

members with outstanding legal qualifications, as well as several very competent lay members. Accordingly, by leave, I move—

That the proposals contained in this Bill be referred to the Statute Law Revision Committee for examination and report.

The motion was agreed to.

#### SUPREME COURT AND COUNTY COURT (JUDGES) BILL.

The House went into Committee for the further consideration of this Bill.

The discussion was resumed of clause 2, relating to the number of Supreme Court Judges.

**The Hon. R. J. HAMER** (East Yarra Province).—This is an enabling clause, the effect of which will be to raise the maximum number of Judges in the Supreme Court from twelve to fourteen, and it is complementary to another clause in the measure, which will increase the number of County Court Judges by two, from thirteen to fifteen.

In the course of the second-reading debate, members of this House reasonably asked for further information on this measure, and I hope that some of the details that I shall try to bring forward will throw some light on the necessity for a measure of this character. I repeat, however, that this is an enabling provision and that the timing of any appointments and the number of any new Judges to be appointed must be decided by the Governor in Council in the light of the state of the lists and, of course, the available accommodation.

I submit, however, that any examination of this problem shows that there is a pressing need for something to be done. To put it briefly, there has been a general increase in the work of the courts over the last few years, and the backlog of cases awaiting hearing is a blot on our administration of justice. Some of this increase is quite predictable, arising as it does from the increase of population. Some of it is less predictable because it stems from the fact that in Australia there is a large number of motor cars per head of population. Perhaps I should state the point in the reverse way, but we are

singularly favoured in the number of motor cars in the community. What is less favourable, however, is that we lead the world in the proportion of motor car accidents. The result is that our courts are clogged with motor accident claims.

The third factor, bearing this time on the delays in the administration of justice, undoubtedly arises from the increasing number of migrants who are seeking legal remedies and who have some trouble in following English legal procedure and, indeed, the English language. The over-all picture is one that requires remedy. In the County Court there are thirteen Judges and, of those, one is permanently required as chairman of the Licensing Court. Two more are permanently engaged as chairmen of the Workers Compensation Board. Further, there are calls on County Court Judges to act in the capacity of chairmen of the Police Classification Board, the Police Discipline Board and the Industrial Appeals Court. The net result is that somewhat fewer than nine Judges are regularly available for ordinary court work. Of those, five are engaged in hearing criminal cases and only four are left to deal with ordinary County Court work. In the second-reading debate, Mr. Slater mentioned that there had been a substantial increase in the number of complaints issued out of the County Court. As compared with 1956, that increase was as high as 30 per cent. in 1957, and a still further increase is apparent this year. The result has been a time lag in the hearing of cases in the County Court, which now stands at about ten months and is getting worse. No complaint issued out of the County Court this year has yet been heard. The County Court is still hearing complaints issued in 1956 and 1957, and I submit that this is a deplorable state of affairs.

In the Supreme Court, the increases have not been so spectacular, but they are still general. The jury cases list stands at 659 at the moment, requiring, if they could be obtained, four courts to deal with them as a regular thing, but normally only two Judges are available. The time delay in hearing

jury cases is about ten months. In the causes list there are 267 cases listed, which would require, if available, two Judges permanently, but only one is regularly available and a second sometimes. The time delay is nine months in hearing cases on that list. Here again, as in the County Court, we find that in the Supreme Court no jury case, and no cause issued this year has yet been heard. In the divorce list there are 584 cases awaiting hearing and the time delay is much better; it is only three months, but still it is too long. When we turn to the criminal side, the situation is even more alarming. There is one Supreme Court Justice and five County Court Judges permanently engaged in hearing criminal cases, and between them they deal with about 100 trials a month. But there has been a very considerable increase in the committals for trial, increasing from 2,060 in 1956 to 2,377 last year, which is an advance of 15 per cent., and a still further rise is in prospect from 1958. Fortunately, perhaps, about one-half of those committed for trial plead guilty. If that were not so, and if all persons committed for trial had to be tried, there would be real chaos, but even so there are more cases coming to trial than the courts can at present deal with.

About one-third of those committed for trial are in custody and two-thirds are out on bail. Very naturally, priority is given in the hearing of the cases of those in custody. Then the delay in hearing a case is about two months. For those out on bail, the delay is six months on the average, but cases are not uncommon where trial occurs from twelve to fourteen months after an offence has been committed. Those figures have been supplied by the Solicitor-General, and I submit that they reveal an alarming state of affairs which we as a Parliament should deal with. Our guiding principle should be, as it has been for hundreds of years, the clause in Magna Charta which states, "To none will we sell, to none will we deny, to none will we delay right or justice." How can we be satisfied that justice is not being delayed when a man must remain behind bars for two months before he

is tried; when a man on bail must wait six months with a charge hanging over his head before the issue is determined; when a man who is injured in a motor car accident has twelve months to wait before recovering damages from the person who injured him? I submit that we cannot be satisfied with that state of affairs, and that somehow or other the work of the courts must be expedited.

Mr. Galbally made certain suggestions about the speeding up of justice. He proposed that the whole concept of negligence in relation to motor accident cases might be abandoned. That aspect should be examined, but I think the matter has much wider ramifications than merely motor accident cases. I do not suppose that Mr. Galbally, in his most sanguine moments, could expect that that was an imminent possibility. He mentioned also the need for simplifying legal forms and legal processes. I think we have made great strides in that respect in recent years, and we are now making better efforts than formerly to get at the kernel of the matter without too much technicality, but none of these measures, I submit, can be immediately expected to solve the problem. For my part, I believe a greater immediate contribution could be made if we tackled the subject of civil juries as a whole. I am in favour of abolishing them in relation to motor accident cases, because I consider that to an ordinary layman the legal concept of negligence is difficult to understand. A disproportionate part of the court's time is taken up in explaining the principle of negligence, and in many cases, I am quite certain, the juries do not adhere to it or apply it at all.

In addition, time is taken up in the courts in empanelling juries. Some 120 jurymen are summoned each day at a cost of £2 10s. a man, and only a few actually serve. In my opinion, the course of justice would not be damaged but rather assisted, if, as in other States, the jury system was not used in motor accident cases. Another course which could be followed—I understand the Supreme Court is

examining its possibilities—is the centralizing in some way of the empanelling of juries, thus reducing the number of jurymen needed each day. That would save a lot of time, and, incidentally, a lot of money. The Solicitor-General has informed me that negotiations are in hand for the Law Department to take over three floors of the London Assurance Company's new building now in course of erection on the former site of St. Patrick's Hall in Bourke-street, the meeting place of the first Parliament of Victoria. If they are successful, seven new courts will become available and that will enable all jury trials to be heard in the one building. I mention that matter because some honorable members were concerned about the court accommodation problem. It is quite clear that if these new courts are made available, the current need to borrow or beg court accommodation from the High Court or local courts of petty sessions in the suburbs will be obviated and great simplification of the jury system will result.

Since the war, we have been plagued in Victoria by undue delays in the administration of justice, and severe criticism has been levelled at all Governments, in the press and elsewhere, particularly because of delays in criminal trials. I believe that the arrangements now being made, of which this Bill forms part, offer the best prospect we have yet had that something can be done to alleviate this problem and will enable us to be more satisfied in the future regarding our administration of justice. I hope this clause and the Bill itself will be accepted by all honorable members.

**The Hon. E. P. CAMERON** (Minister of Health).—I am sure that all honorable members will join with me in congratulating my colleague, Mr. Hamer, for his contribution to the debate. I was requested by certain members to supply further information relating to this Bill. I have obtained from the Law Department the details required and have them before me. However, as Mr. Hamer has already acquainted the House of the material, I take it that there is no need for repetition by me.

**The Hon. J. W. GALBALLY** (Melbourne North Province).—I should like to join with the Minister of Health, and, on behalf of my party, congratulate Mr. Hamer on this thoughtful and closely-reasoned speech. I am sure the House will listen to him in the future with interest, and I hope we hear from him often. It is quite a privilege to listen to Government back benchers. We hear the Ministers frequently, but apart from those honorable gentlemen there is a strange silence afflicting members on the Government side of the Chamber.

The real difficulty which confronts the courts and which causes delays in litigation is due to one thing and one thing only—the enormous increase in motor vehicle accident cases. Other forms of litigation have not shown the same steep increase. This Government proposes to tackle the problem, not at its source, but by adopting the expediency of appointing four additional Judges really to try motor vehicle accident cases. I believe that the system of awarding compensation to people injured in road accidents is cumbersome, and suggest that the Government should tackle the problem at its source. The community loses a lot of time and spends much money in summoning to our courts in the course of awarding motor vehicle accident compensation doctors and other witnesses in vast numbers, not to mention jurymen who are taken from their ordinary daily tasks. It is my contention that this is not litigation in the true sense of the word, as there is no real defendant. The defendant is an insurance company in every case, as Mr. Slater reminds me. The community is taxed to enable that procedure to be adopted, and I enjoin the Government to consider whether or not some less cumbersome approach could be made to what I regard as a very pressing problem.

The difficulty has been solved in connexion with workers compensation. An *ad hoc* body has been set up to award compensation to workers injured in the course of their employment, and the rules regarding the summoning of doctors and others