

CanWest

...continued from page 3

One of the witnesses associated with CanWest had said that "business in Australia comes to a standstill from Christmas to the last week in January". Just as well, it seems, although one wonders if CanWest's financial advisers admit that the whole country's been at the beach for five weeks when they're sending the bills.

CanWest has chosen, for its own reasons, a fabulously complicated way out of its control of the Ten Network. There were many others. They could have put an ad in the *Trading Post* and it would have been over in a fortnight. Tops.

Why public policy should still be waiting, nearly a year on, for so blatant a breach of this law to be corrected, is anyone's guess.

Jock Given

Kroger's appointment rattles ABC watchers

The federal government's announcement on February 5, 1998 of the appointment to the ABC board of banker Michael Kroger was greeted with dismay by the Labor Party, Friends of the ABC groups and several newspaper columnists who claimed that it was a political appointment designed to further undermine the national broadcaster's independence, if not its future.

The facts are as follows: Mr Kroger, 40 has business credentials. He is chief executive of Melbourne-based merchant banker J.T. Campbell and Co. Mr Kroger has no experience in broadcasting (apart from listening to ABC radio and being a "long-term watcher" of ABC television).

According to Senator Richard Alston, the Minister for Communications, Mr Kroger brings to the job "extensive management experience in the finance, legal and political fields gained through his involvement in J.T. Campbell, his operation of a successful law firm, and as a former office holder of the Liberal Party, including a term as president of the Victorian division".

It is this last credential which worries those claiming that Mr Kroger's appointment is a political one and, therefore, potentially damaging to the ABC's independence. As president of the Victorian Liberal Party and a

continued on page 20...

How to be in pictures, according to summer school

The Melbourne University Summer School in film-making, held between January 12-20, informed, educated and entertained students ranging from recent VCE graduates to grandparents.

"In the beginning was the word" was how the screenwriting day commenced. Many words later, the audience knew a lot more about pitching a concept, writing a treatment, and producing their own script. Only one thing more was needed – a good idea to base it on.

Students were instructed how to visualise a script by way of camera and lighting use, and how important production design and production management were to a successful product.

The production manager is the organiser of the film world. He or she has to know all, keep schedules, and be able to soothe sometimes irascible, directors, producers, writers and actors.

In production, marketing and distribution, it was taught that film-making is three things: a business where risk is minimised; a creative enterprise based on collaboration; and a complex technical enterprise. It should also be good fun, but that is optional.

Alan Finney from Village Roadshow talked about distribution. Only two out of 10 films make money, he said, and if a film doesn't work in the first week, it's over. This was the case with David Parker's recent film *Diana and Me*.

Students learned that comedy is

something that makes you laugh. Good comedy makes you laugh a little, cry a little and think a little, and this is not easy to do.

On the final day of the course Nadia Tass ran a director's masterclass. She emphasised that research and an excellent knowledge of the film's subject was what gave life to her films. And she revealed her special filmmaking secret: graphs. Using numerous graphs, she said, enables her to understand at all times during shooting what is happening with the story, and where the characters are.

But as one ex-maths student in the class was heard to sigh, "graphs are what I'm trying to get away from".

Bruce Shearer

Contempt by “character assassination”

Most recently, business writer Mark Westfield and the publisher of *The Australian* were found guilty of contempt and fined a total of \$85,000 (unreported, Justice Gillard, Supreme Court of Victoria, December 22, 1997 and February 18, 1998). The paper’s printer was found guilty but not fined as he had no control over the paper’s content. In a column published during the trial of former Coles Myer executive Brian Quinn, Westfield commented that Quinn “may be looking for some sympathy” in the proceedings and continued:

“He has nothing to lose either by dredging up some scapegoats from the past. He is unlikely to gain much pity, however, or do any good for his credibility by blaming his predecessor, Bevan Bradbury, for initiating the alleged policy of buying homes for senior Coles Myer executives from which Quinn appeared to benefit so grandly.

Bradbury died several years ago and cannot give his side of the story. He is fair game.

Two directors who served with Bradbury on companies after his retirement from the retailer were deeply distressed by Quinn’s allegations in the court last week. They had no hesitation describing him as a scrupulously honest and hardworking person.”

The test for contempt is always whether the publication has “as a matter of practical reality, a real tendency to interfere with the due course of justice” – in this case, the possibility of interfering with Quinn’s fair trial. The case serves as a reminder of the sorts of things that courts commonly regard as contempt:

- You can commit contempt without intention to interfere with a trial, as was the case here. This is always a genuine concern for newspaper publishers and writers, because unintended or not, the outcome is a criminal conviction.

- Material that goes beyond a bare report of the trial is generally a problem. Justice Gillard commented that once criminal proceedings are commenced, to comment on the case is fraught with danger. “Once the trial actually commences, to do so is to walk through a mine field. The risk of disaster is ever present”.
- A contempt can occur whether or not a jury is discharged and it is not necessary that actual prejudice to the trial be proved. In this case, the judge continued with the trial after giving the jury a direction to disregard media coverage. *The Australian* was not able to convince the court that the potential prejudice was lessened by the article’s position on page 24 in the business section under a heading which did not refer to the trial. In the judge’s view, the fact that the article appeared in a well known authoritative serious newspaper added to its tendency to prejudice.
- Material which reflects on an accused is generally likely to prejudice jurors. In the judge’s view, Westfield’s statements imputed that Quinn was a “despicable person” and would lie about others, including a dead person who could not refute evidence given at trial.

The judge found the article’s effect was not slight, as had been argued, but was a “character assassination on a grand scale”. He took into account the fact that jurors are undertaking a difficult and unfamiliar role, a task which is “foreign to them and daunting”. The article may have caused them to question “what does this responsible authoritative newspaper know that we do not?”

Fining Westfield and the paper, the judge also expressed concern that a journalist with 27 years experience was unaware of what he regarded as “obvious contempt”.

Julie Eisenberg

Kroger

...continued from page 17

member of the party’s federal executive between 1987 and 1992, Mr Kroger has direct links to the current government and is a close friend of the Treasurer, Peter Costello. His right-of-centre political affiliations contradict what are generally perceived as the ABC’s more left-of-centre views.

Then there is the question of Mr Kroger’s loyalties. He backed the Packer horse during the federal government’s abortive attempt last year to change the cross-media ownership laws. He lobbied on Publishing & Broadcasting Ltd’s behalf to have the rules changed in order to allow its takeover of John Fairfax Holdings.

Since his appointment to the ABC board, the accusations have raged that the government is on a vendetta against the broadcaster, stacking its board with right-wing appointees who will interfere with programming. Critics have also pointed to the fact that while in opposition, the Liberal Party made a clear promise that there would be no more political hacks appointed to the ABC board. The comment in 1995 followed several years of Labor appointees including former Labor pollster Rod Cameron and a former South Australian Labor Premier, John Bannon. There was also a seat reserved for a trade unionist on the ABC board during Labor’s tenure.

It is difficult to know how sinister Mr Kroger’s appointment will prove to be. Perhaps the crucial difference is that in stacking its board, the Labor Party wanted influence the political stance taken by the ABC. The present government, having already savagely cut the broadcaster’s budgets – another broken electoral promise – may want nothing less than its demise.

Karen Winton