

An American Atrocity

By Tom Wicker

The dismissal of two grand juries that for years have been looking into the 1971 revolt at the Attica Correctional Facility puts an end to one set of injustices but perpetuates another. The loose grab bag of indictments against more than 60 inmates—about 1,300 charges in all, most of which proved insupportable—had already been dropped by the state, and the dismissal of the grand juries means no more such charges will be brought.

It also means that no charges are going to be brought against those who pulled the triggers, and those who let the triggers be pulled, in the six minutes of indiscriminate state police gunfire that on Sept. 13, 1971, took the lives of 29 inmates and 10 guards and prison employees who were being held hostage. More than 80 others were wounded seriously enough to require medical attention, which the State of New York had made little effort to provide. But no one now will be indicted for the known and provable incidents of violent physical retaliation visited upon inmates by guards and state police after the prison's recapture.

As far as can be ascertained, moreover, there will be no indictments, either, of those state police and prosecution officials who have been three times castigated for the manner in which they conducted the Attica affair. Bernard S. Meyer, the Superior Court judge who carried out a special investigation of the Attica prosecution, and former Manhattan Assistant District Attorney Alfred J. Scotti, who was appointed Special Attica Prosecutor after the Meyer report, have both been heavily critical of the one-sided prosecution and particularly the state police, who in the aftermath of Attica were allowed by the Rockefeller administration to investigate themselves.

Mr. Scotti made the point again in asking Justice Carman F. Ball to dismiss the grand juries. He had hoped to seek indictments of two members of the state police, one for intentional homicide and one for obstruction of justice. But, he said, "the unavailability of the evidence required for successful prosecution of these two matters may be ascribed . . . to the serious deficiencies in the state investigation . . ."

Mr. Scotti's assistant, Irwin Rochman, raised the possibility of administrative discipline by the state against some state policemen and Attica guards who took part in the recapture of the prison, the beatings of inmates afterwards, and the later obstructions of justice during the investigation. But if the state has evidence to warrant "discipline," it should have had evidence to warrant prosecutions; and the record so far does not justify much hope that state administrators

will take strong action against the perpetrators of the numerous crimes of Sept. 13, 1971, and the cover-up.

That record does not include failure to prosecute the inmates who took part in the revolt. One guard is known to have been killed by inmates; for that crime one man is serving a sentence for murder, and another has been convicted of assault. Eight inmates pleaded guilty to various charges. Another remains under indictment, while a fugitive, for the killing of another inmate. All others of the 62 inmates named in 42 indictments have been acquitted, or the charges have been dropped for lack of evidence.

So every citizen of New York should be clear as to the facts. While the inmates who revolted were prosecuted, and convicted when juries believed the evidence sufficient, the state did not even bring indictments against those who killed 39 men and wounded 81, who organized and supervised—or failed to supervise—the attack, who failed to provide sufficient medical

IN THE NATION

care, who conducted or permitted illegal physical reprisals, and who obstructed justice during the later probe.

If that had happened in any other country, Americans would call it an atrocity, which is what it was—an American atrocity. The state's dismissal of the grand juries merely puts on it the final seal of official indifference.

It is coincidental only in the most limited sense that the grand juries were dismissed as the finance committee of the Republican Senate was voting to reject Governor Carey's nomination of Herman Schwartz to be chairman of the Commission of Correction. Mr. Schwartz's defeat was only one more entry in a long record of contempt and disregard by the state for its prisons and their inmates.

Not that the members of the committee rejected Mr. Schwartz because he is a compassionate and knowledgeable prison reformer. They rejected him *in spite* of that, in spite of having themselves set up the reform commission he was to have chaired, for political reasons that have little to do with him or the prison system.

"Schwartz is caught up in a world he never made," one Republican told Linda Greenhouse of The New York Times. "We've been the loyal opposition for an entire year, and there's a feeling it's time to turn the Governor down on something."

Inmates will know how to read that. So will prison administrators, and whoever Mr. Carey nominates to replace Herman Schwartz. Politics takes precedence over reform, as always.