

# Catterns launches Copyright Kit

MID THE POPPING of champagne corks, David Catterns, Copyright lawyer, added spirit to the evening when he launched the LAA's Copyright Kit in the Galleries of the State Library of NSW on 23 September. Mr Catterns was introduced by Russell Dous, NSW State Librarian and Chairman of the LAA's Publications Board.

Over 60 people heard Mr Catterns say that, in general, he thought the contents of the Kit were accurate and very useful.

He did have some criticisms to make and said that although Allan Horton, in his article 'Copyright and the users of libraries', calls Section 50 of the new Act 'pettifogging, bureaucratic legalism' he (Catterns) feels that there is a clear policy other than to cause difficulties for librarians and that it was included in the Act so as to 'prevent systematic speculative copying of journal articles'. (Section 50 requires a remote user to sign a declaration and return it to a library before the library can take any action to satisfy the demand.)

Mr Catterns then went on to explain the need for the introduction of criminal offences. He said that copyright is about *copying*, not the making of records. 'It can't be an infringement of copyright to lose or falsify a record. The making of a record provides the defence to infringement – loss of the record can't retrospectively create an infringement'.



David Catterns . . . 'kit very useful'

On the subject of breach of confidence and privacy, Mr Catterns said he disagreed with Rob Brian's statement in *Librarians and Australian Copyright Law: an exposition of the law in simplified form* (p7, para 1.30).

Catterns argues that Section 9 of the Copyright Act preserves the ordinary law of confidence and that it imposes no special duties with respect to records. 'It is possible that Sections 49 or 50 copying records' he said 'could show who's copying what, but the likelihood of this being used for industrial or academic espionage are slight. It is part of an overall scheme and access to records is part of the owner's protection'.

As to multiple copying records he said that 'to prevent an agency from copying all records breaches Section 203E and would be defeating the right of those whose privacy is supposed to be protected'.

He ended by saying that 'copyright owners want an overall practical scheme. There's a need for co-operation and understanding and the Kit helps this'.

Mr Catterns was thanked by Rob Brian, and then it was time to get down to the serious business of opening more liquid refreshments until the lights were doused. Thanks to Marilyn Bryce, Daveen Temby and Mary Sherwood without whose help the evening would not have been such a success.

Should you wish to buy a copy of the Copyright Kit, don't waste time – they're selling quickly. Copies available for \$17.50 from LAA, 473 Elizabeth St, Surry Hills, NSW 2010.



Rob Brian (right) author of *Librarians and Australian Copyright Law: an exposition of the law in simplified form*, the major item in the Copyright Kit, with Irene Strachan, LAA Publications Officer, and David Catterns. Photographs: John Wright.

## Test case of new copyright laws

**I**N THE FIRST TEST of the new copyright laws, the NSW Government and Department of Education have been sued by a collection of authors and publishers following the release of a departmental circular detailing instructions in handling of the new Act.

The circular sent by the Director General of Education in NSW, Mr D. Swan, to school principals throughout the State in July was alleged to be 'misleading and erroneous' accord-

ing to a statement filed in the NSW Supreme Court on 21 September.

The plaintiffs in the case have asked the court to grant them an interlocutory injunction 'to restrain the circulation of the circular and the consequent infringement of copy right.'

The plaintiffs in the action are author Thomas Keneally and Donald Horne, poet Le Murray, publishers McGraw Hill (Australia) Ltd, Jacaranda Wiley Pty Ltd, Bay Books Pty Ltd trading as Angus and Robertson, Heinemann Pty Ltd and the Copyright Agency Ltd.

The defendants are the NSW Attorney General, Mr Walker, as the Crown representative and Mr Swan.

In a letter sent to Mr Swan in August, the plaintiffs issued a point-by-point refutation of the alleged errors in the department's circular.

The letter said that the circular contained a large number of misleading statements and an even greater number of demonstrably false statements. It requested that Mr Swan withdraw the circular as soon as possible.

The letter was critical of the circular for making an undertaking to indemnify teachers in cases where civil liability arose innocently. The plaintiffs claimed that such an action itself constituted a strong basis for infringement by authorisation.

It claimed that in some instances the circular was instructing teachers to use the Act 'arbitrarily in a way that reflected a misunderstanding of the Act.'

The matter will go to trial on 7 October.

From the *Financial Review* 22 Sept 1981.

## For film and video librarians

An Association of Film and Video Libraries is a new association which arose from a meeting, late in 1980, of Australian government non-theatrical film and video libraries. At the meeting representatives from most State film centres and State Department of Education film libraries discussed common problems and future developments in projected media technology.

It was decided that discussions in these areas would be more fruitful if shared with a wider group of people involved in operating film and video collections – those working in libraries and media sections of schools, tertiary educational institutions, government departmental and public libraries.

The Group is also interested in feedback from users of film and video collections, and membership is available to those persons in the community interested or practising in the field of non-profit film and video libraries.

At present, only a Victorian Branch is operating, but it is hoped that by the end of the year there will be branches in the ACT and WA.

For more information about the Group contact the Treasurer, AAFVL, Vic Branch, c/o State Film Centre, 1 Macarthur Street, East Melbourne, 3002. At present, the annual membership fee is \$10.00.

Karen Foley

## Correction

*Incite* no 15 of 4 September 1981 listed courses in librarianship and for library technicians which are recognised by the Library Association of Australia. It included, incorrectly, the Library Technician Certificate Course offered by the NSW Department of Technical and Further Education.

This course has not yet been assessed by the Association. The Library Practice Certificate Course, which is being phased out by the Department, is recognised by the Association.