

GOVERNOR GIVES ATTICA TESTIMONY

Tells Inquiring of 2 Reasons Why He Declined to Go to Prison During Riot

By MICHAEL T. KAUFMAN

Governor Rockefeller's decision not to go to Attica during the prison rebellion there was based on both his philosophic belief that elected officials should not negotiate under the pressure of criminal acts and his view that his presence at the prison would not serve in a practical way to break the deadlock between the state and rebel inmates.

This twofold rationale runs through much of the 83 pages of testimony given by the Governor to the McKay Commission on April 5 and released yesterday by the state panel. The commission ended its public hearings here last week on the Attica uprising.

The Governor was given the choice by the commission of either appearing in public or testifying in private. His appearance before the commission took place at his New York City office and lasted for more than two hours.

Authority Delegated

The Governor opened his testimony with a long extemporaneous statement that detailed his involvement during the five days that began with the takeover of the maximum-security prison and the seizing of hostages by inmates last Sept. 9. Subsequently he submitted to questioning by the commission and its chief counsel, Arthur Liman.

A good part of the Governor's remarks concerned his belief in delegating authority to subordinates in whom he had faith. He said that he had given Russell G. Oswald, his Commissioner of Correctional Services, complete latitude in dealing with the rebellion.

As to the assault plan and the weapons to be used, he said that except for suggesting at one point that tranquilizers might be used, he left the matter of tactics and deployment to professionals in the State Police, whose judgement, he said, he trusted. He cited their retaking of two cellblocks at Attica immediately following the riot and their quelling of a street riot in Rochester three years ago, both without firing a single shot.

Tranquilizers Rejected

He said that on his suggestion for tranquilizers he was told that their introduction into the prison yard in either water or food would be impracticable.

The Governor said that the initial request for his going to Attica had come from members of the outside observer committee. He said that several members of this group, including Representative Herman Badillo of New York City and Tom Wicker, columnist of The New York Times, had asked him to go to "buy time."

He said that the men making these pleas did not know what good his visit might do, but felt something could happen if the Governor went to talk, not with the inmates, but with the observers.

During the hearings last week, Mr. Wicker said it was the sense of the committee that the Governor's visit could have accomplished two things:

One, that by delaying what was then felt to be the inevitable state attack, it would perhaps allow certain "nonnegotiable" items on both sides to become negotiable. And, second, that it might permit the Governor to see firsthand the mood of the massed assault force—a mood that the observers characterized as growingly undisciplined and hostile.

28 Points at Issue

The Governor said he was again asked to go to Attica by his own staff people, in a modification of the observer committee's plea.

He said that some nine hours before the state attack, in which 29 inmates and 10 hostages were killed, his staff recommended that he agree to go if 28 points on prison reform, originated by the prisoners and refined by the observer committee, were accepted by the inmates and the hostages were released.

The view was that if this were done, the Governor should go and lend the weight of his office to the state's acceptance of the 28 points. But the prisoners insisted that the 28 points would be meaningless if they were not accompanied by guarantees of criminal amnesty.

In his testimony, the Governor said he had rejected the request of his staff representatives that he go to Attica on the same grounds that he had dismissed the observers' plea: that the inmates had turned down the 28 points and that such a gesture on his part would not be useful.

Mr. Rockefeller also said he felt that if he went to Attica to speak to the negotiators, "the first thing the inmates would do was say, 'we demand the Governor comes in the yard.'" In earlier testimony Commissioner Oswald had told the Commission of fears that Mr. Rockefeller might be taken hostage if he went inside the prison.

In addition to releasing the Governor's testimony, the nine-member Commission, headed by Dean Robert McKay of the New York University Law School, also distributed copies of a transcript of testimony made on April 15 by five members of the

Governor's staff who were at the prison during the rebellion.

The five are Robert Douglass, the Governor's secretary; Dr. T. Norman Hurd, Director of State Operations; Gen. A. C. O'Hara, former head of the National Guard and Commissioner of General Services; Michael White-man, counsel to the Governor, and Howard Shapiro, first assistant counsel to the Governor.

Testimony by General

In the 172-page transcript of the April 15 proceedings, General O'Hara comments on his activity during the time of the state attack. He said he was on the second floor of a cellblock near correction officers who were armed with shotguns. He said that he did not see these men fire and that at one point he had told their commanding officer that under no circumstances were they to shoot.

Previous testimony of the commission indicated that some correction officers violated the attack plan and did fire from the approximate location where General O'Hara had been standing. The commission staff attributes two deaths to firing by correction officers who were not supposed to participate in the attack.

A state police detective, John Steinmetz, had told the commission that he was assigned as an aide to General O'Hara and that the general had been in the middle of a group of correction officers who fired shotguns from windows of the cellblock during the state attack.