

A TOP APPOINTEE ASKED ON ATTICA

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23 Legislators Urge Carey to Pick 'Top Attorney' on Cover-Up Charge

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By M. A. FARBER

Twenty-three New York legislators, including 13 Representatives, yesterday urged the appointment of "the very best attorney available" to investigate a charge that the chief Attica prosecutor had covered up possible crimes by law enforcement officers.

The appeal to Governor Carey came as the Governor and Attorney General Louis J. Lefkowitz intensified their search for a lawyer to name as Special Deputy Attorney General in the new Attica development.

"We're looking for an attorney of integrity and outstanding reputation, and we hope to have someone within a few days," Mr. Lefkowitz said. "We don't want this thing dragging on."

Among the persons believed to be in the running for the temporary post are Francis Bergan, a former judge of the State Court of Appeals, and Bernard Meyer, a former State Supreme Court justice. Mr. Bergan declined to comment on whether he had been approached for the position; Mr. Meyer said he had not been asked.

The cover-up charge against Anthony G. Simonetti, the chief Attica prosecutor, has been made by Malcolm H. Bell, a former chief assistant to Mr. Simonetti who conducted most of the grand jury hearings on possible crimes by law enforcement officers during and after the Attica prison riot in September, 1971.

Appointment Planned

Mr. Simonetti categorically denied Mr. Bell's accusation.

As the controversy over the allegation widened last weekend, Mr. Carey and Mr. Lefkowitz announced that the Attorney General would name a Special Deputy Attorney General to "evaluate the conduct" of the state's three-year investigation and prosecution of alleged crimes stemming from the Attica revolt.

The Special Deputy Attorney General, who will be appointed after Mr. Lefkowitz "consults" with Mr. Carey, will have broad powers to inspect secret grand jury minutes and take sworn testimony. He will have "complete independence," according to the Governor and the Attorney General.

Mr. Lefkowitz and Mr. Carey both concluded last Saturday that an independent inquiry into Mr. Bell's charge was needed to "assure public confidence" in the Attica investigation. The two officials met briefly yesterday afternoon to go over their separate lists of candidates for the Attica post.

Report Sent to Carey

Mr. Bell first made his accusation against Mr. Simonetti in his letter of resignation to Mr. Lefkowitz last Dec. 11. He sent a 160-page report on the alleged cover-up to Mr. Carey on Jan. 30 after concluding that the Attorney General did not intend to pursue his charge. The New York Times disclosed the charge last Tuesday.

The 23 New York legislators wrote Mr. Carey yesterday that any person who had committed crimes during the Attica rebellion or had hindered the prosecution of alleged crimes "must be held accountable."

Sixty-two inmates have been named in 42 indictments arising from the Attica revolt. No state troopers or correction officers have been indicted, although 39 persons died from their gunfire during the storming of the prison on Sept. 13, 1971.

"Whether one agrees with all of Mr. Bell's charges or not," the legislators wrote, "we must agree with his statement that 'One Watergate in this decade is enough.'" The statement by the legislators was encouraged by Representative Edward I. Koch, Democrat of Manhattan.

Bell Ordered to Testify

Other developments yesterday included the following:

Justice Theodore Kasler of State Supreme Court signed a subpoena ordering Mr. Bell to testify in Buffalo on Thursday in a pre-trial hearing of a case in which several Attica inmates are charged with kidnapping guards during the riot.

Justice Joseph S. Mattina scheduled arguments tomorrow in State Supreme Court relating to the contention by a Buffalo woman last Saturday that she had spied on the Attica defense team for the Federal Bureau of Investigation. This case, in which an inmate, Bernard Stroble, is accused of having killed a fellow prisoner, began yesterday. Mr. Stroble's attorney, Haywood Burns, contended that the alleged "spying" by Mary Jo Cook had prejudiced a fair trial for his client.

The F.B.I. admitted last Saturday that Miss Cook had been a paid informant for the bureau on the Attica defense team. Yesterday, the Manufacturers and Traders Trust Company in Buffalo confirmed Miss Cook's statement that she was referred for a job at the bank by the F.B.I. in 1973.