cross-examined under oath. Consequently, the majority of the VLRC believes that it should be mandatory for the judge to inform the jury, before the unsworn evidence is given, of the options available to the defendant and of the implications of each. Further, the majority of the VLRC considers that, where the accused has given unsworn evidence, the judge should reiterate the differences between the unsworn evidence and evidence on oath or affirmation and subject to cross-examination in the summing up, as well as making any presently permissible comments on the content of the unsworn statement.

liability to prosecution for perjury. The ALRC recommends that an accused who makes an unsworn statement should be liable to prosecution for giving false testimony. The majority view of both the NSWLRC and the VLRC is that there should continue to be no legal sanction for giving false unsworn evidence. The majority of the NSWLRC was persuaded by the following arguments:

- prosecutions for perjury are rarely brought in NSW;
- if making a false unsworn statement were made a criminal offence, defence counsel would feel obliged to draw attention to this fact thereby possibly allowing the jury to be misled given that the risk of prosecution is slight;
- in all probability, few accused persons who were determined to lie in criminal proceedings would be deterred by the presence of the sanction.

The minority sees no reason why an accused who seeks to make a positive contribution to the material available to be considered on the question of guilt ought not to be exposed to prosecution if he or she lies. Further, one member of the minority questions the appropriateness of the current policy not to prosecute persons who give false sworn evidence at their own trial.

conclusion. Clearly the members of the VLRC found the arguments against the retention of the unsworn statement more persuasive than did their NSW and Federal counterparts. In all three cases, the Commissions have produced a coherent set of proposals designed to meet specific criticisms of the current practice in their jurisdictions of allowing an accused to make an unsworn statement. While changing the procedure applicable to the giving of unsworn evidence by a represented defendant, the VLRC has nonetheless preserved the right of an accused to tell his or her side of the story to the court without taking the oath or making affirmation, and without undergoing the rigours of cross-examination.

australian capital territory law reform

Nothing endures but change.

Heraclitis

first report. The Australian Law Reform Commission has been conducting a community law reform program for the ACT since February 1984. Under this program members of the public are encouraged to suggest areas for law reform to the Commission. More than one hundred suggestions have been received. The Commission's first report on this program was tabled in Parliament on 29 November 1985. The report outlines the conduct of the community law reform program and recommends changes to the law in three areas relating to accident compensation.

contributory negligence. It recommends that the defence of contributory negligence be abolished in fatal accident cases and breach of statutory duty cases. These recommendations, if accepted, will bring ACT law into line with the law in NSW. The report also recommends that the legislation dealing with compensation for funeral costs following a negligently-caused fatal accident should be clarified so that more generous benefits are available than at present. The Commission argues that the defence of contributory negligence, whereby compensation

entitlements are diminished if the defence is successful, operates unfairly in fatal accident cases and in breach of statutory duty cases.

fatal accidents. In fatal accident cases the family of a breadwinner negligently killed by another is entitled to compensation for the economic losses flowing from the death. However the family will lose compensation to the extent that the deceased was contributorily negligent in causing the accident. The family is therefore deprived of compensation due to no fault of their own. In very many cases no insurance is carried by families to cover this loss whereas the negligent parties is almost always insured and can pay full compensation to the family.

breach of statutory duty. In breach of statutory duty cases, an employer who has failed to maintain statutory safety standards can be sued by an employee injured as a result of such failure. The employer can argue that the accident was partly caused by the injured employee and thus less compensation should be paid. The Commission argues that the defence of contributory negligence is unfair in these cases because one of the main purposes of the safety regulations is to protect workers against their own lapses.

more reports. The report foreshadows two further reports which will be tabled in the very near future on loss of consortium and domestic violence in the ACT.

community awareness. In an effort to raise community awareness of the program Commissioner Seddon, a Senior Lecturer in Law from the Australian National University and President of the Canberra Community Legal Service recently took the unusual step of advertising on milk cartons in the ACT. The advertisement which will appear on half a million milk cartons in January depicts a bewigged, and rather non-judicial-looking ass with the caption 'The law is not an ass! (Most of the time.) But sometimes it is'. It continues:

> The Australian Law Reform Commission wants to hear from you if you consider that there are defects in the law in the ACT. We are interested in issues for law reform generally, rather than individual cases, unless an individual case shows that the law is not working well or fairly.

The advertisement invites members of the public to write to Mr Nicholas Seddon, Australian Law Reform Commission, PO Box 1996, Canberra City 2601.

aids — the law's response — part 2

discrimination. The NSW Anti-Discrimination Board recently released its annual Human Rights Day list identifying 12 advances and 11 setbacks to human rights. Included in the list of setbacks was the recent NSW 'anti-AIDS' legislation in the passage of the Public Health (Proclaimed Diseases) Amendment Act 1985:

> The President of the board, Ms Carmel Niland, said AIDS had been the biggest threat to rights this year. 'There is a real danger the fear of AIDS could legitimise a whole new wave of discrimination against people presumed to be at risk'. (*The Australian*, 11 December 1985)

two types of discrimination. At a recent Symposium on AIDS in The Workforce (Sheraton Wentworth Hotel, Sydney, 3 December 1985) Mr Greg Tillett, a conciliation officer with the NSW Anti-Discrimination Board identified two types of AIDS-related discrimination in the community:

> AIDS-related discrimination is most often directed against people in two categories:
> 1. those who are assumed to 'have AIDS'
> 2. those who 'have AIDS'. (Symposium, Paper)

Included in the first category are homosexuals or persons *perceived* as homosexual, haemophiliacs, some ethnic minorities, children of these groups, and health professionals working with people who have, or who are assumed to have AIDS. The second category includes persons who have been tested antibody positive.