

PROSECUTOR RESTS IN THE ATTICA CASE

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Defense Wants State to Pay
Its Witnesses' Expenses
—Pathologist Testifies

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BUFFALO, March 17—As the prosecution in the Attica murder case today ended the presentation of its evidence, defense lawyers quarreled with the judge over the question of who is to pay for bringing their witnesses here from many parts of the state.

The state's final witness—the 18th in the trial, now entering its fourth week—was Dr. John Edland, the Rochester Medical Examiner who performed an autopsy upon Correction Officer William Quinn on Sept. 17, 1971. The defendants, John Hill and Charles Joseph Parnsilice, are charged with having beaten Mr. Quinn to death during the first stage of the Attica State Correctional Facility uprising.

The pathologist said Mr. Quinn, who was 28 years old, died of serious head injuries and had been struck at least three times with blunt objects. He said the guard had suffered a massive skull fracture and extensive brain damage.

Not on Critical List

For much of the morning it appeared that what was at issue was not murder but medical malpractice as William M. Kunstler, Mr. Hill's lawyer, kept questioning Dr. Edland about the propriety of measures taken by other physicians as Mr. Quinn clung to life for two days.

In response to some of these questions, Dr. Edland said hospital records indicated that the guard had never been placed on the critical list or moved to the intensive-care unit.

Near the end of the cross-examination the fragile civility of the court was shattered.

"Were you told how the 10 guards who died on the 13th were killed?" asked Mr. Kunstler in an abrupt digression. He referred to the deaths of Attica officers who after autopsies by Dr. Edland were all found to have been killed by the bullets fired by state troopers as the troopers retook the prison from the inmates. At the time of the assault it was reported by state officials and by the press that the guards' throats had been slashed by inmates.

Justice Gilbert H. King reacted angrily to the question, saying, "I have warned you before that we're not getting into the events of the 13th. Mr. Kunstler, I'm telling you for the last time" Don't do it again."

Eventually, Mr. Kunstler stopped that line of argument. After Dr. Edland stepped down, the jury was excused and the defense brought a motion asking that the court order the payment of state money to cover the cost of transporting and housing defense witnesses.

Margaret Ratner, who is associated with Mr. Kunstler in the defense of Mr. Hill, argued in essence that the withholding of such fees was unconstitutional. She said that since the state paid its witnesses, the defense was entitled to similar consideration under the due-process and equal-protection clauses of the Constitution. State witnesses received mileage allowances, hotel accommodations and a fee of \$25 for each day they were here.

Only \$180 Left

Mr. Kunstler expanded on the argument and, as he has done repeatedly, depicted the prosecution as having enormous wealth and resources while the defense was penurious. Outside of court he said his defendants had only \$180 at their disposal—all that remained of a \$500 grant from Harry Belafonte, tie singer.

Judge King was not immediately moved by these arguments.

"I'm not going to authorize payment to anyone just to sit here all day," he said. "I'm not going to authorize carte blanche payments."

"If you can't help us get the witnesses here, we may just have to rest mute," said Mr. Kunstler, meaning that he would forgo his opportunity to mount a case.

Apparently the judge, like many in the courtroom, thought that instead of "rest mute," Mr. Kunstler had said, "arrest you," and he rose several inches from his chair shouting, "What did you say? What did you say?"

The misunderstanding was resolved, but as court recessed for lunch, feelings ran high.

In the afternoon the judge said he would consider the payment of fees and costs to defense witnesses on a case-by-case basis, and he called on the defense to provide him with the names and needs of the people they wished to call, and also with some indication of what their testimony would entail. The defense lawyers appeared reluctant as they accepted his decision.

With that matter at rest, the defense asked for a day's delay to enable them to question their own witnesses, whom they said they had been unable to interrogate because of the pressures of time and money.

The judge denied the motion, and Mr. Kunstler shouted furiously: "The state of New York has had two years to prepare this case!"