Ex-Guard at Attica Admits at Trial He

Alton Tolbert, the witness, embarrassed appeared meek as he told the court here that his original account of seeing an inmate that he recognized, strike Correction Officer Tolbert, now a correction offitor, argued bitterly that under officer in the vicinity of Times cer at Elmira, said that, in the laws of evidence Mr. Tolfact, he had not seen Mr. Quinn bert was not a proper witness Mr. Quinn was on duty] said he at all on the morning of Sept. and should not be allowed to saw a black inmate swing a 9, 1971, when the Attica prison take the stand. He insisted that shovel at Mr. Quinn. It is unwas first taken over by in-the issues on which the guard conscionable for the jury not

Though his testimony was to the case on trial. startling, its impact on the mur- For his part,

Mr. Tolbert in June, 1973, and state law. and had him sign a document re-

Guard Assailed as Witness

William E. Quinn with a shovel such an identification by the fense knows that on the 18th was a complete fabrication. Mr. jury, Louis Aidala, the prosecu-of September 1971, a correction would testify were collateral to have that information. It is

By MICHAEL T. KAUFMAN der trial here remains vague. Kunstler, Mr. Hill's lawyer, said By MICHAEL T. KAUFMAN der trial here remains vague. Kunstler, Mr. Hill's lawyer, said Lawyers for John Hill and Charles Joseph Pernasalice, the two defendants charged with the killing of Officer Quinn, have alleged that the state has years he had falsely accused an inmate of striking an officer who later died because he as their first witness, with whom he had never spoken, might provide two defendants charged with have alleged that the state has gainst the defense was obliged to them. By calling Mr. Tolbert vouch for the truthfulness of its witness, the de-long with the witness, with whom he had never spoken, might provide the killing of Officer Quinn, have alleged that the state has gainst the defense was obliged to as their first witness, the de-long with the witness, with whom he had never spoken, might provide the killing of Officer Quinn, have alleged that the state has gainst the defense was obliged to the most of the witness, with whom he had never spoken, might provide the witness, with whom he had never spoken, might provide the witness, with whom he had never spoken, might provide the witness, with whom he had never spoken, might provide the witness, with whom he had never spoken, might provide the witness, with whom he had never spoken, might provide the witness, with whom he had never spoken, might provide the witness, with whom he had never spoken, might provide the witness, with whom he had never spoken, might provide the witness, with whom he had never spoken, might provide the witness, with whom he had never spoken, might provide the witness with he witness, with whom he had never spoken, might provide the witness with he witness, with whom he had never spoken, might provide the witness with he witness, with whom he had never spoken, might provide the witness with he witness, with whom he had never spoken, might provide the witness with he witness, with he witness, with whom he had never spoken and he witness with h who later died because he as their first witness, the de-wanted to further" himself fense lawyers sought to identiand obtain a transfer from Attify him with the state prosecuthe guard's stories the defense
to a prison closer to his
home.

Alton Talbort the witness cution itself that summoned
witness, a practice forbidden by

> Finally, Ramsey Clark, Mr. Pernsalice's lawyer, rose and declared: "The issue is really Perhaps, because of fears of the prosecution knows, the deunconscionable for use to have William M. to weave our way through a lot of technical rules."

The trial is being held before Justice Gilbert H. King of State Supreme Court.

Mr. Tolbert laughed ner-vously when, in response to Mr. Kunstler's questions, he said that on two occasions he told state troopers investigating the Attica disorders that he had seen an inmate named Kenny Orr swing a shovel at Mr. Quinn in Times Square. He said he had gone to the state police to volunteer this information.

'A False Statement'

"I told them a false statement," said the guard, who later conceded that he could not even see Times Square at the time of the outbreak.

Mr. Kuntsler asked why he had lied.

"In my own mind I thought I could further myself and possibly get transferred to a prison nearer my home," said the officer, who had been at Attica only three months at the time of the riot. He said that two months after the disorders he was transferred to Elmira Correctional Facility, which is in his home town.

The defense attorney asked

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Falsely Accused a Prisoner

the witness whether he had been suspended by the Depart- were told in words and subment of Correction after he had stance to get out of here after repudiated his story in June of your story was found un-1973.

"No," the officer replied ed. softly.

"Were you disciplined?"

"No," Mr. Tolbert answered. had caught him in a lie related carried the wounded officer to another case. Mr. Tolbert Quinn on a mattress towards said this was so.

"And is it not true that you worthy," the prosecutor shout-

Mr. Tolbert answered, "Yes," between gulps of water.

In earlier testimony the name In his cross-examination, Mr. of Kenny Orr had come up. He Aidala sought to disassociate was identified by one of the the witness from the prosecu-prosecution's five former intion's investigation. Raising his mate witnesses as being in a voice and scowling in anger he cell block where inmates had asked the witness whether it refused to join the rebellion. was true that as far back as In fact, he had been identified June of 1972, the prosecution as one of several inmates who safety.