- prohibiting access by motor vehicles, motor boats or other forms of transport except where necessary for health or safety or essential management reasons or in emergencies (s 12).

A wilderness protection agreement must aim at

- restoring (if applicable) and protecting the unmodified state of the area and its plant and animal communities
- preserving the capacity of the area to evolve in the absence of significant human interference and
- permitting opportunities for solitude and appropriate self-reliant recreation (s 9).

If land is subject to a lease or mortgage, a wilderness protection agreement cannot be entered into without the consent in writing of the lessee or mortgagee. It was this limited impact of the wilderness legislation which gained it the support of the National Party as well as the Liberal Party. Among the criteria which the National Party required before it would support the legislation were that there would be no forced resumption of land by the State government and that leasehold was to be considered as private property (*Sydney Morning Herald*, 20 November 1987).

*   *   *

media law

> Blink, blink, HOSPITAL, SILENCE.
> Ten days old, carried in the front door in his
> mother's arms, first thing he heard was
> Bobby Dazzler on Channel 7;
> Hello, hello, hello all you lucky people and he
> really was lucky because it didn't meant a thing
> to him then . . .
>
> Bruce Dawe, 'Enter Without So Much As Knocking'

Three issues in relation to broadcasting law have been in the news in the last few months:

- deregulation of advertising time standards
- limits for ownership of radio stations
- the role of the Australian Broadcasting Tribunal.

advertising standards. The general trend towards deregulation has been reflected in the announcement by the Australian Broadcasting Tribunal that television licensees are now free to compete with each other to find the best ways to fit advertising into their programming schedules. The new rule is intended to respond to suggestions that a better mix of advertising and programming would result from the removal of the advertising standards which previously existed. The system will operate for a two year trial period at the end of which the Tribunal will assess any need for new standards. This may be necessary if, for example, there is

- an overall increase in the number or rate of interruptions of programs
- an increase in the amount of interruption to drama and similar programs beyond three breaks in a half hour or five in an hour
- persistence with different advertising practices despite audience objection or

- a decrease in the number of community service announcements broadcast free of charge.

The Australian Federation of Consumer Organisations, the Australian Consumers Association and the Public Interest Advocacy Centre have expressed dismay at the decision, pointing out that Australian commercial television already had one of the highest levels of prime time advertising in the world (*Australian Financial Review*, 24 September 1987).

ownership limits. As foreshadowed in an earlier edition of *Reform* ([1987] *Reform* 121), the ownership rules for radio stations have been altered to reflect the philosophy behind the changes to the ownership rules for television stations. As a result of the changes, a licensee will now be limited to ownership of sixteen radio stations nationally. The previous limit was eight stations. Under the new system, a licensee will not be permitted to hold a prescribed interest in more than half the radio service areas in any one State or in any two licences where more than 30% of the population within the service area of one of those licences is also within the service area of the other licence. Broadly speaking, a prescribed interest will be constituted by the holding of more than a 15% direct or indirect shareholding in a licensee company.

The limits to cross-media ownership which were introduced in relation to television also apply to ownership of radio stations. The owner of a prescribed interest in a radio station will not be able to own a prescribed interest in a newspaper if the newspaper has 50% of its circulation in the service area of the radio station. An owner will also be prohibited from having a prescribed interest in a television station and a radio station where 30% of the population within the service area of one of the licences is also within the service area of the second licence. For this purpose, a prescribed interest in a television licence will be constituted by interests of more than 15%. For limits on the ownership of television stations, the percentage is 5%.

role of the tribunal. A debate about the role of the Australian Broadcasting Tribunal in regulating radio and television broadcasting resulted from comments made by the chairman of the Tribunal, Ms Deirdre O'Connor. Ms O'Connor referred to comments that the Tribunal should be doing something about the extensive changes in ownership of television and radio stations which followed the recent alterations to the ownership rules. Replying to those comments, she cited amendments made to the Broadcasting Act in 1981 which removed the Tribunal's power of prior approval of station acquisitions and allowed a six month period of grace in which owners could dispose of excess interests as the reason why the Tribunal lacked the power to take effective action. She said:

> What has happened to the Broadcasting Tribunal is that finally, in glorious technicolour, it has been demonstrated to the public that what the Parliament did in 1981 was to destroy the effectiveness of the Tribunal. It was not noticed for a while, but when this Government changed the percentage ownership limits, the toothless tiger was before you. And of course, the screams were loud and long: 'Why doesn't the Broadcasting Tribunal do something'. The answer is: someone pulled its claws out in 1981 (*Australian Financial Review*, 9 November 1987).

The Minister for Communications, Senator Gareth Evans, agreed that it was necessary to examine the licensing process and the rules that govern the transfer of licences once they are initially granted (*Canberra Times*, 10 November 1987). He said that the present situation was 'creating an impossible task for the Broadcasting Tribunal'. Senator Evans said that the government is reviewing the Broadcasting Act and the results of the review are expected during the first half of 1988. He pointed out that legislation before the federal Parliament had reintroduced the requirement of prior approval in the case of sale of new regional FM radio licences, effectively placing a ban on their sale for up to two years after they were granted. This would avoid the situation where, after the Tribunal went through an elaborate process to choose the most responsible and credible broadcaster, the approved licensee then sold the licence for a significant profit to someone who had not even originally applied to the Tribunal for the licence.

This provision will, in the case of FM radio stations, avoid the situation which applied to Perth's third commercial television station. After the grant of the licence to a company owned by Perth businessman, Mr Kerry Stokes, the new station, NEW 10 was sold to Northern Star Holdings. The sale was described by Western Australian Premier Mr Brian Burke as 'the final chapter in the sorry saga that says the Australian Broadcasting Tribunal is a farce' (*Australian*, 11 August 1987).

The speech given by Ms O'Connor led the *Australian Financial Review's* editorial writer (10 November 1987) to conclude that Ms O'Connor should resign as chairman of the tribunal not because of incompetence, which obviously did not apply, but because she had clearly identified the ludicrous inadequacies of her own position as head of 'an institution which is called upon to accept political responsibilities that are not actually supported by the ground rules which the cynical world of politics has given it'. The *Sydney Morning Herald's* editorial writer (11 November 1987) saw the Tribunal's interest in questions such as how many advertisements should be run in a hour and what type of program should be played in 'children's hour' (issues which the editorial regarded as of doubtful public interest value) as a move to second order issues because of the absence of a real role in deciding ownership questions. The editorial concluded that there was an argument for having no Tribunal at all.

By contrast, the Australian Democrat spokesperson on communications, Senator Janet Powell, has recommended

- a strengthening of the Tribunal's powers
- a return to prior approval of media takeovers
- adequate resources for the Tribunal and
- a simplification of the Broadcasting Act to remove the 'time-consuming bureaucratic workload which is currently distracting the Tribunal from its important role of ensuring compliance with public interest guidelines' (*Australian Financial Review*, 12 November 1987).

The role and powers of the Tribunal are now the subject of an inquiry by the House of Representatives Standing Committee on Transport Communications and Infrastructure chaired by

Mr John Saunderson. The inquiry will examine

- the possibility of restoring the Tribunal's power of prior approval
- the possibility of appropriate sanctions for breaches of the Broadcasting Act
- the undertakings currently given by broadcasters to provide an adequate and comprehensive service and promote the use of Australian resources
- the basis and conditions on which licences are granted and renewed and
- the role of the Tribunal in establishing and enforcing program and advertising standards.

* * *

food irradiation

> He was a very valiant man who first ventured on the eating of oysters.
>
> Thomas Fuller
> *The History of the Worthies of England*

The Australian Consumers Association report on food irradiation, which was published recently, is of particular interest because of the reference recently received by the Australian Law Reform Commission from the federal Attorney-General on Product Liability. (See [1987] *Reform* 170.)

dangers to health. There is evidence that food irradiation may have some detrimental effects. The National Farmer, 24 June 1987 reported

> the British Medical Association has warned against the risks of leukaemia and genetic damage from food irradiation right on the eve of the process being accepted in Australia.. . .
>
> [the BMA's] findings were influenced by scientific studies on humans and rats which indicated irradiation could cause changes in blood cells which could lead to cancer.

the report. The ACA report was written by John McMillan of the Law Faculty, Australian National University and was commissioned by the Commonwealth Minister for Health, Dr Neal Blewitt. The terms of the Commission covered the implications of food irradiation in terms of consumer health, the environment and the cost to the consumer.

The ACA report explored possible avenues for government regulation of the industry and concluded that there should be a co-ordinated federal approach.

current applications. The subject is of more than academic interest. In the article quoted above the National Farmer reported that

> Queensland is leading Australian interest in food irradiation, with two proposals for its use — a State Government/horticultural industry owned, Cobalt 60 powered unit in Brisbane and a plan by a Toowoomba company, Hartfield, for an electrically powered, linear accelerator unit to treat export strawberries and mangoes.

existing regulations. Current controls on such processes as food irradiation are an ad hoc collection of federal, State and Territory laws and regulations. The main regulations on food irradiation activities in Australia at present are:

- the Model Food Standards regulations adopted by the National Health and Medical Research Council in June 1986.