PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-NINTH PARLIAMENT

FIRST SESSION

THURSDAY, 31 OCTOBER 2019

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By authority of the Victorian Government Printer

The Governor

The Honourable LINDA DESSAU, AC

The Lieutenant-Governor

The Honourable KEN LAY, AO, APM

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FIFTY-NINTH PARLIAMENT—FIRST SESSION

Speaker

The Hon. CW BROOKS

Deputy Speaker

Ms JM EDWARDS

Acting Speakers

Ms Blandthorn, Mr J Bull, Mr Carbines, Ms Couzens, Mr Dimopoulos, Mr Edbrooke, Ms Kilkenny, Mr McGuire, Mr Richardson, Ms Spence, Ms Suleyman and Ms Ward

Leader of the Parliamentary Labor Party and Premier

The Hon. DM ANDREWS

Deputy Leader of the Parliamentary Labor Party and Deputy Premier

The Hon. JA MERLINO

Leader of the Parliamentary Liberal Party and Leader of the Opposition

The Hon. MA O'BRIEN

Deputy Leader of the Parliamentary Liberal Party

The Hon. LG McLEISH

Leader of The Nationals and Deputy Leader of the Opposition

The Hon. PL WALSH

Deputy Leader of The Nationals

Ms SM RYAN

Leader of the House

Ms JM ALLAN

Manager of Opposition Business

Mr KA WELLS

Heads of parliamentary departments

Assembly: Clerk of the Legislative Assembly: Ms B Noonan

Council: Clerk of the Parliaments and Clerk of the Legislative Council: Mr A Young

Parliamentary Services: Secretary: Mr P Lochert

MEMBERS OF THE LEGISLATIVE ASSEMBLY

FIFTY-NINTH PARLIAMENT—FIRST SESSION

Member	District	Party	Member	District	Party
Addison, Ms Juliana	Wendouree	ALP	Maas, Mr Gary	Narre Warren South	ALP
Allan, Ms Jacinta Marie	Bendigo East	ALP	McCurdy, Mr Timothy Logan	Ovens Valley	Nats
Andrews, Mr Daniel Michael	Mulgrave	ALP	McGhie, Mr Stephen John	Melton	ALP
Angus, Mr Neil Andrew Warwick	Forest Hill	LP	McGuire, Mr Frank	Broadmeadows	ALP
Battin, Mr Bradley William	Gembrook	LP	McLeish, Ms Lucinda Gaye	Eildon	LP
Blackwood, Mr Gary John	Narracan	LP	Merlino, Mr James Anthony	Monbulk	ALP
Blandthorn, Ms Elizabeth Anne	Pascoe Vale	ALP	Morris, Mr David Charles	Mornington	LP
Brayne, Mr Chris	Nepean	ALP	Neville, Ms Lisa Mary	Bellarine	ALP
Britnell, Ms Roma	South-West Coast	LP	Newbury, Mr James	Brighton	LP
Brooks, Mr Colin William	Bundoora	ALP	Northe, Mr Russell John	Morwell	Ind
Bull, Mr Joshua Michael	Sunbury	ALP	O'Brien, Mr Daniel David	Gippsland South	Nats
Bull, Mr Timothy Owen	Gippsland East	Nats	O'Brien, Mr Michael Anthony	Malvern	LP
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Edwards, Ms Janice Maree	Bendigo West	ALP	Sheed, Ms Suzanna	Shepparton	Ind
Eren, Mr John Hamdi	Lara	ALP	Smith, Mr Ryan	Warrandyte	LP
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Fowles, Mr Will	Burwood	ALP	Southwick, Mr David James	Caulfield	LP
Fregon, Mr Matt	Mount Waverley	ALP	Spence, Ms Rosalind Louise	Yuroke	ALP
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Halfpenny, Ms Bronwyn	Thomastown	ALP	Suleyman, Ms Natalie	St Albans	ALP
Hall, Ms Katie	Footscray	ALP	Tak, Mr Meng Heang	Clarinda	ALP
Halse, Mr Dustin	Ringwood	ALP	Taylor, Mr Jackson	Bayswater	ALP
Hamer, Mr Paul	Box Hill	ALP	Theophanous, Ms Katerina	Northcote	ALP
Hennessy, Ms Jill	Altona	ALP	Thomas, Ms Mary-Anne	Macedon	ALP
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Hodgett, Mr David John	Croydon	LP	Vallence, Ms Bridget	Evelyn	LP
Horne, Ms Melissa Margaret	Williamstown	ALP	Wakeling, Mr Nicholas	Ferntree Gully	LP
Hutchins, Ms Natalie Maree Sykes	Sydenham	ALP	Walsh, Mr Peter Lindsay	Murray Plains	Nats
Kairouz, Ms Marlene	Kororoit	ALP	Ward, Ms Vicki	Eltham	ALP
Kealy, Ms Emma Jayne	Lowan	Nats	Wells, Mr Kimberley Arthur	Rowville	LP
Kennedy, Mr John Ormond	Hawthorn	ALP	Williams, Ms Gabrielle	Dandenong	ALP
Kilkenny, Ms Sonya	Carrum	ALP	Wynne, Mr Richard William	Richmond	ALP

PARTY ABBREVIATIONS

ALP—Labor Party; Greens—The Greens;
Ind—Independent; LP—Liberal Party; Nats—The Nationals.

Legislative Assembly committees

Economy and Infrastructure Standing Committee
Ms Addison, Mr Blackwood, Ms Connolly, Mr Eren, Mr Rowswell, Ms Ryan and Ms Theophanous.

Environment and Planning Standing Committee
Mr Cheeseman, Mr Fowles, Ms Green, Mr Hamer, Mr McCurdy, Mr Morris and Mr T Smith.

Legal and Social Issues Standing Committee
Ms Couzens, Ms Kealy, Mr Newbury, Ms Settle, Mr Southwick, Ms Suleyman and Mr Tak.

Privileges Committee
Ms Allan, Mr Guy, Ms Hennessy, Mr McGuire, Mr Morris, Ms Neville, Mr Pakula, Ms Ryan and Mr Wells.

Standing Orders Committee
The Speaker, Ms Allan, Ms Edwards, Ms Halfpenny, Ms McLeish, Ms Sheed, Mr Staikos, Ms Staley and Mr Walsh.

Joint committees

Dispute Resolution Committee
Assembly: Ms Allan, Ms Hennessy, Mr Merlino, Mr Pakula, Mr R Smith, Mr Walsh and Mr Wells.
Council: Mr Bourman, Mr Davis, Mr Jennings, Ms Symes and Ms Wooldridge.

Electoral Matters Committee
Assembly: Ms Blandthorn, Ms Hall, Dr Read and Ms Spence.
Council: Mr Atkinson, Mrs McArthur, Mr Meddick, Mr Melhem, Ms Lovell and Mr Quilty.

House Committee
Assembly: The Speaker (*ex officio*), Mr T Bull, Ms Crugnale, Ms Edwards, Mr Fregon, Ms Sandell and Ms Staley.
Council: The President (*ex officio*), Mr Bourman, Mr Davis, Ms Lovell, Ms Pulford and Ms Stitt.

Integrity and Oversight Committee
Assembly: Mr Halse, Mr McGhie, Mr Rowswell, Mr Taylor and Mr Wells.
Council: Mr Grimley and Ms Shing.

Public Accounts and Estimates Committee
Assembly: Ms Blandthorn, Mr Hibbins, Mr Maas, Mr D O'Brien, Ms Richards, Mr Richardson, Mr Riordan and Ms Vallence.
Council: Ms Stitt.

Scrutiny of Acts and Regulations Committee
Assembly: Mr Burgess, Ms Connolly and Ms Kilkenny.
Council: Mr Gepp, Mrs McArthur, Ms Patten and Ms Taylor.

CONTENTS

Thursday, 31 October 2019

The SPEAKER (Hon. Colin Brooks) took the chair at 9.33 am and read the prayer.

Announcements

ACKNOWLEDGEMENT OF COUNTRY

The SPEAKER (09:33): We acknowledge the traditional Aboriginal owners of the land on which we are meeting. We pay our respects to them, their culture, their elders past, present and future, and elders from other communities who may be here today.

Petitions

Following petition presented to house by Clerk:

CAMBERWELL JUNCTION CROWN LAND

The Petition of residents of the City of Boroondara and other interested residents of Victoria draws to the attention of the House:

1. There are no adequate public parks or playgrounds for the rapidly growing population in Camberwell Junction.
2. Since 2010, crown land (owned by the State Government) that was historically used for public gardens and as a children's playground for over 100 years, has been used primarily as a commuter car park for the staff of Boroondara City Council.

The petitioners therefore request that the Legislative Assembly of Victoria call on the Victorian Government to work with Boroondara City Council to:

A. Restore our historic park in Camberwell Junction with playgrounds and community facilities, by dedicating a segment of Reserve Road, Camberwell and adjacent crown land for this purpose.

B. Restore the original permanent reservation of crown land allotment 113C for 'public gardens', as it was from 1882 to 1969.

By Mr KENNEDY (Hawthorn) (1052 signatures).

Tabled.

Committees

PRIVILEGES COMMITTEE

Dealing with Alleged Contraventions of the Requirements of the Code of Conduct and the Register of Interests

Ms NEVILLE (Bellarine—Minister for Water, Minister for Police and Emergency Services) (09:35): I have the honour to present to the house a report from the Privileges Committee on dealing with alleged contraventions of the requirements of the code of conduct and the register of interests.

Ordered to be published.

Documents

DOCUMENTS

Tabled by Clerk:

Australian Criminal Intelligence Commission—Report 2018–19 under s 30L of the *Surveillance Devices Act 1999*

Commercial Passenger Vehicle Commission—Report 2018–19

Commission for Children and Young People—Report 2018–19—Ordered to be published

Emerald Tourist Railway Board—Report 2018–19

Financial Management Act 1994:

Report from the Minister for Energy, Environment and Climate Change that she had not received the Report 2018–19 of the Yorta Yorta Traditional Owner Land Management Board, together with an explanation for the delay

Reports from the Minister for Energy, Environment and Climate Change that she had received the Reports 2018–19 of the:

Alpine Resorts Co-ordinating Council

Caulfield Racecourse Reserve Trust

Dhelkunya Dja Land Management Board

Gippsland Waste and Resource Recovery Group

Goulburn Valley Waste and Resource Recovery Group

Loddon Mallee Waste and Resource Recovery Group

Independent Broad-based Anti-corruption Commission—Report 2018–19 under s 30L of the *Surveillance Devices Act 1999*

Metropolitan Waste and Resource Recovery Group—Report 2018–19

Statutory Rules under the following Acts:

Guardianship and Administration Act 1986—SR 101

Road Safety Act 1986—SR 104

Subordinate Legislation Act 1994—SRs 102, 103, 105

Subordinate Legislation Act 1994—Documents under s 15 in relation to Statutory Rules 92, 98, 101

Sustainability Victoria—Report 2018–19

Trust for Nature (Victoria)—Report 2018–19

Victoria Police—Report 2018–19 under s 30L of the *Surveillance Devices Act 1999*

Victorian Fisheries Authority—Report 2018–19 under s 30L of the *Surveillance Devices Act 1999*

Victorian Inspectorate—Report 2018–19.

Business of the house

ADJOURNMENT

Ms ALLAN (Bendigo East—Leader of the House, Minister for Transport Infrastructure) (09:37): I move:

That the house, at its rising, adjourns until Tuesday, 12 November 2019.

Motion agreed to.

Members statements

MANOR LAKES P–12 COLLEGE

Mr PALLAS (Werribee—Treasurer, Minister for Economic Development, Minister for Industrial Relations) (09:37): I am delighted to update the house on my visit to Manor Lakes P–12 College last week to open their $10.9 million upgrade funded by the Andrews Labor government. This was a landmark day for the Manor Lakes community. When this government came to office in 2014, Manor Lakes P–12 College was one of many schools across the state that had been overlooked by the former Liberal government. With a rapidly expanding student population and no additional investment, this resulted in cramped classrooms and facilities.

Manor Lakes P–12 College is now a very different school. Principal Steve Warner and the student leaders proudly showed me that their new secondary centre—a modern building fit for the 21st century with IT spaces, informal learning areas and breakout rooms—is a place of great pride for them. I am proud to say that these new facilities will be put to great use educating our future community leaders and even potential future politicians. I was therefore thrilled to visit students who participated in a

mock parliamentary debate at the school and learned about the important role of this Parliament. They set an example perhaps we should follow. Thank you to the staff at the Parliament of Victoria for facilitating the session.

I would also like to thank principal Steve Warner, student leaders and staff at Manor Lakes P–12 College for the tour of their new facilities, and good luck to all students completing their VCE exams this week.

CAULFIELD ELECTORATE HOMELESSNESS

Mr SOUTHWICK (Caulfield) (09:39): Homelessness is a real issue in our state and certainly in our cities. Particularly I want to point out that the City of Port Phillip has 1127 homeless persons and sits in the top five local government areas for homelessness out of Victoria's 80 municipalities. The government has a HousingFirst plan to construct 58 apartments at 46–58 Marlborough Street, Balaclava, using land gifted by the council to make this work. I understand that the total project cost for this will result in those apartments costing around $600 000-plus per apartment.

I am also informed that many of those homeless people will not be able to access the HousingFirst plan because they will be excluded from these projects. The government needs to act to ensure that homeless people are supported, but certainly should not be supporting projects like this that do not stack up. We need a proper solution for homelessness but not supporting private contractors like HousingFirst that ultimately are putting profit first and not the community first when it comes to ensuring we get homeless people off our streets and into homes.

ALTONA ELECTORATE SCHOOLS

Ms HENNESSY (Altona—Attorney-General, Minister for Workplace Safety) (09:40): I am very, very delighted to update the house on some significant activities in my local schools. The state government has been boosting safety around Point Cook schools with new electronic speed signs outside Point Cook Senior Secondary College and Carranballac College. Earlier this month I was delighted to join with some terrific students and teachers at Carranballac and we officially turned on the new electronic speed signs installed along Dunnings Road and on Boardwalk Boulevard outside Point Cook Senior Secondary College. The new signs will make it easier for drivers to see the speed limit and slow down around the school, particularly during the busy morning and afternoon drop-off times. They will help make sure that our kids and families can get to and from school safely. I want to thank Max, Georgia Alema said, and Trent, the beautiful support dog, for joining me.

I was also lucky to spend some time with the new principal of Altona Primary School, Natalie Nelson. Natalie commenced at the school at the start of this year, and she has brought a fantastic sense of enthusiasm. She shared her plans for the funding that Altona Primary received through the school maintenance blitz. It is actually hard at work fixing important things like broken gutters and other maintenance priorities. It might not be the sort of stuff people can see, but it absolutely is important. I do want to give a big shout-out and thank you to the wonderful school leaders, Amy and Fred, who did an excellent job of leading our tour, showing me around their wonderful school, rightfully with much pride.

SOUTHERN 80 SKI RACE

Mr WALSH (Murray Plains) (09:41): Today I speak on behalf of the Moama Water Sports Club, who run the Southern 80 ski race on the Murray River, racing between Torrumbarry and Echuca. This race started in 1965 and has grown to be a major tourist attraction for the Echuca-Moama area. It is held on the second weekend in February each year and has around 900 competitors from juniors through to the senior age groups. Over 260 boats are involved in this particular race, with all the support crew that are there as well.

Thousands of spectators come to Echuca-Moama for the weekend to set up along both sides of the Murray River at whatever vantage points are there to make sure they can see the boats and the skiers

go past. This year it was estimated that the race and the visitation to the area actually generated over $13 million worth of economic benefit to Echuca-Moama. The New South Wales government assist with sponsorship and the cost of staging the Southern 80 through their Destination NSW program. But the Andrews Labor government will not assist with staging this event, and it is a key part of the calendar for regional Victoria. The Moama Water Sports Club feel let down by the rejection they receive each year from the Andrews government to their approaches for assistance.

I urge the Minister for Tourism, Sport and Major Events to come on board, to actually come to the Southern 80 in Echuca and see what this race does in attracting visitation to the area. It is a major part of the events calendar in regional Victoria and deserves support.

DR PETER MUNSTER

Ms NEVILLE (Bellarine—Minister for Water, Minister for Police and Emergency Services) (09:43): Today I pay tribute to Dr Peter Maxwell Munster, OAM, who died on Tuesday, 24 September. Peter was a much-respected member of the Bellarine Peninsula community, a highly regarded local historian and a man committed to social justice. He was born on 2 September 1934 in Melbourne, but tragically his mother died one week later. He attended Black Rock Primary School, Caulfield Grammar and Melbourne University before going on to a distinguished career in teaching.

In 1963 he married the love of his life, Judy, and the young couple spent many years exploring the world. From 1966 to 1977 Peter and Judy raised their three children in New Guinea. While teaching in Goroka, Peter researched the contact history of the Goroka Valley. This work became an important reference for the local curriculum, documentaries and the resolution of local land disputes. The family returned to Maryborough in 1978, and 10 years later they moved to St Leonards.

For more than a decade Peter taught history at Deakin University, including at the Institute of Koorie Education. On his retirement he became instrumental in the research of Bellarine history, including William Buckley. I was pleased to launch his book *Remembering Our Anzacs* in 2011. In 2013 Peter was awarded a well-deserved OAM for community service and preservation of St Leonards history.

Above all, Peter loved his family, and the death of Judy in 2005 came as a great personal blow. But with the support of his loving children, Julia, Paul and Tam, and two adored grandsons, Peter went on to enjoy his final years as a much-respected member of the St Leonards community. Vale, Peter Munster.

YOUNG STREET, FRANKSTON

Mr BURGESS (Hastings) (09:44): Labor just cannot be trusted, and it certainly cannot be trusted when it comes to delivering important community projects. This government has been caught out again misleading the community after making a complete mess of the $63 million Young Street works in Frankston, taking 18 months to complete a project that it promised would take 13 weeks, driving many businesses out of business and not even leaving enough space for our all-important buses. VicRoads acknowledged to local traders that they were back fixing the mistakes from the previous work. But of course Labor could not lie straight in bed, and instead of putting its hand up and admitting its mistakes it issued press releases claiming this was work on a brand-new project. The community deserves better, but dishonesty is in Labor's DNA.

HASTINGS YACHT CLUB

Mr BURGESS: On 12 October I was pleased to attend the opening of Hastings Yacht Club's 2019–20 sailing season. The day was a huge hit, with yachts sailing past the official vessel performing the salute to celebrate the start of the yachting season. My thanks to the Hastings Yacht Club for hosting a great day.

COUNTRY FIRE AUTHORITY TYABB AND CRIB POINT BRIGADES

Mr BURGESS: Earlier this month I had the pleasure of attending both the Tyabb and Crib Point CFA annual dinners. On 12 October the Tyabb brigade gathered to celebrate its 75th anniversary, and

on 19 October the Crib Point brigade held its annual presentation night in its new station. Tyabb and Crib Point are outstanding brigades. Attending the annual recognition events of our local brigades and celebrating our brave volunteers who put their lives on the line to keep our community safe is always a great honour.

PINK UP YOUR TOWN

Mr BURGESS: Last Friday I was very pleased to attend an afternoon tea at Somerville Community House in support of the McGrath Foundation's Pink Up Your Town. All who attended wore something pink and gave generously to support vitally important breast care nurses.

BAYSWATER ELECTORATE YOUTH FORUM

Mr TAYLOR (Bayswater) (09:46): Very recently I was very lucky to have hosted Bayswater's inaugural youth forum with the honourable Minister for Youth. It was a fantastic forum held in my electorate at Boronia K–12 College, obviously in the heart of Boronia. I thank the principal, Meagan Cook, and the entire school community for hosting what was a really fantastic discussion with young people. Often we know that young people, because they are not 18 and obviously not allowed to vote and be part of the electoral process, often feel—and rightfully so—that they are left out of political discussion and discussion around issues that are not just youth based but issues that affect all of us. Can I please thank Fairhills High School, Bayswater Secondary College, Heathmont College, Wantirna College and Boronia K–12 for really being part of what was a fantastic youth forum. It is one that I hope to host next year and perhaps further expand into a youth committee to continue to make sure we engage young people right across the spectrum, whether it is in Bayswater or in the outer eastern suburbs.

We talked about some really important issues and what the single most important issue facing youth today is. We spoke about mental health—obviously a significant issue not just for young people but for people right across the age spectrum. Public transport is a key thing for people in my community. We spoke about how governments can legislate to mitigate the effects of climate change. We also discussed how we can further empower women in the 21st century and we can better support young people with mental health concerns was a strong focus of the day, as well as how education could best support future job opportunities. It was a really fantastic forum, and I commend all students for taking part in it.

HORSERACING

Ms SANDELL (Melbourne) (09:47): This year as we approach the Melbourne Cup we have seen some truly horrendous reports of animal cruelty. The ABC recently revealed that hundreds of racehorses who are deemed to be underperforming are illegally being sent to knackeries and abattoirs, where they endure pretty horrific abuse before being slaughtered. While the news is shocking, to be honest I cannot really say I am surprised. I am not surprised that an industry that refers to ex-racehorses as 'wastage' is not taking good care of the animals it relies on. I am not surprised that an industry which treats animals as commodities, whose purpose it is to just line the pockets of gambling giants, discards these animals thoughtlessly once they no longer generate profit. We need to tell it like it is: this is an industry with a history of cruelty to animals, from jumps racing and the use of whips to the abuse that we saw revealed last week. We now have an even better idea of the abuse and horrors that are occurring behind closed doors.

I was glad to see the announcement that a portion of Melbourne Cup ticket sales will go towards horse welfare, but I have to say I am pretty sceptical as to whether this is just the industry trying to generate some good press to cover up a scandal. We have a responsibility to advocate for, care for and protect animals, not use them as sport or entertainment or just for gambling profits. So this year, as I have done for many years, I will be saying 'Nup to the Cup', as many thousands of Victorians will be doing as well.

SIMON CHARAN

Ms KILKENNY (Carrum) (09:49): Our local community has lost a very special and unique person with the very sad passing of Simon Charan, just 56. I joined with 700 people to farewell Simon at Bunurong Memorial Park. The number of people was extraordinary, but not the least surprising. Simon was so incredibly well regarded and loved.

Simon gave his time selflessly. Born in Fiji, he migrated to Australia in 1987. A fitter and turner by trade, he was a dedicated member of the Fiji Business Association of Victoria and was absolutely committed to helping his community in Victoria maintain important cultural and social links. His was the face of multicultural Victoria—using every single opportunity to promote the values of cultural harmony, peace and mutual respect. If you get a chance, take a look at episode two of the miniseries *How to Talk Australians*. Released in 2014, this wonderful production uses humour to disarm cultural clashes and racism and replace them with joy. And that was Simon.

Simon worked with senior citizens, including as president of the Kingston Indian Senior Citizens Association. He was a founding member of the Dandenong Hindi Fellowship and was inducted as the Australian coordinator for an international Hindi-speaking fellowship, using his voice, his energy and his passion to raise funds for so many projects helping to improve the lives of so many. And of course, he was program director at Radio Bula Namaste. I know his team at RBN and his listeners are devastated to have lost Simon, someone who played such an important and pivotal part of their everyday lives by reaching out to them each morning with *Coffee with SC*, by connecting with them and by just making them feel included and special.

My deepest sympathies to his wife, Shaleni, daughter Shannon, mother Bhagyavati, niece Shantelle and nephew Shaun, his extended family and the extraordinary network of friends he fostered, not just locally but around the world. Simon made a real difference. We are all the better for it.

JEFF 'JOFFA' HAINES

Mr HODGETT (Croydon) (09:50): Vale, Jeff 'Joffa' Haines. It was with great sadness that I attended the funeral of Jeff Haines on Monday, 14 October, at Yering to pay my respects and farewell a ripper of a bloke. A policeman of 46 years, Mooroolbark police station had been Senior Sergeant Haines's home base for 14 years. Joffa had worked across the division at Maroondah, Knox and Yarra Ranges. He was the former officer in charge at Ringwood, and he was on the ground during the Black Saturday bushfires. Joffa was a well-respected leader. He served the community with distinction, he would do anything for you and he always stood up for his troops. He would give you fair, frank and honest advice, tell it as he saw it and stand by what he did. He loved to get out and about in the community to provide on-the-ground policing. It was fitting that such a decent, dedicated man was farewelled with a police honours funeral. Senior Sergeant Jeffery 'Joffa' Haines, you will be sorely missed.

CROYDON CITIZENS BANDS

Mr HODGETT: Last Saturday night I had the pleasure of attending the Croydon Brass Band's major concert for 2019 at the Melba College theatre. The Croydon Citizens Bands is a musical organisation with a membership of over 70 musicians drawn from the local and surrounding community. There are three bands under their banner: the Croydon Wind Symphony, the Croydon Brass Band and the Croydon Concert Band. They rehearse in Keystone Hall in Croydon and make a terrific contribution to our local community. Congratulations to musical director Melina Benger for conducting the brass band in playing *Bohemian Rhapsody* at the concert and for their joint performance of *Shallow* with Tinternvale Primary School. To president Peter Heath, the band members and schoolchildren, congratulations on a wonderful concert.

HURTLE LUPTON, OAM

Mr HODGETT: Finally, I take the opportunity to wish Hurtle Lupton, OAM, a former member for Knox in this place, a happy 80th birthday for last Sunday. Happy birthday, mate.

FRIENDS OF THE HEIDELBERG SCHOOL

Mr CARBINES (Ivanhoe) (09:52): I rise to commend the Treasurer for getting back to me with some good news for my electorate, particularly in relation to the Friends of the Heidelberg School website. We had been lobbying in both May and July to seek funding from the Community Support Fund (CSF) to support Mr Andrew Mackenzie, OAM, in creating the Friends of the Heidelberg School website. The Heidelberg School, with Frederick McCubbin, Arthur Streeton, Tom Roberts, Charles Conder and Walter Withers and that art movement in late 19th century, was very significant in the Heidelberg area—effectively it was Australian impressionism at that time. The Friends group received advice that $19 990 would be made available from the 2019–20 CSF grants to help develop the website after not having luck with the VicArts Grants program. I want to thank the Treasurer for his foresight in supporting Andrew Mackenzie's work. He has really devoted a lifetime of service to Australian art and has promoted it and its understanding in the community. He did very significant work in Marysville after the bushfires as well by restoring and saving so much of the historical features and photographic work from the time.

Not only that, the Premier has visited and met with people in relation to the Heidelberg School Art Foundation— (*Time expired*)

MURCHISON AGED-CARE FACILITY

Ms SHEED (Shepparton) (09:53): Let me tell you a story about a little country town that has been outstanding for its community spirit and its dynamism, a town that has looked after its elderly folk. When the bush nursing hospital eventually closed, it became an aged-care facility, which is the hub of this small country town and where its ageing population was welcomed and where they remain closely connected to their community. Family members could easily access the home to visit their ageing loved ones and often at mealtimes went down the street to the home to help feed them and talk to others at the table. It is a home that has been sufficiently staffed. It is a home that has a standard that will not be talked about at the Royal Commission into Aged Care Quality and Safety because there will be no need to.

Now that community is being punished for caring for its elderly at a standard above and beyond. This has led to financial ruin, and elderly folk are being transported as we speak to foreign environments away from their own community, isolated from their families and devastated by the confusion and grief of the closure of their local nursing home. The administrators have come in, and they are winding it up now. We cannot let this happen. This is Murchison. We need a government with a heart and soul to step in to save this small community nursing home and give some hope back to the people of a small community in a country town in northern Victoria that is currently in despair.

MELBOURNE POLYTECHNIC FAIRFIELD CAMPUS

Ms THEOPHANOUS (Northcote) (09:55): This week I was delighted to attend the Fairfield campus of Melbourne Polytechnic with the Minister for Training and Skills. We timed the visit perfectly as it was a bright and balmy Melbourne day and the flowers were in full bloom across the campus, which apparently is quite handy for the floristry class, who made us some fresh bouquets. Certificates II and III in horticulture are just two of the free TAFE offerings at the Fairfield campus, which has seen a steady rise in enrolments since the free courses were introduced. The minister and I had the opportunity to walk through the greenhouses and laboratories and speak to some of the students, including Hannah, who completed her certificate II and has now gone on to study a certificate IV in horticulture, with the aim of getting into permaculture.

Delightfully, these fields are particularly popular in my electorate of Northcote, which is also home to the Melbourne Food Hub in Alphington. The hub, nestled down near the Darebin Creek, is a collaboration between the Sustain food network and the Alphington Farmers Market. It supports new food start-ups and urban farming projects, which are so important to protecting our food bowl here in Melbourne. Melbourne Poly has partnered with the hub and will soon be using their urban agriculture site in Alphington as a demonstration space to teach free TAFE horticulture, with students learning about food production and urban farming. This is just one example of how free TAFE is making a difference to my community and creating opportunities not just for students but also for our local businesses. I thank the minister for visiting with me and seeing the innovative work being done out of the Fairfield campus, which continues to flourish through our government's free TAFE offerings.

GRENVILLE STREET, HAMPTON, LEVEL CROSSING

Mr NEWBURY (Brighton) (09:56): Hundreds of people use the Grenville Street pedestrian rail crossing in Hampton each day. Despite a tragic death occurring there earlier this year and the community calling for enhanced safety, the government has refused to act for years. We know that in 2017 Public Transport Victoria confirmed that the crossing was identified as a higher risk crossing. But only months before the tragic death there, the government suddenly shelved plans to upgrade the crossing. From November the government is going to shut the crossing, and I quote, 'while we investigate'. Recently a groundswell of the Hampton community met at the crossing to deliver a simple message to the government: do not close the crossing, just fix it now.

BRIGHTON BEACH CLEAN-UP

Mr NEWBURY: Eight-year-old Milla started cleaning Brighton Beach after school because she wanted to see our beach clean. Soon Milla enlisted the help of her mother, Marta, and classmates from Firbank Grammar School. Together they collected over 100 kilograms of rubbish. Last week I joined Milla and her whole year level as we collected almost 12 kilograms of rubbish from our foreshore. Milla is an extraordinary young girl.

HORSERACING

Mr NEWBURY: My community was deeply upset and sickened by the images of racehorses being slaughtered. Animal welfare laws need to be strong, and my community expects our animals to be properly cared for.

CASEY MULTIFAITH NETWORK

Ms RICHARDS (Cranbourne) (09:58): I am delighted to rise today to bring to the house's attention the work of the Casey Multifaith Network. I am also very pleased that there are representatives of the network here today. The Casey Multifaith Network was established in 2006 by Ms Pam Mamouney, OAM, along with other like-minded people. Some of the people who have contributed enormously to this organisation include president Adam Sadiqzai (Khan); vice-president Stephen Chew; Reverend Jim Reiher; the late Mr Sivarasa, JP; Robin Dzedins, JP; Gamini Fonseka; and Andrew Williams.

As a way of educating and helping people to overcome tensions and to be more tolerant of other cultures and faiths, the Casey Multifaith Network have meetings on the third Thursday of each month which are open to the public. Their motto is 'Peace, harmony and understanding'. There is also a radio program called *Voice of Faith* run through Casey Radio every Sunday from 8.00 to 9.00 am. They have presenters from the Buddhist, Hindu, Christian, Sikh and Islamic faiths. Along with this they organise regular tours to places of worship, including Buddhist, Hindu and Sikh temples, Muslim mosques and Christian churches. As well, they organise annual gathering nights, with a range of performances from various international and religious groups. The most recent of these was held at Bunjil Place in July this year. In 2015 the group held an exhibition with the theme 'What does my

faith mean to me?'. I am delighted to have the multifaith network represented in my community, an optimistic group.

CATHOLIC LADIES COLLEGE

Ms WARD (Eltham) (09:59): Congratulations to Catholic Ladies College (CLC) for showing leadership on reconciliation and hosting a vicarious conference with 11 other Catholic schools from around Melbourne. The morning started on the oval surrounded by gums by the creek with a smoking ceremony led by Uncle Tony Garvey and his son, Thane. Throughout the day students heard from elders, learned about the importance of treaty and workshopped how they can contribute and show leadership to the process of reconciliation. I thank all of the students for their commitment to reconciliation, CLC reconciliation captains, Mikhaela and Georgia, and the Nillumbik Reconciliation Group.

OLD COLONISTS ASSOCIATION OF VICTORIA

Ms WARD: I was lucky enough to be invited to join Leith Park resident Lorraine Wall to bury a time capsule at Leith Park in St Helena in celebration of the 150-year anniversary of the Old Colonists Association of Victoria. Lorraine is vibrant at 91 and has loved living at Leith Park for 29 years. The Old Colonists at Leith Park are doing wonderful things, whether it is in their community garden, their seniors exercise yard—the only one in a retirement village in Victoria—the new 6-star energy efficient apartments or their lovely little vehicle that takes residents up and down the hills. There is a great sense of community at Leith Park, and it is fantastic to see it grow from strength to strength.

NORTH ELTHAM WANDERERS CRICKET CLUB

Ms WARD: Congratulations to the North Eltham Wanderers Cricket Club on their fantastic new clubrooms. Just after tea during the Barclay Shield match against Diamond Creek Cricket Club, former mayor Michael Young and I were given a tour of the pavilion, including fabulous change rooms, a great kitchen and bar and the wonderful view of the oval. With 150 players, members, sponsors and supporters present, president Brian Stieg spoke of the journey going as far back as 2005, with concept plans drawn in 2012 and meetings with Nillumbik council in 2013. I was lucky enough to secure a $2 million election commitment in 2014 for the club and the Eltham Redbacks to build two new pavilions. Since then, Brian has steadfastly worked with me, the local council and the department to realise the club's dream of a fit-for-purpose pavilion where you can actually see the game underway. I thank the Wanderers, especially Brian, Nillumbik council, the department and the Andrews government for helping build this terrific pavilion—and now enjoy cricket on it!

PILIPINO ELDERLY ASSOCIATION SOUTH-EAST REGION

Mr TAK (Clarinda) (10:01): Earlier this month I was delighted to attend another open day at the Pilipino Elderly Association South-East Region, or PEASER. Founded in 1993, PEASER is a social group of senior Filipinos living in the south-east region of Melbourne. The association is based at the Sundowner centre in Clarinda and does amazing work to assist elderly Filipinos and their families to integrate into life in Australia.

For decades they have promoted and celebrated Filipino cultural heritage and customs in Victoria. They are also a vital resource for our community members trying to access social services. Member activities include visiting nursing homes and the sick, and holding regular cultural activities, social events and information sessions. There is also a renowned members dance group, which performs cultural dances from different regions of the Philippines at functions and festivals around Melbourne. Senior Filipino citizens are welcome to join and meet like-minded people in a friendly and welcoming atmosphere. I would like to thank the following members of the committee for their dedication and contributions to the community: Melita Dacumos, Juliet Orquia, Ofelia Manongdo, Aileen Misajon, Dr RoseAnne Misajon, Marie Porter, Emelita Nadong, JoAnne de Castro, Flora Manongdo, and all of PEASER's wonderful volunteers.

MARLENE HOLDEN

Mr STAIKOS (Bentleigh) (10:02): I rise to pay tribute to Marlene Holden, who recently retired as a school crossing supervisor in Moorabbin. What was to be a stopgap job in 1984, after working at Moorabbin council, ended up being a 35-year career. To say that Marlene has been an integral part of the Moorabbin community would be an understatement. I got to know Marlene during my frequent visits to Moorabbin Primary School. It has always been clear to me that the families of that community have always held Marlene in very high regard and had so much warmth for Marlene, and do you know what? Marlene returned that affection to the children over the years.

Just before Christmas last year I was visiting Moorabbin Primary for their final assembly. When I saw Marlene there was a young man standing nearby and she pointed to that young man and said with great pride, 'I've known him since he was a little kid and he's just been drafted by the Sydney Swans'. The young man was Harry Reynolds, a former student of Moorabbin Primary School.

Upon her 30th anniversary in the role she was named School Crossings Victoria's crossing guard of the year, a well-deserved recognition of her service. I visited Marlene on her final day at the crossing, and I can tell you there was a genuine sadness among parents and children when they found out that Marlene was retiring. It is fair to say there were also a lot of selfies.

On Marlene's watch, every child has crossed the road to school safely and without incident over the 35 years. Thank you for your service to our community, Marlene.

VCE EXAMS

Mr BRAYNE (Nepean) (10:04): I want to congratulate all year 12 students on the Mornington Peninsula who sat for the English exam this time yesterday morning and wish them all the very best for the exam period ahead. In particular I want to wish the students of Rosebud Secondary College, Dromana College and Padua College all the best as they continue through their exams. Today I think it is psychology, as we speak right now.

I remember sitting my all-important VCE exams eight years ago and know the anxiety and nervousness that comes not just with sitting for your end-of-year exams but finishing a huge chapter of your life. I was blessed to go to a school where desks were not an issue, but this has not been the case for all schools on the peninsula. When I visited all the schools earlier this year, Rosebud Secondary College's desks were just not up to scratch. They were well-worn, graffitied and wobbly. I spoke to the students and said I would do everything I could to try and ensure they had new desks to work at by the end-of-year exams. With the maintenance blitz funding announced by the Minister for Education about a month back, this school was able to use that money for new desks. Our kids should know that when they do these important end-of-year exams they will not be stymied by desks just not able to serve their purpose.

Also, as important as these exams seem right now, the results do not define you or your future. Your attitude matters so much more. So once again I wish all year 12s a very successful exam period and subsequently a very safe schoolies if you are having it on the Mornington Peninsula.

CHILDREN'S WEEK

Ms HALL (Footscray) (10:05): I rise to acknowledge Children's Week 2019. This year I was lucky enough to spend part of it at a great celebration at the Aeroplane Park in Braybrook, an annual picnic hosted by Maribyrnong City Council. I met so many families enjoying the picnic and was able to share some 'Do not disturb. Sleeping baby' signs for them to hang on their front doors. I know only too well the agony of finally getting your baby to sleep only to have someone knock or ring the doorbell and accidentally wake them up. It was great to see the littlest Footscray residents were all having a great time at the event.

VCE EXAMS

Ms HALL: I would also like to acknowledge some of our bigger young people, the high school students across the Footscray electorate who are sitting for their VCE exams. Good luck in particular to the students at Gilmore College for Girls, Footscray City College, Sunshine College, Caroline Chisholm Catholic College, Braybrook College, Sirius College and Maribyrnong College. These exams do not determine your worth as a human being, or your future. Try your hardest, be the best you can be and be proud of your achievements.

GILMORE COLLEGE FOR GIRLS AND FOOTSCRAY CITY COLLEGE

Ms HALL: I would also like to take this opportunity to pay tribute to the history of Gilmore College for Girls and Footscray City College. Gilmore College for Girls was founded in 1925 as the Footscray domestic arts school. Like many families in Footscray, mine is connected to this school. It was the school my grandmother attended. As both of these schools finish up for the year and celebrate their history as they transition into the new Footscray high school, I wish them all the best.

CULTURAL DIVERSITY WEEK

Mr J BULL (Sunbury) (10:07): I was delighted to join Viv Nguyen and Maria Dimopoulos, the chair and deputy chair of the Victorian Multicultural Commission, last week to unveil plans for Cultural Diversity Week for 2020. This is a program that is well supported across the state. It is terrific to see the celebration of diversity in Victoria and I very much look forward to attending all of the events right across Victoria.

Business of the house

ORDERS OF THE DAY

Mr PAKULA (Keysborough—Minister for Jobs, Innovation and Trade, Minister for Tourism, Sport and Major Events, Minister for Racing) (10:07): I move:

That the consideration of order of the day 1, government business, be postponed until later this day.

Motion agreed to.

Bills

JUSTICE LEGISLATION AMENDMENT (CRIMINAL APPEALS) BILL 2019

Second reading

Debate resumed on motion of Ms HENNESSY:

That this bill be now read a second time.

Mr SOUTHWICK (Caulfield) (10:08): It is my pleasure to rise and make some comments on the Justice Legislation Amendment (Criminal Appeals) Bill 2019. This bill seeks to change a number of different things in the Children, Youth and Families Act 2005 and the Criminal Procedure Act 2009. Many of these changes have certainly come before the house previously and have returned since 2018, and I will go through some of these now.

It is our view on this side of the house that we will be not opposing this bill, but we will raise a few concerns along the way. We certainly want to highlight some of the important work that has been done with members of Victoria Police, who do a great job on the front line, but also some of the difficulties that now come before us with the unravelling Lawyer X case and how that will be managed with some of the amendments that are being put through in the bill before us.

The first amendment in the Children, Youth and Families Act 2005 is to abolish de novo appeals against final orders made by the family division of the Children's Court. There is also an amendment to the Criminal Procedure Act 2009 to provide a second or subsequent right of appeal against

conviction in certain circumstances and to enable the Court of Appeal to refer certain matters to the trial division of the Supreme Court or to the County Court constituted by a judge for the making of a reference determination. In the Children, Youth and Families Act 2005 and the Criminal Procedure Act 2009 the amendments include abolishing de novo appeals against convictions recorded in summary proceedings and providing instead for those appeals to be made by way of a rehearing—I will talk a little bit about that shortly—and abolishing de novo appeals against sentences imposed in summary proceedings and providing instead for a different kind of appeal against the sentences. Finally, the amendments abolish appeals against sentences of imprisonment imposed on appeal from the Magistrates Court or the Children's Court, and then in the Supreme Court Act 1986 there are a number of consequential amendments.

In summary, the main provisions of this bill are looking at convicted offenders wishing to challenge a magistrate's conviction or sentence. They will lose the current virtually automatic appeal right for a rehearing of their case by a County Court judge. That is an important part of this bill because we have had—and we are the only jurisdiction left to have—a situation where once something goes before the Magistrates Court there is an automatic opportunity to appeal without any real need for proving the reasons for appeal, and that kind of sits under the whole de novo appeals. The abolition of de novo appeals means that appeals against conviction and sentence will be decided on the basis of transcripts, evidence, witness statements and other material presented previously to a magistrate. So again, this is evidence-based; it is not just an automatic appeal but is evidence-based. It does take away that situation which is basically in place from when we used to have JPs sitting as magistrates in the courts, and many of those were part-time volunteers in their capacity. That kind of gave the person that was facing the courts the opportunity to automatically appeal and have that appeal heard.

Also, new evidence will only be taken if the judge considers that there are substantial reasons to do so in the interests of justice, which is quite important. And in sentence appeals to the appellate court, the magistrate's reasons must be taken into account and the sentence amended only if the judge finds substantial reasons to impose a different penalty. The new substantial reasons test replaces the test that was in last year's bill which provided for a higher evidentiary threshold. That was the compelling reasons test. The test was amended following further consultation and compelling reasons was reconsidered as being overly onerous. When the appellate court is considering the imposition of a more severe sentence than that being appealed, then the appellate court must provide a warning as early as possible during the hearing that there may be an appeal in place.

Convicted offenders claiming wrongful conviction of an indictable offence who currently exhaust all avenues of appeal through the courts then need to petition the Attorney-General for mercy. That is something that has been in place. In the future they will seek leave for a second or subsequent appeal to the Court of Appeal. The Court of Appeal will only grant a second or subsequent appeal if it determines that fresh and compelling evidence exists, it is in the interests of justice for such evidence to be considered and it is satisfied that there is a substantial miscarriage of justice. So it takes that plea of mercy away from the Attorney-General and it puts it back into the courts and allows for that process to take place. A lot of that really is in preparation for Lawyer X cases, and as we have the commission go through some of that, we will obviously see more things unfold. There has already been lots of talk that there may be numbers of people that will be asking for their sentence to be overturned as a result of the Lawyer X case.

In terms of some of the detail, part 2 amends the Children, Youth and Families Act 2005. It consists of three divisions. Division 1, clauses 3 and 4, repeals section 328 of the Children, Youth and Families Act and abolishes de novo appeals from the family division of the Children's Court. Division 2, clauses 5 to 17, introduces a new scheme for hearing appeals from the summary jurisdiction in part 5.4 of the Children, Youth and Families Act. That also replaces the de novo hearing with new appeals processes. I will talk a bit more about the de novo changes shortly. I did mention the reasons for them, but we will get into a bit more detail. Division 3, clause 18, corrects duplicate section 630 in the Children, Youth and Families Act 2005.

The amendments to the Criminal Procedure Act 2009 are in part 3, which is in four parts. Firstly, division 1, clauses 9 to 32, introduces a new scheme for hearing appeals from the summary jurisdiction in part 6.1 of the Criminal Procedure Act 2009. The scheme replaces the de novo hearing with new appeal processes and procedures. Division 2, clauses 33 and 34, empowers the Court of Appeal to refer certain matters and issues arising on certain appeals. Division 3, clauses 35 and 36, introduces a new scheme for a second or subsequent appeal against conviction for an indictable offence. Division 4 inserts transitional provisions.

Then in part 4, which amends other acts, we see that clause 38 provides for consequential amendments to the Supreme Court Act 1986. In part 5, the repeal of the amending act, clause 39 provides for the automatic repeal of the amending act on 3 July 2022. This repeal does not affect the continuing operation of the amendments made by it.

In terms of just going through some of the context of the bill's provisions, they are largely the same as those that were first introduced in July 2018 in the Justice Legislation Amendment (Unlawful Association and Criminal Appeals) Bill 2018. We had a previous unlawful association bill that we have discussed. Now it is more focused on criminal appeals, so those other parts are no longer in this bill. The provision for second and subsequent appeals to the Court of Appeal, to replace the process of petitioning for mercy to the Attorney-General, has been newly drafted. Again, as I said, because of the more recent situation of Lawyer X we have now seen additional drafts of the bill when it comes to dealing with that set of circumstances. Obviously we have not got a lot of legislation coming through from the Andrews government at the moment, so we are now looking at the separation of what were multipurpose bills into individual bills, to give us I suppose more to talk about.

Looking at the changes particularly, the law of de novo means effectively a new trial—a hearing by a different court. It is a Latin expression meaning afresh, anew or beginning again. As I say, a lot of this bill deals with the de novo appeals process, which is a fresh start, a re-appeal. This originated from 17th-century England when lay justices of the peace presided over local courts and a process of judicial oversight by higher courts, upon appeal, was deemed necessary to ensure accountability in decision-making and in upholding the integrity of the justice system. Obviously that has changed and now we see that, with professionalisation, legally trained magistrates have been in place in Victoria for around 40 years and de novo appeals are seen to be something of the past, not keeping up with the modern legal system. That is why that is being changed.

As I said briefly earlier, Victoria is the last Australian jurisdiction to abolish the de novo appeals process. We have no issue with that. Also, I think it is important to point out that part of this is that we see the courts are really clogged up with a lot of people waiting for both their trials and their sentencing. On the number of the people who are on remand at the moment, if you visit any of our prisons, you get to see a huge number of people who are sitting out there on remand, waiting for their trials. We have got to look at ways of speeding up the process. If we can do that by getting rid of the automatic trial process, while obviously maintaining a fair right to a trial, then that is important. If there is compelling evidence for a rehearing, then that should be the case. One of the big issues that the current government has at the moment is how it manages a better process through the court system, because it is well and truly clogged up. There are a lot of people waiting for a long time and the repercussions of that are huge. As I say, when you have prisons that were meant to be remand-only prisons and maximum security prisons and you have got everyone all mixed in with one another because you just do not have enough beds for everybody, it does not really help in terms of looking at ultimately trying to get people's lives back on track and providing rehabilitation when you have got courts that are completely clogged up.

The major benefit proposed in the appeal process is to reduce harm and trauma for victims, their families and witnesses through avoiding them having to be recalled and subjected to further examination in an appeal hearing. This is really important. We have said—and I said in a contribution earlier this week—that we need to put victims first in everything that we do. We make no apologies

from the Liberal and Nationals parties that we are absolutely for supporting victims in every possible way. We have proposed a couple of amendments to another bill which we hope the government will be supporting. They look at ensuring that victims have the right to say no when prisoners are trying to make contact with them and also putting victim representation on the Adult Parole Board of Victoria. Again, we need to ensure that we acknowledge that when a victim is harmed it lives with them for life. If we can do anything to minimise that process of having to go through that trauma again, having to go through another court case, having to retell their story again, we should be supporting that. That is why we are certainly very much in support of ensuring that we can abolish the unnecessary situation of victims having to retell their stories and go through that process again.

There are currently around 3200 de novo appeals per annum in which the County Court must hear all evidence again and reach a new decision, causing lengthy delays and placing great stress on the court structure across the state. There are huge examples of that. In the Geelong courts there have been logjams. There are situations where people are trying to use more video evidence and other things just to deal with the absolute logjam of court cases, trying to get through the court cases. Again hopefully this will help in some way to reduce the lengthy delays and the stress and what is unfortunately the breakdown of an efficient court system that is able to get people through in a good, timely manner. Reforming the appeals process is expected to bring significant efficiencies to courts through a reduction in the number of actual appeals, particularly in the delays in dealing with each appeal.

Obviously there is little investment in court infrastructure as well. We have got some pretty old systems out there, some pretty old courts. I heard the other day that we have got courts that are still receiving evidence via thermal fax printers. We have got situations where courts are waiting to hear cases. There was one pointed out to me only a few weeks back where they ran out of the thermal roll and the police could not receive the actual evidence through the fax machine. Officeworks did not sell the thermal roll and so they were literally out half a day until they could get that court back to being able to run the case. I mean, this is back in the dark days. This is pretty old. This is hopeless. So we need to ensure that we upgrade basic infrastructure to give the courts the necessary tools to do their jobs and to get some efficiencies back in the system. These costs may seem small to some, but the repercussions of that—the time delays, the costs of holding prisoners and all the rest of it—are huge, and this government is not doing enough to fix some of that.

With respect to the proposed second and substantial appeal right provisions, while it may be a different path, the bill virtually codifies through a statutory right the current petition for mercy process rights and makes it judicially based and transparently independent of the Attorney-General, a member of the executive. The second and subsequent appeal rights provisions in this bill mirror the reforms already undertaken in Tasmania and South Australia. Providing future impartial judicial transparency to the current 'politically influenced' petitioning for mercy process may be seen as a preferable outcome in the pursuit of justice, as long as community expectations are appropriately taken into account for these situations.

However—and this is an important thing to point out, and that is why I think this is first and foremost in terms of discussion today—it is also a means by which the Andrews Labor government will be able to deflect claims of procrastination by sitting on cases for lengthy periods while expediently avoiding politically difficult decisions and absolving responsibility in the future for the growing list of petition cases currently before the Attorney-General, including that of Jason Roberts, who was convicted of the 1998 murders of Sergeant Gary Silk and Senior Constable Rodney Miller, and also the most recent successful petition case, that of Faruk Orman, referred to the Court of Appeal as a result of the current Lawyer X royal commission, now released from prison due to his conviction being quashed on the basis of the tainted evidence of Nicola Gobbo.

I just want to point out—and I refer to the initially convicted double killer, Jason Roberts, over the horrific murders in the Silk-Miller case—that you have got a situation, and I said this earlier, where families have to relive it again. We just had a commemoration for police officers, which I attended,

where I spoke to members of the families of Gary Silk and Rodney Miller. It is horrific that they have got to go through their situation and their recount again with another appeal. I understand the former Attorney-General initially did not support the first presentation for this to be quashed, and we are now in a situation where this is on appeal.

I pick up the point of Police Association Victoria secretary Wayne Gatt, who did talk about the families. Justice certainly does need to be served and we do need opportunities for people to be able to have their case heard if there is fresh evidence, if something comes up later that proves someone's innocence. Wayne Gatt said that he had spoken to the families in the past 24 hours:

> We share their disappointment and heartache in the realisation that their struggle for closure and their two-decades-long quest to move forward with their lives has once again been halted.
>
> We retain our full confidence in, and admiration for the Lorimer Taskforce and the tireless work that investigators, past and present, dedicated to bringing their colleagues' killers to justice.
>
> The impact that the murders of these police officers had on first responders, investigators, colleagues and friends of the slain officers cannot be understated and should be understood. Lives and careers ended on that night.
>
> Days like today only add to the burden of those who have fought so long and so hard to forget.
>
> We sincerely hope that one day soon this tragic chapter in the history of Victoria Police can be closed for good. Gary Silk and Rod Miller and their families deserve that.

Certainly at the commemoration that I attended at the Prahran station I heard many police talk about this situation and say that it changed their lives in terms of the way police act. It brought in things like the Victoria Police Blue Ribbon Foundation to support the memory of police that have lost their lives as a result of these brutal killings, and it really did put front and centre the impact of what police do in putting their lives in danger each and every day to keep us safe. It is an important case, and we will watch what happens with that going forward.

I did mention the Lawyer X case, which is again something that was poorly, poorly managed. We have seen already lots of reports of a lawyer who was brought in, if you like, to play a double act as an informer, which effectively completely discredits any legal system from being able to provide protection for clients in terms of any evidence they may give. Representing a client and then taking that information and providing it to Victoria Police is a situation that we cannot have. I cannot remember that happening anywhere, and obviously we are watching the Lawyer X situation unfolding with huge interest.

But this bill really does deflect from the government. We know that there are dozens of cases of people that want to get their cases quashed as a result of Lawyer X, who we have seen has acted for hundreds of people. Now dozens of those are effectively questioning the veracity of their cases. You can imagine that it would almost be a full-time job for the Attorney-General having to go through those as they are presented, and having to effectively stamp a get-out-of-jail card because those people are linked to Lawyer X, to Ms Gobbo, as a result of evidence before the royal commission revealing that unfortunately she was acting for people—and we have got one already—and also passing information on, so not allowing fair justice for that person.

It does not mean that these people are innocent, and that is the big issue. It does not mean these people are innocent. When you have got people like Tony Mokbel, who could be questioning his situation because Ms Gobbo acted for him, potentially trying to claim his get-out-of-jail card, that shows that this Lawyer X case is a mess. It is an absolute mess. It has got a fair way to run yet, and we will be watching it with a lot of interest in terms of where it actually ends up, who was involved and who is implicated. Hopefully we can ensure that the situation is cleaned up, so that we do not have situations like this happening again, because it is a huge obstruction of justice. People must have confidence in the legal system. You must have confidence that when you are seeing a lawyer, you have the protection of that lawyer to be able to defend you and not to effectively act as an informer for somebody else or for police at the same time, because that is what we saw.

We have seen Ms Gobbo's connections to the Labor Party in all of this. That will all unfold and continue to unfold. I cannot recall anything so shocking as what we have seen with this particular case. We have got convicted killers and people who should be locked away forever who are lining up for a get-out-of-jail card, not because they did not do the crime but because their lawyer was acting as an informer and going out and presenting information to the police so that the police could catch them. We all want our criminals off the streets, but you have to have a fair process. You have to have a process that does not put our legal system in jeopardy and make it a shambolic mess, as it certainly was during that period.

As I said, the bill before us will effectively try to clean the hands of the Attorney-General and the government by them not having to stamp the get-out-of-jail card of future prisoners and criminals wanting to get out. But we know that is not the case. We will be looking very, very carefully at who is involved, who is implicated and how this happened. We need to ensure that it gets cleaned up and this government is held to full account in terms of any of these processes going forward, because it is important. Is important for our legal system. It is important that we have a justice system.

I will conclude my remarks there. As I said, we are certainly not opposing this bill, but at the same time there needs to be lots of work in ensuring that we have a justice system in Victoria. At the moment we are seeing the police being attacked on our streets as a result of the protests against the International Mining and Resources Conference. Those people that are being charged are back on the streets that very afternoon. They are back on the streets that very afternoon doing their thing to disrupt, to actually shut down our city and to stop people from getting to work. Internationally our reputation is being tarnished. They are now talking about protesting on Melbourne Cup Day as well.

The move-on laws were abolished by the Andrews Labor government. The move-on laws would be very, very simple. They would in fact warn, would fine and would ensure that those people were no longer in the precinct during that time. They would fix a lot of the problems that we currently have under this government. We do not have a justice system under this Premier; we have a legal system that needs to be fixed.

Mr TAK (Clarinda) (10:38): I am delighted to rise today to speak on the Justice Legislation Amendment (Criminal Appeals) Bill 2019. This bill serves a range of functions relating to Victoria's appeals processes. Importantly the bill will modernise appeal processes to increase transparency, minimise harm to victims and witnesses and ensure that the time and resources of higher courts are used in a more efficient and effective way.

We all know and acknowledge that appeals play an extremely important role in the justice system, offering an important safeguard to correct errors and, in rare cases, avoid miscarriages of justice. I am glad to see this bill here today as the bill will make positive changes to our appeal processes to ensure that they are modern and fit for purpose and that appeals are not considered needlessly or in a manner that is unduly burdensome on the justice system, particularly for vulnerable individuals. This can often be the case in de novo appeals. A de novo appeal is essentially an appeal where the entire case is heard afresh as a new trial. I am glad to see that de novo appeals will be abolished under this bill. That will be achieved by abolishing the outdated de novo appeal right from decisions of magistrates in all criminal cases conducted in the Magistrates Court and the Children's Court and replacing it with a modern appeal process that will allow for the correction of errors. That process will be applied fairly and consistently for all parties and, importantly, will minimise harm to victims and witnesses.

Further to this, the bill also abolishes de novo appeals from final orders of the family division of the Children's Court. However, appeals to the Supreme Court on questions of law will still be available. These are positive changes, and changes that will have positive outcomes for victims; namely, in most cases victims will no longer need to repeat their evidence as in a de novo appeal. Victims will also have a better understanding of why a sentence has been changed on appeal as the County Court must find there are substantial reasons to do so.

I really do not think that the effect of appeals on victims can be overstated. I do not need to go into details, but I have had a recent interaction with a family tragically impacted by a murder in their family in 2016. The perpetrator in that case is subject to a custodial supervision order under the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997. The level of anxiety and pain and suffering that the family are living through is really visible, and every time I meet with them in my electorate office it is really hard not to get emotional. One of the greatest triggers for the family are the provisions around community leave. They have serious concerns around personal safety and around notice associated with community leave, and I have written to the Minister for Mental Health on this issue. But another major factor that this family and other victims have to deal with is that they have to relive and be reminded about tragic incidents during such processes. Sometimes there can even be a real reluctance about arranging an intervention order because, again, that can involve reliving and being reminded about an extremely painful incident.

As we have heard here today, the de novo appeal currently requires the County Court to hear all of the evidence in a case again, consider all of the issues afresh and make a new decision. When a person appeals against a conviction, victims and witnesses must re-attend court to give their evidence again. So I am glad to see that change under this bill. When we say de novo appeals are outdated, just to put that into perspective, the de novo appeal process comes from the 17th-century English system of appeals. These are positive changes that better reflect Victoria's modern justice system. Also, I would just like to note that Victoria is the only Australian jurisdiction that continues to have a right of de novo appeal for all appeals of decisions of magistrates in criminal matters, including against conviction and sentence, so the changes in this bill are consistent with legislation in other states.

Another positive outcome, as briefly mentioned earlier, is that these changes will help to increase the transparency of our criminal justice system. By replacing these appeals to the County Court with tailored processes that will require the County Court to consider magistrates' reasons, this will improve transparency in the appeals process; namely, the County Court will be required to find substantial reasons to impose a different sentence on appeal and to have regard to the reasons of the summary court when assessing whether there are substantial reasons. This is more transparent than the current process, where the appellate court does not need a reason to impose a different sentence or to consider why the original sentence was imposed.

Another substantial change under the bill, and one that many other honourable members have touched on, is the introduction of a second or subsequent appeal right, in very narrow circumstances, to modernise the way our system deals with substantial miscarriages of justice. This also promotes transparency in the justice system by providing direct access to the courts if new evidence comes to light which indicates that a person may have experienced a substantial miscarriage of justice. This is anticipated to reduce reliance on the petition of mercy, which is currently the only avenue for people who have exhausted their appeal rights to have their case re-examined by a court.

So again, I am delighted to make a contribution here today, and I commend the Attorney-General on a bill that will have considerable positive impacts on the criminal justice system, including the wellbeing of the victims and witnesses. Importantly, victims will no longer need to repeat their evidence in de novo appeals, and victims will have a better understanding of why a sentence has changed on appeal. The bill strikes a good balance between supporting and protecting victims and vulnerable people and ensuring an offender who has suffered a miscarriage of justice is able to have that injustice corrected. I commend the bill to the house.

Mr D O'BRIEN (Gippsland South) (10:46): I too am pleased to rise to speak on the Justice Legislation Amendment (Criminal Appeals) Bill 2019. As the member for Caulfield has indicated, the opposition is not opposing this legislation. Looking at the bill, it is largely common sense. It will help improve the efficiency of our courts. There is also the important aspect of taking away the political element to appeals and petitions for mercy, which I might come to a little bit later. This bill is largely reflecting some changes that were brought in 2018 to the Parliament but did not proceed because of

the election at the end of last year, so we did not get through them. This has now been split off into a separate bill.

The removal of de novo appeals, I think, is one of the key parts of this legislation, and I think it is a sensible procedure. 'De novo', as previous speakers have said, effectively means 'new trial' in Latin—so afresh or anew, or beginning again. Under these changes anyone appealing a Magistrates Court decision will not have access to a de novo appeal as of right. Instead, rather than putting victims and witnesses through a whole new court process, the appeal court will simply be able to consider transcripts and video et cetera of evidence that was presented at the Magistrates Court level. I think that is a good thing because it will help free up the courts.

For the public and also for non-legal people such as myself to understand this, de novo appeals originated at a time when magistrates were not in fact trained, when they were effectively justices of the peace and there was an understanding that they would sometimes get it wrong—they might get points of law wrong—and therefore there should effectively be an automatic right to a higher court. That is obviously not the case today. Our magistrates are professional—they are legally trained and they get training as a magistrate as well—therefore that has largely removed the need for these de novo appeals. Equally, I understand Victoria is the last Australian jurisdiction to abolish de novo appeals, so we are not out of step with the rest of the country on that case.

Of course at the moment there are 3200 de novo appeals before the courts, particularly in the County Court, and that does place great stress on the court process. We know that is already the case. The County Court in particular but also the court system more broadly across the state is under a great deal of stress, and there are things that can be done to alleviate that stress. I guess this abolition of de novo appeals is one way to do it.

I might say that stress has implications across the board. I have a couple of courts in my electorate. Sale has a Magistrates Court and until recently had a County Court—it has effectively been suspended in the last 12 or 18 months—and there is one at Korumburra. I was a little alarmed to hear last week from a variety of sources that as of next year the Korumburra and Wonthaggi magistrates courts will be sitting an extra 50 days. When I say I was alarmed at that, that in itself is not a problem; my concern is that we are already understaffed for police numbers in the South Gippsland area. The community has been raising significant concern about police numbers, particularly in areas where police are on leave or on secondment and they are simply not being replaced, and that means we are down on numbers. Adding an additional 50 days of sitting at the Korumburra and Wonthaggi courts will potentially place further strain on police given that they do the transference of prisoners.

This is an opportunity for me to say to the Minister for Police and Emergency Services that we need some assurance that there will be additional resources provided to South Gippsland and Bass Coast to ensure that those police are not further diverted to extra sitting days of the Magistrates Court and that they are still available to undertake general policing duties. That is a serious concern; it has come to me from a number of sources in the last week or so. While I have no issue and I am certainly happy that there are more court days being scheduled, it does need to be appropriately resourced.

The second major part of this legislation is of course with respect to appeal rights and the current situation with petitions for mercy. The previous speakers have outlined a little about how that operates, but effectively what this legislation is doing is taking the petitions for mercy out of the hands of the Attorney-General and placing them back in the hands of the court. As the member for Caulfield indicated, I can understand why the government is quite keen to see this through, because we have already seen one case as a result of the Lawyer X royal commission, with Faruk Orman having his petition for mercy approved by the Attorney-General; he was sent back to the courts and subsequently freed. I fully expect and I think we all know that there is likely to be more of that through the Lawyer X royal commission process, and I am sure the government and the Attorney-General are quite keen to get this legislation through so she is not seen to be dealing with that. I actually do sympathise; I think it actually does make sense. It puts an enormous amount of stress on an elected official to be seen in

perhaps the uninformed public's eye to be giving a fair go to a crook, but it is the case of course that there are circumstances where the courts get it wrong, and therefore I think it is wise to take this decision out of the hands of the Attorney-General and refer it back to the courts. It becomes a far more transparent and open process when the judiciary handles those matters of law and those matters of appeal, particularly when there is new evidence presented, rather than the pressure being put on a minister. That legislation I think will be largely welcomed. There will be some of course who will have their concerns.

Overall I think the two main aspects of this bill are welcome. They will hopefully lead to improved efficiency in our court system. As I said, I have concerns about the resourcing of the court system more broadly. I do wonder, given the case of the number of appeals currently in the County Court, why the County Court has chosen not to continue sitting at Sale as it has done in the past. This is an issue on which I had dealt with the former Attorney-General, who has now just left the room. I think the County Court should be reconsidering the need for its hearings in Sale. Particularly I think the issue they had was a matter of security and a matter of the physical structure of the building being a concern. If that is the concern, the County Court should be dealing with that, and most particularly the state government through the Attorney-General should be dealing with that.

But hopefully this legislation will address some of the concerns that we have about delays. As the old adage goes, 'Justice delayed is justice denied', and I hope that this legislation will improve the efficiency of our justice system and make it more transparent.

Ms KILKENNY (Carrum) (10:54): I am really pleased to rise today in the minutes before question time to speak on the Justice Legislation Amendment (Criminal Appeals) Bill 2019. This is actually a really important piece of legislation, and it impacts an awful lot of people right across our communities throughout Victoria. Of course it is building on our commitment to make our judicial system in Victoria more modern and to make it a better system, a fairer system and a more accessible system as well. It builds on the really good work that started in our last term of government under our then Attorney-General, who is here at the table this morning, and is now being continued under our Attorney-General in this term of the Andrews Labor government. I would like to acknowledge and commend them both for the incredibly important work that they are doing in this area.

We have heard that the proposed legislation today is going to focus predominantly on our appeals process. That is about making appeals more efficient and more transparent and providing greater certainty and consistency, particularly in the areas of sentencing, but it is also really about supporting some of the hidden people in the system, and they are the witnesses who are called to give evidence and often to relive quite traumatic experiences as either witnesses or victims themselves throughout the process of the trial. It is something that can continue for many, many years for some of these people, where not only do they get past a trial at first instance but there is then always that prospect that the matter will go on to appeal and those witnesses will be recalled and, as I said, have to relive the trauma of those events that may by then have happened some many, many years ago. For a lot of people they want to be able to get on with their lives, and we want to make sure that they can do that as well.

But of course the right of appeal in all common-law jurisdictions, particularly here in Victoria, is a really key human right, and it is an important safeguard in our judicial system to make sure that access to justice is provided but also that justice is done. Appeals are a really fundamental part of our legal system and are certainly critical in ensuring certainty and consistency in judicial decision-making. Appeals are an important and useful tool to achieve clarity and certainty for legal practitioners, who can use that clarity and certainty to advise future clients of their prospects at trial and of course their prospects on appeal as well.

I think it is fair to say that here in Victoria we are really fortunate to have quite a robust, incredible judicial system. It is supported by so many hardworking professionals right across the system, from court officers to judicial officers to the legal profession to volunteers who might be working in the system to our police service and to our prosecutors. I want to acknowledge their highly professional

approach to our judicial system in Victoria and to thank them for all of their work in really making sure that public confidence in our judicial system is maintained at all times and in seeking to achieve outcomes for all Victorians who may need to—

Members interjecting.

The ACTING SPEAKER (Mr McGuire): Order! There is too much audible noise. I want to hear the member for Carrum.

Ms KILKENNY: Thank you, Acting Speaker. Again I just want to acknowledge all of those who are working in our judicial system to maintain that really high level of public confidence that we enjoy and that we should be very proud of here in Victoria as well. I guess we do need to recognise that there are many players in the judicial system in Victoria: the accused, obviously; the victims; the witnesses; the families; and in particular—after question time we will speak about the particular aspects of this bill—the children who come into contact with the judicial system as well. The bill before us builds on, as I said, all the work that has been done by the Andrews Labor government.

Business interrupted under sessional orders.

Questions without notice and ministers statements

INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION RESOURCES

Mr M O'BRIEN (Malvern—Leader of the Opposition) (11:01): My question is to the Premier. Premier, Parliament's all-party IBAC Committee recommended that the Victorian government adequately resource the police corruption and misconduct division in IBAC to ensure that it can independently and effectively investigate complaints and disclosures about Victoria Police. Why won't the Premier commit to implementing this recommendation?

Mr ANDREWS (Mulgrave—Premier) (11:02): I thank the Leader of the Opposition for his question. The government's record in providing support to IBAC both through policy change where that has been important to the IBAC Commissioner and additional budget allocations year on year throughout our time in office is well understood, I would have thought. Perhaps not by the Leader of the Opposition but certainly everyone on this side of the house knows that we stand ready—

Mr M O'Brien: On a point of order, Speaker, this was an all-party recommendation that clearly said the resources were not sufficient. That is why I called for an increase. The Premier needs to address the question, which was: why won't he accept this recommendation of the all-party IBAC Committee?

The SPEAKER: Order! The Premier is being relevant to the question as put.

Mr ANDREWS: As I was saying, as I understand it, the IBAC budget is currently running at about $40 million a year and they are also reporting that they are in surplus, so again we thank the all-party committee for its recommendations and its views, and the government stands on its record. We have provided strong support to IBAC to do its important work not just in relation to police integrity but its broader oversight responsibilities. They are very important to us; I would think they would be very important to every member of Parliament. The government continues to support IBAC in any way that it can, and suggestions to the contrary are simply wrong.

Mr M O'BRIEN (Malvern—Leader of the Opposition) (11:03): It was not just the all-party IBAC Committee. The IBAC Commissioner himself, Robert Redlich, QC, has called for additional resources, stating in the IBAC annual report:

> We will continue to put a robust business case to government for … increases to our funding to ensure that our work to foster a corruption-resistant public sector in Victoria is sustainable …

Premier, the IBAC Commissioner and the all-party IBAC Committee have both backed greater resources for IBAC. What has the Premier got to hide from a properly resourced anticorruption watchdog?

Mr ANDREWS (Mulgrave—Premier) (11:04): Goodness me, what a week the Leader of the Opposition is having. They have to get to that level. Gee whiz! Goodness me!

Mr Richardson interjected.

The SPEAKER: Order! The member for Mordialloc is warned!

Mr ANDREWS: He needs more than that, I think. He needs more than that.

The SPEAKER: Order! The Premier will come back to answering the question.

Mr ANDREWS: On the question asked by the Leader of the Opposition, I would draw to his attention that from next year funding of IBAC will no longer be a function of budget, competing against all the other priorities that the government has to wrestle with each and every cycle. Instead it will be part of the parliamentary appropriation, which we believe is an appropriate reform. To suggest that we have not been responsive to concerns and significant in our support—

Mr M O'Brien: On a point of order, Speaker, it is not the matter for the Premier to try and attack me; we are talking about the IBAC Commissioner. The IBAC Commissioner is an officer of this Parliament and therefore should be treated with respect. The Premier does not respect anyone else on this side—I get that. He should respect the IBAC Commissioner and answer his call for more resources.

The SPEAKER: Order! The Premier is being relevant to the question.

Mr ANDREWS: Yes, and they are 100 per cent behind the Leader of the Opposition over there. I would not be worried so much about this side, mate; I would be having a look behind you if I was you.

Members interjecting.

Mr ANDREWS: The CEO of IBAC has been very clear—

The SPEAKER: Order! The member for Ripon on a point of order.

Mr Dimopoulos interjected.

The SPEAKER: Order! The member for Oakleigh is warned.

Ms Staley: On a point of order, Speaker, as you have previously ruled, question time is not an opportunity to attack the opposition. I would ask you to ask the Premier to stop doing so.

The SPEAKER: Order! The Premier should not use questions as an opportunity to attack the opposition. The Premier's answer has concluded.

MINISTERS STATEMENTS: METRO TUNNEL

The SPEAKER: On a ministers statement, I call the Premier.

Mr ANDREWS (Mulgrave—Premier) (11:06): Thank you very much, Speaker—

Members interjecting.

Mr ANDREWS: No, no, we are just getting started. Be in no doubt about that. We are just getting started.

Members interjecting.

The SPEAKER: Order! I warn the member for Warrandyte.

Mr ANDREWS: I was very pleased to be down at the Metro Tunnel site today, a tunnel with some light at the end of it, unlike the tunnels that other people are occupying at the moment—very dark, very deep and no good end in sight. More trains—

Mr M O'Brien: You are just a train wreck.

Members interjecting.

Mr ANDREWS: Boom, boom! There you go. Goodness me. I would stick to your points of order, if I was you.

To be really clear, we are getting on and delivering this project, a project that some talked about and did nothing to deliver—they mothballed it in fact. We are delivering this project: 7000 jobs; a turn-up-and-go public transport system, no timetable required; the busiest line taken out of the city loop; and every other suburban train line benefiting because of it. This is a massive project, and one that is being delivered by a government that knows how to deliver infrastructure projects and has not wasted a moment doing so.

To be very clear, we are continuing to push ahead. The two tunnel boring machines have been launched. The first of them, Joan, has covered some 250 metres. Meg is around 50 metres into that important work. They will be through to the other side in the early part of next year and will complete their work later in 2020.

This is a critically important project. Without this project and our resolve to get it done you cannot run more trains more often, you cannot make our growth into an advantage for the future. In other words, you cannot sit around doing nothing, wasting the opportunities you are given. That is not our way.

The SPEAKER: Just before calling the member for South-West Coast, I want to acknowledge in the gallery today that we have two guests from the New South Wales Parliament: Sonia Hornery, MP, the member for Wallsend, and Sophie Cotsis, MP, a shadow minister in the NSW Parliament. Welcome to the Parliament of Victoria.

ALCOA

Ms BRITNELL (South-West Coast) (11:08): My question is to the Premier. Alcoa chief executive Roy Harvey has stated that Alcoa is considering potential closures. The closure of the Alcoa Portland smelter would see 1200 workers lose their jobs in a town with a population of just 10 000. This would be devastating for the people of Portland and south-west Victoria. In January 2017 the Premier stood in front of the workers at Portland Aluminium and said he supported them and had their backs. What has the government done since that photo opportunity to ensure that the Alcoa smelter has a future in Portland?

Mr ANDREWS (Mulgrave—Premier) (11:09): I thank the member for South-West Coast for her question. When I was at the smelter in Portland with the then Prime Minister, Malcolm Turnbull, who was happy to attend the event despite contributing but a fraction of the cost of the investment of the overall package, I was not there for a photo; I was there to announce a historic repowering agreement worth tens and tens and tens of millions of dollars. I think for reasons of precedent we have not named the figure, but it is a very substantial amount of money and the smelter would be closed today without it. In other words, if we had taken a policy of indifference—if we had, for instance, dared them to go, dared them to close, for instance—then it might have been like Ford or General Motors.

Ms Britnell: On a point of order, Speaker, I asked a very specific question. I asked what he has done since then to support the jobs in Alcoa, what has he done since then to ensure that the smelter in Portland stays open.

The SPEAKER: Order! The Premier's answer is relevant to the question.

Mr ANDREWS: What have we done since providing tens of millions of dollars to the company? Goodness me! If the honourable member would like a briefing, I am happy to inquire as to whether that is appropriate, because might I respectfully submit that to try to suggest that the government has not done enough since having provided the funding that Alcoa required to remain open—an agreement that has not yet expired—is curious at best. In the question—

Members interjecting.

Mr ANDREWS: No, to be clear about this, in the question the member for South-West Coast referenced recent commentary by the global CEO of that business, and yes, those comments are indeed concerning. There will be no argument from me on that point But to suggest that the government has not done enough to this point or, perhaps in the supplementary, to suggest that we are not in active discussions with Alcoa is wrong; it would be wrong. This is not our record. It is not our way of doing things. We provided the money that was necessary to keep the smelter open, and it was not about photo opportunities; it was about job opportunities. If the member for South-West Coast knows so little about the biggest employer in her electorate, I am happy to organise a briefing.

Ms BRITNELL (South-West Coast) (11:11): When the Premier was opposition leader, he said:

> Every job is worth fighting for and there is a job for the state government to play.

When questioned by the media about what the government would do to save Alcoa's 1200 jobs and the town that so depends on them, the Premier's spokeswoman said:

> This is a matter for Alcoa.

Why aren't Portland aluminium jobs worth fighting for?

Mr ANDREWS (Mulgrave—Premier) (11:12): I do thank the member for South-West Coast for her supplementary question. I can remember when the Point Henry smelter closed under a previous government. That was very much a matter for Alcoa at the time, so a little bit of history is important when it comes to these matters. I have indicated that we are concerned. I think all Victorians would be concerned whenever a global CEO starts talking about big changes in any business that is a major employer. To suggest that the government is not actively involved in these issues and actively supportive of those jobs and other jobs is simply wrong.

Members interjecting.

Mr ANDREWS: Well, commentary from the CEO of Alcoa is a matter for Alcoa. That is news to those opposite apparently.

Members interjecting.

Mr ANDREWS: We will be doing more than you did. Goodness me!

Members interjecting.

Mr ANDREWS: Yes, the workers' friend over here. The bloke who ran the unemployment rate through the roof, thank you for the lecture.

MINISTERS STATEMENTS: TAFE FUNDING

Mr MERLINO (Monbulk—Minister for Education) (11:13): Earlier this week I updated the house on the success of free TAFE right across the state. Today I want to focus on one region—south-west Victoria. South West TAFE offers a range of free TAFE courses from agriculture, building and construction, accounting, children's services, food and hospitality, nursing and community services, automotive, plumbing and tourism. There have been 1170 enrolments—an increase of 121 per cent in free TAFE courses compared to this time last year. For jobs in the region, this is a brilliant result for a wonderful TAFE.

They recently had an open day, and I am pleased that there are many supporters of free TAFE in the south-west. Let me quote one of them:

> A great open day. A range of free and new courses will be available in early 2020.
>
> … Education is alive and well in Polwarth. If this brings back memories of your time at South-West TAFE, I would love to hear them.

Now, who said that? It was the member for Polwarth. I suspect he does not want to hear about people's memories of the previous Liberal government's closure of the Glenormiston campus. I bet he does not want to hear from people who missed out on an education because of what those opposite did.

That is a campus that this government reopened. It is a campus that offers many free courses. I do not know whether the member for Polwarth is one of the 11 votes for the Leader of the Opposition, but I reckon he should reconsider.

Mr Wells: On a point of order, Speaker, seriously, this is a pattern. Yesterday we had a situation where we learned that the education minister could count to 11, so we were pretty impressed by that, but this is a pattern of behaviour by the ministers and we would ask you to bring this to a halt. Otherwise we are just going to keep calling points of order until it is fixed.

The SPEAKER: Order! I do ask the Minister for Education not to attack the opposition. The minister will come back to making a statement.

Mr MERLINO: I will not pick on them. It is a fact though that Glenormiston was closed when the current leader was Treasurer.

VICROADS MOTOR REGISTRY UNIT

Ms STALEY (Ripon) (11:16): My question is to the Treasurer. Last sitting week, in response to a direct question as to whether the government will privatise the VicRoads motor registration unit, the Treasurer told the Parliament:

> Can I be very clear that we will not be divesting assets and operations of government. We just will not be doing it.

Following that question time, the Treasurer was quoted in the media as saying:

> We've been very clear on this. We will not privatise the registration and licensing function of VicRoads.

Yet this week details of this privatisation have emerged, including the time frames, the likely investment bank to handle the deal and the potential sale proceeds. Did the Treasurer mislead the house or is he misleading the investment banks he has had working on this deal for months?

Mr PALLAS (Werribee—Treasurer, Minister for Economic Development, Minister for Industrial Relations) (11:17): No.

Ms STALEY (Ripon) (11:17): I will take that that he is saying that he has not misled the investment banks and therefore he misled the house. The *Australian Financial Review* has reported that investment banks have been called in to present their ideas for the sale of parts of VicRoads functions such as registration. If what you told the house last week is true, then why have these meetings been called?

Mr PALLAS (Werribee—Treasurer, Minister for Economic Development, Minister for Industrial Relations) (11:18): Well, just to clarify: there will be no privatisation of licensing and registration. We will continue to look at joint venture options internally—

Members interjecting.

Mr PALLAS: Oh sorry, a joint venture apparently is our privatisation, which means that the $38 billion worth of public-private partnerships are privatisations.

Mr Andrews interjected.

Mr PALLAS: Yes. We know of course that those opposite know a lot about misleading people. I mean, for example, they go around touting their leader as a serious alternative Premier.

Ms Staley: On a point of order, Speaker, I suspect you might anticipate the point I am going to raise here. Once again, a member of the government is using question time to attack the opposition and I would, once again, ask you to stop them from doing that.

Ms Allan: On the point of order, Speaker, and it also relates to the point of order that was taken earlier by the Manager of Opposition Business, if you are going to rule as you did on the previous point of order, I then also ask you to rule out of order additional commentary that is added into questions given by those opposite where they use questions as an opportunity to attack the government. So if it is going to be one rule for this side of the house I would ask that there be another rule for that side of the house.

Members interjecting.

The SPEAKER: Order! The house will come to order. The member for Oakleigh is warned.

Mr R Smith: On the point of order, Speaker, maybe the Leader of the House could point to the standing order that says that the opposition is not allowed to attack the government in questions. If you could just refer me to that standing order or to *Rulings from the Chair*? Can you show me that?

The SPEAKER: Order! The Treasurer will not use an answer to a question as an opportunity to attack the opposition.

Mr PALLAS: Just to clarify: we are undertaking a detailed scoping study to investigate future options for the VicRoads registration and licensing division. We are looking at a range of options including the role of Service Victoria and, might I say, the private sector. We are not against working with the private sector to improve services and to benefit motorists.

MINISTERS STATEMENTS: WATER SECURITY

Ms NEVILLE (Bellarine—Minister for Water, Minister for Police and Emergency Services) (11:20): I rise to inform the house about what the government is doing to secure water security across the state. We are doing it through a massive water infrastructure build, expanding the water grid, modernising our irrigation infrastructure and augmenting Melbourne's water supply through the desalination plant. We are getting on with the Connections Project, the Macalister irrigation district, the South Gippsland pipeline, Werribee and Bacchus Marsh, Mitiamo, the Geelong–Melbourne pipeline, the south-west Loddon pipeline, east Grampians, desalination, Wimmera–Mallee pipeline extensions and the Sunraysia modernisation.

That is 11 vital water infrastructure projects. When it comes to desal we are securing Melbourne's water supply, which is absolutely critical, and we know that current storages with the desal added are going up an extra 11 per cent in our storages. Every one of those percentage points is vital because over the last period rainfall is 11 per cent below average. Our desal orders are an investment in the future and that is why we were also calling on Victorians to look at Target 155. We know by reducing our water use we can bring it down by over 11 gigalitres of water.

We know that others, however, are taking other suggestions about how we deal with this. Recently we have had some discussion around dams. There are suggestions of new dams. Let us have a look at them: a Maribyrnong dam, which we know would yield just 11 gigalitres per year and flood communities; Dewing Creek in the Geelong region, just 2 to 2.5 gigalitres, at an enormous cost of $100 million; but the outstanding one is the Big Buffalo dam in the north-east, a project that was tested and rejected—including by those opposite—and if you have a look at the sustainable water strategy in 2008, they said it proves the point, declaring a dam would mean a:

> … reduction in supplied demand for the Victorian Murray Water users by around 175 GL/year (11% of average usage).

We are delivering water security based on evidence, and that is working. We know the numbers behind our program and they stack up.

HORSERACING

Dr READ (Brunswick) (11:23): My question is for the Minister for Racing. I wonder if the minister could explain to the house why the government allows the whipping of racehorses in 2019?

Mr PAKULA (Keysborough—Minister for Jobs, Innovation and Trade, Minister for Tourism, Sport and Major Events, Minister for Racing) (11:23): I thank the member for Brunswick for the question, and it seems Mr Meddick in the other place has got the Greens party on the hop.

In regard to the question of whipping of racehorses, the member clearly misunderstands the decision-making process. The question of whether or not horses can be whipped is a matter for Racing Australia. The CEO of Racing Victoria, Mr Giles Thompson, indicated only yesterday in fact that it was Racing Victoria's view that a cessation of whipping was 'probably in the medium term inevitable'. But it is a significant issue in regard to the safety of jockeys. It is not something that any single jurisdiction could ever make a decision about. Could the member imagine if a horse that runs in Sydney could be whipped and then, if it comes to Victoria, it could not be whipped? Could you imagine if a jockey could use the whip in one state and not in another? This is something that can only be resolved nationally, and I would have thought that the member for Brunswick would understand that.

Dr READ (Brunswick) (11:24): I thank the minister for his response, but I think a lot of Victorians could imagine that whipping could be banned in Victoria and would wonder why—and this is my supplementary question—legislation is not passed to make Victoria a safer place for horses, so that those that are whipped in Sydney can race in Melbourne without fear of being whipped?

Mr PAKULA (Keysborough—Minister for Jobs, Innovation and Trade, Minister for Tourism, Sport and Major Events, Minister for Racing) (11:24): I thank the member for the question, and I wonder whether he would be so outraged about the safety of those horses being punched by demonstrators at protests. I would say to him that, yes, I am sure that some people may imagine that, but it is also important for the facts to be on the table. And the facts are that safety is not just about the question of the safety of the animal. It also needs to contemplate the safety of the rider, and the safety of the rider is a very important matter.

There have been trials in various places about not just whether a whip can be used but how it can be used, whether it can be held in one hand or two, the way it can be brandished and how many times it can be brandished. Of course the whip now is a padded device, which it never used to be. So for the member to assert or to imagine that these things are not within the consideration of racing authorities is simply wrong.

MINISTERS STATEMENTS: RESTORATIVE JUSTICE

Mr CARROLL (Niddrie—Minister for Crime Prevention, Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (11:26): I rise to update the house on the latest initiatives to give victims of crime a meaningful voice in the criminal justice system through the practice of restorative justice. Last week at RMIT University I was pleased to launch a new restorative justice service called Open Circle. This will provide victims, offenders and others involved in motor vehicle collisions the opportunity to speak about the crime that affected them and for their story to be heard.

We know that victims want to have their say in the criminal justice system, and they want to be supported through that healing journey. The Andrews Labor government supports a range of restorative justice practices in the state of Victoria. We have youth justice group conferencing for victims of crime committed by young people, and as part of the 227 recommendations of the Royal

Commission into Family Violence we are now trialling and implementing restorative justice programs for victims of family violence.

What is really good, though, is that the opposition just this week have come out in support of restorative justice. I welcome the speeches by the member for Gembrook and the member for Caulfield as well. I think it was a very good sign to see them come out and support restorative justice. I know the Premier was very tough on the member for Caulfield yesterday, but that was not half as tough as the opposition leader was when the member wrote a very good opinion piece recently in the *Age* newspaper calling for a greater role for education in the justice system.

Mr Andrews: And he was rebuked.

Mr CARROLL: He was rebuked, that is right, Premier, he was rebuked. The *Age* was wrong was how the Leader of the Opposition put it after the member for Caulfield's very good opinion piece, but I encourage the member for Caulfield to continue writing his opinion pieces because we know he is doing a very good job.

But the confusion does not end there. Only last week the road trip with the member for Bulleen and the member for Kew was not all just about Brexit. They were also discussing 130 kilometres on freeways—

Members interjecting.

The SPEAKER: The Manager of Opposition Business on a point of order.

Members interjecting.

The SPEAKER: Order! Is there a point of order?

Mr Wells: On a point of order, Speaker, this has been going on all week. We ask you to shut this down and to sit the minister down, because obviously he has nothing constructive to say about his portfolio and he should no longer be heard.

The SPEAKER: Order! The minister is going to come back to making a ministers statement.

Mr CARROLL: Just because you were not in the vehicle. But I welcome the member—

Members interjecting.

The SPEAKER: Order! The house will come to order! Those on my right!

Mr Battin: On a point of order, Speaker, on what started on a very serious topic—and I am going to say was very well put forward by the minister and raised some issues in relation to restorative justice—for him to downgrade that and to try to make a joke of it—

Members interjecting.

The SPEAKER: Order! The Minister for Racing!

Mr Battin: And when he does make that joke, the only issue that I have is we are the ones that get the warning for actually retaliating to it. It is your role, it is your position to ensure that they do not continue down this path. And I ask you, as Speaker, to do that. Use the standing orders and make sure they do not do that, or sit them down.

The SPEAKER: I thank member for Gembrook for his point of order. I did ask the minister to come back to making a ministers statement.

Mr CARROLL: While those opposite argue about themselves and get new haircuts for Spring Street, we will continue getting on with the job of looking after—

Members interjecting.

The SPEAKER: Order! There is no need for a point of order, the minister has concluded his statement.

Mr Wells: On a further point of order, Speaker, he needs to be thrown out for an hour.

Members interjecting.

The SPEAKER: Order! The house will come to order.

Mr R Smith: On the point of order, Speaker, the minister flouted your ruling three times. If one of us did that, we would be out. Three times in a row in the space of probably 20 seconds.

The SPEAKER: The member for Warrandyte can resume his seat.

Members interjecting.

The SPEAKER: Order! The Deputy Premier is warned. I thank the Manager of Opposition Business for providing his advice. The minister has concluded his statement. I am looking for a fifth question in question time.

AIRPORT RAIL LINK

Ms RYAN (Euroa) (11:30): My question is to the Minister for Transport Infrastructure. At a Delphi Bank event earlier this month the Treasurer said that the government was no longer committed to building dedicated rail tunnels as part of the Melbourne Airport rail link. Given dedicated rail tunnels are essential for an express airport service, why is the government abandoning fast rail to the airport?

Ms ALLAN (Bendigo East—Leader of the House, Minister for Transport Infrastructure) (11:31): I thank the member for Euroa for her question. You will forgive me, Speaker, for perhaps repeating some of the information I provided to the house last sitting week when I was asked a not dissimilar question. I think it was from the Leader of the Opposition on that occasion. I may have on that occasion reflected on how we need to get on and plan for the best way to deliver an airport rail link that benefits the most Victorians and why we have been determined that that route goes through Sunshine. I believe the Treasurer was in Sunshine at that breakfast on that occasion. It was a great opportunity. The member of St Albans and I were talking just the other day about the great opportunities that are going to come for the Sunshine community by having that become an important transport hub—and of course for regional communities.

I will tell you what, there has been a lot of talk and a lot of planning about how to deliver rail infrastructure in Victoria. There was of course a government who printed tickets to an airport rail link that did not even exist.

Ms Ryan: On a point of order, Speaker, while I would be more than happy to invite the Leader of the House to repeat her antics from last sitting week and incur your wrath, on the point of relevance, this was a very specific question about why the government has abandoned fast rail to the airport by refusing to build the dedicated rail tunnels that are required. The minister has not come close to answering that specific point about dedicated rail tunnels, and I would ask you to bring her back to answering the question.

The SPEAKER: Order! The minister is to come back to answering the question.

Ms ALLAN: Speaker, the reason why I was talking about how to best plan rail infrastructure—

Members interjecting.

The SPEAKER: Order! The member for Hastings!

Ms ALLAN: Perhaps take the advice of the member for Warrandyte—what is good for both sides of the chamber—

The SPEAKER: Order! Leader of the House, through the Chair.

Ms ALLAN: And in terms of how we best plan to deliver rail infrastructure, I must say to the member for Euroa that I will not be taking her advice. And the reason for this is pretty simple. In an earlier—

Members interjecting.

The SPEAKER: Order! The member for South-West Coast!

Ms ALLAN: In an earlier sitting of this Parliament, the member for Euroa failed to understand how V/Line trains could run on the metropolitan network. She failed to even understand that simple approach to running an integrated regional and metropolitan rail network. The member for Euroa is also someone who does not understand that you need to upgrade track—

Mr M O'Brien: On a point of order relating to relevance, Speaker, the question relates to the government walking away from its commitment to build dedicated tunnels to service fast airport rail. The minister is now devolving into an attack on the member for Euroa. I ask you to bring her back to answering the question.

The SPEAKER: I do ask the minister to come back to answering the question.

Ms ALLAN: Well, Speaker, I do put it to you that I am being entirely relevant, because the issues that were canvassed—

Members interjecting.

The SPEAKER: Order! If members shout across the chamber at the minister and I cannot hear her answer, I will not be able to rule on further points of order.

Ms ALLAN: Thank you, Speaker. The issues that have been canvassed by the member for Euroa are not ones that have been determined by the government. Because what we are doing is we are properly planning how best to deliver an airport rail link. We will not take the approach of those opposite and print tickets to an airport rail line that does not even exist. We are working, as the Premier has already indicated to the house and to the public—

Ms ALLAN: We are having very good, constructive discussions with the federal government on how to deliver an airport rail link that benefits Victoria.

Ms RYAN (Euroa) (11:35): The Treasurer also said at the same function that the government was considering having airport trains stop at suburban stations. But at a press conference in early September the Premier rejected the airport trains stopping at suburban stations, saying:

> … if it's slow and congested and 'stopping all stations' people won't use it.

So who is right, the Treasurer or the Premier?

Members interjecting.

The SPEAKER: Order! The Deputy Leader of the Liberal Party! The minister to resume her seat. I have already warned members: if the chamber is so noisy that I cannot hear the minister's response, I am sure that many members of the public cannot hear the minister's response. The minister has the call.

Ms ALLAN (Bendigo East—Leader of the House, Minister for Transport Infrastructure) (11:36): I will tell you what is wrong: it is that the member for Euroa clearly has no understanding about how to best plan to deliver rail infrastructure here in Victoria. And I will also put it to you that in terms of planning for the airport rail link, we want trains to stop at Sunshine. The reason why we want those trains to stop at Sunshine is so travellers from Bendigo, Geelong and Ballarat can interchange with the airport rail link.

I say to you, Speaker, the member for Euroa has let the cat out of the bag today. She does not want those regional communities to have those trains stop at Sunshine.

Ms Ryan: On a point of order, Speaker, I renew my earlier point of order, on relevance. The question was: who is right, the Treasurer or the Premier? The Premier has said that we cannot have an airport rail train stopping at all suburban stations, and yet that is what the Treasurer is advocating to the business community. So I renew my question and ask you to draw the Leader of the House back to answering the question.

Ms ALLAN: On the point of order, Speaker, I am being entirely relevant to the question that was asked. The member for Euroa is verballing both the Premier and the Treasurer, and I am entitled to dispute what she puts to the house as 'fact' in answering the question. That the member for Euroa does not understand the operation of the metropolitan and regional train network is not my problem. It is her problem in how she frames the question.

Members interjecting.

The SPEAKER: Order! Thank you. I need to rule on the point of order.

Mr Walsh: On the point of order, Speaker, there are deliberate quotes from the Premier about this issue and quotes from the Treasurer from the speech he gave at a business breakfast.

Ms Allan interjected.

The SPEAKER: Order! The Leader of the House!

Mr Walsh: When it actually comes to understanding rail, perhaps the minister could explain what went wrong with the Murray Basin rail project.

The SPEAKER: That was not a contribution to the point of order. I do not uphold the point of order. The minister is being relevant to the question.

Ms ALLAN: Thank you, Speaker. As I have said to the house before, and I will say it again, we will continue to work with the federal government, who we are working with quite cooperatively, on how to best deliver airport rail.

I do need to say that yesterday I did not accurately represent to the house the support the Leader of the National Party has. He has only got seven votes in his party room, not 11.

MINISTERS STATEMENTS: AUSTRALIA-LATIN AMERICA BUSINESS COUNCIL

Mr PAKULA (Keysborough—Minister for Jobs, Innovation and Trade, Minister for Tourism, Sport and Major Events, Minister for Racing) (11:39): I rise to provide the house with an update on the Australia-Latin America Business Council, which is celebrating its 30th anniversary.

It is my intention to speak at the council's dinner tonight. I will be focusing on the fact that our goods exports to Latin America have jumped 38 per cent in just two years, that the two-way merchandise trade has reached $2 billion for the first time and that we have 17 500 students and 53 000 tourists from Latin America. All of those things have been made possible and will be enhanced by a number of factors, including amongst other things, the direct flights between Santiago and Melbourne, the MOU that has been signed between Melbourne and São Paulo and the MOU between Chisholm TAFE and the Colombian vocational education, training and skills body, SENA, to collaborate on technology, cybersecurity and the creative economy.

With 650 million people and a GDP of $8 trillion, Latin America is an incredibly important market for our state. It is wonderful to know that there is bipartisan recognition of the value of that relationship.

Mr PAKULA: Earlier this year the member for Bulleen, the member for Kew and the member for Benambra did their bit for the relationship when they travelled to South America where, according to

Backroom Baz, the member for Kew, the member for Bulleen and the member for Benambra met with the Australian ambassador to Ecuador and Chile. I applaud them for the work that they are doing to shore up the relationship. No doubt it will be of great value to the member for Kew later this year when the member for Bulleen has to decide whether to sign an MOU with him or with the member for Gembrook.

Mr R Smith: On a point of order, Speaker, I just want to refer to a point of order raised by the Leader of the House with regard to the forms of the opposition questions where she stated very confidently to the house that she would compel you to make a ruling. Now, if you are going to be a truly independent officer of this Parliament, it is very disturbing to members of the opposition to hear the Leader of the House state so clearly to the Parliament that she is in a position to compel you to make certain rulings. I want to put that on the record, and I seek your assurances to the house that that indeed will not happen.

Ms Allan: On the point of order, Speaker, I do feel compelled to indicate, in response to the member's point of order—

A member interjected.

Ms Allan: No. He knows exactly what he is doing. The reference I was making was that we can change—

Members interjecting.

Ms Allan: We have the capacity in the chamber to change sessional and standing orders. That is the reference I was making. You know that. Speaker, I just put to you again, in response to the member for Warrandyte's point of order, if he is seeking consistency in your application of rulings, I would support that approach and that you ensure that you also consistently either warn or remove members from the chamber who consistently interject on government ministers in particular. Some government ministers when they are on their feet are constantly being interjected on. I, having just responded to a question from the member for Euroa, at times could barely hear myself responding because of the interjections of those opposite. If the member for Warrandyte wants to go down that path, we have the capacity to change sessional orders to make sure that these things can be dealt with.

Mr Wells: Further on the point of order, Speaker, I think it is a bit rich for the manager of government business to be accusing the opposition of interjecting when you have had a whole week of this constant attack on the opposition, and they do not expect us to respond? I would ask you to rule out of order the point of order put forward by the manager of government business and that you support the member for Warrandyte.

Mr Battin: Further on the point of order, Speaker, just to clarify the government's position there, which was a direct threat to this side of 'We will change the standing orders and the rulings' to silence this side. That is not how the Parliament should operate. We deserve to have a voice. We are all elected, exactly the same as those over there, to stand up for our communities. To think a government would come in here and put on record that they are willing to change rules to silence the opposition is a disgrace and is something that all Victorians should know about, how arrogant this government is.

Members interjecting.

The SPEAKER: Order! Members know that I do not have any control over the sessional orders. The construction of the sessional orders, or the standing orders, they are a matter for this house. That is the end of the matter.

Ms McLeish: On a point of order, Speaker, I draw your attention to two outstanding questions on notice to the Minister for Education, 1185 and 1187, that were due on 12 October. I would appreciate if that was chased up for me.

The SPEAKER: I will follow that matter up.

Constituency questions

SOUTH-WEST COAST ELECTORATE

Ms BRITNELL (South-West Coast) (11:44): (1381) My constituency question is to the Minister for Agriculture in the other place, and the action I seek is the latest information on the specific actions being taken to deal with feral pigs at the recently UNESCO world heritage-listed Budj Bim Indigenous landscape in my electorate. Media reports last week suggest that feral pigs have been noticed in the Heywood region since 2015 but numbers are growing significantly and there is serious potential for extensive and irreversible damage to the Budj Bim cultural area and to farmland in the area. In a joint statement to the media last week the responsible departments and agencies said they were working with the community but failed to say what they were doing. This is an issue that needs a robust and immediate approach, and I seek that information about what is specifically being done to deal with this problem.

NARRE WARREN SOUTH ELECTORATE

Mr MAAS (Narre Warren South) (11:45): (1382) My constituency question is for the Minister for Suburban Development and concerns the Pick My Project initiative. Minister, what impact has Pick My Project had on my electorate of Narre Warren South? I am regularly contacted by constituents who want to not only better understand how Pick My Project has helped improve their local community, from grassroots initiatives to public voting for their favourite projects, but also what the future of the program is. I understand that the government has dedicated $30 million to projects across Victoria, with Southern Metropolitan Region receiving $3.66 million for 31 projects in our area. Empowering Victorians to improve their community through Pick My Project can improve access to valuable services and to facilities as well. I look forward to sharing the minister's response with the Narre Warren South community.

OVENS VALLEY ELECTORATE

Mr McCURDY (Ovens Valley) (11:46): (1383) My question is on behalf of Helen Fleming and is to the Minister for Energy, Environment and Climate Change regarding the Muckatah reserve. Is the minister aware that the former committee of management, who were recently dismissed from the Muckatah reserve, have removed fixed assets, including shade sails, seating and other assets that belong to the community? As the new committee of management tries to restore the reserve back to a genuine community precinct, it is important that these assets be returned to the Muckatah reserve, or can the minister explain to the new current committee of management if the Department of Environment, Land, Water and Planning intends to replace these assets?

WENDOUREE ELECTORATE

Ms ADDISON (Wendouree) (11:46): (1384) My question is for the Minister for Racing and is about the 2019 Ballarat Cup, to be held on Saturday, 23 November, at Dowling Forest Racecourse, one of Victoria's premier racing and training venues. We are proud that it is the home of Melbourne Cup-winning jockey Michelle Payne and her brother Stevie. The Ballarat Cup is a great day out for young and old, a chance to spend time with friends, dress up and have fun. It also provides an important boost to our local economy. I am thrilled that Ballarat will host the richest country cup of Australia, with $500 000 in prize money, and I want to encourage people to come to the Ballarat Cup. Minister, can you please advise what this government is doing to support racing at Ballarat and how we are going to provide an enhanced race day experience for racegoers at this year's Ballarat Cup? And if you could arrange some great weather, that would be most appreciated.

HASTINGS ELECTORATE

Mr BURGESS (Hastings) (11:47): (1385) My question is to the Minister for Roads and Minister for Road Safety and the TAC. I ask: what assistance is the government able to provide regarding a major upgrade of the dangerous intersection of Tyabb-Tooradin Road, O'Neills Road and the Western Port Highway in Tyabb? On 4 October at 7.30 am two vehicles collided at that intersection. One driver was uninjured, but unfortunately the other driver died at the scene. There have been 12 road crashes with six people seriously injured at this intersection since 2008. I have been advised that the Victorian Department of Transport is planning to install side road-activated speed signs at the junction, but where people's lives are at stake, that is just not good enough. Fix it once and fix it right. The government is trying to save itself money by putting in a cheap fix. The lives of people in my community are every bit as precious as those in Labor electorates, but you would not know it given the way Labor continues to ignore the needs of non-Labor-held electorates.

My community is calling for a permanent safety solution to be implemented with the construction of a roundabout at the intersection. The evidence is that roundabouts reduce fatalities and serious injury crashes by up to 85 per cent— *(Time expired)*

BENTLEIGH ELECTORATE

Mr STAIKOS (Bentleigh) (11:48): (1386) My question is to the Minister for Consumer Affairs, Gaming and Liquor Regulation and concerns One World Travel, which was a travel agency that operated in East Bentleigh. I have been approached by many constituents who paid significant sums of money for flights, accommodation and cruises that were never provided. I have heard stories of people arriving at Melbourne Airport or overseas accommodation, only to be told that there was no booking in their name. Thank you to Nerida Wallace, who has been providing pro bono assistance to people caught up in this. My question is: what actions is Consumer Affairs Victoria taking to investigate these allegations?

MELBOURNE ELECTORATE

Ms SANDELL (Melbourne) (11:49): (1387) My question is to the Minister for Water, regarding the maintenance of Moonee Ponds Creek. Minister, will the litter traps in Moonee Ponds Creek be redesigned to better protect the creek from pollution and rubbish? Each month my office receives an update from the volunteer group Friends of Moonee Ponds Creek. The group does some really important work in monitoring the creek's health and preserving and restoring its natural environment, and I would like to thank them for their efforts. Unfortunately, their updates often include photos of the creek's overflowing litter traps and poor water quality. My constituents inform me that the current design of the litter traps is not effective and the safeguards in place to protect the creek need to be redesigned and improved. The health of our rivers and creeks is vital for supporting native flora and fauna and for maintaining green space in the inner city. I encourage the government to take all steps necessary to improve and protect the creek's health for the community to enjoy into the future.

HAWTHORN ELECTORATE

Mr KENNEDY (Hawthorn) (11:50): (1388) My constituency question is for the Minister for Energy, Environment and Climate Change and Minister for Solar Homes and is about the solar panel rebate scheme. The Andrews Labor government's $1.3 billion Solar Homes program will install solar panels, solar hot water or solar batteries at 770 000 homes over the next 10 years, saving Victorian households more than $890 a year on their energy bills. My question is: how many homes in my climate-conscious electorate of Hawthorn have received a rebate since the scheme commenced?

EILDON ELECTORATE

Ms McLEISH (Eildon) (11:51): (1389) My question is to the Minister for Police and Emergency Services, and I raise it on behalf of the Hoddles Creek CFA. When will the Hoddles Creek CFA station be replaced? Members of the brigade have plans to source a new vehicle and replace ageing

equipment. The brigade provides emergency catering and did so extremely well on the weekend as part of the evacuation drill of nearby communities. It is now time to replace and modernise the catering trailers which have been stored to date at several locations. The brigade's plans rely on a new and expanded station, and the brigade want to plan appropriately to progress these other needs. It is no secret that the brigade is high on the list for a station replacement—it is one of the oldest in the Yarra Valley and no longer meets the needs of a modern brigade. The relatively recent transfer of adjoining land from VicRoads shows the process is now underway. Naturally the brigade are itching to take the next step but need to know the time frames and associated funding. I trust the minister will be able to provide the appropriate advice.

THOMASTOWN ELECTORATE

Ms HALFPENNY (Thomastown) (11:52): (1390) My question is to the Minister for Transport Infrastructure. What is the latest information on the timetable for stage 2 of the O'Herns Road project? This is an important project for the residents of Thomastown, and they are anticipating and will be so excited to hear when the next stage will be in development and when the project will be completed.

Rulings by the Chair

CONSTITUENCY QUESTIONS

The SPEAKER (11:52): Just before moving back to the government business program, yesterday the member for Frankston asked the Acting Speaker whether the member for Bulleen's constituency question could be reviewed on the basis that it sought that the minister take action to meet with constituents rather than ask for information. I have reviewed *Hansard* and uphold the point of order, and I therefore rule the question out of order.

Bills

JUSTICE LEGISLATION AMENDMENT (CRIMINAL APPEALS) BILL 2019

Second reading

Debate resumed.

Ms KILKENNY (Carrum) (11:53): As I mentioned, the bill before us, the Justice Legislation Amendment (Criminal Appeals) Bill 2019, is a bill that is dealing with our current appeals process, and it is going to do this in a number of ways. The first is dealing with appeals from the Magistrates Court to the County Court, and those are appeals on both conviction and sentencing. The second aspect of the bill is dealing with appeals from final orders of the family division of the Children's Court. I guess the third main element of this bill is dealing with what is known as the second right of appeal.

As I have said, this is quite important and significant legislation. It is also worth noting that a large part of this bill is dealing with making the Victorian jurisdiction consistent with what is happening in other jurisdictions as well, and that is in fact abolishing the right of de novo appeal from the Magistrates Court to the County Court. There are good reasons that this has been done, and I have touched on some of those earlier, but I guess one of the most fundamental principles comes back to the right of de novo appeal, and that is where an accused in the Magistrates Court can seek a right of appeal as of right, and that appeal will be a de novo hearing in the County Court. That actually means that the County Court will hear the matter again in its entirety so that the prosecution has to re-prove its case, all of the evidence needs to be put back before the court and all of the witnesses need to be recalled—so essentially a complete retrial of the matter. Obviously one can easily understand that additional resources are required to run a complete retrial but also the very significant impacts that a retrial will have on witnesses who are recalled and required to come back and essentially retell their entire story again in a different judicial setting.

The de novo appeals are actually something that came out of the 17th century, and one would hope that things have certainly moved on and that our judicial system has certainly modernised and updated

since then. A lot of the safeguards that are in place today that were not in place then means that the de novo appeal is no longer necessary and is in fact quite an extensive burden on our judicial system and on a lot of people personally.

The bill puts forward amendments that will mean there will be no right of a de novo appeal from the Magistrates Court for both sentencing and conviction. It will end the use of these hearings in appeal scenarios. This means, as I said, that we will not be re-examining those witnesses and that those witnesses can have certainty and finality on the matters that have brought them before the courts. At appeal the courts will simply re-read the transcripts of the court below and make a decision on the papers. Significantly it will also mean that we are not undermining but we are promoting the significant level of expertise that is already in the Magistrates Court. I think this is a really beneficial development in our judicial system. It is an important amendment which certainly forms part of the overarching and commendable objectives in this bill—which are to deliver a more modern, fairer and more accessible judicial system of appeals in Victoria—and reflects the expectations of our community and the professionalism and integrity of our judicial system. I commend the bill.

Dr READ (Brunswick) (11:57): The Justice Legislation Amendment (Criminal Appeals) Bill 2019 will make two major changes: the abolition of de novo appeals from criminal matters in the summary jurisdiction and the introduction of a second appeal right to the Court of Appeal in the rare circumstances where convicted persons can demonstrate that there has been a substantial miscarriage of justice. I am going to talk about the former, the abolition of de novo appeals, because this is the proposed reform that the Greens strongly oppose.

The abolition of de novo appeals is contrary to the majority of opinions we have heard from legal organisations, including the Law Institute of Victoria, the Criminal Bar Association and Liberty Victoria, whose articles and submissions have informed many of my points today. Most persuasively this reform was rejected by a comprehensive inquiry by a Victorian parliamentary committee, which was subsequently supported by the then Labor government.

In 2006 the Victorian Parliament Law Reform Committee considered justifications for de novo appeals, whether these justifications continued to exist and the desirability of any changes to the de novo appeals system. The committee consulted widely and examined in detail issues of the summary and the County Court's efficiency, the impact of de novo appeals on appellants and witnesses and the available alternatives to the system. Importantly the committee also undertook a detailed comparison with New South Wales, which abolished de novo appeals in 1999 and replaced it with the 'modernised' system similar to the one proposed in this bill.

This committee in 2006 concluded that the de novo appeals systems provided superior access to justice than alternatives which restricted the scope or grounds of appeal, and that the de novo system delivered these benefits in a very cost-effective manner. The committee expressly indicated that it was not convinced that alternative forms of appeal provided the same level of protection against errors made in rulings of the lower court. The Law Institute of Victoria's submission on this says exactly the same thing. The committee recommended that the system of de novo appeals be retained in Victoria.

At that time in 2006 the committee's report was praised by all sides of the Victorian Parliament and was supported by the Labor government. The current Minister for Health said at the time that the inquiry was:

> … a very good example of how well the parliamentary committee system can work and how a bipartisan parliamentary committee can consider a particular issue in a great deal of detail and come up with recommendations that are seriously considered by government.

She added, in justifying the Labor government's support of retaining de novo appeals, that she thought:

> … the government response is one that will ensure that our criminal justice system can operate efficiently in this state and that defendants do have access to fair trials.

I bring up this inquiry from 13 years ago and the government's response at the time not to make an easy political point, but rather to point out that this is a significant change in stance. In fact I would support and applaud a change in stance if it was justified by evidence and if the points made by the committee report were raised by the minister in the second-reading speech and rebutted, but they have not been. If I think about my own training and the received wisdom you learn about in medical school, about one-third of it has probably been subsequently disproved by evidence and it would be wrong to continue supporting those points. So my issue is not that the government has changed its position but that it has simply not made any convincing argument for so doing.

Because this cross-bench inquiry had already examined all of the rather perfunctory reasons raised by the government in the second-reading speech and dealt with them, it is important that the government at least acknowledge this inquiry and the evidence of supporting the retention of de novo appeals. And we should ask why it has not done so. It would assist us as legislators if that had been done. I submit that it is an unfortunate comment on our Parliament that 13 years ago we were all prepared to agree on more than 250 pages of advice based on careful consideration of evidence and that we are now being asked to support the polar opposite. But if we are to make this choice on the assertion of the government, at the risk of doing the government's job here I am going to point out that indeed things have changed since 2006.

We know, for example, that some of the changes in the last 13 years include that the court system, particularly the Magistrates Court and its workforce, is facing unprecedented demand pressures and case backlogs, particularly in the criminal division. We know that well over a third of people currently in prisons are still awaiting trial and are yet to be sentenced by our courts. We know that even when in custody hundreds of accused each year are still missing court dates because of the demands on prison transport—something as simple as logistics. We know that legal aid is overburdened and in some years operating in annual financial deficit. We know that contrary to their fundamental rights, more and more Victorians are appearing in court without adequate legal representation. This is largely due to the underfunding and under-resourcing of legal aid, which restricts eligibility and restricts the time that lawyers can spend with their clients. That is what makes the abolition of de novo appeals so much more important.

These facts I have stated come from the annual reports of the Victorian courts repeatedly over the last decade. I would add that these reports of the courts—from the public advocate, from the Victorian Auditor-General's Office—also talk year on year about the increased complexity of criminal cases and the risks, the delays and even the injustices that have occurred as a result of these problems.

Let us now go back to the parliamentary Law Reform Committee's report which found that the abolition of de novo appeals:

> … would almost certainly reduce the efficiency of, and increase costs for, the Magistrates' Court—

and would make hearings in the Magistrates Court 'longer and more complex'. The report also found:

> … any anticipated gains in the County Court from the proposed change would be outweighed by additional costs in the Magistrates' Court;

So there is certainly a very strong case that the bill before us may exacerbate the recent problems in our justice system, rather than resolve them. The Law Institute of Victoria stated, for example, that plea hearings will take far longer, with witnesses being called, reports being more routinely relied upon and extensive submissions made to ensure that there is a very proper basis for any subsequent appeal. They argue that court events will vastly increase in number. They also point out that there are regional variations between magistrates in sentencing, something they refer to as 'postcode justice', and that this applies not just to the Magistrates Court but to the Children's Court and will affect children. It will affect people who are under-represented or not represented or poorly represented, in particular: low-income individuals who may just miss out on eligibility for legal aid, perhaps because they have a job; non-English speaking individuals who are unable to present their case or communicate it effectively

to the lawyer; and the mentally ill, faced with similar problems. These vulnerable groups—children, low-income groups and the non-English speaking and mentally ill—are all people who rely heavily on legal aid to represent them, a legal aid system which is under-resourced and which therefore relies upon the safety valve of being able to appeal—bearing in mind that almost all of these appeals, at least 90 per cent, are appeals against sentence rather than appeals against conviction.

While it is possible that the opposite is true, at the very minimum the government needs to present that case. We need to be asking these questions and exploring the answers. I hope that it is not the case, but we would not want these decisions to be made with just an emphasis on the political and media imperative. For example, last year, remember that the equivalent government bill to abolish de novo appeals, which made it through this house but not the other house, was called the Justice Legislation Amendment (Unlawful Association and Criminal Appeals) Bill 2018. That bill's second-reading speech contained the same government assertions about the need to modernise the courts by abolishing de novo appeals. In that speech the government also made an assertion that we urgently need to extend the police powers for outlaw motorcycle gangs to apply to children as young as 14. The then Attorney-General last year said:

> This change reflects the unfortunate reality that criminal gangs often recruit vulnerable young people to take part in criminal activity. It is important that Victoria Police has tools to intervene to avoid young people becoming involved in serious and organised crime.

Now, less than a year later, the government has thankfully dropped the proposed laws to imprison children for unlawful association. It is unlikely that the state election has stopped the 'unfortunate reality' about young people being recruited into crime, but it is at least a relief that the government feels the important powers needed by Victoria Police last year are no longer necessary. I hope it is a sign that the government is putting the law and order politics that has failed Victorians behind us.

This bill represents a fundamental change to the operation of criminal law in this state. As the Attorney-General counterintuitively argued in the second-reading speech, it is undeniably a system that has served us very well for hundreds of years. There is no emergency here; we have got time to do the work to learn why the evidence reviewed 13 years ago by the parliamentary committee has changed. If the government wants to go against their previous position informed by evidence, we should hear about this. If this is the case—if the matter, for example, was to be referred to the Victorian Law Reform Commission for review—the Greens would be more than willing to reconsider our position based on the findings. Similarly, if legal aid was adequately funded, enabling greater access and preparation time for lawyers in the Magistrates and Children's courts, there would be less need for de novo appeals.

So this is really about fighting for evidenced-based policy, a non-partisan ideal that all the crossbench and opposition can agree to fight for, because ultimately it leads to the best outcomes for all Victorians. That is why the Greens oppose this bill.

Ms HUTCHINS (Sydenham) (12:08): Firstly, I want to start, in regard to speaking on the Justice Legislation Amendment (Criminal Appeals) Bill 2019, by thanking the Attorney-General and her staff for their work on the bill and the ambition that they have demonstrated in modernising our appeals system.

Currently, when someone is found guilty by the Children's or Magistrates court and they appeal that conviction, the County Court must hear all evidence again and needs to reach a new decision. This appeals process is essentially a new, or 'de novo', hearing. This current system places an incredible burden on victims and witnesses, who are required to present evidence again, with their evidence to be scrutinised at another time during the appeal proceedings. It also takes up a large portion of the County Court's time, efforts and resources. And for a victim to have to repeatedly provide evidence, it can be an incredibly traumatising experience.

These changes not only ensure that the appeals system better supports victims, but they also ensure that people who are convicted have access to appropriate justice. In cases where there is compelling evidence of a potential miscarriage of justice, it is appropriate for the judiciary rather than us politicians to consider that appeal in an accessible, transparent and open way.

I am not sure if there are MPs in the chamber that have recently seen the Netflix show called *Unbelievable*, but it is a very startling account of a true story in the United States where unfortunately there were multiple rapes by an offender. The victims involved were made to repeat and repeat and repeat what had happened to them to the police, the judicial system and even the health system over there, and the trauma that that caused those victims was quite evident through that show. I would not usually refer to Hollywood shows as a way of demonstrating just how this could come about, but the reality is that it is based on a true story, and there are many like true stories playing out here in our legal system where victims can be retraumatised through the actions of the court.

The key changes in this bill signify the government's commitment to abolish de novo appeals of criminal cases in the County Court. De novo appeals are contradictory, quite frankly, to our modern justice system. Victoria is the only Australian jurisdiction that has retained the de novo appeal process, which has come from the English system dating back to the 17th century, which we have heard from previous speakers on this side.

De novo appeals can also undermine the decisions of magistrates, which in turn affects public confidence in the administration of justice. Our justice system is much more independent and professional than when the de novo appeals were introduced, therefore providing parties with this appeal right can no longer be justified, especially where procedures have evolved substantially in order to maintain adequate safeguards against any wrongful convictions. The current proceedings will be replaced with conviction appeals being decided on transcripts of evidence from the original hearings. Additional evidence will only be considered if the County Court understands it to be in the interests of justice. Additionally, sentence appeals will be determined based on the evidence and materials used in the original court proceedings. After taking into consideration the original magistrate's decision, a different sentence may be allowed to be determined by the County Court if it finds there are substantial reasons to do so.

This bill also attempts to address miscarriages of justice. Currently, if new evidence is unveiled and a person convicted has exhausted all their appeal rights, the only avenue for them to have their conviction overturned is through a petition for mercy. In these circumstances the Attorney-General of the day then decides whether to recommend a Governor pardon, to remit the sentence or to refer the matter to the Court of Appeal for further consideration. This process undermines the foundations of criminal justice systems.

Having decisions made by politicians without hearing new evidence tested in the courts and without the public having the knowledge of what decisions may be made really does undermine our justice system. This bill also includes reforms that will ensure that these substantial miscarriages of justice are dealt with transparently through the court system and through introducing rights to a second appeal or a subsequent right of appeal of convictions for indictable offences. A person convicted of a crime can only access a second or subsequent right of appeal if they have exhausted their appeal rights and if new and compelling evidence emerges which shows a substantial miscarriage of justice may have occurred. A stringent test does apply, and as set up through this legislation, it provides a correct balance between strong enough to prevent claims without merit while also allowing for faith in the justice system to rectify the miscarriage of justice.

This bill is important because it allows us to abandon the old ways of petitions of mercy being made behind closed doors by executive government and based on legal arguments with formal processes. The decisions made from these processes can be criticised as lacking transparency and hence often diminishing public trust in the decision that has been made.

These reforms mirror changes already in place in South Australia and Tasmania. Changes are also under consideration in Western Australia. These reforms are important for ensuring second appeals are dealt with in an open and transparent court system.

It is commendable that the Attorney-General is taking these reforms seriously, as they go to the very foundations of our democracy—that the executive and judiciary powers are separated so they can operate independently and ensuring that we actively promote public trust in the criminal justice system by creating more transparent judicial pathways to correct injustice.

I do not know how many parliamentarians in this place have had to give evidence before a court, but from hearing from those that have had to do so and from hearing directly from victims myself, I know that it is gruelling and it can be retraumatising. Imagine having to go through the process of doing it not only once but twice—going through every motion, every step, reliving trauma and having to do it again. That is the way the current appeals system works. In some instances if a witness or a victim is unwilling or unable to go through this process of giving evidence again, then the case may not proceed at all. Sometimes in the most awful cases appeals are used to harass and intimidate the victims or witnesses, and unfortunately we have seen this happen over the years in many rape cases.

We as a government acknowledge that many victims and witnesses will experience further anxiety or trauma during the process of a second or subsequent appeals process. There is a balance we need to find between ensuring the rights of the accused person to appeals is upheld but at the same time understanding that witnesses and victims require a sense of certainty about the direction and conclusion of the case, and that is why we are going ahead with these changes. We are committed to improving access to justice as well as mitigating the trauma and stress felt by victims and witnesses through additional appeals processes.

By abolishing de novo appeals we are also allowing police and court resources to be freed up. In Victoria there are on average 200 000 summary criminal matters finalised each year, and that figure is growing. And after balancing the considerations it is clear there is a significant benefit to only having one evidentiary hearing.

We are committed to making the justice system more accessible, more transparent and less burdensome on victims and witnesses. This is why the bill is so important. It really does deliver a modern, effective and transparent system in the appeals processes. It also reflects the community's expectations that the executive and judiciary branches are independent and separate from each other. A wrongful conviction not only greatly impacts the lives of the people wrongfully sentenced but also seriously impacts their families and the broader community. The bill ensures that our justice system operates with the utmost integrity, transparency and fairness, and I commend the bill to the house.

Ms SETTLE (Buninyong) (12:18): I rise today in support of the Justice Legislation Amendment (Criminal Appeals) Bill 2019. This bill covers two parts of the appeals process and, as many have stated, is a bill of two halves. The first half is a reintroduction of reforms to abolish de novo appeals. The second half is reforms to introduce a second or subsequent right of appeal.

I am sure that we all understand the importance of criminal appeals and the appeals process in our legal system. They are a crucial part of a fair defence and also provide the prosecution the ability to argue the case for a tougher sentence for an offender, should they feel the sentence handed down was not adequate. The appeals process also allows for errors or injustices to be corrected by higher courts. Our legal system, as thorough as it may be, is still susceptible to error, and for that reason we have an appeals process to act as a safeguard and to ensure that such error is noticed and addressed.

Whilst we recognise that the purposes of the appeals process are in the public interest, we also recognise that the appeals process can be incredibly traumatic for victims and witnesses. As we know, some matters can be prolonged and witnesses can be required to give evidence in court again, often evidence that is traumatic, violent and extremely personal. I do not think that any of us need a medical

degree to be aware that the mental health outcomes for victims of crime having to relive traumatic events repeatedly can be dire. In the Ballarat region organisations like CASA, the Ballarat Centre Against Sexual Assault, have been dealing with mental health issues in victims who have had to relive their trauma since 1984. Recently there has been an increase in the numbers requiring assistance in the wake of what can only be described as the clergy abuse crisis that has shaken not just the Ballarat region but many others across the country. I will take this opportunity to once again thank the Premier and the Minister for Prevention of Family Violence, Minister for Women and Minister for Youth for the boost in funding to CASA to cope with the increased demand.

The Andrews government is modernising Victoria's criminal appeals system. This will mean that victims and witnesses are not put through the trauma of a second trial or made to give evidence again when it is not absolutely necessary. These people have been through enough, and we seek to lessen their burden.

Regarding the abolition of de novo appeals, I will start out by reminding the house that this reform has actually already passed the Assembly. However, it lapsed before passing the Council last year. Currently any outcome of a Magistrates Court hearing can be appealed to the County Court as of right. This means the appeal does not need to be on any specific grounds. These appeals must be heard de novo, which means they are run as a whole new hearing. What this entails is that the judge hears all the evidence afresh and sentencing afresh. Anything already decided on in the lower court is not taken into account. This is inefficient, as it allows defence counsel effectively to treat the magistrates hearing as a trial run. It adds to delays and costs for all parties. Some would even go so far as to say it is a lawyers picnic.

The reason this system sounds out of date is because it is. The de novo appeals system dates back to the 17th century. Here in Victoria we lay claim to being the last jurisdiction in Australia to still have such appeals. We are looking to bring our justice system into the current century. Just a few blocks from my electorate office is the Ballarat Magistrates Court. While I am sure that all courts are busy, regional areas can be incredibly busy, with large geographical areas to cover. The workload of the Ballarat Magistrates Court is immense, so abolishing de novo appeals will have a substantial, positive impact on the court's resources. This will be welcomed in Ballarat, as I am sure it will be welcomed in many other regional courts.

Under these reforms de novo appeals will be replaced by appeals conducted essentially 'on the papers'—that is, the County Court will review transcripts of the original hearing and only admit further evidence if it passes an interests of justice test. Where a sentence is being appealed, the County Court will only allow the appeal if there are substantial reasons to impose a different sentence. In other words, there is a threshold to meet. The appellant will need to show that the original sentence was more than just arguably too severe or too lenient before the court will accept the appeal. There are now approximately 3200 de novo appeals every year. This will not only see the number of Magistrates Court appeals drop but it will save a lot of unnecessary stress and trauma for victims of crime.

The Andrews government is also reintroducing reforms to abolish de novo appeals against final orders made by the family division of the Children's Court. It is important to note that these reforms are fully supported by the Children's Court and the Department of Health and Human Services (DHHS). This is about ensuring children are not faced with months of uncertainty and instability waiting for cases to be heard all over again. The interests of a child must always be put first, and any child who finds themselves in this situation has already been through enough. These important changes are being made whilst maintaining safeguards. Appeals to the Supreme Court on questions of law will still be possible, and the bill does not change appeals to interim orders of the family division. The bill also does not prevent the Secretary of DHHS from applying to vary orders.

The second part of the bill is the introduction of a second or subsequent right of appeal. This is about modernising Victoria's safeguards against wrongful conviction. These cases may indeed be few and far between. However, it is crucial that justice is served based on evidence and facts. There are times

when new evidence comes to light that proves that a wrongful conviction has occurred. Those cases are currently dealt with behind closed doors through the petition for mercy process. This petition process involves a convicted person writing to the Attorney-General to present evidence. The Attorney-General then seeks advice from the Department of Justice and Community Safety on the merits of the evidence and then either refers the matter to the Court of Appeal for them to hear an appeal, which might result in acquittal or a retrial being ordered, or provides advice to the Premier, who then advises the Governor to either grant mercy or decline the petition. With this lengthy and time-consuming process being carried out behind closed doors, the procedure offers little transparency and can leave someone in prison after a wrongful conviction for far longer than necessary. This bill makes the process more transparent by creating a pathway for fresh and compelling new evidence to be considered by a court with the aim of correcting any miscarriages of justice.

The right to a second or subsequent appeal will only be available if leave is first granted by the Court of Appeal. The court can only grant leave if the evidence is found to be both fresh and compelling. This sets the bar high and means that the court's time will not be wasted with claims that will not hold water just so an offender can try again. Fresh evidence is evidence that was not presented at the trial for the offence and that could not, even with the exercise of reasonable diligence, have been presented in the trial for the offence. For evidence to also be compelling it must be reliable and substantial evidence which would have eliminated or substantially weakened the prosecution case if it had been presented at trial. We have all seen and heard about cases that have been overturned or about cold cases solved due to new technology such as DNA screening. That is the kind of fresh evidence that would apply.

Even then the applicant must prove that a substantial miscarriage of justice has occurred in their case for the court to allow the appeal to move forward. Examples of a miscarriage of justice would be someone innocent being convicted due to evidence not being available, an improper trial, judicial bias, juror misconduct or witness tampering. A second appeal will only be available for indictable offences. Cases that meet the very high threshold are expected to be very rare, and this is proving to be the case in South Australia and Tasmania where they already have such rights of further appeal.

We are the last jurisdiction in Australia to have de novo appeals. This bill is about bringing our legal processes into line with the rest of the country. Our legal system should deliver benefits to victims, not further victimise them. Our legal system should be streamlined to ensure that justice is served in a timely manner while ensuring safeguards are maintained. This bill achieves these things. I would like to extend my thanks to the Attorney-General for bringing forth these amendments. I commend this bill to the house.

Ms SPENCE (Yuroke) (12:28): I am very pleased to rise today to add my contribution to the debate on the Justice Legislation Amendment (Criminal Appeals) Bill 2019. This bill will make changes that will modernise and improve Victoria's appeals processes, with four key changes. Firstly, the bill abolishes de novo appeals from criminal matters in the summary jurisdiction and replaces them with new appeals processes that in most cases will not require victims and witnesses to give evidence again. Secondly, it abolishes de novo appeals against final orders made by the family division of the Children's Court. Thirdly, the bill introduces a new second appeal right in indictable matters in narrow and rare circumstances where the Court of Appeal is satisfied that fresh and compelling evidence exists and that there was a substantial miscarriage of justice. Finally, the bill empowers the Court of Appeal to refer an issue or matter in an appeal to a trial court for determination.

The right of appeal is a key tenet of our legal system, be it the right to challenge an administrative decision of a government department, a local government planning decision, a traffic infringement or a decision of a court. All of us here will have had constituents come to us and ask how they can challenge a decision, how they can have a decision reviewed or how they can appeal a decision that they do not agree with. In criminal matters this appeal process is particularly important as it provides a safeguard for both the prosecution and the defence. Appeals allow the prosecution to challenge

inadequate sentences and also allow errors or injustices to be corrected by higher courts. Both of these purposes are strongly in the public interest. However, appeals can also be incredibly difficult for victims and witnesses as matters are prolonged: they have to go through the trauma of a second trial and they are often required to give evidence in court again. It is for this reason that the reforms in this bill that I want to focus on are those in regard to abolishing de novo appeals.

De novo appeals, as we have heard many times today, are appeals of decisions by magistrates that are heard afresh in the County Court. All of the evidence is heard again, all of the issues are considered afresh and a new decision is made. In these appeals victims and witnesses must reattend court and their evidence is given again. A de novo appeal does not require the County Court to find that there was an error in the summary proceeding for the appeal to take place. It effectively allows an accused another chance to dispute their charges, regardless of whether there were any mistakes made during the original hearing, and it can occur even when the appellant pleaded guilty in the summary court. The de novo appeal process comes from the 17th-century English system of appeals. Unsurprisingly, four centuries later, these appeals are outdated and do not reflect our modern justice system.

It is important to note, as others have, that Victoria is the only Australian jurisdiction that continues to have an 'as of right' de novo appeal for all appeals from decisions of magistrates in criminal matters, and this includes appeals against both conviction and sentence. This bill replaces de novo appeals with a rehearing process that requires the County Court to have regard to the magistrate's reasons for a decision, which is not currently required. In doing so, moving forward, it will provide magistrates with far more guidance than they currently receive, leading to more consistent outcomes. In most cases, both conviction and sentence appeals would also be dealt with by the County Court 'on the papers' instead of a full rehearing of the matter. As such, victims and witnesses would not have to go through the trauma of giving evidence and being cross-examined all over again.

For conviction appeals, the bill introduces a new process that requires the County Court to redetermine the case on the transcript of the evidence given at the original hearing. The court will have the ability to receive further information in limited but appropriate circumstances where it is in the interests of justice to do so and in the case of evidence from a complainant, or a child or person with cognitive impairment, in a sexual offence, family violence or assault case if the evidence is substantially relevant to a fact in issue in the appeal. If the offender pleaded guilty or did not appear in the Magistrates Court and a conviction was recorded in their absence, they will be required to seek leave to appeal from the County Court. To assist the County Court to identify appeals that are likely to be abandoned early, the bill also requires the appellant to file a summary of appeal notice and attend a pre-appeal mention hearing if the court requires it. If this does not occur, the appeal can be struck out by the court.

In regard to sentence appeals, the bill introduces a new threshold test whereby the County Court may only allow the appeal if satisfied that there are substantial reasons to impose a different sentence to that imposed by the magistrate. The appeal will be determined on the evidence and materials that were before the magistrate. When deciding whether there are substantial reasons to impose a different sentence, the County Court is required to consider the magistrate's reasons for imposing the original sentence and the need for a just and fair outcome. The question of what constitutes a 'substantial reason' to impose a different sentence will be determined by the appellate court on a case-by-case basis. Circumstances that would ordinarily satisfy the 'substantial reasons' test include where the original sentence was manifestly excessive or manifestly inadequate in the case of a Director of Public Prosecutions appeal, which means that it was so far outside the possible range of sentences that it could not have been imposed for the offending and that the appellate court can infer that the sentencing magistrate must have made a mistake when imposing the sentence; or where there is an error of law, such as if the sentencing magistrate identified an incorrect maximum penalty, or imposed conditions on a community correction order that were not available at law.

The bill also abolishes de novo appeals from final orders of the family division of the Children's Court. These final orders include protection orders, therapeutic treatment orders, family preservation orders

and permanent care orders. There will continue to be a right of appeal to the Supreme Court on a question of law from these orders, which allows for the correction of errors. These appeals can be conducted much more efficiently than a de novo hearing of the case. The bill does not change appeal rights from interim orders of the family division. These appeals are heard by the Supreme Court as a rehearing, which allows the Supreme Court to deal with the applications urgently. This is important for these particular appeals because interim orders deal with urgent protective orders for children.

The abolition of de novo appeals from final orders of the family division of the Children's Court are particularly important as de novo appeals can prolong the instability and uncertainty experienced by children in these matters. This is because de novo appeals cannot be heard quickly. They require all of the witnesses to give their evidence again. This means that hearings can take months before they even get to court. This is really due to the availability of witnesses and courtrooms. At the end of the process of actually getting these matters to court, around two-thirds of these cases are abandoned at the last minute anyway. Protecting the child's best interests, the possible harmful effect of delay in these cases and bringing stability to the child's life as soon as possible are the most important considerations in these cases. For that reason, appeals will still be able to be made, but they will be to the Supreme Court and on a question of law.

This bill replaces the de novo appeal process with a modern appeals system which will correct errors. It will apply fairly and consistently to all parties and it will cause minimal harm to victims and witnesses.

I have heard some terrific contributions this morning, such as those from the member for Carrum next to me and the member for Buninyong behind me. I congratulate them on their terrific contributions. I saw there were contributions from others that I did miss, and I look forward to those who are about to kick off as well. I do congratulate the Attorney-General on bringing this bill before the Parliament. I also want to acknowledge the work of the previous Attorney-General, who brought components of this bill in an earlier bill that came to the Parliament and passed this place in 2018. These are really important changes to the appeals process in Victoria. They will modernise the appeals process. They will make for a much fairer appeals process. They will protect those who are most vulnerable within our legal system, particularly children, witnesses and victims, who do not need to go through the retraumatisation of having to give evidence all over again in a higher court. I commend the bill to the house.

Mr CHEESEMAN (South Barwon) (12:38): I am pleased to rise to speak on the Justice Legislation Amendment (Criminal Appeals) Bill 2019. I have listened intently to a number of fantastic contributions made by some of my Labor colleagues this morning on this. The appeals process is an important element of any modern legal system. Indeed it has been a feature of the Victorian legal system for many, many decades, and it will continue to be an important feature. Often people who have been charged with a criminal activity or a civil matter and who go through the court process might feel that their conviction is in fact inappropriate. That can be for something as simple as a parking fine or as serious as a very serious criminal undertaking. The appeals process really provides both the Crown and those that have been convicted with the opportunity to challenge the outcome of that legal process, and this bill and these provisions that we are talking to today very much modernise and make our courts more effective and efficient.

Often these matters can be exceptionally traumatic for victims and witnesses who have experienced trauma through the conduct of criminal activity, and having to tell and then retell time and time again what they experienced or what they witnessed can of course be incredibly traumatising and can make the process of healing and forgetting that much more difficult, particularly when it is not necessary to review the facts, when the facts are all on the table, the witness statements have been provided and the witnesses have been examined and cross-examined.

When an appeal is launched it should really be on the application of the law, in my view, not on the facts as presented. I think these provisions enable that to happen so that those witnesses, those victims, are not re-traumatised by that process. Not only will it be good for victims and witnesses to not have

to retell and relive these experiences but it also means that there will be more resources available for the courts to be able to, in a more timely way, have matters dealt with. Anything that we can do to make our court system fairer and more effective and more efficient generally is a good thing.

Further, removing that opportunity for lawyers to be able to use the lower courts—particularly the Magistrates Court—as a sort of a show trial really where they have no intention of putting all that they have got in the Magistrates Court because they have every intention of going to a higher court through the appeals process, I think is inappropriate. It is inefficient, and whilst it may be something that has been a feature for a long time in our criminal justice system, it makes sense to remove it.

We have seen in more recent times through the royal commission into Lawyer X that quite a number of convictions have been secured by the state, if you like, by the Crown prosecutor, where the evidence that was relied upon was garnered in a way which was manifestly unfair. I suspect there will be quite a number of applications for mercy because of that, and it makes absolute sense that this Parliament legislates a new process, a process that is free from politicians, a process that relies upon a proper process. To me that makes a lot of sense. I think these reforms are profoundly necessary and—certainly from some of the evidence that we have seen presented to the royal commission—this process perhaps should have been done a long, long time ago.

The petition for mercy is relatively rarely used, although I do suspect out of the royal commission there may be quite a number of cases where applications will be made, and that is why these particular measures are so profoundly required. There have probably also been a lot of people that have been charged, convicted and sentenced for particular crimes where new techniques, new evidence, have been developed, and we as a Parliament need to reflect carefully about how we review that, particularly of course the development of DNA as evidence. It is, in the scheme of our criminal justice system, relatively new as we have only been able to use those techniques for perhaps 30 or 40 years. I am pleased that this bill looks at some of those types of provisions.

I am pleased to be able to speak on these matters. It is disappointing that the Liberal Party effectively blocking everything in the Legislative Council denied this legislation in the last Parliament. I have got absolute faith that this Parliament will get it done, and I commend these matters to the house.

Ms COUZENS (Geelong) (12:48): I am pleased to rise to speak on the Justice Legislation Amendment (Criminal Appeals) Bill 2019 and to take the opportunity to thank the Attorney-General and her team for their hard work and commitment to modernising our justice system and ensuring that it does reflect community expectation. This bill is a reintroduction of reforms to abolish de novo appeals which passed the Assembly but lapsed without passing the Council last year.

It also covers reforms to introduce a second or subsequent right of appeal in very narrow circumstances to modernise the way our system deals with substantial miscarriages of justice. Criminal appeals are an important safeguard for both the prosecution and the defence. They allow the prosecution to challenge inadequate sentences and also allow errors or injustices to be corrected by higher courts. We do hear occasionally outrage over inadequate sentences from communities, and certainly I have heard that on occasion in my community, and the expectation the community has about sentencing and what they see as being appropriate. Modernising that is really important, and particularly important for my electorate of Geelong. Both of these purposes are strongly in the public interest. However, appeals can be traumatic for victims and witnesses as matters are prolonged and they are often required to give evidence in court again. Appeals can go on for very long periods of time. We are modernising Victoria's criminal appeal system so that victims and witnesses are not put through the trauma of a second trial or made to give evidence again when they do not need to.

Currently any outcomes of a Magistrates Court hearing can be appealed to the County Court as a right without needing any particular grounds to do so. These appeals must be heard de novo, which means they are run as a whole new hearing, with the judge hearing all the evidence afresh and sentencing afresh—that is, not taking into account decisions already made in the lower court. This is inefficient

as it allows defence counsel effectively to treat the Magistrates Court hearing as a trial run. It adds to delays and costs for all parties, and crucially it requires victims and witnesses to give evidence in court and be cross-examined all over again. So this retraumatisation of people is something that we need to put a stop to, and that is what this bill will do.

I think we have all seen people who have been traumatised through the court system. I have heard many stories of that, but also the retelling and retelling of their stories, as the member for South Barwon pointed out, is really a traumatic experience to put people through.. Retelling the story also can impact on other people who may need to go through that court experience and make them think twice about whether they will take action or do anything in relation to their matters because of the experiences they see occurring in our court system.

So these reforms are an important modernisation of our justice system that is in the interests of both victims and the efficient operation of a modern, high-volume court system while preserving the important safeguards of a robust appeals process. As I said, there is community expectation that we have a modern system that meets community expectations. Certainly in my community that is made very clear to me when a lot of these matters come up in the media. I imagine that my community would very much support the amendments in this bill.

Under our reforms de novo appeals will be replaced by appeals conducted essentially on the papers; that is, the County Court will review transcripts of the original hearing and only admit further evidence in very narrow circumstances—an interests of justice test. Where a sentence has been appealed, the County Court will only allow the appeal if there are substantial reasons to impose a different sentence. This test will act as a deterrent to sentence appeals lodged as a throw of the dice by an offender hoping to get a few weeks or months shaved off a sentence that might, for example, have been near the top of the range. There are currently about 3200 de novo appeals every year. These reforms are expected to dramatically cut the number of appeals from the Magistrates Court and will spare victims and witnesses the trauma of giving evidence and being cross-examined all over again. I think that cross-examination can be—well, is, in fact—quite traumatic; and again we want to modernise the system so people are not feeling like they are being retraumatised during the court process.

As well as abolishing the de novo appeals from summary criminal matters we are also introducing a reform to abolish de novo appeals from final orders made by the family division of the Children's Court. These are reforms that are supported by the Children's Court and the Department of Health and Human Services (DHHS) because they will spare children months of uncertainty and instability waiting for a full rehearing of a case. Stabilising the circumstances for a child in these cases, which involve things like protection orders, therapeutic treatment orders and permanent care orders, is in the child's best interests. We have a responsibility to do this, to make sure we always have the child's best interests, and that needs to be paramount.

Safeguards against errors are preserved. However, appeals to the Supreme Court on a question of law will still be possible, and the bill does not change appeals from interim orders of the family division. The bill also does not prevent the secretary to DHHS from applying to vary orders.

Introduction of a second or subsequent right of appeal is about modernising Victoria's safeguards against wrongful conviction. While such cases are incredibly rare, sometimes new evidence is discovered that shows people have been wrongly convicted. Those cases are currently dealt with behind closed doors through the petition for mercy process. The petition process involves the convicted person writing to the Attorney-General to present evidence. The Attorney-General seeks advice from the Department of Justice and Community Safety on the merits of the evidence and then either refers the matter to the Court of Appeal for them to hear an appeal, which might result in an acquittal or a retrial being ordered, or provides advice to the Premier who then advises the Governor to either grant mercy—pardon the person or reduce their sentence—or decline the petition.

We are making the process more transparent by creating a pathway for fresh and compelling new evidence that shows a substantial miscarriage of justice to be considered by a court. The right to a second or subsequent appeal will only be available if leave is first granted by the Court of Appeal. The court can only grant leave if evidence is found to be both fresh and compelling. This is a very high statutory bar that ensures only cases which are meritorious are considered by the Court of Appeal. This test means that an offender will not simply be able to try again after failing an appeal. Fresh and compelling evidence would need to be discovered to give grounds for a further appeal.

This bill is a really important one—as I have mentioned—for my community as well. I think areas around traumatising victims and people giving evidence being expected to time and time again give evidence in court can have an enormous impact on people. We know that particularly for people who are giving evidence around family violence. We know that the Aboriginal community have not necessarily had the fairest hearings through the legal system. There are lots of challenges for Aboriginal communities and their people, and we know that. A lot of these amendments that are covered in the bill will help assist some of those traumatic experiences that people in our community have had. So I wish it a speedy passage through both houses and commend the bill to the house.

Mr McGUIRE (Broadmeadows) (12:58): Crime and punishment has been a theme of two bills in this week's sitting. I noted when the lead speaker for the opposition gave his contribution today he repeated a proposition about victims of crime and the Adult Parole Board of Victoria. I did answer this when he spoke on the previous piece of legislation. He made the call for victims representation to be on the parole board. I just want to absolutely make it clear that that has already been done. The Andrews Labor government has done that. We are putting victims of crime at the heart of the system that we have, so there is no need when we come to a vote later today to do other than vote on the bill. The reasoned amendment that was seeking to address that issue is not relevant because it has already been put into place by the Labor government.

I think that is an important point to make—that the government is committed to protecting victims of crime and placing them at the centre of our reforms. I am happy to make that point really clear to the house for the vote later this day. I think that that needs to be known and understood. That has been the strategy that we have been driving to, and I think that that is in the public interest. It is in the best interests of the system that we have. I just want to make sure that that is not misinterpreted and that that is not reported otherwise outside this house. We need to have this sort of view for advancing the position for victims of crime.

Sitting suspended 1.00 pm until 2.01 pm.

Mr McGUIRE: I want to resume my contribution on the themes of crime and punishment. I do want to make sure that the house is informed that the Victorian government is committed to protecting victims of crime and placing them at the centre of our reforms and reiterate that representatives of victims of crime are already on the Adult Parole Board of Victoria as community members. That has been done. We do not want to see any misrepresentation outside this house on that matter. That is what the advisers have told me. I have checked with them as well, to make sure that is the fact of the matter.

This keeps going back to a regular theme that we have seen too often—about the driving forces that are volatile and overlapping; about race, rights and taxes—from the conservative side of politics. This is what they do. This is what has been going on and has been adopted and adapted from America to here. I remember making a *Four Corners* episode called 'Lost in America' in 1992 about exactly this issue.

You see how it keeps coming back and how the other side of politics keeps wanting to go there. The former Leader of the Opposition said they did not go hard enough on the crime issue at the last election. He is not looking for creative responses, not looking for how we actually address the causes of crime or how we actually achieve crime prevention—all the different strategies that the Andrews Labor government is looking at to try to address these matters. I think that this is a really important issue, because it is about how these matters are used to divide communities. They are not looking at how

you actually try to look at the social determinants of life—the three-part overlapping Venn diagram of health, lifelong learning and opportunity. If you have a look at the way the Andrews Labor government has got a whole strategy for right throughout your life—on how to get a better chance, how we connect the disconnected and how we give them that chance—that is what we need to do.

We have legislation: two bills before us in this week's session and there will be more to come. The two are on justice legislation amendments, and I do want to make sure that we are seeing the subtext of how these issues play out over time, who is actually responding in a creative way—in a way that connects people up, that gives them a better chance in life and that gives them better opportunities—and who is just there to divide and to conquer. That is their game plan.

We have seen how this happens. This is what I am saying. I remember going to California to look at the race riots there and what happened. Then in Texas: did they get the dividend they were supposed to, new industries and jobs? We even ended up at the democratic convention in New York to look at the issues there. So this has been going on for a long time. It is a long-term strategy. It goes way back. It goes back to even the Nixon era, about how to use these matters. That gave me the analysis of what happened under the Reagan White House and how they did all of that. And now you see what is currently happening under the Trump administration as well.

These are issues we need to call out. We need to be addressing them. We need to be looking at: what is the subtext? How are they trying to do it? And here is the point: it is about a strategy; it is a strategy that is increasingly adopted from the US and fast-tracked to here, and then it is just tailored to try to fit the local circumstances. It is that issue. And race is quite often played. It is no longer a straightforward, morally unambiguous force. This is an issue, so we need to be on top of it. That is really what the subtext of this is: to try and fragment and divide.

This is an issue that I do want to bring up again, because you can see that this is how it forms again. This is the argument they have. We have had one substantive interview from the former opposition leader and that is what he said: they did not go hard enough. I have not heard a word from the opposition side to say, 'No, we don't agree with that strategy. We want to actually address these other matters'.

Let us see how this plays out. We have put the markers down. We have made the call. Let us see what the response is over the rest of this 59th Parliament in Victoria and see how this progresses. We will be able to weigh and measure the arguments from both sides and see what is done, see who is actually providing opportunity and see who is saying, 'Here's how you'll get a better chance. Here's how you'll be able to be a better citizen, make a bigger contribution and not just end up in the criminal justice system. Here are the alternatives'.

I know who is working really hard—which side of politics is working really hard—on these matters. So I commend the Premier, the Treasurer and all of the ministers and parliamentary secretaries who are getting behind all of these strategies, because that is really where we need to be moving. It is also the issue of making sure that we are a big-picture government and ensuring that everyday people see where they fit into that big picture, what the opportunities are that they will have and how we connect it up.

We can do this. If you have a look at how much the population is growing, Melbourne's north and Melbourne's west will each be the size of Adelaide soon. This is where we need to look at the investments and make sure that that happens as well. I think that that is really a subtext that has now come to the fore in this debate. It is our duty to call it out, to contest it and to make sure we follow it through, to see what happens when we have the vote on this bill and the other bills that we have debated in this week, to make sure that these issues are not misrepresented.

This is the critical thing we are now in. We have all prospered from the Enlightenment where facts were stubborn and cherished, not alternate. This is the fake news era. We have to actually address it and we have got to be saying, 'No, no. Here are the facts. Here's what's being done', and stop using fear to divide. That is really the game plan; that is really what it is about. We are on the side of hope;

they are on the side of fear. That is what it boils down to—that is what they are doing. How does that then play out? How do you actually give people better opportunities in life, even from before they are born? We must be able to speak to parents when they are going along to get their first cheques and all the rest of it, to connect them into the system.

I was at Holy Child Primary School in Dallas this week. I was talking to the people there about how to do this to try to connect them into the system. We have people who have come from all these different countries and do not speak English as a first language. How they connect up is really critical so that the parents know what to do.

Then we have invested in GenV, the Generation Victoria project. Last night we had medical researchers in this Parliament, some of the best and brightest people not just in Victoria but internationally. Kathryn North, who is leading the Murdoch Children's Research Institute, and all her team were here. We are looking at how we are going to follow the life patterns of people and give them a better chance.

Mr DIMOPOULOS (Oakleigh) (14:09): It gives me pleasure to speak on this important bill and to follow the contribution of the member for Broadmeadows, because I too heard some of the comments made in the contribution of the member for Caulfield. I heartily agree with the member for Broadmeadows in terms of the narrative of those opposite and our narrative. Public policy generally is complicated and justice is even more complicated. The instant reaction people have when something unjust happens—there is a crime and there is a victim—is, 'Please make this go away, please increase penalties, please increase police presence'. We have done all those things, but it is more complicated than that. We have increased police powers in the right areas and we have increased the number in the force by more than any other government in the 160-odd-year history of Victoria Police. I will get back to that.

As the member for Broadmeadows said eloquently in his contribution, that is a base motive of fear where you say, 'Something is insufficient. You need to make me safe' by just doing a whole bunch of stuff which in essence, if you think about it logically, does not help. I will give you an example of that. In the previous Liberal-Nationals government the then Attorney-General and the government changed a whole range of provisions in the criminal code to effectively catch a whole bunch more people in the net of the criminal justice system. You had this around breaches of bail and a whole range of other things. We have made some more nuanced changes in our term, but they had some really blunt changes.

Not in and of itself, but that was a large contributor to what we saw: the biggest recidivism rate increase over four years that we have ever seen. I think it was close to 50 per cent—45-odd per cent recidivism. That is bad public policy. I get the narrative that the member for Broadmeadows was talking about, which is that what they on the other side do is push fear and fearmongering and say, 'We'll keep you safe'—so you create the monster and then create the solution, which is, 'We are the solution'. If you look at the statistics, the problem is that they were not the solution. To follow that analogy, they created more monsters, effectively, because they recycled people in and out of the criminal justice system through recidivism.

If the Victorian people are looking for a government that is strong on victim support, strong on the supports and compensation and a whole range of other regimes that surround and should support victims but also has a balanced public policy approach to interventions in the criminal justice system, then they need look no further than this government.

Today in question time the Minister for Corrections got up and talked about restorative justice. We in the Labor Party have a very proud legacy—we can do more and we will be doing more—from the Bracks-Brumby governments, and probably beyond; I cannot confirm that. We are continuing that in this government in terms of the work of the current minister in restorative justice. That keeps the community safe, and it keeps those young offenders or any offender from a life of crime.

In relation to investing in victims of crime, we have invested $48 million in additional support for victims. That is a 79 per cent increase on what was available to victims before we came to office. That is a real public policy response. We do not have to go and beat our chests about it. It is stuff we do, and we do it effectively and quietly, with victim support services and families and others advising us along the way. We have also committed $3.2 million in this year's budget to establish a team to design the new financial assistance scheme stemming from the review of the Victims of Crime Assistance Tribunal, VOCAT. There are about 100 recommendations in that review and we are starting the important work of reviewing that. It is led in part very capably by the fairly new victims of crime commissioner, Fiona McCormack, formerly of Domestic Violence Victoria. We are doing that hard work.

We have amended a whole range of bills in this Parliament already and definitely in the last Parliament. I have spoken on several, as have other members on both sides, whether it be about giving more support to people who do not have the capacity to appear in trials without that extra support—a third person, so to speak—victim charter changes, a whole range of changes when it comes to child safety standards and supporting families and victims to be heard more appropriately and to be protected.

This proposed clean-up change in this bill is not just for victims of course but is heavily focused around victims too. One of the key changes this bill proposes is getting rid of de novo appeals from the Magistrates Court to the County Court. Part of the rationale for that, as other speakers have said, is so that we do not retraumatise not just the direct victims but also their families through having to appear again and go through all the processes of the court case in a higher court, as if the first hearing did not matter. This bill seeks to change that, as other jurisdictions have, by allowing the higher court, in many instances the County Court, to conduct the initial investigation, so to speak, or initial inquiry about whether there should be an appeal on the papers and then take a lot of the outcomes of the Magistrates Court hearing into consideration in the new hearing. I think that is valid not just for victims but also in my view for defendants because they still have the opportunity of appealing under certain provisions that this bill seeks to implement—that is, having evidence that is fresh and compelling and warrants an appeal.

The changes here are not unique, either the de novo changes or the changes that other speakers have spoken about which are about the opportunity for second or further appeals if new evidence comes to light in serious matters, not in summary offences as applies to de novo changes we are making here. They are not unique; they exist in other jurisdictions.

I was in the chamber when the member for Brunswick mentioned his reservations. I do not want to misquote him because I was here for only part of his contribution. He talked about a parliamentary committee report over a decade ago which in his view validated the existing arrangements where you can actually just go to the County Court or the High Court as if you had not been to the Magistrates Court. My response to the member for Brunswick would be that effectively every jurisdiction in Australia, every Parliament, has a different view. This Parliament I am hoping will have a view that this change is an important change. We have engaged stakeholders in this from both sides in terms of the contestability of a court case for the defence and prosecution. We have done serious work on this internally in the department and across the Victorian community. This is an important change. It makes sense for a whole range of reasons, including the unending workload of the Victorian courts.

Mind you, having said that, the Magistrates Court is probably the workhorse of the Victorian court system—it deals with an enormous amount of work—but the County Court would probably come after that, I imagine. So anything that lightens a bit of the load and makes it more efficient for both parties, the prosecution and defence, and all their families—and all the other arrangements; you have all the court support staff—by getting through case loads more quickly because they are not repeating the entire evidence in a manner that a previous court has already heard, is an effective change, in my view. I commend the Attorney-General on the work that she has done, and I commend the bill to the house.

Mr PEARSON (Essendon) (14:19): I am delighted to make a contribution on the Justice Legislation Amendment (Criminal Appeals) Bill 2019. It is always a great pleasure to follow the

member for Oakleigh, my very good friend, with his eloquent contribution. The bill before the house is an important bill because it is seeking to make further reforms to modernise the justice system. I think that from the point of view of efficient and effective public administration we do need to try to constantly look at reforming and improving public administration in this state, and that will obviously necessitate us bringing forward legislation like this from time to time to improve its efficiency.

I think we are at a time now when we need to try to find ways where we can more effectively administer justice in Victoria, and the bill before the house looks at making some very sensible reforms. They are sensible reforms in a public administration sense, in the sense that they will streamline the appeals process, which I think is a very important initiative. They will also protect victims of crime from being required to continue to relive their experiences by giving sworn testimony about the nature of the offences committed against them. So I think this is a really important initiative, because we are ensuring that we are protecting victims and that we are looking at a more efficient and more effective justice system here in Victoria.

I am also mindful of a seminar I went to in the 58th Parliament over at St Andrews Place where Jerry Madden, who was a former Republican legislator from the state house in Texas, gave evidence about some of the reforms that were occurring in Texas over a long period of time. Madden's contention was that in Texas they had a situation where the state was building more and more prisons, it was not doing anything in terms of addressing the rate of recidivism and it was costing an awful amount of money. Madden hooked up with a Democrat and they started instituting significant reforms. What they did was they tried to have a really deep dive and a tailored approach to prisons. They identified which prisoners were—in his words—knuckleheads and which prisoners were prisoners who you had every right to be fearful of. In his case what he said was that in relation to the knuckleheads it was about having deep, intensive work, training and therapy in prison to try to make sure that those prisoners had the opportunity of acquiring skills so that when they left prison they would be in a position to find meaningful work and employment. As a consequence of those reforms Texas has had a fall in its rate of recidivism, the crime rate is dropping and they are shutting down prisons.

I say that because I think that talks a bit about the need to constantly refine and constantly reform the administration of justice. I wish I could say to you, Speaker, that I read and I understood Foucault in a deep and meaningful way. Sadly, it was a bit beyond me when I tried.

Mr Scott interjected.

Mr PEARSON: Well, it was a long time ago. Maybe if I picked up Foucault now I might have a deeper appreciation. But I think it is about talking about the way in which prison reform has changed and evolved over the course of time and it is about making sure that we make these sorts of investments and we try to make sure that we get the balance right between ensuring that justice is fairly administered in the state of Victoria, that the rights of victims are protected and that we try and look at having meaningful engagement with prisoners to reduce the rate of recidivism. If you look at the cost of simply locking people up and the impact that it has for the individuals involved—if they become frequent flyers in the justice system—it is an enormous burden to the taxpayer and also often results in prisoners leading diminished lives. I think it is about trying to give people that opportunity and that hope to go off and do other things.

In previous contributions when I have spoken about this I have spoken about my uncle, who grew up poor, who got involved in a car stealing racket in the 1950s and ended up getting locked up in Pentridge. My grandmother took on a significant amount of debt to get him a very good barrister, and he got out on appeal. In the case of my uncle he was fortunate enough to get an apprenticeship with a local bus line, and he went on and was a very successful businessman. He became quite wealthy, he owned a very successful motor wrecking business and he was a passionate, lifelong voter for the Liberal Party, much to my grandmother's shame. But he was given a chance. He made some errors in his youth—admittedly, it was not a violent crime; it was a property crime—but someone saw in him something that warranted their giving him a chance, and he made the most of that chance. He passed

away a number of years ago now, but he ended up leading a meaningful and fulfilled life. He employed people, he paid his taxes, he made a contribution, he was president of the local footy club—he lived a really full life. But he did so because he was given a chance. I think that in this day and age, where we are in a position that we can look at making these sorts of legislative changes and reforms, we can try and ensure that people are afforded that opportunity.

A bill like this just makes sense because it is about the efficient administration of the justice system here in Victoria. It is about protecting victims' rights and it is about ensuring, again, that we try to segregate those prisoners as the ones we should be frightened of and the ones who could have the opportunity of being rehabilitated and could be redeemed.

I do note that it is a Thursday afternoon, and Thursday afternoons in this place tend to take on a bit of a life of their own. It is interesting, and I find it somewhat curious that we have had government speaker after government speaker on this bill, being a justice bill, but I think that only two members of the opposition have spoken on this bill. I raise this and I draw this to the house's attention from the point of view that we went through what I found at times was a distasteful election campaign last year, which was a strong law and order campaign run by the member for Bulleen. At times I felt very uncomfortable with some of the language that was being used and some of the rhetoric that was employed, particularly because of the way in which it made members of my community feel, particularly African-Australians. I did not think that it did the Parliament or the political class any service at all having some of that language used over the course of that time.

Now I raise this just from the point of view that those opposite will often talk about their credentials when it comes to—

Mr Morris: On a point of order, Speaker, it may be helpful if the member returned to actually debating the bill rather than philosophising about the last election and views that may or may not have been right at the time.

The SPEAKER: I have been listening to the debate since the lunch break, and members have been speaking broadly about law and order issues related to the bill. So I am prepared to let the member continue, but I just remind him to relate his remarks back to the legislation before the house.

Mr PEARSON: Thank you, Speaker, for your guidance and your ruling. I will come to the point I was trying to make, and I appreciate that I may have been laborious in my intention. I find it curious that the opposition has only fielded two speakers for a bill that relates to matters of justice given the fact that those opposite often campaign heavily on issues around sentencing, law and order and lock them up and throw away the key. I find it curious that when there is an opportunity for those opposite to, again, come forward and make contributions on these matters they are conspicuously absent. Now perhaps members opposite are busy off attending to other affairs that might involve the Liberal Party room—one only knows.

I note that the member for Mornington is here—he is the sole representative of the opposition here actually. I find it curious that there is an opportunity for those opposite to come in here and parade their credentials on these matters and to put forward their views, and they are absent. But not to worry, the Labor government is committed to ensuring that we have a fair justice system, and I commend the bill to the house.

Mr FREGON (Mount Waverley) (14:29): It is my pleasure to stand and speak a little bit on the Justice Legislation Amendment (Criminal Appeals) Bill 2019. I should probably start by acknowledging and showing our great thanks to the Attorney-General for her very dedicated work on not only this bill but also the Justice Legislation Amendment (Serious Offenders and Other Matters) Bill 2019 we had earlier in the week, which I also had the pleasure to speak a little bit on. It shows a commitment from the Andrews Labor government to strengthening our justice system to better protect our communities.

Of course my community of Mount Waverley is the home to I guess the first door to our justice system for many of our justice workers, and that is the police academy that is in my area, which is, as we all know, currently completely full. We are putting 3135 police extra into the field. Obviously the justice system we are talking about today is the other end of the process from the police—also those workers do a great job—but this bill is about the appeals and the removal of de novo appeals from the Magistrates Court to the County Court.

I should probably also refer quickly to some of my colleagues who have given some very, very educational offerings, especially the member for Broadmeadows, who referenced the usage of fear in our politics in regard to justice by some. I think it is worth saying that highlighting fear is not a solution to problems in our society that end up in our justice system. It is always better to think of ourselves as part of the solution, and spreading fear is not that, and if you are not part of the solution, then you are part of the problem. I guess I just sort of put that forward as something we should all remember. Also, the member for Oakleigh gave a very good contribution, and the member for Essendon made a little family connection to the benefits of a working justice system, which was very interesting to hear.

Essentially the bill in front of us has two halves. The first half, as I said, is to abolish de novo appeals. This measure passed the Assembly previously but lapsed, so here we are again. Let us hope it has a speedy passage through the other part of the house, presuming that we can pass it through this one; I think we probably will be able to. The other half introduces a second or subsequent right of appeal. This is designed to, in very, very narrow circumstances, modernise the way our system deals with miscarriages of justice.

A de novo appeal, as others have said, is in effect retrying the whole case all over again. I think not only is this costly in time and resources for our courts but it also can, as others have said, be very stressful for those victims or people related to the crimes in other ways. I think this should be reduced.

If I hark back to earlier in the week when we were talking about serious offenders, there was a line of conversation coming from the other side about victims and being supportive of victims in every which way we can, which I think the government shares. Removing de novo appeals in this way is continuing that expression of consciousness that we are aware of the fact that victims will suffer by having to retell their stories again. I see this is a good step forward. It is also worth mentioning that we are the last state in the nation to have these de novo appeals.

Currently any outcome of the Magistrates Court can be appealed to the County Court as a right without needing any particular grounds to do so, which I found surprising when I was researching this bill. Those matters must be heard as new or de novo proceedings. Under the reforms these appeals will be replaced by appeals conducted essentially by reviewing transcripts, and further evidence will only be admitted when it is in the interests of justice and passes that test. This test of being in the interests of justice will act as a deterrent to sentence appeals lodged by those offenders who are just trying their arm to see if maybe, if it works, it will be better for them. I think wasting the court's time, the court's resources and the state's resources for someone who is just trying to get one over us does not serve anyone, including the person who is trying it on, I would argue.

So not only are we removing de novo appeals from the Magistrates Court, but we are also reintroducing the reform to abolish the de novo appeals from final orders made by the family division of the Children's Court. These reforms, it should be noted, are supported by the Children's Court and the Department of Health and Human Services. It will spare children months of uncertainty and instability in waiting for a full rehearing of the case.

I think sometimes when we consider our justice system and we look at the front page of the *Herald Sun* now and then and see cases where people raise eyebrows about this or that, that is fine—the media is there to shine a light on things that might not make sense or stand out—but I think it is important for us to understand that 99.9 per cent of cases that are tried in our courts go without the blinking of an eye. Our judiciary, clerks and administration work tirelessly, work very long hours, to do the job—

their part of our system—just like our police do in their part of our system. We of course are here in the other part.

I think it is also worth mentioning that, in regard to sentencing decisions, I am aware that in cases where the average Joe Blow is put into a court for a moot court situation—and this has been done a number of times by bar associations around the world, but I believe here as well—and they try those cases pretty well as they have done in court, although the popular media tends to say our judges do not do enough, in nearly all cases where that retrial is done we end up with the average Joe Blow actually giving a more lenient sentence than the judge did. I think that would surprise some people, but it is worth considering.

There is another part to this bill, and that is in regard to the mercy test. At the moment there is the channel of being able to go to the Attorney-General in very rare cases. This will be changed in order to go to a panel of judges instead.

Victoria is the last jurisdiction in Australia to have these de novo appeals, and we must protect our victims when possible and when sensible from having to relive whatever experiences they have been through. We support them in that way, we support them in our policing, we support them in our counselling services, and this is the right thing to do. That is why we are all here—to represent our communities for their safety. With that in mind, I commend the bill to the house.

Mr SCOTT (Preston—Assistant Treasurer, Minister for Veterans) (14:38): As has been noted previously, the Justice Legislation Amendment (Criminal Appeals) Bill 2019 is a bill that deals with principally two matters. One is in relation to the abolition of de novo appeals, which was a matter brought before the Parliament in the last term, passing the Assembly but not passing through the Council last year. The other element is in relation to the introduction of a second right of appeal, which is an attempt to modernise our system in how it deals with a substantial miscarriage of justice.

To turn first to the abolition of de novo appeals, in simple terms 'de novo' is obviously a Latin term—my Latin is not particularly good, but 'of new', is my memory of it—and it is in a sense a process whereby if an appeal is made to any outcome of a Magistrates Court hearing and the appeal is made to the County Court, that right exists as of right currently without requiring any particular grounds. In terms of the procedures which exist in relation to these appeals, they are heard de novo, which in simple terms means they are run entirely afresh, as a new hearing, with all the evidence being heard afresh and in fact the sentencing to be made afresh, which of course means that they are not taking into account what has occurred previously in the Magistrates Court.

As has been noted by other speakers, and I have to say there have been a number of broad-ranging contributions to this debate covering some very interesting aspects of the judicial system and the process and the aspects of this particular bill, we are the last jurisdiction in Australia to have de novo appeals in such circumstances, and we are following in the footsteps of other jurisdictions in bringing forward this legislation to abolish de novo appeals.

There is a long history of de novo appeals. They date back to the 17th century. There are a couple of issues, obviously, and they have been touched on by previous speakers. One relates, and this is a very important one, to witnesses and persons giving evidence at such appeals and to the traumatic effect—particularly in violent cases or situations where people have been victims of crime—on victims and other witnesses in giving evidence, and this is something that should be taken into consideration by this Parliament. I think this is a positive and strong argument to buttress support for this particular piece of legislation.

There are obviously grounds for the efficient operation of our judicial system, and we do balance within our court system the rights of the accused, the witnesses and the efficient operation of the system itself. I think this bill strikes a reasonable balance because, unlike the de novo process, what will be replacing it is essentially a process where the evidence that was heard in the Magistrates Court

is reviewed by the County Court. There can be admission of additional evidence, but that will take place in relatively limited circumstances. There will be an interests of justice test applied.

In relation to the appealing of sentences, there will be a test of whether there is a substantial reason to impose a different sentence. There is a threshold created where the appellant will need to demonstrate that the original sentence was arguably either too severe or too lenient before the court accepts the appeal. This will act as a limitation. That is a conscious decision for a deterrent, whereby offenders could previously in a sense—I think it was referred to by the member for Mount Waverley—chance their arm and seek a reduction in their sentence without there being a particularly high test for that appeal to take place.

In terms of the scale of de novo appeals, the estimate that I have received is that there are 3200 as a rough figure of de novo appeals each year. These reforms will have an effect on the number of appeals from the Magistrates Court. The expectation is that they will reduce the number of appeals from the Magistrates Court to the County Court but really importantly, as I touched upon earlier, spare victims and witnesses the trauma of going over evidence and having to relive difficult and sometimes violent circumstances and being subject again to cross-examination.

When we are examining issues related to the operation of the justice system I think the importance of protecting the interests of victims and witnesses is increasingly—in terms of the deliberations of this Parliament but I would say also in terms of reflecting broader community attitudes—something that is given greater consideration when matters are not just debated but when laws are brought through this Parliament and taken into affect.

I would note that the efficient operation of justice has advantages for both the courts themselves but also for the corrections system, as a former acting Minister for Corrections. Ensuring that there is efficient and timely access to justice through improvement in the efficiency of the judicial process has significant advantages for both those involved in the judicial process and also the court system and the corrections system.

The other significant element of this bill is the introduction of a subsequent right of appeal. There are safeguards within the Victorian system which do not reflect the practices which this bill represents in terms of reform to deal with wrongful convictions. There is a closed door process that exists currently under a petition of mercy process. A convicted person has the capacity to write to the Attorney-General to present evidence. The Attorney-General then receives advice from the Department of Justice and Community Safety relating to the merits of evidence and either refers them to the Court of Appeal for them to be heard on appeal, which may result in acquittal or retrial, or conversely provides advice to the Premier, who can provide advice to the Governor to grant mercy, which can mean pardoning the person or reducing their sentence, or in fact of course decline the petition. These are processes that reflect practice where there is not a clear and transparent process. In order to create a more clear and transparent process there will be a pathway for fresh and compelling evidence that is new and that shows a substantial miscarriage of justice for consideration by a court.

The right of a second or substantial appeal will be granted in circumstances where the availability for leave is first granted by the Court of Appeal. That will mean that the court will only grant leave if evidence is found to be both fresh and compelling. This is a relatively high bar in terms of the evidentiary requirements. This will ensure that only cases which are meritorious are given consideration. Of course this means that this is not just an avenue for people to try again. There will need to be fresh and compelling evidence, as I referred to earlier, that has been discovered to create grounds for appeal.

Mere technicalities will not suffice to show a substantial miscarriage of justice. The definition of fresh evidence is evidence that was not presented at the trial for the offence and even with the exercise of reasonable diligence could not have been presented in the first trial for the offence. For evidence to be

compelling it must be reliable and substantial evidence which would have eliminated or substantially weakened the prosecution of the case if it had been presented at trial.

In making final comments, I do think this is an important step in terms of improving the operation of justice. It is always important that we balance the rights of victims, the rights of witnesses, the rights of the accused and the effective operation of the court process, and also that we create processes as principal holders of executive offices performing judicial functions. It does not exist in the current system, as indicated by the petition of mercy process. I think creating a court process is an important and significant reform which we should support.

Mr RICHARDSON (Mordialloc) (14:48): It is a pleasure to follow the Assistant Treasurer in his contribution and make some remarks on the Justice Legislation Amendment (Criminal Appeals) Bill 2019. I think a number of members have touched on the importance of these reforms and these changes. I want to focus on a couple of key themes: one being the efficiency of our justice system and the burden that we have on the legal corners down the street, and the pressure on our judges is one area I want to focus on; the support from victims informed by the victims of crime reforms that have been forward but also the prevention of family violence reforms and how we support victims; and also as our state and our legal system evolve over time and evidence and technology become better and more accurate that we have flexibilities built in in case any new information comes to light.

The de novo appeal principle predates the state of Victoria. It is long held, it is long running. The notion that 3200 appeals are waiting and are as a matter of right is a huge administrative challenge for our courts to manage. We have seen a number of examples of the burden upon our judges, upon our legal system, and the time that it takes to hear matters. To have an appeal as a matter of right and then for it to be based on substantial evidence, to be based on clear principles of right of appeal, will reduce that burden on our system and our jurisdictions and bring it into line with other states and territories as well. It was one that we tried to put forward in our last term in the 58th Parliament, and we find ourselves in the 59th Parliament where we will put it through today, and then hopefully it has a speedy passage through.

We think of each year the amount of people who are subjected to crime. We have just under 400 000 people in unique instances. Substantially more than 80 000 of those numbers are family violence instances. These are survivors. These are people who have gone through tumultuous experiences. We have seen through the Royal Commission into Family Violence how traumatic this experience can be through the legal system. We have changed in previous times the ability for the accused to be cross-examining witnesses or survivors. We have changed that. This particular reform in not retraumatising those survivors is really critical. I think that is a key focus that we need to be setting going forward—how we support people who are going through such a difficult time and then the stress and the anxiety that comes with the adversarial and legal system.

We see this play out locally in our communities when people are going through either Family Court disputes, family violence matters or dealing with intervention orders. It is a very difficult and traumatic process, and when children are involved it is even more traumatic and more horrific. What we can do to protect victims is at the heart of what we want to do for the system and as a Parliament. It is not just a government thing but also a parliamentary thing. We want to make sure that victims are supported, and those recommendations put forward by the royal commission to try to reduce the trauma and reduce the burden on people that have gone through so much are really critical. The abolishment of the de novo appeals from the final orders made by the family division of the Children's Court and their replacement with a new appeals process I think is very critical.

As I said before, currently there are 3200 de novo appeals every year, and these reforms are expected to dramatically cut the number of appeals from the Magistrates Court and will spare victims and witnesses that trauma of giving evidence and being cross-examined all over again, because it is a fully fresh matter. When the de novo appeal goes forward, it is as if the matter has never been heard, and those judgements, those assessments made by magistrates, are basically started all over again as if

there is nothing to inform that decision. Having gone through and learned about this during my degree at Deakin University, down the highway at Waurn Ponds, I reflect on how our system of evidence and our system of law has evolved over time. This is an evolution. This is a real evolution. Victoria is the last state to level up with our neighbours in the other states, territories and jurisdictions, and it is a really important reform.

I briefly mentioned in my opening remarks about how standards of evidence evolve over time. During my degree I saw the evolution of various evidence over time—DNA evidence as well. I remember from my studies—and, Acting Speaker Spence, you probably recall from your studies as well—the varying thresholds of evidentiary reliance that you can put forward. Acting Speaker, you probably did a little better in your degree than I did, but I do remember little snippets of it. There are thresholds to the reliance on evidence, and then if you have got a broader cross-section of evidence, its weighting goes up. The notion that you can have second and subsequent appeals if there is fresh and compelling evidence put forward is really critical.

The impact of the evolution of technology on our legal system and on how we function as a government and how we function as a society means that in 20 or 30 years time the next evolution for evidence or for the legal practice will keep us up to speed and will keep us up to date with modern practices. The great fear would be a miscarriage of justice in our system based on the fact that there is new, fresh and compelling evidence that comes forward that is not heard or understood or scrutinised by the independence of our courts, so I am really interested in the thresholds that are put forward in this bill, which I think are really critical. It is important to note, though, that is there is no single catch-all test for what constitutes a miscarriage of justice. But we can hypothesise and envisage the circumstances where that might be, whether a person was not actually guilty but was convicted because crucial, exonerating evidence was either not available or was not presented at trial or where there has been a serious departure from the proper trial process, such as a judge not allowing a material witness to provide evidence or give evidence or a full account of that evidence. There are various other thresholds as well—juror misconduct, witness tampering and so on. To ensure the highest degree of separation of powers in Victoria and to make sure that there is not a miscarriage of justice is truly critical. That amendment goes to the heart of the reasons this bill is being put forward in this Parliament and ensures that as we evolve over time and more information comes forward we provide and ensure the highest of standards and integrity in our system.

As we grow as a population—and we see that just under 400 000 people, sadly, are subjected to crime—we have an obligation to make sure that our legal system is as robust, efficient and effective as possible and that justice is seen to be done and done in the most appropriate and efficient way. We also need to support those making those decisions. Given the amount of cases that are put forward, any efficiency that we can bring forward is good. I know the former Attorney-General and member for Keysborough did a power of work in this space, as has the now Attorney-General and member for Altona. We must continue to support our magistrates and the people that are under those pressures. We need to look after their welfare. They do an incredible job under an incredible amount of stress and duress. Given the things that they hear and the evidence put forward, we can reflect on the pressures and the burdens on them and the very quick time frames in which they have to make very difficult decisions. By the same token and on the same side what is absolutely paramount is the protection of victims and that our justice system is victim-focused and centred on the survivors of various crimes as well.

This bill strikes a balance. It should have gone through in the 58th Parliament, and I have not heard any opposition to these reforms being put forward. I wish it a speedy passage through the upper house. It is another important reform from the Attorney-General's portfolio. I commend her staff and the department for putting this forward again, and I hope it receives a speedy passage through Parliament. These reforms modernise our legal system. As I said, if we look back to the 1700s, that was before the state of Victoria was even conceived. Now we need to be modern and we need to be efficient in our legal system to ensure that the best justice occurs.

Mr TAYLOR (Bayswater) (14:58): It is a real pleasure to be able to speak in this place today on the Justice Legislation Amendment (Criminal Appeals) Bill 2019. Can I just acknowledge the contribution made by the member for Mordialloc. I think the member for Mordialloc really encapsulated the tone of this bill quite well.

Mr Richardson: An outstanding member.

Mr TAYLOR: An outstanding member for Mordialloc.

Mr Dimopoulos interjected.

Mr TAYLOR: The member for Oakleigh knows the fantastic work that the member for Mordialloc does down his way. I think he should be commended on his contribution, where he rightfully acknowledged that this reform, this significant piece of reform, is about bringing Victorian legislation, as it relates to our court system in regard to our appeals system and de novo appeals, into the 21st century. It is about making sure that we are constantly and proactively as a state government reforming our criminal justice system and reforming our court systems to make them more efficient and more effective, which in turn speaks volumes for the results that we see for victims and that we see for the people who work in those systems. It is about bringing this into the 21st century and making sure we have got the best processes in place to ensure we get the best justice outcomes.

Can I also thank the current Attorney-General, who has joined us as well, a fantastic member down her way. She has done a great deal of work. As the previous member and a number of other members rightfully acknowledged, the former Attorney-General, now the Minister for Jobs, Innovation and Trade and a number of other fun portfolios, also put in fantastic work on it. Of course this legislation lapsed in the 58th Parliament. Now we are very proudly continuing the work that we did then—our proactive work as a government in the courts space and in the criminal justice space—to bring forward in the 59th Parliament what is a significant piece of reform.

Essentially what this bill is about is it will abolish a very, very old system of de novo appeals for summary criminal matters, replacing them with a new, streamlined and modern appeals process. It will also abolish de novo appeals against final orders made by the family division of the Children's Court, making sure that for criminal matters our families and our young people are not having to relive what are at times extremely and very traumatic experiences which will have serious ramifications for them throughout the rest of their lives. Living that experience once is enough without throwing the dice again and those young people having to go through the experience of it again.

The bill will also introduce a second or subsequent right of appeal against a conviction for an indictable offence where there is fresh and compelling evidence showing that a miscarriage of justice has occurred. As I said, this goes to the heart of efficiency and of recognising where there are opportunities to improve our criminal justice system and the experience of our victims, who are obviously doing it tough enough and who are in a situation that is extremely difficult for them. It is a very tough experience. Having been there firstly as a police officer and having to deal with a number of victims myself by listening to them and understanding their experience of going through the Magistrates Court system, appeals through any hierarchy of the court system in Victoria are very challenging and difficult experiences for victims. I have personal experience of working for and side by side with those victims and understanding the real trauma that even being there in the first instance causes them.

This bill will make sure that offenders—we have 3200 appeals yearly through this process—do not simply get to throw the dice and have another stab in the dark at an appeals process that is now clearly outdated. This will mean that those victims are not having to relive those extremely traumatic experiences again.

I was police prosecutor up until last November, and I was very proud to be a police prosecutor and have that experience. What an experience it was to be able to really work side by side with victims and be an advocate for them in our court system and to get significant support from this government,

a government that has committed significant funding and investment to the court system and the criminal justice system. I understand the difference this will make to the victims that I dealt with in the Magistrates Court. This really is not just, importantly and firstly, about the victims, as I know the member for Mordialloc absolutely understands and said so passionately in his contribution in this place; it is also about the streamlining of the court system.

We are all aware, on both sides of this chamber, on all sides, that this is a bipartisan issue. We understand the real stresses that our magistrates are under. They do a mountain of work. They are absolutely amazing human beings, each and every one of them. Before I go into it, can I just say how proud I am to be part of a government that has given magistrates more resources which have enabled them to do their jobs more effectively. I do not think for a moment that this place should forget that this bill will make the lives of magistrates easier. It is a job that can overflow into the after hours and affect work-life balance. There is a level of stress that is placed upon magistrates day after day after day, hearing again and again and again, like the victims do, traumatic experiences. This will significantly lessen their workload right through the Magistrates Court and the County Court, and that is important. It is making sure that they have safer workplaces and that they get the support that they need, as well as all the supporting court staff. It is not just about our justices and our judges, it is about the court support staff who do a mountain of work and who are often the unsung heroes. It will also make their work lives that much easier as well.

When I first looked at this significant piece of reform to our court system and the streamlining of this process where we have got victims reliving traumatic experiences because we have got offenders who want to throw the dice again, who want a second go through the de novo appeals system, I was very surprised to learn that this has been around since the 17th century. As I said, it was remarkable to understand that we have 3200 of these appeals every single year. That is why it is so important that we are making this reform through this summary criminal jurisdiction and through the family division. This is so important.

We have spoken a lot about the criminal jurisdiction, but really for young families and for children who have to relive these experiences it must be bloody horrid for them; it must be awful. We talk about it in this place and we all get up and we make contributions, but behind all these speeches, behind the reform and behind all the numbers there are real stories; there are families, there are children, there are lives that are deeply affected by this. There are 3200 cases every year. I have no doubt that many of those cases would involve young families and young children who will now not have to relive these experiences.

I am very, very proud to be a part of this government. I know in the 58th Parliament we came very close to passing this significant reform. I am very proud to be here now in the 59th Parliament making sure that we pass this significant piece of reform.

Of course we will ensure that the legislation that we introduce will still provide a safeguard against wrongful convictions, and rightfully so. It will make sure that there is an opportunity, that for offenders who do want to appeal there is a more transparent process and a process where we move away from the old petition process of writing to the Attorney-General, from my understanding. This will really bring us into the 21st century. In essence it used to be that the Attorney-General would have this petition process. The Attorney-General would seek advice from the department. It would go back and forth. This will mean a more direct and transparent process by which to make an appeal. The test by which this will stand means that an offender will simply not be able to try again after failing an appeal. There will be a requirement for fresh and compelling evidence to be discovered to give grounds for a further appeal. Similarly, mere technicalities will not be sufficient to show a substantial miscarriage of justice. That is absolutely, critically important. An appeal will only be allowed if leave is granted. As I said, it will simply not be allowed to start again.

This is, as I said, a very significant piece of reform. I spoke to a number of people in my community when we started looking at this bill—and I know that we introduced one previously—so there is a

great level of awareness among those members in my community. This will have a great effect on the many different people that I have spoken to and I know on many members on all sides of the chamber. It may seem like a technical bill. It may seem like nothing to write home about for the journos out there. But make no mistake—I know this from those contributions I have heard today—this is significant. It will change lives. It will make sure that our victims will get, for lack of better phrasing, a better experience of the court system and not have to relive those awful moments that they should not have had to relive in the first place.

I am very, very proud to be a member of this government and to be a former member of Victoria Police. This is a government that has backed Victoria Police, backed criminal justice reform and is now backing in this reform. I thank the Attorney-General, and I commend the bill to the house.

Mr McGHIE (Melton) (15:08): I rise to contribute on the Justice Legislation Amendment (Criminal Appeals) Bill 2019. I wish to commend my colleagues that have contributed to the debate on this bill. I acknowledge the previous speaker, the member for Bayswater. Having in his previous employment been a police prosecutor, he would know how important this bill is. I would also like to commend the Attorney-General, who is in the house at the moment, for this bill and all her staff that have worked tirelessly on this bill. I do commend them for it. I also want to acknowledge, as the previous speaker did, the court staff—the judges, the magistrates, and all the court staff—and the workload and the pressures that they are under through our systems today. They do a fantastic job.

This bill is in two halves. The first half is a reintroduction of reforms to abolish de novo appeals. This bill passed the Assembly last year but unfortunately lapsed before passing the Council. The other half is reforms to introduce a second or subsequent right of appeal, in very narrow circumstances, to modernise the way our system deals with substantial miscarriages of justice.

Criminal appeals are very important safeguards for both the prosecution and the defence. Of course they allow the prosecution to challenge inadequate sentences and of course for any errors or injustices to be corrected by the higher courts. Both the purposes are strongly in the public interest; however, appeals are very traumatic for victims and witnesses. As matters are prolonged and people are often required to give evidence in court again, obviously it is very traumatising for, as I have said, both the victims but also the witnesses having to give that evidence.

The abolishment of de novo appeals—currently any outcome of a Magistrates Court hearing can be appealed to the County Court as of right, without needing any particular grounds to do so. These appeals must be heard de novo. This means that they are run as a whole new hearing, with the judge hearing all the evidence afresh—that is, not taking into account decisions already made by the previous lower courts. It is an inefficient process, it retraumatises people and it adds to delays and extra costs for all parties. Crucially, it requires victims and witnesses to give evidence in court and to be cross-examined again, and that is very traumatising.

While we have royal commissions into mental health and things like that, this is another example where we put extra stress and strain on and damage people mentally by putting them through these very traumatic processes. These reforms are an important modernisation of our justice system, which is in the interests of both the victims and the efficient operation of a modern high-volume court system. Under our reforms de novo appeals will be replaced by appeals conducted essentially on the papers—that is, our County Court will review transcripts of the original hearing and only admit further evidence in very narrow circumstances, and that is in the interests of justice.

Where a sentence has been appealed the County Court will only allow the appeal if there are substantial reasons to impose a different sentence. In other words, there is a threshold to pass. The appellant will need to show that the original sentence was more than just arguably too severe or too lenient. This test will act as a deterrent to sentence appeals lodged as a throw of the dice. As the member for Bayswater said, as it currently stands it gives someone that opportunity just to throw the dice and have another go at it because they feel that they were unfairly treated.

There are currently about 3200 de novo appeals every year. These reforms are expected to dramatically cut the number of appeals from the Magistrates Court, and spare victims and witnesses the trauma of giving evidence, and again, will reduce costs for the parties. I reiterate that it reduces the trauma but also reduces the mental trauma and anguish that are caused through these processes.

As well as abolishing de novo appeals from summary criminal matters, we are also reintroducing the reform to abolish de novo appeals from final orders made in the family division of the Children's Court. Stabilising the circumstances for a child in these cases, which involve things like protection orders, therapeutic treatment orders and permanent care orders, is in the child's best interests, and that needs to be paramount. Again, we must put the children first. Safeguards against errors are preserved; however, appeals to the Supreme Court on a question of law will still be possible.

Introduction of a second or subsequent right of appeal is about modernising Victoria's safeguards against wrongful conviction. Whilst such cases are incredibly rare, sometimes new evidence is discovered that shows people have been wrongfully convicted. Those cases are currently dealt with behind closed doors through the petition for mercy process. In summary, the petition process involves a convicted person writing to the Attorney-General to present evidence. We are making the process more transparent by creating a pathway for fresh and compelling new evidence that shows a substantial miscarriage of justice to be considered by a court. The right to a second or subsequent appeal will only be available if leave is first granted by the Court of Appeal, and the court can only grant leave if evidence is found to be both fresh and compelling. This is a very high statutory bar that ensures only cases which are meritorious are considered by the Court of Appeal. This test means that an offender will not simply be able to try again after failing at appeal, and again we come back to just having another go at it, tying up the court system and costing parties more money and also causing that additional stress and trauma to people.

Fresh evidence is evidence that was not presented at the trial of the offence and could not, even with the exercise of reasonable diligence, have been presented at the trial of the offence. For evidence to also be compelling it must be reliable and substantial evidence which would have eliminated or substantially weakened the prosecution case if it had been presented at trial. If leave is granted, the applicant must then prove that a substantial miscarriage of justice has occurred in their case for the court to allow the appeal.

While there is no single test for what constitutes a miscarriage of justice, examples might include: where the person was actually not guilty but was convicted because crucial exonerating evidence was either not available or not presented at their trial; where there has been a serious departure from the proper trial process, such as the judge not allowing a material witness to give a full account of their evidence; if the trial judge exhibited bias or if the jury showed misconduct; witness tampering or prosecutorial misconduct if the jury is presented with inadmissible evidence that was crucial to the conviction.

A second appeal will only be available for indictable offences, and cases that meet the very high threshold are expected to be very rare. In South Australia and Tasmania, which already have such rights of further appeal, it has been used fewer than 10 times in South Australia since 2013 and only once in Tasmania since 2015. The reform is also currently before the Western Australian Parliament, so this reform here in Victoria is just bringing it into line with other states.

There is one minor but important reform being made by this bill, and that is to allow the Court of Appeal to operate more efficiently by referring an initial matter in an appeal to a trial court for determination. That means a single judge rather than a full appeal bench can consider a specific question of evidence and report a determination back to the Court of Appeal. This change will allow appeals to be dealt with more efficiently, utilising trial judge expertise where appropriate, and allowing Court of Appeal justices to focus on the central issues in an appeal.

Victoria is the last jurisdiction in Australia to have de novo appeals. As well as delivering benefits for victims and system efficiencies, abolishing them is an important part of the modernisation and maturation of this system, allowing the Magistrates Court proper recognition of its important role as a high-volume court. Also, implementing a second or subsequent right of appeal will ensure that in the very narrow circumstances where there is fresh and compelling evidence of a substantial miscarriage of justice, these matters are dealt with transparently through the courts and in accordance with the principles of open justice.

Again I will come back to the issue of the importance of the welfare of people that are going through these processes and the traumatic experiences they may endure through the de novo processes. As I said, I commend this bill to the house, and I seek that it have a speedy passage.

Ms HALL (Footscray) (15:18): I am very pleased to make a contribution to the Justice Legislation Amendment (Criminal Appeals) Bill 2019 and would like to acknowledge the contributions from the member for Melton and also the member for Bayswater and of course the presence of the Attorney-General in the chamber as well. I have been fortunate enough in my career to work for another reformist Attorney-General in Nicola Roxon, and I am very pleased to be a member of a government with another great Attorney-General in the member for Altona.

These reforms demonstrate this government's commitment to place victims and their rights at the centre of the criminal justice system. Essentially this bill has two major components to it. The first half is a reintroduction of reforms, which of course went to the previous Parliament, to abolish de novo appeals, which had passed this place but had lapsed prior to going to the Council last year. The other half is reforms to introduce a second or subsequent right of appeal, in very rare circumstances, which will modernise the way our system deals with substantial miscarriages of justice in the rare instances that they occur.

Essentially these reforms will help reduce the clogging up of courts and really ease the burden on victims who are retraumatised by having to go through subsequent appeals, presenting evidence over again. I think that is a very worthy thing when you consider, for example, that we have 80 000 instances of family violence occurring and if you think about that in the context of the impacts on the court system and the victims. Again, I am very proud, and I often speak about the Royal Commission into Family Violence, that this government is implementing all 227 recommendations of that royal commission and absolutely responding to the most serious issue in terms of crime in this state, which is family violence.

Of course we are the last state to pass these reforms, which date back to the 17th century. They are an important safeguard for both the prosecution and the defence having a criminal appeal, and they allow the prosecution to challenge inadequate sentences and allow errors or injustices to be corrected by higher courts. Both of these purposes in this bill are strongly in the public interest; however, appeals, as I mentioned, can be traumatic for victims and witnesses as matters are prolonged and they are often required to give evidence in court over and over again.

So this is modernising Victoria's criminal appeal system so that victims and witnesses are not put through that trauma of a second trial when they do not need to be. Appeals of this nature need to be heard de novo, which means that they are run as a whole new hearing, with the judge hearing all the evidence afresh and sentencing afresh—that is, not taking into account decisions already made in lower courts, which gives defence counsel the opportunity to treat the magistrate's hearing essentially as a trial run. It adds to delays and costs for all parties and, crucially, as I have mentioned, requires victims and witnesses to give evidence in court and be cross-examined, which can be absolutely terrible for victims.

De novo appeals date back to the 17th century, and Victoria is the last jurisdiction to still have them. These reforms are a modernisation of the justice system that is in the interests of both victims and the efficient operation of a modern, high-volume court system while preserving the important safeguards

of a robust appeals process. Under our reforms, de novo appeals will be replaced by appeals conducted essentially on the papers—that is, the County Court will review transcripts of the original hearing and only admit further evidence in very narrow circumstances in an interests of justice test. Where a sentence has been appealed, the County Court will only allow the appeal if there are substantial reasons to impose a different sentence. In other words, there is a high threshold to pass, and it needs to be shown that the original sentence was too severe or too lenient prior to accepting the appeal. This test acts as a deterrent to sentence appeals lodged as a throw of the dice by an offender hoping to get a few weeks or months shaved off a sentence that might, for example, have been near the top of the range.

There are currently about 3200 de novo appeals every year clogging up the courts, and these reforms are expected to dramatically cut the number of appeals from the Magistrates Court, sparing victims and witnesses the trauma of giving evidence again.

As well as abolishing de novo appeals from summary criminal matters we are also reintroducing a reform to abolish de novo appeals from final orders made by the family division of the Children's Court. These are reforms that are supported by the Children's Court and Department of Health and Human Services (DHHS) because they will, importantly, spare children months of uncertainty and instability waiting for a full rehearing of a case. It goes without saying that stabilising circumstances for children in these cases, matters that can often involve things such as protection orders or therapy treatment orders and permanent care orders, are in a child's best interest, and that needs to be paramount.

Safeguards against errors are preserved; however, appeals to the Supreme Court on a question of law will still be possible and the bill does not change appeals from interim orders of the family division. The bill also does not prevent the secretary to DHHS from applying to vary orders.

There is the introduction of a second or subsequent right of appeal to modernise the safeguards against wrongful conviction, and while such cases are obviously very rare, sometimes new evidence is discovered that shows that people have been wrongfully convicted. These cases are currently dealt with behind closed doors through the petition for mercy process.

So in summary, the petition process involves a convicted person writing to the Attorney-General to present evidence. The Attorney-General then seeks advice from the justice department on the merits of the evidence and then either refers the matter to the Court of Appeal for them to hear an appeal, which might result in an acquittal or a retrial being ordered, or provides advice to the Premier who then advises the Governor to either grant mercy, pardon the person, reduce their sentence or decline the petition.

We are making this process more transparent by creating a pathway for fresh and compelling new evidence that shows a substantial miscarriage of justice to be considered by a court. The right to a second or subsequent appeal will only be available if leave is granted by the Court of Appeal. The court can only grant leave if the evidence is found to be fresh and compelling, and this is a very high statutory bar that ensures only cases that are meritorious will be considered by the Court of Appeal. This test means that an offender will not simply be able to try again after failing on appeal as fresh and compelling evidence will need to be discovered to give grounds for further appeal. Similarly, mere technicalities will not be sufficient to show a substantial miscarriage of justice.

Fresh evidence is evidence that was not presented at the trial or could not, even with the exercise of diligence, have been presented at the trial for the offence. For evidence to be compelling it must be reliable or substantial evidence that would have eliminated or substantially weakened the prosecution's case if it had been presented at trial. I commend the bill to the house.

Mr HAMER (Box Hill) (15:28): I too rise to speak on the Justice Legislation Amendment (Criminal Appeals) Bill 2019, and I do want to congratulate the member for Footscray, the member for Melton and the member for Bayswater, whose contributions I have just been listening to, for their impassioned pleas to make these really critical reforms. I would also like to thank the Attorney-

General, who is at the table at the moment, for her work and the work of her staff in bringing forward these reforms once again.

As was said previously, the bulk of these reforms were introduced into the previous Parliament and passed in this house but lapsed at the end of the term. If I could just turn to the primary purpose of the bill, which is to amend two main pieces of legislation, being the Children, Youth and Families Act 2005 and the Criminal Procedure Act 2009—in relation to the Children, Youth and Families Act, the purposes are to abolish de novo appeals against final orders made by the family division of the Children's Court and to abolish de novo appeals against convictions recorded in summary proceedings and to instead provide a different kind of appeal against the sentences. The bill will also abolish appeals against sentences of imprisonment imposed on appeal from the Magistrates Court or the Children's Court. In relation to the Criminal Procedure Act 2009, the purpose of this amendment bill is to provide a second or subsequent right of appeal against conviction in certain circumstances.

Now, the concept of a fair trial and the right of appeal is something which is really at the cornerstone of our legal system. It has been around in common-law jurisdictions for many hundreds of years and does provide a protection for errors of law—particularly errors of law that have occurred during the trial process. Obviously those appeal rights remain as part of the common-law system, but the legislation that is before us today is really talking about a particular type of appeal—the de novo appeal, which is where the trial is heard as new. That is the exact meaning of de novo.

Currently any outcome of a Magistrates Court hearing can be appealed to the County Court as of right without needing particular grounds to do so, so not needing the grounds of a particular error of law. That does mean that they are run as a fresh hearing with the judge hearing all the evidence anew and not taking into account the decisions already made in the lower court. This is not only an inefficient process but, as has been mentioned by previous members, it puts an enormous strain on the participants in the trial, particularly the victims, witnesses and anybody else who is involved in the trial process. It requires all of those people to give evidence in court and be cross-examined again. The court process is by necessity an adversarial process and can be a very traumatic experience for those involved, so having a trial that basically re-prosecutes the arguments can be very traumatic.

I was amazed when I was reviewing this legislation to find out that there are 3200 de novo appeals every year in Victoria, which is really a huge number of appeals that are being re-prosecuted as of right. The reforms that are proposed in this bill are expected to dramatically cut the number of appeals from the Magistrates Court and, as I said, will spare victims and witnesses the trauma of giving their evidence and being cross-examined all over again.

In addition to abolishing de novo appeals for summary criminal matters, as I mentioned when I was discussing the purposes of the legislation, the reform will also abolish de novo appeals against final orders made by the family division of the Children's Court. These are also important reforms; they are supported by the Children's Court and the Department of Health and Human Services because they will spare children months of uncertainty and instability waiting for a full rehearing of a case. Stabilising the circumstances for the child in these cases—which can include protection orders, therapeutic treatment and permanent care orders—is in the child's best interest. We know from the domestic violence royal commission how important it is to keep our children safe. Making sure that we can move through these cases quickly and making sure that these final orders can stay as final orders is a really important reform.

There are still safeguards in the bill, and as I mentioned, the concept of appealing against an error of law is an important one in our legal system. That remains possible through this legislation—the legislation does not remove that right to appeal. It also does not prevent the secretary to the department from applying to vary the orders.

I will just move on to the other half of the legislation, which is in relation to the second or subsequent right of appeal. The bill seeks to introduce this second or subsequent right of appeal as a way of

modernising Victoria's safeguards against wrongful conviction. These cases are incredibly rare. Thankfully they are incredibly rare, but occasionally new evidence is discovered which shows that people have been wrongfully convicted. These cases are currently dealt with in a behind-closed-doors process.

It is important that there is a more streamlined legislated process under which this will occur. This bill creates a pathway. If there is fresh and compelling new evidence that can be considered by the court and it shows a substantial miscarriage of justice, then this is the appeal process that can be followed. It will only be available if leave is first granted by the Court of Appeal. It is a high statutory bar that will ensure that only cases that are truly meritorious will be considered by the Court of Appeal. It will not be an opportunity for applicants just to seek a new trial because they were not happy with the outcome of the first one. There will need to be clear evidence that there has been a substantial miscarriage of justice. When we are talking about what might constitute fresh evidence, it is evidence that was not presented at the trial or could not, with all due diligence, have been presented at the trial. The other test is for the evidence to be compelling, which means that it must be reliable and substantial and that it would have significantly weakened the prosecution case at the trial.

So there is quite a stringent process for accessing this second right of appeal, but it is an important element—a really important element—of the legislation to make sure in the cases where there has been a miscarriage of justice that the rights of the defendant are considered and they have that opportunity to reapply to the Court of Appeal. These two reforms are very important to our legal system, and I commend the bill to the house.

Mr CARROLL (Niddrie—Minister for Crime Prevention, Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (15:38): It is my pleasure to speak on the Justice Legislation Amendment (Criminal Appeals) Bill 2019. Can I commend the Attorney-General for bringing this piece of legislation forward and trying to ensure Victoria has, to the best extent possible, not only a fair, transparent justice system but an effective justice system as well.

We know justice reform is an ongoing process, and the reform of Victoria's summary appeal system to abolish de novo appeals and where appropriate introduce new processes and tests for hearing appeals from the summary jurisdiction is an important reform. You can only do this when you have got strong support, when you have got the interests of victims in mind and when you have got all parties essentially engaged in the process of bringing about a stronger, fairer and more transparent legal system.

This bill will introduce a second or subsequent right of appeal against a conviction for an indictable offence where there is fresh and compelling evidence showing that a miscarriage of justice has occurred. It will reform Victoria's appeal system. We do know the concept of appeal is something very important and something we hold sacred. Indeed even the concepts of having a committal hearing, testing the evidence and deciding what cases do go through are relevant. Further than that, there will be an appeal process for the accused to exercise their rights. I know as the Minister for Victim Support that the way our system is set up is very adversarial. Essentially right from the police arrest the accused is pretty much told there and then, 'You have a right to silence'. Often that right to silence happens all the way through, from the police interview through to the committal hearing. Then they stay, essentially, with the defence. The trial occurs, they may be found guilty and then they may decide whether or not they think they should exercise the rights they have, including the right to appeal.

This is why we do need to reform our criminal justice system and indeed our trial system. It is why earlier today I spoke about the need to look outside the adversarial system as well, in terms of other practices such as restorative justice, where you bring the parties together to discuss what could occur. That has been found to be very strong in other jurisdictions, including the ACT and indeed other parts of the world, whether it be the UK or the United States. We do need to keep being vigilant in reforming our judicial system. It is wonderful that we actually have an Attorney-General that is a reformist. She is always looking at how she can make the best of our justice system. She always wants to put victims' rights first. We saw earlier this week her advocacy on behalf of many victims in relation to breaches

of faith, breaches of trust, by the Catholic Church and other jurisdictions. The Attorney-General has flagged that that will be a very important item when she catches up with the commonwealth Attorney-General. The evidence that was heard for the *Betrayal of Trust* report in Victoria and things like that is another area of reform that she is committed to implementing and making sure occurs.

If I go to the substance of the bill, it is in three different parts. It will abolish de novo appeals from summary criminal matters and replace them with new appeal processes. It will abolish de novo appeals from final orders made by the family division of the Children's Court to the County Court of Victoria. It will introduce a second or subsequent right of appeal against a conviction for an indictable offence where there is fresh and compelling evidence showing that a miscarriage of justice has occurred.

I just want to get into the context of why we are doing this. The summary appeal reforms are based on proposals for reform which came out of a 2016 discussion paper of the then Department of Justice and Regulation titled *Review of Appeals from the Summary Jurisdiction*, so you know that this reform, this legislation, has embedded in it a lot of work and a lot of consultation through the now Department of Justice and Community Safety. Further than that, a lot of the proposals for reform have been considered in other jurisdictions, including New South Wales, in particular through a NSW Law Reform Commission reference.

The summary appeal reforms are in the same form as part 3 of the Justice Legislation Amendment (Unlawful Association and Criminal Appeals) Bill 2018. This former bill was approved by cabinet, introduced to Parliament in July 2018 and passed the Legislative Assembly in September 2018 but lapsed when the 58th Parliament expired. Hence we are here today and we are keen to see this legislation carried through.

It is very important, though, that there be put on record the strong support for reforms to the summary appeals process. When you are dealing with the legal system, you are dealing with victims and you are dealing with people's rights. When, as I said earlier, you are dealing with an adversarial system, you are going to get lots of opinions and different voices heard. I do commend those in the Department of Justice and Community Safety for their work to date in bringing this legislation forward, considering that all the way back to 2018 there was probably an expectation that it may have passed. With the Attorney-General, we are here today and we intend in the first year of our four-year term to get this legislation through. We know it will bring a stronger, more transparent and in many respects fairer justice system.

We do know stakeholders are very concerned—and I take this very seriously, as the Minister for Victim Support—about any risks to victims through the legislation. Along with the Attorney-General, who is in the chamber, we are intent on making sure, if I could summarise the late Philip Cummins's words, that the role of the victim in the criminal trial process has now got to a stage where it basically counts, and their voice should be heard. We want to make sure this legislation does not impinge on victims. We want to make sure, whether it be through the work that we are doing through the Office of Public Prosecutions, whether it be through the work we are doing through the Child Witness Service or whether it be through the work we are doing with intermediaries at the County Court, that we have a criminal justice system and indeed a trial system that we know is adversarial but that works and is also mindful of victims and their place in the process.

I think the Attorney-General and I together worked well on the recent appointment of Fiona McCormack as the victims of crime commissioner. She brings a wealth of experience. We know that through the courts—and if I even go right back to the Victims of Crime Assistance Tribunal—family violence is a distressing issue, first and foremost, that is front and centre of our courts and front and centre as a law and order issue. I once again put on the public record the Attorney-General's support for that appointment that I think will be very, very important.

I want to commend the Attorney-General and the Department of Justice and Community Safety, which had its annual report tabled in essentially the last week that the Parliament sat. It just goes to show the

amount of work that is going into our justice system, the amount of work that was accomplished and achieved by the former Attorney-General, the member for Keysborough, and the work that the current Attorney-General is doing to build on those reforms.

This is important reform. There has been consultation with the Law Institute of Victoria and the Bar Association—all the stakeholders, including the Sentencing Advisory Council and the Victorian Law Reform Commission. We are very fortunate in Victoria to have an ecosystem—and I get to see this regularly across my four justice portfolios—of stakeholders that know what it means and advocate for their parts of the legal system, whether it be the Centre for Innovative Justice at RMIT, the Sentencing Advisory Council at Monash, the courts or the law institute. We are very fortunate and we should never take those bodies for granted. Sometimes there will be different lobbying that they do, but we welcome that lobbying because they are advocating on behalf of their members and on behalf of the legal system. At the end of the day, this piece of legislation goes to the heart of that: having a more effective, more transparent, stronger legal system. This legislation will go a long way to achieving that. I think its time has come. While it did not pass the last Parliament, I am certain it is about to be passed in this Parliament. I again put on record my congratulations to the Attorney-General, and I commend the bill to the house.

Mr EREN (Lara) (15:48): I too would like to make a contribution on this very important bill before the house, the Justice Legislation Amendment (Criminal Appeals) Bill 2019. Can I commend the previous speaker, the Minister for Corrections and Minister for Victim Support, on his contribution. Of course, he is doing a great job in that area. Just yesterday we passed one of his bills in the area of corrections and building the Chisholm Road facilities out in my electorate of Lara, with all the economic benefits that brings to our region.

I also want to congratulate, obviously, the owner of this bill, who is the Attorney-General. She has done a great job. If we want to have a state that is strong, we need a good judicial system. At the heart of a good democracy is a good judicial system. We in this place, clearly, make the laws through legislation, the police enforce those laws and our courts and judicial system apply those laws. Nevertheless, there is an arms-length distance between politics, politicians and the law itself.

It is refreshing to hear so many speakers on our side actually advocating for this bill, because it is such an important bill. Unfortunately the opposition have stopped speaking on this bill. I am not sure if any of them have spoken. They pretend to be the champions of law and order. When legislation such as this comes to this place, you would expect some of them to get up and make some comments on this very important issue. Unfortunately they are probably in the caucus room trying to sort out who their next leader is going to be, rather than worrying about the judicial system of this state, which is a shame. Anyway, we will uphold it on our side of this house and make sure that we have legislation going through this place that is conducive to making Victoria a safe place to live, work and raise your family.

I have mentioned on a number of occasions that this is a great state. It has the strongest economy. For the first time ever I think we have exceeded New South Wales in terms of the jobs growth that is occurring in our state. As a result of that, there is population growth. Why wouldn't you want to live in a state that is a great place to live and have a meaningful job? Clearly we need a judicial system that is up to scratch, that is up to standard, that is not lagging behind but is modernised and is fair, at the heart of it. That is why there are some things that we need to make amendments to in this place—and that includes this bill right now.

We are the only state that currently has this system in place. The first half of the bill is a reintroduction of reforms to abolish de novo appeals. We like to see ourselves as the state that leads the way when it comes to anything and everything. To see us lagging behind is obviously something that we cannot tolerate. The first half is a reintroduction of reforms to abolish de novo appeals, which passed the Assembly but lapsed before passing the Council last year; the other half is reforms to introduce a second or subsequent right of appeal, in very narrow circumstances, to modernise the way our system deals with substantial miscarriages of justice.

It is a traumatic time if you are going through a judicial process. Obviously going through the courts, for varying reasons, is a traumatic time for many, particularly victims and victims of crime. It is important for those victims, particularly of horrendous crimes where they have experienced appalling crimes perpetrated against them—it could be violent crimes; it could be other ways and means of traumatising those people—that they go through a process only once to find the person who perpetrated the crime guilty of that crime and that the perpetrator of that crime is not given another opportunity, unless there are exceptional circumstances and there is a miscarriage of justice, of going through the whole process again, particularly when it comes to children. That is why it is important to make sure that we have a justice system in place that is impacting least on those that have been the victims of crime so they do not live through all of that trauma again, just because the perpetrator of that crime thinks that they can appeal anything through the County Court, basically hoping that they can take a few months or a couple of years off their sentence—they may know they are guilty but are just testing the system because they can. Now, that is a drain on resources and is obviously an unfair situation for those victims that have gone through and suffered so much. Clearly it is something that needs to be looked at.

Having said all of that, of course you do need a system in place that is going to be fair. Currently any outcome of a Magistrates Court hearing can be appealed to the County Court, as I have indicated, as of right, without needing any particular grounds to do so. These appeals must be heard de novo, which means they are run as a whole new hearing with the judge hearing all the evidence afresh and sentencing afresh—that is, not taking into account decisions already made in the lower court. I have to say again: just as it is traumatic for the victims of crimes, it is also a real psychological burden on those judges or people in the judicial system—whether they be the police or the judges themselves—to go through all of that evidence again, knowing that the decision that was made was the correct one, knowing that they just seem to be going through the same process because the perpetrator of the crime has the right to appeal. It is a drain on resources, it is traumatic for the victims and it is psychologically demanding on the people that work in the judicial system, and that in itself is an injustice, to say the least. This is inefficient as it allows defence counsel to effectively treat the Magistrates Court hearing as a trial run, it adds to delays and costs for all parties and crucially it requires victims and witnesses to give evidence in court and be cross-examined all over again.

De novo appeals date back—I think other members have mentioned this—to the 17th century, which is a long, long time ago, and a lot has changed since then. We need to modernise our judicial system so that it is reflective of the times that we live in. These reforms are an important modernisation of our justice system that is in the interests of both victims and the efficient operation of a modern, high-volume court system, while preserving the important safeguard of a robust appeals process. Under these reforms de novo appeals will be replaced by appeals conducted essentially on the papers—that is, the County Court will review transcripts of the original hearing and only admit further evidence in very narrow circumstances.

Again I say that it is not fair on the children that may be part of a court process, it is not fair on victims of crime, it is not fair on the people that work in the judicial system and it is not fair obviously on the court system itself with the drain on resources for a perpetrator of a crime to just throw the dice and hope for the best in making their appeal. Clearly that needs to change, and that is what this legislation is doing.

There are currently about 3200 de novo appeals every year, and these reforms are expected to dramatically cut the number of appeals from the Magistrates Court and will spare victims and witnesses the trauma of giving evidence and being cross-examined all over again.

There are a number of changes that are occurring with this bill, which obviously make sense as they bring us up to date in terms of our judicial system itself. We do not want to lag behind. We do not want to be the last state to have these outdated laws going back to the 17th century. We are a very modern state with a bright future. It is a shame that the opposition do all their crowing about law and

order and how we are not good on law and order. Well, where are they today? They are in the caucus room trying to sort out who their leader is going to be next. They do not care about Victorians. At least one of them could stand up and talk on this very important bill—but no, true to form, they whinge and carp and carry on about how we are governing the state. We will get on with governing this state. I commend the bill to the house and wish it a speedy, speedy passage.

Mr EDBROOKE (Frankston) (15:59): It is my absolute pleasure this afternoon to rise and speak on the Justice Legislation Amendment (Criminal Appeals) Bill 2019. I might just start by saying that the member for Lara mentioned that the opposition might be in their caucus room. Well, the Leader of the Opposition might be in favour of de novo appeals so he can acquit his case a second time. You never know.

Essentially this bill is a bill of two major reforms. I would like to thank the minister, her staff and the departmental staff. We have a fantastic history of good, solid reforms. We are trying to make sure that we have the best justice system, one that reflects community expectations and puts victims' rights first, and I think this reform very much has the mantra that if you are standing still, people are passing you. Indeed as the member for Lara and many others have said, we are the last state in Australia to have a look at reforming this legislation.

This legislation has been mentioned in regard to the mandatory reporting bill and people being able to reprosecute their arguments in court and their ability to get adequate compensation—people that went through the Melbourne Response. Again, that is a great history right there of five years of people in this government making sure that our legal system is getting better and serves our community as it should.

The first half of this bill is a reintroduction of reforms to abolish the de novo appeals, which actually passed the Assembly but lapsed before passing the Council last year, unfortunately. For those who speak Latin, 'de novo' translates to 'of new' or 'from the beginning'. We will get back to that in a second, because that is at the heart of this bill. The other half of the bill is the introduction of a second or subsequent right of appeal, in very narrow circumstances, to modernise the way our system deals with substantial miscarriages of justice, which I have found is a very interesting term as well. Essentially a de novo appeal is an appeal from the Magistrates Court to the County Court where the County Court looks at a matter afresh, as if there was never a previous decision. If a person decides to appeal their criminal conviction or sentence to the County Court, the judge hearing the case does not consider the previous decision or the evidence that was given at the previous hearing. Witnesses are indeed called again to give evidence for a second time. In a de novo appeal the judge is free to acquit without justification against the original decision, the judge is also free to sentence without reference to the original sentence and the presiding judge imposes a sentence that is appropriate, based on what is presented in the appeal.

With this we see some fairly huge issues in regard to victims. We know from many individual cases and also the Royal Commission into Family Violence that the trauma of victims and witnesses is a huge matter that we have started dealing with, especially with those recommendations from that royal commission. But to do that in the more generic sense is very important as well.

Essentially we are modernising Victoria's criminal appeals system so that victims and witnesses are not put through the trauma of second trials or made to give evidence again when they actually do not need to. Currently any outcome of a Magistrates Court hearing can be appealed to the County Court without needing any particular grounds to do so. These appeals must be heard through the de novo appeal process. This is really inefficient because it allows the defence counsel to effectively have a trial run in the Magistrates Court. This is adding to delays and costs in these courts and to parties. As we have previously touched on, it requires victims and witnesses to give evidence in the court and, even more so, go through the trauma of being cross-examined again.

De novo appeals date back to the 17th century, and Victoria is the last jurisdiction in Australia to still have them. That is a bit of a strange one in itself because Victoria of course is leading the nation in so

many ways—it is the backbone of the economy, jobs et cetera—so we really should be having a look at this. It has been mentioned before, but I will mention it again: the opposition is vehemently opposed to certain legislative amendments that we are going through, and they talk about crime, so it is strange to see the opposition benches are empty at the moment. No-one is interested. No-one is at home.

In the 17th century, which is when these appeals date back to, just to jog some memories, we had the gunpowder plot—a Catholic conspiracy to blow up Parliament—John Milton was born and the English Civil War began as well. I think that given the time between that time and now—and I am not saying we should not hold onto some traditions—we should be open to change and improvements. That is what this government is doing, and we have a great history of doing it.

Under our reforms de novo appeals will be replaced by appeals conducted essentially on the papers, which is by reviewing transcripts, so there are no other witnesses. The County Court will review these transcripts of the original hearing and only admit further evidence in very narrow circumstances. The argument could be made that the de novo appeal does not allow judges to ask for new witnesses to come in, but it certainly does. The judge can request leave from the court to bring in other witnesses in very particular circumstances and other evidence in very particular circumstances as well.

Under this new system both appeals against convictions and appeals against sentences will be dealt with a little differently. Under the system appellants—that is, people who apply to a higher court for a reversal of a decision of a lower court—who appeal against their conviction will have their appeal determined by reference to those transcripts, or on the papers. The appellant will be denied the ability to examine, cross-examine or call new witnesses without leave of the court—that is my understanding.

It is fair to say that one of the main reasons that a witness gives evidence orally in court is so that the court can determine the candour of a witness. The witness's conduct, their body language and the presentation of their evidence—how it plays out—plays a huge part in the system of the court in determining how much weight should be given to that witness's evidence. Some will say that once this bill is passed the court will be forced to determine whether the appellant was rightly convicted based on the written transcripts provided to the court, and in that way the ability of the judge to properly determine the evidence is a little deprived. However, as I said previously, there is nothing to stop the court from granting leave to have another witness called to give evidence or admitting further evidence in other narrow circumstances and in the interests of justice.

As well as abolishing de novo appeals from summary criminal matters we are also reintroducing the reform to abolish de novo appeals against final orders made by the family division of the Children's Court. This is very, very important. These reforms are supported by the Children's Court and the Department of Health and Human Services because they will spare children months of uncertainty and instability waiting for a full rehearing of a case. I know that there would not be one member of Parliament sitting here today that has not had someone come into their office with an issue that relates to family law, and anything we can do to make that more efficient and less traumatic is a step forward. We are stabilising the circumstances for children in these cases, which will involve things like protection orders, therapeutic treatment orders and permanent care orders in the child's best interest, and that needs to be paramount.

As I have said, Victoria is the last jurisdiction in Australia to have de novo appeals. As well as delivering benefits for victims and system efficiencies, abolishing them is an important part of the modernisation and maturation of our system, and it will allow the Magistrates Court proper recognition of its important role as our high-volume court. Implementing a second or subsequent right of appeal will ensure that in very narrow circumstances, where there is fresh and compelling evidence of a substantial miscarriage of justice, these matters are dealt with transparently through the courts and in accordance with the principles of open justice.

Can I just say once again that I am very proud to work with the Attorney-General. She is someone that has brought into this house many, many good reforms, many progressive reforms, to ensure that we

are serving our community in accordance with their expectations. I notice that the former Attorney-General, the member for Keysborough, who also introduced many reforms into this house, is sitting at the table today, and I thank him as well.

Mr PAKULA (Keysborough—Minister for Jobs, Innovation and Trade, Minister for Tourism, Sport and Major Events, Minister for Racing) (16:09): It is somewhat unusual for me to rise to speak on this bill. I still have a mildly Pavlovian reaction when I hear the term 'Attorney-General' used; sometimes I almost feel like jumping to my feet. But I have actually been reasonably resolute in staying out of my old patch, as I think is appropriate, for the last 11 months. But I think in regard to this bill I do have some experience to impart in support of the bill, and it gives me pleasure to do so.

I want to spend just a couple of moments, first of all, in regard to the reform relating to de novo appeals, and I want to congratulate the Attorney-General for effectively resubmitting this reform to the house. As the Minister for Corrections noted during his contribution, there was a de novo appeals bill that was brought before the house prior to the 2018 election. As I recall, it passed this house; I think the Minister for Corrections is indicating that that is correct. It passed this house but it lapsed prior to being able to pass the other place at the conclusion of the 58th Parliament. It was important work then and it is important work now. Many of the changes that we make in this place, whether it is changes to bail, changes to the way community correction orders are dealt with or changes in regard to those who assault our emergency services workers, have the consequence—not the aim, but the consequence nevertheless—of increasing the load on our courts. This is a bill that will hopefully move in the other direction by providing us with a more streamlined approach in regard to the hearing of appeals so that they can be dealt with on the basis of evidence that has already been presented to the court rather than having to have all of that evidence dealt with by the court anew. So I congratulate the Attorney-General, and I am pleased to see that that is supported across the house, as it ought to be.

I want to make some comments in regard to the other part of this bill, which relates to the second and subsequent appeal against conviction that will become a feature of the law if this legislation passes. I make that comment as a former Attorney-General and as someone who has discussed this reform with other jurisdictions where it has already been put in place. In particular I had discussions about this with former Attorney-General of South Australia John Rau. This second and subsequent appeal has been in place there for some time. Of course, as members would be aware, there is a similar arrangement now in regard to acquittals where there is an opportunity for fresh and compelling evidence to lead to a matter being reconsidered by the court in the event that there has been an acquittal. That has been somewhat of a fetter on the double jeopardy rule, but it has been considered by the Parliament to be an appropriate change, and I believe it to have been so.

Likewise, the changes that are being made as part of this legislation will effectively mean that matters that would have previously been considered by attorneys-general under the petition of mercy arrangements under section 327 of the Criminal Procedure Act 2009 will now more likely be dealt with under these provisions—that is, giving people who have been convicted and have lost on appeal a second or subsequent appeal in the event of there being fresh and compelling evidence. Can I say that, as an Attorney-General who dealt with these matters on a number of occasions, this is an appropriate change. In most cases the process that would occur would be that an Attorney-General would simply consider the material before them and then determine whether or not to refer the matter to the Court of Appeal for consideration in any case. This effectively removes the middleman and allows the matter to be considered by the Court of Appeal directly rather than going through a process which by its very nature, even though it should not be, can become political.

I make that comment as I re-read a letter that I wrote to the Legislative Council back in October 2017. At that time, when I had denied a petition from Mr Jason Roberts, there was in fact a demand made of me by the Legislative Council for documents—they were wanting to know why I had denied that petition for mercy. Now, as members would know, subsequently more information came forward, a referral was sent by me to former Justice Teague, who recommended that certain matters be referred

to the Court of Appeal for consideration, and that matter is ongoing. I do not intend to go into it in any detail other than to say the fact that this matter became the subject of a request for documents by the Legislative Council of the day and the fact that I was required to provide them with correspondence explaining my decision at the time is a demonstration of the manner in which these things can become politicised, and they should not become politicised.

I heard a contribution today by the member for Caulfield and I think one by the member for Gippsland South, both of whom effectively suggested that the Attorney-General was introducing this legislation so that the Attorney-General would not have to deal with the inevitable applications that may come out of the Lawyer X royal commission. I would say to those opposite and those that would suggest that motivation on the part of the Attorney-General that I am sure she would reject that as being her motivation, and I would say to them that this is a justifiable and necessary reform in any case. It is far more appropriate, particularly in serious cases where there is an assertion that there is fresh and compelling new evidence, that those matters be considered by the court than be considered by the Attorney-General of the day.

Now, to put that in context, the Attorney-General of the day will of course not consider those applications in a vacuum. The Attorney-General will undoubtedly receive advice not just from the department but probably from external counsel as well, and so those decisions are not made in a vacuum. But even in those circumstances, even when advice is received, it is advice on the papers about applications on the papers. There is no way that any Attorney-General in those circumstances can have an opportunity to test that evidence, to test that advice and to test the case in the same way that the Court of Appeal could. The Court of Appeal's options are manifold. They may involve the hearing of oral evidence. They may involve the subpoenaing of witnesses. They may involve the production of documents. The Court of Appeal in those circumstances will be far better placed to consider the merits of any application by necessity than any politician, even with the support of their department or external counsel. So I think this is an absolutely appropriate change.

There have been cases in the past obviously where the pressure has been on attorneys-general to grant mercy or to refer matters to the Court of Appeal, and that is one form of pressure in these circumstances. Equally there is the very real desire of any Attorney-General in these circumstances to not cause unnecessary anguish for a victim or families of victims, and it is why it is overly simplistic to say that it is simply easier for the Attorney-General to refer these matters to the Court of Appeal. That is being put as being an easy way forward for attorneys-general, but it is not the case, because even in making that decision an Attorney-General is knowingly ensuring that there are going to be consequences for the victim even if the Court of Appeal declines to hear the case.

So for this matter to be within the province of the courts, within the province of our justice system, if an applicant believes there is fresh and compelling evidence, they will have the opportunity to have that matter dealt with by a judge and tested in the courts. That is appropriate. It removes it from the political contest, and it means that it will get the best possible hearing. That is the way it ought to be. I commend the bill to the house.

Ms SHEED (Shepparton) (16:19): I rise to make a contribution on the Justice Legislation Amendment (Criminal Appeals) Bill 2019. This is a fairly significant piece of legislation. I would like to start by talking about the fact that the government is proposing to abolish the right to a de novo hearing on appeal to the County Court. Now, I see that as something very concerning. It reflects to some extent a lack of understanding of the pressures that exist in our Magistrates Court in terms of the hearings that are happening there.

The government contends that in most appeal cases there would be a requirement that victims and witnesses not give evidence again. A de novo appeal is where the whole case is heard again, effectively a fresh trial so victims and witnesses do then have to give their evidence again if that is the case. However, it must be remembered that in many cases in the Magistrates Court a plea of guilty may have been entered and it may be just the sentence that the person is appealing against, but once it goes

up to the County Court then a full hearing would ensue to ensure that everything is heard and everything is before the court. There is no doubt that our community wants to see a situation where victims in particular are not burdened with the need to repeat their story over and over. I think all of us understand that, especially in cases of family violence and child sexual abuse—those sorts of cases where there has been so much effort made over the years to deal sensitively with witnesses and victims who have to give evidence in those circumstances—that is truly welcomed. I think generally everyone in the community supports that.

I have to say that in Shepparton just recently we had the Attorney-General come and open the first family violence court in Victoria. That has been as a result of many things but also part of the fact that we actually have a new courthouse in Shepparton that has been built in recent years. It left the old—I suppose you would call it 1930s, 1940s—courthouse that had not been used for many years available to be completely refurbished and turned into the family violence centre. Within that there are numerous meeting rooms so that barristers, solicitors, victims—all those involved—have plenty of places to meet. There is a big, large area where people can congregate, but they have to go through security. There is then a special room set aside where a witness or a victim can give their evidence in a separate room, videoed through to the court where the hearing is taking place, and they can have a support person with them. These are just amazing facilities that we now have in Shepparton to deal sensitively with the many sorts of cases where you really are concerned about that overexposure of witnesses.

I do go back to the fact that in our Magistrates Court there are very many practical decisions made when the person is before the court, and very often it is the case that a person will choose to plead guilty and take their chances on a sentence. On the other hand they could elect to go to trial. It might be a more serious matter and they could elect to have their case go straight to the County Court for trial. There are a couple of factors here that concern me. One is that there will be less inclination for people to have cases dealt with summarily if they feel that they are not fully prepared or if they are perhaps unrepresented. Many people before the Magistrates Court are unrepresented. We only know too well how stretched legal aid funding is and how there are many people in our community who face court on their own unrepresented. They might talk briefly to a duty lawyer. I have been in court many times where the queue for the legal aid lawyer sitting in that duty office is very long. I think another aspect of this will be that many people will seek to have their cases adjourned rather than dealing with them on the day.

In some ways the Magistrates Court can be seen as rough justice, but it is a practical and quick solution for many people with more minor charges. When it is more serious, people really need to consider whether they are prepared to take the chance before a magistrate, particularly if they know they are not going to be able to have a further hearing or have their case dealt with at another level later on. That is a situation that really concerns me, and it is a reason why I do not support the removal of de novo hearings on appeal.

The Magistrates Court in our state works at the coalface. They get criticised up and down, up hill and down dale. I have to say that during the last Parliament the campaign run by the *Herald Sun* in its criticism of the judiciary, in particular magistrates and judges whose sentences were not liked, was really concerning. It prodded the government, I believe, to do some things that were perhaps in retrospect not the best. We know that we now have so many people on remand in our prisons. Our prisons are bursting at the seams. Our magistrates have really been criticised so much when their workloads have increased dramatically over time. They get criticised for soft sentencing. That is a fictitious phenomenon that is not reflected in the statistics.

Just recently we had the Sentencing Advisory Council come to Wangaratta to run effectively mock courts where members of the public would come in, sit in the courtroom, hear all the evidence for themselves and then decide what would be an appropriate sentence. The sentencing council have done this in many places, and they have found that members of the public will generally sentence more harshly than a magistrate or judge does. It just reflects that notion that magistrates who actually hear

all the evidence, see the witnesses and understand the nuances of every case are making some pretty good decisions a lot of the time, especially when they have got the time to do it. Members of the public who think magistrates are making wrong decisions are often misinformed in that regard and would probably be much harder themselves.

I think it is very important that we support our judicial system at every level because history will tell us that bad and fair outcomes will be caused where judges and magistrates are under pressure, where they do not have the time and where they do not have before them the evidence they require to deal with the issues before them.

I spoke against mandatory sentencing in this place two years ago when that issue was before this Parliament. That legislation went through, as we know, but I think there is a real concern around that, because again, it removes from the judiciary the ability to take into account every factor relating to a person, and it is not appropriate that we respond to the media when we are thinking about how our justice system should look.

I see that the Minister for Youth Justice is here today. It has been very refreshing to hear in this 59th Parliament a change in the way we are thinking about prisoners, about the prison system and about young people. There is a discussion now about restorative justice, and there is a discussion about intervention in early childhood. The minister at the table is coming to Shepparton in the near future to meet with various groups who are working so hard in that area of early intervention, because we know who in our communities are the next young people who will be going to jail, and if we do not intervene at an early stage for those young people then that is what will happen—they will just become statistics in the justice system. All the evidence now shows that early intervention can change the trajectory of young people's lives—young people who have been subject to environmental trauma, to family violence and to all sorts of things and who are often dysfunctional in schools. Programs in schools that provide a therapeutic environment for them to be dealt with are now being shown to have a really significant effect. We have the Lighthouse Project in Shepparton also working towards young people having better outcomes. So while I support the bill generally, I have my concerns.

Mr BRAYNE (Nepean) (16:29): I rise to speak on the Justice Legislation Amendment (Criminal Appeals) Bill 2019. Before I do I just want to commend the Attorney-General and her departmental staff for their work on the bill, as this is an important reform. The bill's objectives will (a) reform Victoria's summary appeals system to abolish de novo appeals and, where appropriate, introduce new processes and tests for hearing appeals from the summary jurisdiction and (b) introduce a second or subsequent right of appeal against a conviction for an indictable offence where there is fresh and compelling evidence showing that a miscarriage of justice has occurred. Now, this is a reintroduction of these reforms, as the bill did not pass the Parliament last time in the Legislative Council.

Criminal appeals are an important safeguard for both the prosecution and the defence. They allow the prosecution to challenge inadequate sentences and also allow errors or injustices to be corrected by higher courts. Both of these purposes are very much in the public interest. However, appeals can be traumatic for victims and witnesses, as matters are prolonged, and they are often required to give evidence in court again. We are modernising. The Andrews Labor government is modernising Victoria's criminal appeals process so that victims and witnesses are not put through the trauma of a second trial or made to give evidence again when they do not need to.

Currently, any outcome of a Magistrates Court hearing can be appealed to the County Court as of right, without needing any particular grounds to do so. These appeals must be heard de novo, which means they are run as a whole new hearing, with the judge hearing all the evidence afresh a second time and subsequently sentencing afresh. They do not take into account decisions that have already been made in the lower court, and this is an inefficient and unfair process, as it effectively allows defence counsel to treat the Magistrates Court hearing as a trial run. It adds delays and costs for all parties, and crucially it requires victims and witnesses to give evidence in court and be cross-examined all over again.

De novo appeals date back to the 17th century. Victoria is the last jurisdiction in Australia to still have them, and we have some members here today who are actually from the 17th century. These reforms are an important modernisation of our justice system that is in the interests of both victims and the efficient operation of a modern, high-volume court system, while still preserving the important safeguards of a robust appeals process. Under our reforms de novo appeals will be replaced by appeals conducted essentially on the papers—that is, the County Court will review transcripts of the original hearing and only admit further evidence in very narrow circumstances. That will be through an interests of justice test. Some members have been asking here; you may not be hearing that at home.

Where a sentence has been appealed, the County Court will only allow the appeal if there are substantial reasons to impose a different sentence. In other words, there is a threshold to pass. The appellant will need to show that the original sentence was more than just arguably too severe, or too lenient for that matter, before accepting the appeal. This test will act as a deterrent to sentence appeals lodged as a throw of the dice by an offender hoping to get a few weeks or months shaved off their sentence. Their sentence length might, for example, have been near the top of the range. There are currently about 3200 de novo appeals every year. These reforms are expected to dramatically cut the number of appeals from the Magistrates Court and will spare victims and witnesses the trauma of giving evidence again and again and being cross-examined all over again.

Members interjecting.

Mr BRAYNE: It is very important. As well as abolishing de novo appeals from summary criminal matters, we are also reintroducing the reform to abolish de novo appeals from final orders made by the family division of the Children's Court. These are reforms that are supported by the Children's Court and the Department of Health and Human Services (DHHS) because they will spare children months of uncertainty and instability in waiting for a full rehearing of a case. Stabilising the circumstances for a child in these cases, which involve things like protection orders, therapeutic treatment orders and permanent care orders, is in the child's best interests, and that needs to be paramount.

Safeguards against errors are preserved, however. Appeals to the Supreme Court on a question of the law will still be possible, and the bill does not change appeals to interim orders of the family division. The bill also does not prevent the Secretary of DHHS from varying orders.

An introduction of a second or subsequent right of appeal is about modernising Victoria's safeguards against wrongful conviction. While such cases are incredibly rare, sometimes new evidence is discovered that shows people have been wrongfully convicted. Those cases are currently dealt with behind closed doors through that petition for mercy process. In summary, the petition process involves a convicted person writing to the Attorney-General, who sits by my side today, to present evidence. The Attorney-General seeks advice from the Department of Justice and Community Safety on the merits of the advice and then either refers the matter to the Court of Appeal for them to hear an appeal, which might result in an acquittal or a retrial being ordered, or provides advice to the Premier, who then advises the Governor—quite an order chain here—to either grant mercy, pardon the person, reduce their sentence or decline the petition. I guess the takeaway messages that is the Attorney-General, the Premier and the Governor have quite a task on their hands.

We are making the process more transparent by creating a pathway for fresh and compelling new evidence that shows a substantial miscarriage of justice to be considered by a court. The right to a second or subsequent appeal will only be available if leave is first granted by the Court of Appeal. The court can only grant leave if evidence is found to be both fresh and compelling. This is a very high statutory bar that ensures only cases which are meritorious are considered by the Court of Appeal. This just means that an offender will not simply be able to try again after failing an appeal; fresh and compelling evidence would need to be discovered to give grounds for a further appeal. This is basic sense; this is common sense.

Similarly, more technicalities will not be sufficient to show a substantial miscarriage of justice. Fresh evidence is evidence that was not presented at the trial of the offence and could not, even with the exercise of reasonable diligence, have been presented at the trial of the offence. For evidence to be considered compelling it must be reliable and substantial evidence which would have eliminated or substantially weakened the prosecution case if it had been presented at trial. If leave is granted, the applicant must then prove that a substantial miscarriage of justice has occurred in their case for the court to allow the appeal.

While there is no single test for what constitutes a miscarriage of justice, examples might include, for instance, where a person was actually not guilty but was convicted because crucial exonerating evidence was either not available or not presented at the trial, or where there has been a serious departure from the proper trial process, such as the judge not allowing a material witness to give a full account of their evidence, if the trial judge exhibited bias, juror misconduct—I have not been asked to be a juror just yet, so I am waiting for my time to be on a jury; it will not be for a while, maybe in a couple of years time, 20 years time, right, folks?—witness tampering or prosecutorial misconduct if the jury is presented with inadmissible evidence that was crucial to the conviction.

A second appeal will only be available for indictable offences. Cases that meet the very high threshold are expected to be very rare. South Australia and Tasmania—great states—already have a right of further appeal. It has been used fewer than 10 times in South Australia since 2013 and just once in Tasmania since 2015. The reform is also currently before the West Australia Parliament. We occasionally from time to time have West Australian MPs in our chamber here to watch us. It is always exciting when we have different guests from different parliaments. If I ever get a chance, I would not mind going to the West Australian Parliament and just checking it out sometime. It is probably not as good as our Parliament of course, but I am sure it is all right.

There is only one final, relatively minor but important reform being made by this bill—that is, to allow the Court of Appeal to operate more efficiently by referring an issue or matter in an appeal to a trial court for determination. That means a single judge rather than a full appeal bench can consider, for example, a specific question of evidence and report a determination back to the Court of Appeal for them to take into account in ruling on the appeal as a whole. I am getting a few nods here, so people are largely in agreement. This change will allow appeals to be dealt with more efficiently, utilising trial judge expertise where appropriate and allowing Court of Appeal justices to focus on the central issues in an appeal.

To conclude my speech on this bill today, Victoria is the last jurisdiction in Australia to have de novo appeals. As well as delivering benefits to victims and system deficiencies, abolishing them is an important part of the modernisation and maturation of our system, allowing the Magistrates Court proper recognition of its important role as a high-volume court. Implementing a second or subsequent right of appeal will ensure that in the very narrow circumstances, whether it is fresh and compelling evidence of a substantial miscarriage of justice, these matters are dealt with transparently.

Mr KENNEDY (Hawthorn) (16:40): I would like to begin my remarks with some reference to general issues of law and order. I go back to my own election campaign in October 2018. In Hawthorn West, outside a number of shops, there was another candidate for Hawthorn who was also conducting an appeal and visiting each of the shops. However, this person was accompanied by someone from a victims of crime group. He introduced me to this person, who told me a story of his daughter who had been abused and attacked. He was in tears as he was telling the story because he was concerned and upset by the fact that the person who did this and who was found guilty received only a small sentence. I think it was only something like six months or a year. At the time I thought to myself that it was a bit of a poor show for this other candidate to be having this member of the victims of crimes group visiting the shops to appeal to them to vote for a different political party.

But I did think later on how difficult it is for magistrates and for judges and people in that sort of situation to come up with appropriate sentences. I did not know much about the legal system before I

came into this place, but I do know that there are many times where a lot of money has had to be spent on legal proceedings and you wonder whether or not the system is just a bit inefficient and needs improvement so that there is less need for that sort of expenditure. I am delighted to have the opportunity to speak here, because what we have are various sanctions to improve the efficiency and the overall effectiveness of the legal system. I think anybody reading through this bill will say, 'Yes, that would certainly make things more efficient and fairer'.

I am aware, as the member for Shepparton said earlier today, of the pressure on magistrates. I have a daughter who is a police officer. She trained originally as a lawyer—she did an arts and law degree—and then joined the police force and now has some involvement in prosecution. She was just saying informally that there is enormous pressure on magistrates in terms of the day to day and in terms of fairness and of consistency, so anything that can lift that situation I am sure would be welcomed.

I want to say just a few words on the Children's Court. The member for Shepparton was talking about that and the situation that exists in Shepparton and the new arrangements that have been made in recent times for the proper conduct of appeals and so on. As well as abolishing de novo appeals from summary criminal matters, we are also introducing the reform to abolish de novo appeals from final orders made by the family division of the Children's Court. These are reforms that are supported by the Children's Court and the Department of Health and Human Services because they will spare children months of uncertainty and instability waiting for a full rehearing of the case. Stabilising the circumstances for a child in these cases, which involves things like protection orders, therapeutic treatment orders and permanent care orders, is in the child's best interests, and that needs to be paramount. However, safeguards against errors are preserved. Appeal to the Supreme Court on a question of law will still be possible, and the bill does not change appeals from interim orders of the family division. The bill also does not prevent the Secretary to the Department of Health and Human Services from applying to vary orders.

I will just comment also on the second or subsequent right of appeal. The introduction of a second or subsequent right of appeal is about modernising Victoria's safeguards against wrongful conviction. While such cases are incredibly rare, sometimes new evidence is discovered that shows people have been wrongfully convicted. Those cases are currently dealt with behind closed doors through the petition for mercy process. In summary, the petition process involves a convicted person writing to the Attorney-General to present evidence. The Attorney-General seeks advice from the department of justice on the merits of the evidence and then either refers the matter to the Court of Appeal for them to hear an appeal, which might result in acquittal or a retrial being ordered, or provides advice to the Premier, who then advises the Governor to either grant mercy—pardon the person—or reduce their sentence or decline the petition.

We are making the process more transparent by creating a pathway for fresh and compelling new evidence that shows a substantial miscarriage of justice to be considered by a court. The right to a second or subsequent appeal will only be available if leave is first granted by the Court of Appeal. The court can only grant leave if evidence is found to be both fresh and compelling. This is a very high statutory bar that ensures only cases which are meritorious are considered by the Court of Appeal. This test means that an offender will not simply be able to try again after failing an appeal. Fresh and compelling evidence would need to be discovered to give grounds for a further appeal. Similarly, mere technicalities will not be sufficient to show a substantial miscarriage of justice. Fresh evidence is evidence that was not presented at the time of the offence and could not, even with the exercise of reasonable diligence, have been presented at the trial of the offence. For evidence to also be compelling, it must be reliable and substantial evidence which would have eliminated or substantially weakened the prosecution case if it had been presented at trial. If leave is granted, the applicant must then prove that a substantial miscarriage of justice has occurred in their case for the court to allow the appeal.

My notes go on, but I have only a short time available. A second appeal will only be available for indictable offences. Cases that meet the very high threshold are expected to be very rare: South

Australia and Tasmania already have such a right of further appeal, and it has been used fewer than 10 times in South Australia since 2013 and just once in Tasmania since 2015. The reform is also currently before the Western Australian Parliament, as we have already heard.

Victoria is the last jurisdiction in Australia to have de novo appeals. As well as delivering benefits for victims and system efficiencies, abolishing them is an important part of the modernisation and maturation of our system, allowing the Magistrates Court proper recognition of its important role as our high-volume court. Implementing a second or subsequent right of appeal will ensure that in the very narrow circumstances where there is fresh and compelling evidence of a substantial miscarriage of justice, these matters are dealt with transparently through the courts and in accordance with the principles of open justice.

I would just like to conclude by saying that we are never going to have the final word on law and order. There is never going to be something that is seen to be 100 per cent just and fair and efficient in all possible circumstances. All we can do is to keep moving towards such an ideal, and I commend this bill as an example of where we are moving forward to make these things better for the future.

Mr STAIKOS (Bentleigh) (16:49): It is a pleasure to rise to speak on the Justice Legislation Amendment (Criminal Appeals) Bill 2019, and like other speakers, I too commend our current Attorney-General but also the Attorney-General in the last Parliament for this legislation, for developing this reform, which is well overdue. In fact some of the details of this bill were debated in this Parliament prior to the last election but unfortunately did not make it through the Legislative Council prior to that election, so here we are today.

Over the last five years at least that I have been a member of this place, we have debated many, many reforms to our justice system, and like many other similar jurisdictions around the world, our justice system is based on certain basic principles. One that springs to mind is of course the right to a fair trial, but what we have seen over the last five years is a government that is also willing to ensure that our justice system is ever changing, ever reforming, because I know that just in the space of time that this government has been in office, certain events have taken place that have sometimes necessitated a change in law. Whether it is sentencing, or parole or bail, all of these reforms have taken place after certain events have taken place, but also after thorough reviews and thorough inquiries, because this is a government that takes its advice from experts, not from those opposite—and perhaps towards the end of my contribution I might refer to their latest thought bubble in the justice area. We take our cues from the experts.

This is essentially a bill of two halves. The first half is a reintroduction of reforms to abolish de novo appeals, which passed the Assembly but lapsed before passing the Council last year. The other half contains reforms to introduce a second or subsequent right of appeal in very narrow circumstances to modernise the way our justice system deals with substantial miscarriages of justice.

Criminal appeals are an important safeguard to both the prosecution and the defence. They allow the prosecution to challenge inadequate sentences and also allow errors or injustices to be corrected by higher courts. Both of these purposes are strongly in the public interest; however, appeals can be traumatic for victims and for witnesses as matters are prolonged, and they are often required to give evidence in court again.

We are modernising Victoria's criminal appeals so that victims and witnesses are not put through the trauma of a second trial or made to give evidence again when they do not need to do so. Currently, any outcome of the Magistrates Court can be appealed to the County Court as of right without needing any particular grounds to do so. These appeals must be heard de novo, which means from the beginning, from afresh, from anew. They are heard as a whole new hearing, with the judge hearing all the evidence afresh and sentencing afresh—that is, not taking into account decisions already made in the lower court. This is inefficient, as it allows defence counsel effectively to treat the magistrates

hearing as a trial run. It adds to delays and costs for all parties, and crucially, it requires victims and witnesses to give evidence in court and be cross-examined all over again.

De novo appeals date back to the 17th century, and Victoria is the last jurisdiction in Australia to still have them. These reforms are an important modernisation of our justice system that is in the interests both of victims and the efficient operation of a modern, high-volume court system, while preserving the important safeguards of a robust appeals process.

Under our reforms de novo appeals will be replaced by appeals conducted essentially on the papers—that is, the County Court will review transcripts of the original hearing and only admit further evidence in very narrow circumstances. Where a sentence has been appealed, the County Court will only allow the appeal if there are substantial reasons to impose a different sentence. In other words, there is a threshold to pass. The appellant will need to show that the original sentence was more than just arguably too severe or too lenient before accepting the appeal. The test will act as a deterrent to sentence appeals lodged as a throw of the dice by an offender hoping to get a few weeks or months shaved off a sentence that might, for example, have been near the top of the range. There are currently about 3200 de novo appeals every year. These reforms are expected to dramatically cut the number of appeals from the Magistrates Court and will spare victims and witnesses the trauma of giving evidence and being cross-examined all over again.

There will also be an introduction of a second or subsequent right of appeal, which is about modernising Victoria's safeguards against wrongful conviction. While such cases are incredibly rare, sometimes new evidence is discovered that shows people have been wrongly convicted. Those cases are currently dealt with behind closed doors through the petition for mercy process. In summary, the petition process involves a convicted person writing to the Attorney-General to present evidence. The Attorney-General seeks advice from the Department of Justice and Community Safety on the merits of the evidence and then either refers the matter to the Court of Appeal for them to hear an appeal, which might result in acquittal or a retrial being ordered, or provides advice to the Premier who then advises the Governor to either grant mercy or decline the petition. We are making the process more transparent by creating a pathway for fresh and compelling new evidence that shows a substantial miscarriage of justice to be considered by a court.

The right to a second or subsequent appeal will only be available if leave is granted by the Court of Appeal. The court can only grant leave if the new evidence is found to be both fresh and compelling. This is a very high statutory bar that ensures that only cases which are meritorious will be considered by the Court of Appeal. This test means that an offender will not simply be able to try again after failing at appeal. Fresh and compelling evidence would need to be discovered to give grounds for a further appeal.

Similarly, mere technicalities will not be sufficient to show a substantial miscarriage of justice. Fresh evidence is evidence that was not presented at the trial for the offence and could not, even with the exercise of reasonable diligence, have been presented at the trial for the offence. For evidence to also be compelling it must be reliable and substantial evidence which would have eliminated or substantially weakened the prosecution case if it had been presented at the trial. If leave is granted, the applicant must then prove that a substantial miscarriage of justice has occurred in their case for the court to allow the appeal. While there is no single test for what constitutes a miscarriage of justice, examples might include where the person was actually not guilty but was convicted because crucial exonerating evidence was either not available or not presented at their trial. Cases that meet the very high threshold are expected to be very, very rare.

In other jurisdictions such as South Australia and Tasmania, which already have such a right of further appeal, they have been used in South Australia, for instance, fewer than 10 times since 2013 and only once in Tasmania since 2015. The reform is also currently before the Western Australia Parliament. In many cases, particularly in terms of the reforms in this bill to de novo appeals, they are about

ensuring that we are not retraumatising victims. Victims have to certainly be a high priority in terms of our consideration as lawmakers.

I was 10 or 11 when Mersina Halvagis was murdered at Fawkner Cemetery. I am 33 now, and in all of those years since the evil man who committed that murder, Peter Dupas, has been in courts several times putting the families of his victims through absolute hell and retraumatising them. I am not saying that this bill necessarily applies to that case, but I am saying that we do need to do everything we can as a government and as lawmakers to make sure that we are balancing the important principle of a right to an appeal in our jurisdiction with other important considerations. One of those of course is that we are not unnecessarily retraumatising victims.

This reform to our justice system, like many others over the five years that we have been in office, has come about because of expert advice, because of important consultation—not a thought bubble like what we hear from those opposite. I commend the bill to the house.

Ms HALFPENNY (Thomastown) (16:59): I would also like to rise to briefly—

The DEPUTY SPEAKER: Order! The time set down for consideration of items on the government business program has arrived, and I am required to interrupt business. The house is considering the Justice Legislation Amendment (Criminal Appeals) Bill 2019. The question is:

That this bill be now read a second time.

House divided on question:

Ayes, 77

Addison, Ms	Guy, Mr	Pearson, Mr
Allan, Ms	Halfpenny, Ms	Richards, Ms
Andrews, Mr	Hall, Ms	Richardson, Mr
Angus, Mr	Halse, Mr	Rowswell, Mr
Battin, Mr	Hamer, Mr	Ryan, Ms
Blandthorn, Ms	Hennessy, Ms	Scott, Mr
Brayne, Mr	Hodgett, Mr	Settle, Ms
Britnell, Ms	Horne, Ms	Smith, Mr R
Bull, Mr J	Hutchins, Ms	Smith, Mr T
Bull, Mr T	Kairouz, Ms	Southwick, Mr
Burgess, Mr	Kealy, Ms	Spence, Ms
Carbines, Mr	Kennedy, Mr	Staikos, Mr
Carroll, Mr	Kilkenny, Ms	Staley, Ms
Cheeseman, Mr	Maas, Mr	Suleyman, Ms
Couzens, Ms	McCurdy, Mr	Tak, Mr
Crugnale, Ms	McGuire, Mr	Taylor, Mr
D'Ambrosio, Ms	McLeish, Ms	Theophanous, Ms
Dimopoulos, Mr	Merlino, Mr	Thomas, Ms
Donnellan, Mr	Morris, Mr	Tilley, Mr
Edbrooke, Mr	Neville, Ms	Vallence, Ms
Edwards, Ms	Newbury, Mr	Wakeling, Mr
Eren, Mr	Northe, Mr	Walsh, Mr
Foley, Mr	O'Brien, Mr D	Ward, Ms
Fowles, Mr	O'Brien, Mr M	Wells, Mr
Fregon, Mr	Pakula, Mr	Wynne, Mr
Green, Ms	Pallas, Mr	

Noes, 4

Hibbins, Mr	Sandell, Ms	Sheed, Ms
Read, Dr		

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

The SPEAKER: The bill will now be sent to the Legislative Council and their agreement requested.

BUILDING AMENDMENT (CLADDING RECTIFICATION) BILL 2019

Second reading

Debate resumed on motion of Mr WYNNE:

That this bill be now read a second time.

The SPEAKER: The question is:

That this bill be now read a second time and a third time.

House divided on question:

Ayes, 55

Addison, Ms	Fregon, Mr	Pallas, Mr
Allan, Ms	Green, Ms	Pearson, Mr
Andrews, Mr	Halfpenny, Ms	Read, Dr
Blandthorn, Ms	Hall, Ms	Richards, Ms
Brayne, Mr	Halse, Mr	Richardson, Mr
Bull, Mr J	Hamer, Mr	Sandell, Ms
Carbines, Mr	Hennessy, Ms	Scott, Mr
Carroll, Mr	Hibbins, Mr	Settle, Ms
Cheeseman, Mr	Horne, Ms	Sheed, Ms
Couzens, Ms	Hutchins, Ms	Spence, Ms
Crugnale, Ms	Kairouz, Ms	Staikos, Mr
D'Ambrosio, Ms	Kennedy, Mr	Suleyman, Ms
Dimopoulos, Mr	Kilkenny, Ms	Tak, Mr
Donnellan, Mr	Maas, Mr	Taylor, Mr
Edbrooke, Mr	McGuire, Mr	Theophanous, Ms
Edwards, Ms	Merlino, Mr	Thomas, Ms
Eren, Mr	Neville, Ms	Ward, Ms
Foley, Mr	Pakula, Mr	Wynne, Mr
Fowles, Mr		

Noes, 26

Angus, Mr	McLeish, Ms	Smith, Mr T
Battin, Mr	Morris, Mr	Southwick, Mr
Britnell, Ms	Newbury, Mr	Staley, Ms
Bull, Mr T	Northe, Mr	Tilley, Mr
Burgess, Mr	O'Brien, Mr D	Vallence, Ms
Guy, Mr	O'Brien, Mr M	Wakeling, Mr
Hodgett, Mr	Rowswell, Mr	Walsh, Mr
Kealy, Ms	Ryan, Ms	Wells, Mr
McCurdy, Mr	Smith, Mr R	

Question agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

The SPEAKER: The bill will now be sent to the Legislative Council and their agreement requested.

STATE TAXATION ACTS FURTHER AMENDMENT BILL 2019

Second reading

Debate resumed on motion of Mr PALLAS:

That this bill be now read a second time.

and Ms STALEY's amendment:

That all the words after 'That' be omitted and replaced with the words 'this bill be withdrawn and redrafted to:

(1) take into account further consultation and modelling about the proposed changes to the Duties Act 2000, the Land Tax Act 2005 and the Valuation of Land Act 1960; and

(2) retain the remaining provisions of the bill.'

The SPEAKER: The minister has moved the bill be now read a second time. The member for Ripon has moved a reasoned amendment to this motion. She has proposed to omit all the words after 'That' and replace them with the words that appear on the notice paper. The question is:

That the words proposed to be omitted stand part of the question.

Those supporting the reasoned amendment by the member for Ripon should vote no.

House divided on question:

Ayes, 55

Addison, Ms	Fregon, Mr	Pallas, Mr
Allan, Ms	Green, Ms	Pearson, Mr
Andrews, Mr	Halfpenny, Ms	Read, Dr
Blandthorn, Ms	Hall, Ms	Richards, Ms
Brayne, Mr	Halse, Mr	Richardson, Mr
Bull, Mr J	Hamer, Mr	Sandell, Ms
Carbines, Mr	Hennessy, Ms	Scott, Mr
Carroll, Mr	Hibbins, Mr	Settle, Ms
Cheeseman, Mr	Horne, Ms	Sheed, Ms
Couzens, Ms	Hutchins, Ms	Spence, Ms
Crugnale, Ms	Kairouz, Ms	Staikos, Mr
D'Ambrosio, Ms	Kennedy, Mr	Suleyman, Ms
Dimopoulos, Mr	Kilkenny, Ms	Tak, Mr
Donnellan, Mr	Maas, Mr	Taylor, Mr
Edbrooke, Mr	McGuire, Mr	Theophanous, Ms
Edwards, Ms	Merlino, Mr	Thomas, Ms
Eren, Mr	Neville, Ms	Ward, Ms
Foley, Mr	Pakula, Mr	Wynne, Mr
Fowles, Mr		

Noes, 26

Angus, Mr	McLeish, Ms	Smith, Mr T
Battin, Mr	Morris, Mr	Southwick, Mr
Britnell, Ms	Newbury, Mr	Staley, Ms
Bull, Mr T	Northe, Mr	Tilley, Mr
Burgess, Mr	O'Brien, Mr D	Vallence, Ms
Guy, Mr	O'Brien, Mr M	Wakeling, Mr
Hodgett, Mr	Rowswell, Mr	Walsh, Mr
Kealy, Ms	Ryan, Ms	Wells, Mr
McCurdy, Mr	Smith, Mr R	

Question agreed to.

The SPEAKER: The question is:

That this bill be now read a second time and a third time.

House divided on question:

Ayes, 55

Addison, Ms	Fregon, Mr	Pallas, Mr
Allan, Ms	Green, Ms	Pearson, Mr
Andrews, Mr	Halfpenny, Ms	Read, Dr
Blandthorn, Ms	Hall, Ms	Richards, Ms
Brayne, Mr	Halse, Mr	Richardson, Mr
Bull, Mr J	Hamer, Mr	Sandell, Ms
Carbines, Mr	Hennessy, Ms	Scott, Mr
Carroll, Mr	Hibbins, Mr	Settle, Ms
Cheeseman, Mr	Horne, Ms	Sheed, Ms
Couzens, Ms	Hutchins, Ms	Spence, Ms
Crugnale, Ms	Kairouz, Ms	Staikos, Mr
D'Ambrosio, Ms	Kennedy, Mr	Suleyman, Ms
Dimopoulos, Mr	Kilkenny, Ms	Tak, Mr
Donnellan, Mr	Maas, Mr	Taylor, Mr
Edbrooke, Mr	McGuire, Mr	Theophanous, Ms
Edwards, Ms	Merlino, Mr	Thomas, Ms
Eren, Mr	Neville, Ms	Ward, Ms
Foley, Mr	Pakula, Mr	Wynne, Mr
Fowles, Mr		

Noes, 26

Angus, Mr	McLeish, Ms	Smith, Mr T
Battin, Mr	Morris, Mr	Southwick, Mr
Britnell, Ms	Newbury, Mr	Staley, Ms
Bull, Mr T	Northe, Mr	Tilley, Mr
Burgess, Mr	O'Brien, Mr D	Vallence, Ms
Guy, Mr	O'Brien, Mr M	Wakeling, Mr
Hodgett, Mr	Rowswell, Mr	Walsh, Mr
Kealy, Ms	Ryan, Ms	Wells, Mr
McCurdy, Mr	Smith, Mr R	

Question agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

The SPEAKER: The bill will now be sent to the Legislative Council and their agreement requested.

JUSTICE LEGISLATION AMENDMENT (SERIOUS OFFENDERS AND OTHER MATTERS) BILL 2019

Second reading

Debate resumed on motion of Mr CARROLL:

That this bill be now read a second time.

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

The SPEAKER: The bill will now be sent to the Legislative Council and their agreement requested.

MELBOURNE STRATEGIC ASSESSMENT (ENVIRONMENT MITIGATION LEVY) BILL 2019

Second reading

Debate resumed on motion of Ms D'AMBROSIO:

That this bill be now read a second time.

and Mr MORRIS's amendment:

That all the words after 'That' be omitted and replaced with the words 'this house refuses to read this bill a second time until the government has demonstrated to Victorians that:

(1) the significant tax increases proposed by the bill, and for which no mandate was sought at the 2018 election, can be justified;

(2) the excessive fee increases proposed by this bill for the various habitat types including 26.4 per cent for the golden sun moth, 19.3 per cent for native vegetation and 19.3 per cent for scattered trees will not result in higher purchase prices for homebuyers; and

(3) that all monies held in the proposed Melbourne Strategic Assessment Fund will be expended in a timely manner and not used to protect the bottom line of the state budget'.

The SPEAKER: The minister has moved that the bill be now read a second time. The member for Mornington has moved a reasoned amendment to this motion. He has proposed to omit all the words after 'That' and replace them with the words that appear on the notice paper. The question is:

That the words proposed to be omitted stand part of the question.

Those supporting the reasoned amendment moved by the member for Mornington should therefore vote no.

House divided on question:

Ayes, 55

Addison, Ms	Fregon, Mr	Pallas, Mr
Allan, Ms	Green, Ms	Pearson, Mr
Andrews, Mr	Halfpenny, Ms	Read, Dr
Blandthorn, Ms	Hall, Ms	Richards, Ms
Brayne, Mr	Halse, Mr	Richardson, Mr
Bull, Mr J	Hamer, Mr	Sandell, Ms
Carbines, Mr	Hennessy, Ms	Scott, Mr
Carroll, Mr	Hibbins, Mr	Settle, Ms
Cheeseman, Mr	Horne, Ms	Sheed, Ms
Couzens, Ms	Hutchins, Ms	Spence, Ms
Crugnale, Ms	Kairouz, Ms	Staikos, Mr
D'Ambrosio, Ms	Kennedy, Mr	Suleyman, Ms
Dimopoulos, Mr	Kilkenny, Ms	Tak, Mr
Donnellan, Mr	Maas, Mr	Taylor, Mr
Edbrooke, Mr	McGuire, Mr	Theophanous, Ms
Edwards, Ms	Merlino, Mr	Thomas, Ms
Eren, Mr	Neville, Ms	Ward, Ms
Foley, Mr	Pakula, Mr	Wynne, Mr
Fowles, Mr		

Noes, 26

Angus, Mr	McLeish, Ms	Smith, Mr T

Battin, Mr	Morris, Mr	Southwick, Mr
Britnell, Ms	Newbury, Mr	Staley, Ms
Bull, Mr T	Northe, Mr	Tilley, Mr
Burgess, Mr	O'Brien, Mr D	Vallence, Ms
Guy, Mr	O'Brien, Mr M	Wakeling, Mr
Hodgett, Mr	Rowswell, Mr	Walsh, Mr
Kealy, Ms	Ryan, Ms	Wells, Mr
McCurdy, Mr	Smith, Mr R	

Question agreed to.

Motion agreed to.

The SPEAKER: The question is:

That this bill be now read a second time and a third time.

House divided on question:

Ayes, 55

Addison, Ms	Fregon, Mr	Pallas, Mr
Allan, Ms	Green, Ms	Pearson, Mr
Andrews, Mr	Halfpenny, Ms	Read, Dr
Blandthorn, Ms	Hall, Ms	Richards, Ms
Brayne, Mr	Halse, Mr	Richardson, Mr
Bull, Mr J	Hamer, Mr	Sandell, Ms
Carbines, Mr	Hennessy, Ms	Scott, Mr
Carroll, Mr	Hibbins, Mr	Settle, Ms
Cheeseman, Mr	Horne, Ms	Sheed, Ms
Couzens, Ms	Hutchins, Ms	Spence, Ms
Crugnale, Ms	Kairouz, Ms	Staikos, Mr
D'Ambrosio, Ms	Kennedy, Mr	Suleyman, Ms
Dimopoulos, Mr	Kilkenny, Ms	Tak, Mr
Donnellan, Mr	Maas, Mr	Taylor, Mr
Edbrooke, Mr	McGuire, Mr	Theophanous, Ms
Edwards, Ms	Merlino, Mr	Thomas, Ms
Eren, Mr	Neville, Ms	Ward, Ms
Foley, Mr	Pakula, Mr	Wynne, Mr
Fowles, Mr		

Noes, 26

Angus, Mr	McLeish, Ms	Smith, Mr T
Battin, Mr	Morris, Mr	Southwick, Mr
Britnell, Ms	Newbury, Mr	Staley, Ms
Bull, Mr T	Northe, Mr	Tilley, Mr
Burgess, Mr	O'Brien, Mr D	Vallence, Ms
Guy, Mr	O'Brien, Mr M	Wakeling, Mr
Hodgett, Mr	Rowswell, Mr	Walsh, Mr
Kealy, Ms	Ryan, Ms	Wells, Mr
McCurdy, Mr	Smith, Mr R	

Question agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

The SPEAKER: The bill will now be sent to the Legislative Council and their agreement requested.

Business interrupted under sessional orders.

Rulings by the Chair

ADJOURNMENT

The SPEAKER (17:26): Before calling the first adjournment matter, during last night's adjournment debate, the members for Ringwood, Box Hill and Nepean raised matters for the Minister for Education, seeking action to do with funding shade sails for schools in their electorates. The Deputy Speaker indicated that she would review the second and third matters to ensure they did not infringe rulings from Speaker Delzoppo and others that prevent the same action being sought by different members. Having reviewed the transcript, the Deputy Speaker and I are satisfied that the matters comply with previous rulings in that, while they are on the same policy matter, the actions relate to funding different schools, clearly distinguishing them.

Adjournment

The SPEAKER: The question is:

That the house now adjourns.

TRAM ROAD, DONCASTER, UPGRADES

Mr GUY (Bulleen) (17:26): (1391) My adjournment issue is for the Minister for Roads and it concerns Tram Road in Doncaster and potential road upgrades that are needed at the bottom of Tram Road near the Eastern Freeway. With the construction of the North East Link and with greater population growth around central Doncaster, there is a need to upgrade Tram Road, particularly near Applewood Retirement Village. There is money that has been offered by the federal government, particularly at the federal election earlier this year, to upgrade the non-signalised intersection that currently exists around the Applewood Retirement Village, which is home to hundreds of residents. This intersection needs to be upgraded. It does need to be signalised. It needs to be widened. There is money on the table. VicRoads and the state government are playing games here.

I ask the minister to intervene. I ask the minister to ensure that this money from the federal government that has been offered is indeed utilised rather than wasted and that we actually get a result, and that result is the proper signalisation of this intersection—which is for the benefit of the residents—which will provide a safe crossing point for school kids, for aged residents, older residents, at the bottom end of Tram Road, which has no signalised intersection.

The Manningham council's preferred option is for it to be further up Tram Road near existing and to-be-built apartment towers. That is too far away; it is nearly a kilometre away. Therefore the best option here would be to signalise the Tram Road intersection near Applewood Retirement Village with the money offered by the federal government, with the state government being the proponent for this, given that it is a state road, a VicRoads road. The money should not be wasted. We need to get on with it, and I ask the roads minister to intervene to make it happen.

GENDER-BASED VIOLENCE

Ms THOMAS (Macedon) (17:28): (1392) My adjournment matter is for the attention of the Minister for Prevention of Family Violence, and the action I seek is that the minister join me in my electorate during the 16 days of activism to end gender-based violence. Minister, I would like you to visit some of the local organisations that provide services to women and children escaping family violence, as well as community groups that are working to eliminate family violence in Macedon.

The Andrews government is providing unprecedented funding to WRISC in Ballarat and to the Centre for Non-Violence in Bendigo to deliver specialist family violence support services in my electorate, while the government has also invested in programs that prevent family violence, including gender equality policies in schools, health services, councils and workplaces. The Respectful Relationships program is widely supported. We have more family violence specialist police servicing my

community, and of course the Kyneton courthouse has been recently upgraded to ensure that it is a safe environment for victims of family violence.

The communities I represent have been deeply affected by the deaths of two much-loved local women, Katie Haley and Alicia Little. We can do more and we must do more to keep women safe and to honour those women who have lost their lives to family violence. Minister, I know that you are committed to ending family violence and I look forward to welcoming you to Macedon.

YARRA JUNIOR FOOTBALL LEAGUE

Mr T SMITH (Kew) (17:30): (1393) My adjournment matter this evening is for the Minister for Energy, Environment and Climate Change. The action I seek from the minister for the environment is to relocate the Yarra Junior Football League home ground and headquarters to the seed farm site at 165 Templestowe Road, Templestowe. Parks Victoria is the owner of the seed farm site, and the North East Link Project itself recommended to a number of bodies that this land be acquired for active recreation for the purposes of the North East Link Project.

This is a very important issue for the North East Link and indeed the Yarra Junior Football League. The Yarra Junior Football League is the largest footy league in the country, with 33 clubs, 508 teams and 11 000 players, including 3000 girl players. I think that is a very important point that I am making here. The Yarra Junior Football League was the first junior football league in Victoria to support young girls playing Australian Rules football. It is very important to my electorate of Kew. There are thousands of players in Boroondara, particularly in my electorate of Kew. The Yarra Junior Football League currently enjoys facilities at Bulleen Park, with one AFL regional-sized oval, a grandstand, offices for 12 staff, winter use of two junior-sized AFL ovals and shared access to a fourth oval at Koonung Reserve.

Obviously the North East Link is an important project, which the football league supports, but the honest answer is that they need somewhere to go. They are being told that they need to move to a site in Ivanhoe, and that site honestly is miles away from where the majority of players and their families live, particularly in Boroondara. All credit to Jeff Hooper, who is the president of the Yarra Junior Football League, for the advocacy that he has shown on behalf of his football league this week. The idea that Ford Park in Ivanhoe is an appropriate home for this football league is I think questionable.

The league has made a number of representations to the Andrews Labor government. I do not believe they have received an appropriate response. I think they need a meeting with either the minister for the environment, the Minister for Transport Infrastructure or the Minister for Tourism, Sport and Major Events. I think we are all very supportive of kids playing sport, particularly in a football competition of this size. Clearly though there are some issues with where this competition is going to be housed during the construction of the North East Link, and I think that this is a very important issue going forward.

ESSENDON PRIMARY SCHOOL

Mr PEARSON (Essendon) (17:33): (1394) I direct my adjournment matter to the Minister for Health. The action I seek is that the minister provide a school shade grant to Essendon Primary School. Essendon Primary School is one of the oldest schools in metropolitan Melbourne. It is admirably well led by Christine Nash as principal. Ava Adams is the school council president and does a wonderful job supporting her school community. I would also like to acknowledge the great work that Grace Ratcliffe provides as one of the grade 5/6 teachers there. Essendon Primary School is a great school. I know they will put this shade grant to great use at their school.

COMMUNITY SPORTS INFRASTRUCTURE FUND

Ms GREEN (Yan Yean) (17:33): (1395) My adjournment matter is to the Minister for Tourism, Sport and Major Events. The action I seek is for the minister to update the house on the next round of

sports infrastructure grants that will continue the Andrews Labor government's support for community sport and participation.

Across Victoria the Andrews Labor government has invested more than $850 million in community sport and recreation facilities since 2014. These investments support community health and wellbeing and also provide jobs and an economic boost. Now is the opportunity for all sporting clubs and codes to be discussing with councils what projects they need, and importantly, what projects are ready to start in this coming year.

My neighbouring colleague the member for Eltham and I know how keen our local sports clubs are because we recently hosted a community sport forum and submission-writing workshop. I want to thank the minister's office and Sport and Recreation Victoria for their help facilitating this event at the most welcoming Eltham rugby club.

Yan Yean is one of the youngest electorates in the state and therefore very active, with an ever-growing demand for even more sports facilities. People living in Nillumbik, for example, have the highest participation rates of any local government area (LGA) in Victoria in sport, and this great sporting culture has nurtured many elite athletes, especially women like Melbourne Vixens captain Kate Moloney and the AFLW's Steph Chiocci and Darcy Vescio. Plenty Valley Cricket Club's Sophie Day and Sophie Reid both star in the Women's Big Bash League and Tayla Vlaeminck is a current test player. The boys have done quite well too. Let us not forget the AFL's Shaw family, Blake Caracella and David Zaharakis.

Recent facility upgrades in Nillumbik have included female-friendly pavilions, new clubrooms for football, soccer, hockey and cricket, pitch upgrades and lighting improvements. Next door in Whittlesea there are new clubs like Laurimar football and netball club, which is the third-largest club in the Northern Football Netball League, and the Whittlesea football club won the division 2 premiership and is back in division 1. It now fields masters and women's teams, with girls participation going through the roof. So the demand for facilities well outstrips supply and is much needed due to Whittlesea's dubious honour of being the number one LGA for heart disease in Victoria.

I have many sporting codes telling me that we need more stadia, swimming pools, courts, playing fields and much more. The AFLW's Deanna Berry and Chloe Molloy got their start in the area, so I am sure they will inspire others to become more active and improve Whittlesea's heart stats. I am looking forward to seeing players of the world game playing at the new Doreen soccer centre. Mitchell shire is a classic peri-urban local government area, where sporting clubs are the backbone, heart and soul of their communities, and they are fabulous at welcoming the many new residents, so they in turn need more facilities.

But it is not just me and the minister for sport who want to grow facilities and participation. The Minister for Education is pulling his weight. He is not just building 100 new schools across our state; he is ensuring all these schools include competition-sized facilities for community use. Once a sport minister, always a sport minister. I look forward to seeing more facilities in my electorate.

GRAMPIANS ROCK CLIMBING

Ms KEALY (Lowan) (17:36): (1396) My adjournment matter is for the Minister for Aboriginal Affairs in the other place, and the action I seek is that the minister provide a detailed explanation of how the government determined which Gariwerd traditional owners to consult and which to overlook when considering the ban of licensed tour operator Tori Dunn from working in Summerday Valley, considering that on 7 February 2019 the Victorian Aboriginal Heritage Council declined all registered Aboriginal party (RAP) applications within the Gariwerd region.

In a clear case of the punishment not fitting the crime, Tori has been told by a government department that she has been banned from working in Summerday Valley effective immediately, but has not been provided with any information regarding the complaint allegations, not given a right of reply, nor told

what policies, procedures, laws or licence requirements she has breached. Employees of her business are still permitted to work in Summerday Valley, a decision which in itself is deeply upsetting to Tori. For example, Tori has not been provided with any detail of what actions have caused offence, aside from a broad reference to 'traditional owners being offended by a comment Tori made on Facebook'. The government department has refused to provide specific details as to what Tori has said to receive such a harsh punishment as a ban from Gariwerd, which will cripple her long-established rock-climbing business and is putting enormous public pressure on her as a prominent climber in the region.

In the absence of specific detail of the comment that caused such deep offence that she should be banned from entering Summerday Valley, from Tori's own review of her recent Facebook comments it appears her greatest fault was to express her own close connection to Gariwerd country. Tori grew up in the region and has climbed and adventured in Gariwerd her entire life. Tori is passionate about her relationship with and respect for the spectacular mountain faces in the region and breathtaking natural environment. She has also expressed keen interest to share her personal connection to the region with Aboriginal representative groups vying for RAP status in the region.

Racial vilification and discrimination is completely unacceptable, and due process and penalties should be applied to all that are guilty of vile hate speech. However, the comments from Tori on Facebook that I have read are respectful of local Aboriginal heritage and their cultural links to the region, even though many comments are strongly supportive of the continuity of rock climbing in Summerday Valley and the wider Gariwerd region. Tori has a right to free speech and to express her own views as someone who has her own connection to the land as a long-time rock climber in the region who has assisted in the construction of trail networks to support public access to Summerday Valley and who has assisted in the rehabilitation of the region after bushfires.

Tori is obviously devastated. Over the past year Tori has made significant personal efforts to reach out to local elders. She has promoted cultural awareness training in the local area for licensed tour operators. She has support from traditional elders in the region who share Tori's vision that rock climbing and cultural protection, respect and education can occur simultaneously in Gariwerd with great benefit to local Aboriginal people. It appears not all elders were consulted as part of the government decision to ban Tori from Summerday Valley.

I therefore ask the minister to provide a detailed explanation as to how the government department determined which traditional owners to consult with and which to ignore in the banning of Tori Dunn from operating in Summerday Valley given there is no RAP in Gariwerd, and to consider reversing this decision.

SCHOOL SHADE GRANTS PROGRAM

Mr STAIKOS (Bentleigh) (17:40): (1397) My adjournment matter is for the attention of the Minister for Health in the other place and concerns the government's SunSmart program. The action I seek is that she approves the school shade grants applications of both Bentleigh Secondary College and Bayside Special Developmental School (SDS). They are both fantastic schools in my electorate, and both schools that this Andrews Labor government has rebuilt. I was pleased recently to join the Premier at the opening of the new buildings at Bayside SDS.

It is important that the minister approves these school shade grants applications because I know that they will absolutely complement the fantastic upgrades at both schools. I also note that Australia has one of the highest rates of skin cancer in the world, with two in three Australians being diagnosed with the disease before the age of 70. In 2017 melanoma was the fourth-most common cancer in Victoria, yet it is one of the most preventable forms of cancer. Our government has had this important program for quite a number of years now, and I ask that these schools have their applications approved. I know that there are also some community groups in my electorate who have also made applications. I understand that they will be considered separately, and I look forward to raising those requests as well.

PUBLIC SECTOR WAGE CAP

Mr HIBBINS (Prahran) (17:42): (1398) My adjournment matter is for the Treasurer, and the action I seek is for the Treasurer to abandon the government's low 2 per cent public sector wage cap. This wage cap is suppressing wage growth across both the public and private sectors of our economy. This 2 per cent cap is actually lower than the projected CPI across the forward estimates, which means public sector workers could actually face real cuts to wages.

The governor of the Reserve Bank, Philip Lowe, warned earlier this year that federal and state government wage caps across the country are helping to depress wages by setting the standard for the private sector. As we face a stagnant economy, and the Reserve Bank are lowering interest rates and crying out for governments to help stimulate the economy, we need higher wages in the public sector. It is completely hypocritical for this Labor government, which last time I checked were campaigning for higher wages—I am pretty sure that is right; they were out there marching for higher wages—to be now in lock step with the conservative federal government in having austerity measures like low wages for public sector workers.

What is even more galling are the massive pay rises of over 10 per cent that the Premier and Treasurer have now received. They will claim it is independent, but what they will not tell you is that they opposed a Greens amendment to cap politicians' pay rises to the public sector wages policy. And, at the same time, they tried to shoehorn a massive pay rise for some of their MPs sitting over there—one rule for them and another rule for public sector workers. This wage cap comes at the same time that the government has imposed almost $2 billion worth of cuts to the public sector in the form of so-called efficiency dividends. They are also continuing on their massive privatisation agenda of selling off government agencies—they are now targeting VicRoads as another government agency—in the biggest sell-off since Kennett.

A report by the Australia Institute's Centre for Future Work found that these measures are neither necessary nor effective, and instead they have contributed to broader wage stagnation, macroeconomic weakness, deterioration in service quality and growing inequality.

Members interjecting.

Mr HIBBINS: I am interested in the interjections by the $10 000 man over there, the man who was in receipt of his own—

The SPEAKER: Order! The member for Prahran!

Mr HIBBINS: When the union said change the rules, I do not think they meant change the law so the member for Essendon would get a massive pay rise. I do not think that was high on their agenda.

Now, I get it: you have got to balance your books and you have got to have reasonable wage restraint. But they are not prepared to lift revenue by properly taxing the super profits of banks, the gambling industry and developers. They refuse to consider big structural changes like replacing stamp duty with a broad-based land tax. Instead they are going after the jobs and wages of public sector workers. We are standing up for public sector workers; over there you are selling them out.

VICSEG NEW FUTURES COBURG

Ms BLANDTHORN (Pascoe Vale) (17:44): (1399) I appreciate the opportunity to raise a matter for the Minister for Multicultural Affairs. The action I seek is that the minister join me at VICSEG New Futures in Coburg to talk with them about their supported playgroups program and the opportunities that it is providing for people of culturally and linguistically diverse backgrounds across the north-west suburbs of Melbourne. Recently I visited VICSEG New Futures in Coburg and met with executive director Elias Tsigaras as well as the formidable Janet Elefsiniotis, who has been there for a very long time working in the social services area and in particular with the playgroups and the playgroup coordinators. It was pleasing to also meet with some of the playgroup coordinators

themselves and talk with them about the impact that these supported playgroups are having on some of our culturally diverse communities across the north-west suburbs of Melbourne.

In 2018 the supported playgroups were attended by more than 500 families weekly, and this is just an amazing effort. The playgroups not only bring families together but also provide an opportunity for the children to have play opportunities and learning opportunities. They also serve the purpose of being able to link up newly arrived people with the various settlement services that they need to access, from language services through to health services, dental services, doctors et cetera. They are providing amazing opportunities in helping culturally diverse families settle across our north-western suburbs. I would appreciate it if the minister could come to VICSEG New Futures in Coburg and talk with them about the work they are doing for those with culturally and linguistically diverse backgrounds.

HEALESVILLE HOUSINGVIC COMPLEX

Ms McLEISH (Eildon) (17:46): (1400) My adjournment this evening is to the Minister for Housing, and the action I seek is for the minister to make improvements and upgrades to the office of housing complex at 35–39 St Leonards Road, Healesville. I have a very long list of requests and suggestions. The complex itself is home to many proud residents over the age of 55, and they are quite frankly fed up with the state of disrepair and certainly with the lack of investment and action around many of the common areas. Some of the individuals have concerns about their own homes as well. I met with residents earlier this month who provided some very valuable feedback. I thank the number of people who came to speak to me for their time. A lot of the work that is being requested can be done simply and at a relatively low cost. I know that must be appealing to the minister, and so I trust he will look favourably on this matter.

Office of housing staff have previously met with people, and me, on site, and I really appreciate the manner in which they conducted themselves. But that was quite some time ago, and it is now time for some additional work to be done. Some of the suggestions from the locals include replacing the front fence, which is falling down and in a very poor state; the paint is peeling off. The internal railing on the steps and the internal fencing need to be replaced. There need to be new and clear street numbers and unit numbers because it is very confusing to know, between 35, 37 and 39, who lives where. The letterboxes are in some of the most appalling conditions I have seen. They are completely dilapidated and need replacing. There is no area for the bins—the bins sit front and centre at the units, looking unsightly.

There is also the line marking of car spaces. A convex mirror was vandalised some years ago, and it is very difficult for residents exiting the car park to see the road due to cars being parked along the roadway. The car park entrance and the exit itself are very steep, and cars bottom out. I experienced this, and I also saw how difficult it was to get a clear vantage point on St Leonards Road. They are looking for additional car parking; they think that it can be done.

Skylights are not clean. The terracotta roof tiles need cleaning, replacing, repairing and repainting. Gutters need cleaning. There are rotting fascia and timber supports and uneven footpaths. They are looking for additional seating and cover at the barbecue areas. The barbecue could be updated. I noticed when we were there that the barbecue was very, very slow and only heated at certain points, and that could certainly be replaced.

The clotheslines are old. The units outside could all be enhanced. There are some opportunities perhaps to enhance bedsits and one-bedroom units where possible. Some residents would like kitchen walls removed to open up their areas. There is so much to be done to modernise these facilities and to give the residents the pride that they really want to hold in this facility. They enjoy living there, but they do want to have pride in where they live.

RESPONSES

Ms ALLAN (Bendigo East—Leader of the House, Minister for Transport Infrastructure) (17:49): The member for Bulleen raised a matter. He did direct it to the Minister for Roads. However, I can advise the member for Bulleen that it is a matter to do with the allocation of the funding that the federal government have made to Victorian infrastructure projects, and particularly this one at Tram Road does come in the area of my responsibility.

I can advise the member for Bulleen that we are having a lot of lengthy conversations with the federal government about how we can accommodate their election commitments in the pipeline of Victorian government infrastructure projects. I can advise the member for Bulleen that I have noted that he has a particular view about where this signalised pedestrian crossing on Tram Road should be located. He indicated, I think, that there were some media reports on this a little while ago saying that it needs to be near the retirement village. We will take that feedback into our planning process.

I will also advise the member for Bulleen, as we have the federal government, that, as with all of the commitments the federal government have made to do with changing the road network, we do have to look at the other consequences that that proposal may cause across the road network in that local area. That comment should not be interpreted as our not wanting to cooperate with that particular location, it is just simply that our roads authority staff and team have to make sure that by making this intervention there are no unintended consequences. We are working well through this and other projects, and I hope this information is useful for the member for Bulleen.

The member for Kew raised a matter for the Minister for Energy, Environment and Climate Change which is also one that falls under my portfolio responsibility as the issues around acquisition of properties to do with the North East Link Project are something that I am responsible for. He was particularly referring to the issue that I think is in the media today regarding the Yarra Junior Football League and the need to find them an alternate location given the works that are coming with the North East Link Project.

I can advise the member for Kew that the North East Link Project team have been working and talking with the football league for some 18 months about both what needs to be done in the short term to find an alternate location in the local community and also the longer term needs of the club, recognising that the growth in junior football and also particularly, as the member for Kew identified, the growth in women's football are putting some stresses and strains on our sporting facilities right across the state.

What has been identified by the North East Link team is a new facility to be constructed at Ford Park. That would involve the construction of a new headquarters for the league, female-friendly changing facilities and other improvements. I can appreciate that this is a difficult set of processes for the league to go through. It is a big league. It is a great part of the local community. It is always challenging with projects of this size and scale to work through with local communities some of the challenges that come through the construction phase, but we do not shy away from those challenges and we have been working, as I said, through the North East Link Project team with the league.

The member also raised the issue of the acquisition of the former seed farm site. That is something that has been examined. However, it is understood, and I am advised, that there is an existing tenant on that site who has recently signed a 15-year lease, so that obviously puts that location beyond the reach of something that we may be able to do to accommodate the Yarra Junior Football League on that site in the shorter term. We will continue to work with the league through the North East Link Project team and indeed with all clubs and community groups.

I know, Speaker, you are well aware of this as well through your local role as we get on and deliver what is an important road project. It is important for freight, it is important to get trucks off local roads and it is important for the movement and traffic of people around our city, but at the same time we are also doing it very carefully to make sure that we support groups, businesses and residents along the way during both the planning and the construction phases.

Another eight members have raised matters for various ministers, and they will referred for their action and response.

The SPEAKER: The house now stands adjourned.

House adjourned 5.54 pm. until Tuesday, 12 November.