HONORABLE HERBERT H. LEHMAN,
Governor of the State of New York,
The Capitol,
Albany, New York.

My dear Governor Lehman:

I was interested in reading yesterday's papers, particularly the Times and Tribune, to the effect that a demand had been made on you by the Federal Bar Association of this Department for an investigation into the calendar congestion of the courts of this city and the causes thereof. I am writing to you because of my interest in this matter, and because of the fact that during the three years that I was Chairman of the Trial Judges of the First Judicial Department in 1926, 1927 and 1928, more was done during that period to relieve calendar congestion than in any other period in the history of the courts for this Department. It is a fact that today there is congestion in all the courts. This applies to the Supreme Court, the City Court and the Municipal Court. Up to 1925 no real serious effort worth mentioning was ever made by anybody to approach properly the subject of calendar congestion. At that time, as a result of a proposition embodied in a report of the Bar Association of the City of New York, and upon the recommendation of the Association, a special committee on calendar congestion was appointed to consist substantially of Victor
J. Dowling as Presiding Justice of the First Judicial Department, the Presidents of the Bar Associations, viz., the Bronx County Association, the Association of the Bar of the City of New York, the New York County Lawyers Association, and three Trial Judges from the First Judicial Department, to be appointed by myself, and including myself.

This committee was appointed and began a most studious and systematic study of the entire subject matter. The committee was finally extended to include one of the Surrogates, the President of the City Court, and the President of the Municipal Court. At various times this committee was composed of such men as Judge Charles Evans Hughes, William D. Guthrie, Henry W. Taft, Judge Seabury, Clarence Shearn, Sol Stroock, Judge Proskauer; likewise, Surrogate Foley, Judge Schmuck and Bernard S. Deutsch.

In my opinion, this committee produced remarkable accomplishments. When we started functioning the Supreme Court calendar for New York County alone was composed of something like twenty-nine thousand five hundred cases. The calendar was about three and a half years behind, and the calendar was gaining at the rate of thirty-five hundred cases a year. By various progressive means and methods the calendar was attacked and I had the satisfaction of knowing that when I resigned from the Supreme Court Bench in November, 1928, the calendar had been reduced from twenty-nine thousand five hundred cases to eighty-
eight hundred cases. The committee was responsible for increasing calendar costs from seven dollars a case to thirty-seven dollars a case, bringing more revenue to the Government, and at the same time making litigation more expensive, and therefore a more serious business for those litigation-minded.

To obtain increase in costs, I had to personally appear before the Legislature and work indefatigably to get through the necessary legislation. Likewise we provided for non-jury cases. We were responsible for the ambulance chasing investigation conducted by Kresel. We had more frequent general calendar calls to get all the "dead-wood cases" off the calendar. The committee met practically every week on Tuesdays at the Appellate Division where we were there presided over by Judge Dowling.

All the men to whom I have made reference made worthwhile contributions and it was indeed a great moment to see the remarkable interest displayed by all of those very busy professional men who contributed valuable time to bring about much desired results.

After we had obtained much needed improvement in the Supreme Court calendar, we gave much attention to the City Court calendar and also to the calendar of the Municipal Court. Every suggestion we made met with opposition from many sources, and I am sorry to say that many who should have helped, merely opposed.

After I had taken up with Mayor Walker way back
in 1927 the condition of the Magistrates' Courts and had the promise of his help and cooperation, I addressed to him a communication, a copy of which is herewith enclosed. He never helped. He never even replied to my letter. But the Special Calendar Committee was responsible for putting through the Legislature the bill for the reorganization of the Municipal Court and the Committee was successful in doing this on its first attempt, notwithstanding the fact that a commission appointed for the purpose of reorganizing the Municipal Court had failed three or four times in having put through a bill reorganizing that Court.

I regret to say that during the past few years there have been many additions to the calendar and all calendars are now climbing. I have not seen the most recent figures of the Supreme Court calendar, but I understand that there are several thousand more on today than there were in 1928.

I have always felt that calendar congestion was an ill that could be cured by the use of aggressive, progressive scientific methods. It cannot be attacked for a few months or a few years and then be permitted to slumber for other years. New causes are always coming up that add to calendar congestion. A committee appointed for the purpose of studying calendar congestion in all our courts could very readily reach the proper conclusions as to the cause, and provide necessary remedies. It may be difficult to get a Legislature to fully cooperate,
because many of the Legislators are lawyers. They are not anxious that litigation should be made difficult or costly. The study, however, of calendar congestion should be approached by men of vision and courage. Men of the type that I have mentioned in this letter could aid greatly in bringing about desired results. Justice delayed is justice denied, and I for one feel that the time has come when the proper kind of a study should be made of calendar congestion and a comprehensive plan arrived at that will end it once and for all.

Justice Finch of the Appellate Division is today carrying on the work that was started under Justice Dowling. His task is a very difficult one for many reasons, since the committee that is functioning under him is more or less of an unofficial committee.

If it should be decided that some men or body designated by you is to attack the existing calendar congestion, then I would suggest a very intimate and careful study of the work of the committees that served under Justice Dowling and Justice Finch.

The above suggestions are merely made to you by me as one intimately acquainted with the subject, having a great interest, at all times, in the improvement of all our Courts.

Yours very respectfully,