

Attica Amnesty Compromise Was Possible, Kunstler Says

NYTimes

APR 22 1972

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William M. Kunstler said yesterday that shortly before state troopers assaulted B Yard at the Attica Correctional Facility last September an inmate leader told him that the rebel prisoners were willing to yield on two key points they had previously held as nonnegotiable.

The lawyer, who was acting as attorney for the 1,281 inmates in the yard, told the McKay Commission that as he left the yard for the last time, on Sunday, Sept. 12, a man he described only as a "leader" told him to inform state officials that prisoners were ready to drop their demand for the immediate dismissal of Superintendent Vincent R. Mancusi.

The inmate, Mr. Kunstler said, also indicated that the prisoner demand for total amnesty from criminal prosecution arising from the revolt had become "flexible."

Prior to this discussion, which was publicly reported for the first time at yesterday's hearing at the studios of Channel 13 at 433 West 43d Street, the position of the inmates had been that the 28 reforms agreed to by the state were meaningless unless Mr. Mancusi was dismissed and unless they were granted blanket amnesty.

Possible Compromise

The commission, headed by Robert B. McKay, dean of the New York University Law School, was appointed by the state to investigate the prison uprising.

Mr. Kunstler said it was his understanding that some form of compromise could be negotiated on the amnesty question, possibly a promise of commutation of any capital punishment imposed because of the death of a guard who had succumbed as a result of injuries sustained in the uprising.

The attorney said that he had conveyed this to Russell G. Oswald, the Commissioner of Correctional Services on Sunday night and that Mr. Oswald had told him he would take these matters under consideration and that "he had a tragic decision to make."

Mr. Kunstler said that the conversation had taken place less than 12 hours before troopers and helicopters assaulted the yard in an attempt to free 38 hostages held there for nearly five days. Forty-three people, including 11 hostages, died as a result of the uprising.

'Executioner' at His Back

The attorney's testimony followed that of Lynn Johnson, a 26-year-old correction officer who was one of those hostages. Mr. Johnson said he stood blindfolded with an "executioner" at his back during the storming of the yard.

He said he could hear the "chuck, chuck, chuck" of sub-machine guns. Then, he said, the executioner struck him in the back with a pipe knocking him down. The inmate pulled him up and knocked him down again, he said.

"Then, I guess I passed out because the next thing I remember was a trooper lifting my blindfold," said the officer, who now works at a penal camp for young offenders.

When he came to, he said, the bullet-ridden body of the man he took to be his executioner was lying near his feet.

Mr. Johnson said he thought Governor Rockefeller should have come to the prison when he was invited by the observers' committee. He said he did not think the Governor would come but had hoped for such a visit "as a common decency."

He told the commission that he had been beaten with a pipe as he was led through a gantlet to the circle in the middle of the yard at the very beginning of the uprising, but that until the final minutes the hostages were not menaced and were protected by a cordon of inmate security guards.