

the fundamental principle in both European and Australian product liability law that claimants must bear the onus of proving that goods are defective', because of the costly imposts this will place on industry.

The Australian Chamber of Manufacturers (ACM) has responded to the proposed product liability laws by saying that they 'would create a dangerous precedent'.

The ACM argues that by placing the onus of proof on the defendant instead of the plaintiff, the proposed laws have the potential to:

- establish a dangerous legal precedent and erode confidence in the system of justice;
- touch off an upsurge in damages claims by plaintiffs who would not need to prove their claims;

- expose companies to the constant threat of damages actions and associated legal costs;
- force up insurance and product costs and, consequently, prices and inflation;
- deter the development and introduction of new products in Australia; and
- divert companies and jobs from Australia. □

Death on the roads is homicide

The VLRC's discussion paper *Dangerous Driving Causing Death* was released in July by the Attorney-General, Jim Kennan QC. The paper suggests that a much tougher stance should be taken towards road killers.

The present law on the subject sends the wrong message to the community. It allows people who are clearly guilty of manslaughter to be charged with a lesser offence with a lesser penalty.

The Commission's proposals restore a proper balance to the law, and enable the courts to respond to community concerns over the existing law.

The paper identifies two major problems with the present law. These are the inadequacy of the penalties, and the fact that a person can only be charged with *either* manslaughter *or* culpable driving causing death *or* reckless driving. A person who gets off cannot be charged with a lesser offence.

The VLRC proposes that

- the charge of culpable driving should be abolished
- a new offence should be created — 'causing death or very serious injury by dangerous driving'. A person found guilty of this offence should receive a maximum penalty of 7 years imprisonment;
- alternative verdicts should be available so that juries can convict of a lesser offence if that is warranted.

Copies of the discussion paper are available from the VLRC, 7th floor, 160 Queen Street, Melbourne, telephone (03) 602 4566.
