's reproductive organs and take the young man's organs and stuff them in
Q Who do you say said that to you?
A Deputy Commissioner Walter Dunbar.
Q He said he saw an inmate emasculate an officer?
A That's right. Either he or the state—in fact, Herman Badillio said, "Did you see this?"
And he said, "Not only did we see it, the helicopters were taking pictures. We have pictures of it and we were using a new telescopic lens."
So, we couldn't challenge that.
There were four men on the ground who were fully clothed and about 20 out in the yard. A-yard there, lined up one behind the other, buck naked. That's when I saw two of the leaders, and I told Senator Bobbie Garcia, "There is Jerry the Jew and Champion."
Champion had a bandaid around his head and I said, "I'm glad to see them alive." And the four men on the ground, I asked were they alive or dead and he said, "No" and they were in their yard—
Q He said, "No, they were alive?"
A Huh?
Q Well, you say he said, no. No what?
A He said, "No, they were not dead, they were alive," but they had them separated because they
were men that they could identify who had committed murder or who were, you know, men who were the key men for the death of the hostages. And that's one, to my best ability.

I said to Senator Bobbie Garcia, "There is L. D. Barclay."

Q Was the man who you said to Senator Garcia was L. D. Barclay, was he lying on his face?

A Yes. The description was he was lying on his face, head to the ground. - I could see the side of his face and the back of his head--

Q But you couldn't see the front of his face?

A No. I could not see it.

In fact, Bobbie Garcia asked me am I sure it was him. I said, "Yes, I'm sure it was L. D. Barclay."

I said, "I saw him at the negotiating table."

I said, "He was always in the process of the discussion get up and say 'I want to be sent to a non-imperialistic country. I want to go amnesty. I want federal take-over of this institution.'"

Every day he would say this and in fact sometimes he would sort of agitate me because he would always bring these issues up, but I said, "There is L. D. Barclay" and I said, "You know, I was glad to see
that the three of the guys who were on the table are alive" and we questioned among ourselves where were Bleiden and Clark and, you know, the other guys, whether or not they were dead, Jerry the Jew, Sam Melvin and others.

Q As we have told you before, Assemblyman, we have satisfied from our inquiry that the man who you saw and whose face you couldn't see was not L. D. Barclay.

A Yes, and you said he was someone who evidently looked like him. Someone of the legislatures asked, "Is one of those four men the man who did that awful thing to young Officer Smith?"

And Dunbar said, "No. We have him over here," and they walked us back towards the administration building past the half-way mark down--yes, about right there, I think--and he said, "We have him over here."

Then over in the yard, off from the wall sort of, was Frank Smith, the last man that we had talked to on Sunday night when we left the prison yard. He was chief security and he had escorted us to the gate. We had all embraced with each other. We had hugged each other and some of us even cried together. And there they had Frank Smith on a
brown table in the yard, buck naked on his back with a football resting on his neck.

Q  I'm letting you mention his name because this has been widely reported in the press.

A  Right. Frank was identified as the man who had taken the sharp instrument, cut out Officer Smith's reproductive organs and stuffed them in his mouth.

Q  Would you say he was identified--this is--who said that to you?

A  Oh, no, Frank was on his back facing up.

Q  But who said that this was the man--

A  Dunbar. Dunbar. I'm sorry.

Q  Just so that there can be no misunderstanding on this, I should state that we are satisfied from the investigation that young Officer Smith was not emasculated and that two hostages were not killed on Saturday night, but the testimony that we have been adducing is pertinent in terms of the rumors that were being spread on Monday, that were being heard by state troopers and correctional officers who were then returning men to their cells and we believe that this is a pertinent fact in the investigation, even though the stories that were reported to Assemblyman Eve, Assemblyman Eve has testified to
are not factual in that no officer was emasculated and two hostages were not killed on Saturday.

A Frank I could identify with no question. He was a very heavy set black man. You know, we got to know him pretty good. He has a raspy voice or sort of thing and I said to myself, you know, why did Frank do it? What happened to make him do it?

Q In other words, you believed, you credited the story that was told to you?

A I believed it and then after that he led us over into D-block and he showed us where the inmates ran, he said, as the last area of resistance, they they had to come in and use the kind of force to get them out; that they were bent on killing and that they had no other alternative.

Q Did he point to a trench-in D-yard?

A Yes.

Well, we went up in D-block first. When he took us around, he took us up into D-block--yes, up into D-block and we went down some of the halls there and he showed us the blood--no, we went in this side here only. He showed us the blood and so forth and he told us this was the last area of
resistance, this was where groups that were bent on killing ran and they had to go in and do whatever they had to do.

They then led us back out into the area past Times Square over the yard looking over D-yard and he told the legislators, "This is where the inmates had their little city or area."

About at that particular spot he singled me out and he said, "Assemblyman Eve, did you know that the inmates had a hostage buried in the ground that they had killed since Saturday?"

And I said, "No."

He said, "You mean to tell me you walked in and out of this yard and you did not know that a hostage had been buried in the ground since Saturday?"

Q Who said that?

A Deputy Commissioner Dunbar.

And I said, "No, I did not know it."

I came in and the inmates surrounded us and led us over to the negotiating area up against the A-block over there and this area here, you know. I really didn't even go over to--in fact, we weren't even looking on the ground. We walked in and we went to the negotiations.

He said, "We dug a hostage out who had been dead
for two days. His throat had been slashed. His body was stiff."

Then he pointed to the hole in the ground and said, "That's where we dug a hostage out."

Now, all of this was told to us as a point of fact. It was not told to us, we allege, we suppose, we think—we were told this as a very emphatic fact, even to agree that they had the people who committed the acts, they had the body that they had dug up. They had identified it as in fact being a hostage.

Now, as you know, all of that has subsequently and is, you stated, a falsehood.

The thing I regret the most is that I repeated that lie to my wife and kids, to my family. I repeated that lie at a meeting of a black group that night who had asked me to report on what had happened and I told them what I had been told.

I have subsequently been back to the prison and I saw Frank Smith. I asked him to forgive me for believing that in fact he had done it.

Q You were shocked when you heard those stories?

A I was shocked.

Q Did you imagine what the mood was of some of the officers and others when they heard that?
A I imagine that it probably was, very, very bad and it made all of the evil and all of the dehumanization of anyone probably come out. I'm sure that your testimony and your investigation will show the dehumanization of what happened to the men who went in there and subsequently who took over, but the medical examiner has confirmed that and subsequently I left.

I would say that when I went out the press asked me what did I have to say and I said that I would not understand to the day I die why the Governor of the state refused to come and talk to five or six state legislators and a congressman who had asked him simply to come and talk to us and not to the inmates, and I said he had a private plane.

I called the name of the legislators and in fact I broke down and couldn't talk anymore; but again I did not understand the political system and political decisions as well as the inmates and especially the one who said that the men for the most were not inside D-yard, but outside running the government and the system.

And frankly, if I ever believed in God, I have to believe in him to get my sanity, because I do not believe that people could in fact tell such a
viscous lie, use such human bodies to display and to confirm that lie and then subsequently say that they did it in human error.

Q To complete the story with respect to the person who you were told was removed from the trench and had been buried there several days and was a hostage, that was removed from a trench in the yard, the body of an inmate who had died in the assault as a result of the gunshot wounds. I didn't want the impression to be left that in fact is what you were told was so.

A Right.

MR. LIMAN: I have no further questions.

MR. MCKAY: We will start the questions from the Commission this morning with Mr. Wilbanks.

MR. WILBANKS: Mr. Eve, many witnesses have told us that inmates knew it was all over on Sunday, that negotiations had reached an impasse over total amnesty, yet one observer told us that as the six, I believe, observers were leaving the yard on Sunday night, one inmate leader told to him, I suppose in a private discussion, that the inmates were not rejecting the 28 demands out of hand and that there was some
give on amnesty and that he should go and try to negotiate a compromise.

I recognized that you discussed it, that this was brought up at the discussions of observers later, but my question is: Did you know that there were inmate leaders who had made this request and indicated that there was not an impasse over total amnesty?

A Yes. You know, around that time these guys allowed people who may not have been designated by the inmates, per se, as chief negotiators, but around the table you had your Puerto Rican segment who sat and they talked with the Puerto Rican legislators. You had your blacks, some who I knew better than others. You had your white inmates. They sat around the table together, but none of them would converse with us while in fact many other people were talking.

And Bill Knustler made this very clear that night; that he had talked with the inmate leaders, that he was their attorney and that the whole question of total amnesty could in fact be discussed.

MR. LIMAN: That was Sunday night?
THE WITNESS: Sunday night,

yes.

I think Bill Knustler made that very clear. In fact, as I say, Bill Knustler of all people moved for us not to have a press conference because he felt that there had been some indication given that Oswald wanted time to think about it and to possibly get back to us the next morning and that we could get further conversation on it and that wasn't Bill's posture to avoid talking to the press, but I think he realized that we had reached a serious point and that we should not do anything that would hurt Oswald being able to exercise leadership; that if we had a press conference that there would be a counter-reaction and he said, "You know, let's not do it. Let's give him time. Let's let him think over it over the night and let's get back with him the next morning."

And that's what Oswald said.

So, there is no question that this thing within two or three days we felt could have been resolved.

MR. WILBANKS: The reason I asked that question is that, you know, the impression might
have been left that just the observers used this as a last straw type of thing, but inmates did communicate to you that this was a negotiable demand with time it could be worked out?

THE WITNESS: Yes.

MR. WILBANKS: Did you and the inmates realize that you were negotiating for 10,000 inmates, in effect, for all the inmates in New York State and not just Attica?

Sometimes this is misunderstood.

THE WITNESS: No. Let me say this. The inmates said to us, especially on Thursday night, Friday mainly, that prisons in New York State have been used as a form of dehumanization and a form of a genocide process. They called it genocide. They said that the "system dehumanizes us, attempts to break us and ultimately return us back to our community in which we will in fact commit crimes, physically and bodily, against our own people."

And the black inmates even went further to say that 85 per cent of the black and Puerto Rican—if you dehumanize and break us so that we no longer value human life, who are going to be our victims when we return back
to our own communities; our own people and they said we did not want to be a part of that genocide process; that the system is attempting to develop a total cadry and army to return back to the black and poor areas and I think, yes, they knew and they may have felt and I must commend them that if Attica had, in fact, made a breakthrough with making those institutions human, rehabilitative, corrective, and made them so that they did in fact have a positive effect on helping a man rid himself with whatever his problems and basic deficiencies were that it would have to in fact be spread throughout the State of New York penal institutions.

    I think, you know, Oswald made that very clear to us.

    MR. WILBANKS: Excuse me. You said spread.

    Do you mean if the demands were granted they wouldn't go in effect at all the institutions; that was your understanding at one time?

    THE WITNESS: Oswald knew that whatever was agreed upon at Attica had to go through the whole thing and I think everybody realized that.

    Everybody realized that, but Attica was
And he said, "Where I lived they thought on in the name of Urban Renewal, told us that we would be moving back in a year or two into nice homes; told us that we would have an opportunity to rent at a reasonable rate and he said the area hasn't been built up yet and we had to move into even worse and overcrowded and more slum and ghettoed conditions."

And he said, "Who made that decision?"

"Again, the political institution to tear it down and not build it up."

And he said, "I live in an area which was overcrowded of poor kids. Poor kids who needed a place to play with good supervision, direction and programming, to utilize their energies effectively. He said, "But they didn't build those kind of institutions for us, even though we know that poor families are bigger than middle income and richer families and they know we have more kids." And then he said that the Milton Eisenhower committee and the Kerner committee has documented that racism is in every institution in America and he said it has become politically expedient for us to..."
at that most immediate time the critical institution. Attica was where the action was. Attica was where lives would either be lost or saved and therefore we had to deal with Attica specifically at that particular moment.

MR. WILBANKS: One final point.

I have heard this talked about quite a bit, the idea of minimum wage and paying for the costs incurred by the state for keeping an inmate up and you mentioned this that it would include paying the cost of the guards and everything.


MR. WILBANKS: I did a little arithmetic while you were talking. If it's true that the state says that it costs 6,000 or so dollars a year to keep one inmate. If you give that inmate $2 an hour, which is 20 cents above the minimum wage, for 5 hours a day, which is presently what they are working for, 7 days a week, he would only make $3640 a year, so he would owe the state $2400.

Are you aware of this type of arithmetic?

THE WITNESS: No. I wasn't, but I think that had a very psychological and emotional aspect as far as a man working for his worth and giving
him dignity. I think some of the inmates, I'm sure, and I haven't seen any of our programs or anything because I have been very busy, but I'm sure that some have told you what their wages were, how they were not allowed showers, but once a week, how they went through the kind of things that really break a man and, you know, help to even further deteriorate his values if in fact his values had been deteriorated and there they wanted some accountability as about what happened to their wages.

We discussed, I think, Thursday night, in there to a great degree what happens to the inmates' money and what kind of interest do they get, who gets that interest. They have told us that the State of New York made a considerable amount of money off of the kind of things that they build in that institution and in fact they were not getting their just results.

They talked about the farm that produced fruit sufficiently to provide them with fruit 12 months a year, but was in fact being sold by the correctional institution within the town. They talked about, you know, many, many things and I think if we got down to paying them minimum wage,
and having them do this, that we would have gone in further and I hoped to go further into what really happens to their money when it's taken by the state and put into various banks and institutions and the interest off of that, whether or not it is in fact given to the inmates, into an inmate fund and not the warden's fund, as I understand their interest goes to. But these are things that I have heard that may not be in fact truth, but I think it warrants some serious investigation and some evaluation.

MR. McKay: Bishop Broderick.

BISHOP BRODERICK: Assemblyman, I was interested in some of the observations you made. One was your role as an observer, which you reduced somewhat as others did to that of a messenger.

THE WITNESS: Yes.

BISHOP BRODERICK: You said you had no policy making, but you were just someone who is carrying a message.

THE WITNESS: Right.

BISHOP BRODERICK: Even though you were chairman--"chairman" of the observers and you
spoke to the command headquarters of the state and you did not have access to that?

THE WITNESS: Right.

BISHOP BRODERICK: My question, simply, is this: Do you think that was based on your--on the fact that you were a democrat?

THE WITNESS: No. Anyone that knows my political existence in Buffalo—and it's well-known in this New York State Legislature—I ran a black man for mayor independently as a third candidate in the City of Buffalo in 1969 because I felt that the democratic and republican leadership was not offering leadership. I have never been endorsed by the democratic party and machine in my area. I have been denied job allocations by the democratic majority because of my independence.

I have had a total political existence that has had to, and it has always been, based on the value of man. I attacked the democratic leadership in Albany. I have attacked the republican leadership in Albany. I called my democratic colleagues in the last session a group of fascists and Nazis for supporting in one year bills--resident bill. That lost me
And anyone, even Bob Douglas, knows in fact there were times when the Governor and those had various different political crises they came to me because they considered me to be independent and that they could talk to me not as a party individual, but as one who would do those things which he felt was in the best interests of people.

So, my whole political existence has not been based on party and Bob Douglas knows this and the Governor knows it better than anybody else. Okay?

BISHOP BRODERICK: Somehow it came out that maybe you would not consider Mr. Douglas your closest personal friend.

THE WITNESS: Well, in working within this thing Bob Douglas knows that we have been always able to talk and that is not, and I can't matter—you know, for someone to bring up a petty political consideration that I consider very pedicel—petty, when we are dealing with human life and to use that as someone an excuse for not developing dialogue—

BISHOP BRODERICK: I asked you merely
THE WITNESS: Yes, but I'm merely saying that—in fact, this is the first time I have been asked specifically on this and some people, like the Governor's response was that my impeachment proceeding was a political gesture, a grand stand.

Well, the Governor knows me better because it has literally meant that I have to suffer politically by trying to impeach the Governor and if I was considering political consideration with all of his wealth and money and power that he has in both major parties, I would have not went across with my impeachment proceedings, but I am convinced that anybody who would author and be a part of what happened at Attica and the manner in which it did happen is not fit to be Governor of the State of New York and that—and that alone was my decision and the reasons why I in fact did that, what party—party is nothing but an implement—in fact, in the black community of my area, if they were all republicans, I would be a republican and run in the primary. If they were all liberals, I would be a liberal and run in the liberal primary to get on the ballot.
I would be whatever I have to be in order to get in a position in order to make the system or attempt to make it responsive to human needs.

Party is nothing but a tool to be used and it is not the answer. It is not the safeguard and it is not the final institution.

Part of what happens politically--because the Governor of my state really has great influence in both political parties to a great degree.

BISHOP BRODERICK: Assemblyman, on the question of the matter of Officer Quinn's death you said something about the press publicized the story fabricated by the state. That's the message I got from your words.

THE WITNESS: Right.

BISHOP BRODERICK: When you say state, did you have anyone in mind or any spokesman?

THE WITNESS: Somebody must have told the press how this man was injured and the press was not allowed in Attica on Thursday, the early part. The inmates asked for the press because they wanted the press to come in and to document the conditions and so forth and what was going on.
BISHOP BRODERICK: But there was no press release given by the state to the reporters; was there?

THE WITNESS: I wasn't aware of what the state was giving the reporters because they did not privilege us inside with a lot of their press releases and statements. They did this through their P.R. men outside and at times we were not aware of what was going on, at least I wasn't. Maybe there were other observers who were in fact aware of what the state's actions were in certain areas, but I wasn't in that particular case.

BISHOP BRODERICK: My last question is that you said that for two years you tried unsuccessfully to get black troopers in New York State and you failed and are you still trying?

THE WITNESS: Yes. We are trying and next week I will ask on the Fourth Legislature the black and Puerto Rican caucus to ask the Federal EDOC office to come in and investigate the State of New York and its employment practices in all its state agencies and its contract agencies because Mr. Bob Lamb of the Justice Department and the Commission went and met with the Governor last
year in March or May. I had sent him material. I had met with him and I have the Federal Government become involved in trying to work with the state and in increasing the numbers of minorities in our state troopers.

And I have mentioned Bob Lamb's name so that if anyone doubts it, they can subsequently locate Mr. Bob Lamb, who is now in Philadelphia, as the regional director there of that particular commission.

And he brought his boss, his superior to Albany to meet with the Governor and the appropriate state superintendent, but they gave all of us a series of lip talk and no action and I am convinced that if, of the thousand troopers who stormed into Attica, if one hundred had been blacks and Puerto Ricans, the massacre would never have taken its form that it subsequently did, because there was only one black state trooper, to my knowledge, that was there and his name is Mr. Heritage.

I understand that he was on the outside. I had requested him to guard our door because I was scared that a correctional officer who guarded the door might have gotten very frightened and
bitter might have turned on us and shot us, so I had requested the one black correctional officer--state trooper to guard our door, but they said they couldn't find him.

So, to my knowledge, he was the only black present.

MR. LIMAN: To make it clear, he did not participate in the retaking action.

THE WITNESS: No. I understand he was no where involved in the retaking action whatsoever.

REVEREND BRODERICK: Thank you.

MR. McKAY: Mrs. Wadsworth.

MRS. WADSWORTH: Assemblyman Eve, by continually, to the Commission hearings, look for ideas for where we are going in the future and new thoughts. I was interested when you were developing the process by which the 28 demands came together, that you did touch a thought I had not heard before, which was the one of the cell block going into a self-determination and plan.

I think that this kind of idea I'm sure, took very little time and got little attention, but often I think we skip over some
of the creative thoughts too quickly and go by something that might have the germ of an idea there somewhere and so that rather intrigues me as a thought. Were there other creative thoughts at that time which were not able to be worked into the 28 demands but other thoughts which we should know about and work into our thinking?

THE WITNESS: Well, you know, I think, many of the inmates have stated that these institutions can change its treatment and psychological barriers without any cost. I don't know how you reach into the hearts of people and make them relate to people as human beings. I would like to say to you that I think it's important. As you know, I was not in favor of the McKay Committee. I have attacked it. I have tried to distract funds for it.

MR. McKAY: Mr. Eve, could you hold on please while the reporter changes his pad now.

THE WITNESS: But I am here to testify before you, even though, as I said, I have expressed otherwise because I don't know where the truth and the courage is going to come from that can arouse people to make them realize that
the guys who are serving time, that
98 per cent or 95 per cent are going to come out of
jail and that we must realize the question we should
ask ourselves is what kind of individual do we want
to return to our community; one who has been helped;
one who has been—whatever problems or basic
deficiencies he has had has been improved and that
he can play a positive role.

We must also move to change the
restrictions that the New York State Legislature
puts on as far as jobs and opportunities, civil
service, driving licenses, just a whole host of
areas that we almost literally make it impossible
for him to "move back into the mainstream of our
society after he has, in fact, paid his debt."

A simple thing like removing the screen
on visitation day. That may not seem like much.
Letting the men do what has to be done within the
institution when they need repairs.

I remember at Auburn Prison I saw them
building a gymnasium there and I asked the
superintendent "Why didn't you use the men to
build this? What better construction training
course could have been instituted if the
inmates in fact were building this institution.
"They would feel a great sense of pride on it. They would love it. They would take care of it and they could learn a skill."

And he said, "Well, you know, the unions don't allow us to have inmates do these kinds of skills" and then when you look at all the other job opportunities that are available outside, if the unions will not allow people to learn these skills, then they will not learn enough skills that can make them competitive within our society, so I think you have to take on the unions.

I have no qualm about saying the construction union in the State of New York is the greatest racist union there is because I have dealt with them and we had an 11 month moratorium, but if you're willing to move, you have got to take on the barriers and institutions that have presented this thing from happening and we have found, as a member of the joint legislative committee on crime, Senator Hughes, chairman, that prisons are a great contributor to our crime in the State of New York.

I think you should sit with the inmates.
You should go over a lot of their innovative ideas.

Any reports that come out of prisons, I send them to the inmates and I say, "What's your opinion?" And I am guided by many of them whom I have a great degree of respect for because they know best how they can improve on their conditions and I think we have got to develop—and this is one of their demands.

You know, for years they have been asking Attica to set up the mechanics by which they can sit with the administration and set up grievances and people have been remiss in not even trying to develop ways in which men can express themselves and feel that somebody is listening.

In many cases all they want is someone to listen and this is the function I used to serve in going to prisons.

You know, a lot of times I couldn't do anything to improve on a hell of a lot of situations, but just that you listen, you are concerned, that you wrote, and sometime when you went, you know, they got clean bedding that day, they got a good meal. Somebody moved them from a stripped cell to a regular cell because
they knew you were coming. You know, it's a lot of things, but we have got to realize that New York State prisons are, you know, just the most abominable things that you can see.

I understand in the select committee on penal institutions, Hugh Jones' committee, that one correctional officer said that the institutions not only dehumanize those that are put in them, but dehumanize those who work in them and I think that's very, very strong indictment against our system, when a correctional officer can say that he is dehumanized just by working inside that kind of, you know, so-called Bastille.

We have got problems, but I say go to the inmates, exchange with them. You know, discuss with them. And I think we can come up with some fantastic innovative ideas.

MR. McKay: Mr. Henix.

MR. HENIX: Assemblyman Eve, there is not very much that I can ask you. I think you have covered just about everything pretty accurately, at least from my understanding of prison, the conditions that exist there, but I have about two questions here.
You mentioned that you saw this inmate, Frank Smith, laying on his back with a football on his neck.

THE WITNESS: Yes.

MR. HENIX: Was there any reason given to you--outside of the fact that he is the guy that was supposed to have castrated this officer, but was there any reason given to you for having him in this position?

I mean, what was the reason for that?

THE WITNESS: Well, somebody sat down and in their sick mind tried to do the most convincing job that there was that this lie was in truth the fact, you know, was in fact the truth.

He must have--someone said, evidently, let's put Frank Smith on a table. He is black. He is a man who showed some compassion on Saturday--on Sunday with the observer committee because the state troopers saw and the deputy commissioner saw us all grab Frank Smith. We were about five feet from the gate. They saw us all hug. They saw us all embrace. They saw us walk out of that cell with some tears coming down our eyes, you see, and we were
You know, they saw that emotion, humane fact, and somebody, somebody must have said, "Let's put him on a table, put a football on his neck like a pig, because you use a stiff ball or apple in a pig's mouth and try and make him look like he is the pig, he is the one who is inhuman, he is the one who did the castration. He was one of the leaders. He was the chief security man."

You know, it was just a sick distorted individual who derived or either--contrived that kind of situation and it was pretty hard for me to conceive that a human being who works for the government and in exercising some degree of leadership could in fact do that kind of thing.

I don't know, you know. They didn't give us any answer. I was shocked by it. I didn't even respond, in fact, on why you did this. You know, immediately my mind was saying, "Why did Frank do it" you know, "Why did Frank do it." It didn't seem like Frank.

MR. HENIX: How did they get a football there?

THE WITNESS: Evidently, the football
was held there and somebody must have told him "If you drop that football, you're dead."

Now, if your life depends on your holding a football on your neck, you will hold it.

MR. HENIX: You mentioned a few atrocities. Can you think of anything else that you might have witnessed or did witness that was going on at the same time that hadn't been mentioned?

THE WITNESS: No. I did not see the overtake of the institution. They told us—in fact, the prisoners were very sophisticated. When we went downstairs and walked through the block, they said, "Here are the weapons they had and they had two guards purposely holding weapons when we went through with so-called alleged molotov cocktails on the top. They mentioned zip guns. You know, it's like everybody had sat down and planned what they were going to say even before they took the facility, because it was such a well-organized thing, well-timed thing, that I have to give them credit, that they had to think of some of it before they went in and that's even more sickening; but, you know—I don't know what kind
of individual would do that.

MR. HENIX: You had mentioned also
that you had objected to the formulation of
this Commission.

Have you been following the procedures
of the Commission?

THE WITNESS: Only what I read in the
press and believe me, I don't have the kind of
confidence in the press, even though I own a
black weekly newspaper because it was necessary
for black people in Buffalo to have its own organ
in order to project positive images of what black
people were contributing to the City of Buffalo
and in my impeachment proceedings, the New York
Post didn't print one word, the New York News
didn't do one word and some reporters said they
were told in advance to kill the story even
before it was printed.

So, you know, you talk about the press.
I hope to get a transcript and I am asking for
the Commission to give me a transcript of your
total hearing because I would like to take my
time and read what has transpired and what has
in fact been said, but, you are my last hope.

Okay? You are my last hope. I have
objected to you. I have fought your funding. I am here, though. I have asked the legislature when I introduced my impeachment proceedings that you convene a hearing, that you, as a legislative body, have the responsibility and the obligation to convene a hearing on my charges to ascertain whether or not they are in fact true. I said, "Make me out a liar. Convene a hearing. You did it before. Convene a meeting."

When I went to Auburn Prison after the rebellion and I stated on the floor what I saw and what I felt took place, they convened a bipartisan democratic and republican five-member committee to investigate my charges. That had never been done before in the legislature where a special committee is convened in order to investigate a member's charge.

But it was convened with both democratic and republican support and the democrats didn't even let me know, Stanly Steingut, until he had agreed on it and selected the people.

That's your question about party loyalty. They are getting me investigated by my own party and didn't even let me know. So,
I asked, convene a hearing, gentlemen.

I presented 30 to 40-page legal document that in fact the man should be impeached, that he violated the law, you see, and I say convene a hearing, make me a liar, but that's your legislature's responsibility and they have refused. They have refused to live up to their responsibility as legislatures and so, you are the somewhat only hope we have of some, you know—in the U.N., I have written the U.N. a number of times to ask their Human Rights Division to come in and I have gotten, you know, literally just no response to a degree, but, you know, the McKay committee, and I met with Richard Clark yesterday and I saw his statement that he had read on you and their feelings about it and, you know, I have some reservation about the operation, but you know you are the only hope we have and I hope you have a total commitment for truth, honesty and the total facts on everybody's role.

MR. HENIX: As far as I am concerned, there is absolutely no other direction it can take.

THE WITNESS: Good.

MR. HENIX: But you did ask that won't
you have a record. I think that is possible in these hearings that we submit a public report, but I, in exchange, as a concerned person of the Commission, because you are not the only person with a lot of skepticism who has charged this Commission, you know, without really really understanding how we are going to go about it, but after you made your review of these documents, I would appreciate it if you would make a personal and public statement to the effect of what you read.

THE WITNESS: Very good.

MR. HENIX: Thank you. I will.

MR. MckAY: Assemblyman Eve. You have been most patient in responding to our questions. In view of at least the skepticism that you have viewed in these proceedings—under our practice, after you have responded to our questions you are entitled to make a statement of your own of anything that you think that we and the public should know about, but I want to make just a three-sentence statement of my own first.

The first is that, of course, a transcript of these proceedings would be available to you and I think that perhaps even as early as today we may
be able to give you a transcript of the proceedings at Rochester, certainly no later than Monday.

THE WITNESS: Very good.

MR. McKAY: Second, I want you to understand that all of the members of the Commission and all of the members of the staff share your aspirations which are to find out what happened, why it happened and what can be done to prevent repetition of such a tragedy. When we report to the counties with the system, many of which I'm sure will be consistent with the difficulties that you find in the system, there will be a discussion from that about things to be done in the future and I think perhaps at some time you and we will be able to join hands and make some of those recommendations.

THE WITNESS: Thank you very much.

MR. McKAY: If there is something you would like to say, we would be most glad to hear it.

THE WITNESS: Yes.

You know, I hope that the McKay committee, live, and with what you have said, you intend to do, that we need an ongoing mechanism to constantly observe, monitor and observe and go into these
institutions on a frequent and consistent basis.

I was at Clinton Prison the month of December and I asked Rev. Metzwollen (phonetic) who is chairman of the United Black Clergy and Rev. State, from the Presbyterian Church, in Schenectady to go with me, a white man and a black man, both ministers.

We went to Clinton Prison and we went into the segregated units and we talked with the inmates. We talked with a number of people. We met with the superintendent and staff, but at a particular period of time we were told that there were 41 men in segregation and the lieutenant who took us on the tour said that they are there for preventive measures.

I said, "What do you mean preventive measures?"

He said, "We do not want the same things to happen at Clinton that happened at Attica."

I said, "What do you mean?"

He said, "We don't want these inmates to rebel and to kill our guards as they did at Attica on September 13."

And I said, "You know, lieutenant, don't
you know that the state troopers killed the hostages on September the 13th; that the throat cutting and the mutilating of bodies and the sticking of organs in the mouths of correctional officers were not done by the inmates, but they were all killed by the state troopers?"

This lieutenant said, "We do not believe it. We do not believe it."

I said, "Do you know the medical examiner confirmed it and the Governor threw in two smart and capable pathologists from New York City, a big city where all the sharp people are," and I said "they are confirmed, the medical examiners report is true" and he said, "We don't believe them."

He said, "They have all lied."

He said, "All of those hostages were killed by the inmates."

How do you deal with that? How do you deal with people who are wanting to hold on to a lie in order to justify inhuman treatment of inmates still in our prisons?

And we cannot talk about making changes by just having a hearing and going away and thinking
that things are going to change.

We have people in these institutions who are running them and when I talked to the commissioner—the superintendent afterwards, LaVale (phonetic), and I told him what this lieutenant said to me, he said, "Well, we are all revolutionaries and we have got to protect ourselves."

I said, "What's your definition of revolutionaries?"

He said, "A revolutionary is a man who will say in the cell block, "Kill the pig white guards."

And then he said, "It's also a man who sends out a letter or receives a letter and at the end of it says, "Right on."

And I said, "Superintendent, you are joking."

I said, "I say right on in the black community like you say Good morning, Good afternoon and Good evening."

I said, "You mean that you will take a man out of the regular population, put him in isolation, take away his privileges, maybe even take away his good time because he writes a letter
and uses the expression "Right on."

Now, that's the mentality of some of the people who are responsible for these institutions and Rev. Metzwollen (phonetic) and Rev. State said, "Eve, if I was not here with you to listen and to hear this mess," he said, "Nobody under God's creation could have made me believe that this kind of dialogue went on." And that's what's going on in these institutions.

And there are some guards who want to make out and acknowledge that the institution is in fact wrong. But they don't have many friends. They are the do-gooders. They are called nigger lovers. They are called men that don't want to uphold the standards of what people who have no business being over control of people are in control and I give you this fact because it is frightening. It is absolutely frightening that when we put forth the truth, people still don't want to hear it; people still don't want to believe it and when I say to you what I have said here today and audiences get up--I spoke to the United Christian Women in Elmira, New York the night before last, mostly white, 50, was the age, or so and after the women said it's pretty hard
for us to believe what you are telling us and I have told them just what I have said here today, that you have in confinement, by your counsellor, that the people don't--are not capable to believe that these kinds of things are being done.

And I say to you that if we do not change it, if we do not make it what it should be, then ultimately we will be destroyed.

Then Steve Rowan, I like to mention the name, Steve Rowan, I'm going to mention this--after the truth came out about the mutilation and the death in Buffalo on Channel 4, we did an interview and Steve said to me, "Eve, I have been in the news business for 25 years. I worked with Cronchite for 10. I covered the Pentagon for 8 to 10 or 9 years. I said I have been all over the world. He said nothing has ever upset me, nothing has ever frightened me, he said, but Attica.

For the first time in my life I am frightened and he said Who in the hell in government can we ever believe again.

That was made by a man who had been in the news business for 25 years, an internationally
known man and further not frightened--

further, not frightened as I am frightened, then
something is wrong with all of us because the
system did that, the system is responsible and
as the inmates said, the dehumanization process
takes place inside the yard and outside the
yard and the definitions of political prisoners
by many of the inmates I have talked to over the
years and why they consider themselves political
prisoners, I think this is something you should
think about.

As one young man told me, he was from
Harlem. He said, "You know why I consider myself
a political prisoner?"

He said, "I went to a school that was
inferior; I went to a school where the physical
plan was a dehumanization institution within itself.
I went to a school where teachers were not committed
to providing me with a quality education. Yes,
there were some committed ones and there were
some only concerned about pay checks."

And he said, "The political institutions
made that determination on the quality of education
I received."

And he said, "I did not get a good
expose and to confirm to racism and he said the cops in Harlem weren't involved in the narcotics and he said the political institutions are allowing narcotics to flow in Harlem because they felt it was destroying, basically, black people and brown people. And he said when I look over my past, I have to conceive and come to the conclusion that the political institutions are the ones who made those decisions to destroy me. He said they made a society in which they knew that if you threw a hundred people in, you would destroy 50 and he said yes, I committed a crime. I am serving my time, but he said if the political institution had made the proper decisions, I would not be here and therefore, I am in fact a political prisoner.

He told me that two years ago—and it makes a hell of a lot of sense—that if our political institutions had made the proper decisions we would not have people in prisons the way we have today, so we have got to change a lot—I'm glad to see a minister up there, a man of God, because the church has failed. The church has failed to be in the vanguard
of the fight for human dignity and
human rights and human dignity. And when they can
come to Albany concerned about the abortion bill,
Father, but not concerned about welfare cuts,
medicaid cuts, decontrol of housing, closed
mental institutions, closing narcotics
institutions, justifying racism, restoring the
capital punishment law and the church does not
take a position!

BISHOP BRODERICK: I think they have.

THE WITNESS: Of the thousands of--they
have loaded Albany, Father, for none of these
things I told you--and if we are concerned about
life, we have got to be concerned about total
life and after it is born and walking so I hope
that all of us will rededicate ourselves to
make this system responsive.

Thank you.

MR. McKAY: Assemblyman Eve, we thank
you very much for being with us today.

The hearing will be recessed until
this afternoon at 2:00.

(Time noted: 1:00 p.m.)
CERTIFICATE

STATE OF NEW YORK )
COUNTY OF NEW YORK )

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

That I reported the continued proceedings (page 962-1107) hereinbefore set forth and that the within record is true and correct.

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 20 day of April, 1972.

[Signature]

RICHARD GREENSPAN