

**The Unique Flavours of Australia's Public Domain:
A View from History**

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This paper seeks to situate Australia's public domain against the background of two significant scholarly developments: a greater focus on the 'national', as opposed to global, nature of intellectual property laws, and the important role that historical research can play in current legal and policy discussions. Rather than focus on the most recent statute, the *Copyright Act 1968* (Cth), this paper examines the public domain from the beginnings of statutory copyright in Australia and traces the subsequent development of several unique features of these copyright laws. While Australia is today often criticised for simply following the copyright *status quo*, this paper illustrates that, in some instances, colonial and federal governments rejected Imperial and international precedents and adopted a different position. The exception to this rule is the adoption of the Imperial *Copyright Act 1911* by the Commonwealth Government in 1912; however, even this law reveals a number of peculiar features that impacted on Australia's public domain.

This paper first briefly maps the statutory development of copyright law in Australia, before proceeding to consider five 'unique flavours' of Australia's public domain during this development:

- 1) a reduced length of copyright protection for paintings, drawings and photographs in the colonies;
- 2) exclusive protection, for a limited period, for information in telegrams received beyond the colonies
- 3) no copyright in 'blasphemous, indecent, seditious, or libellous' works
- 4) lecture copyright
- 5) perpetual copyright for unpublished works

The paper concludes with the impact that these unique features had and continue to have on Australia's public domain and copyright law today.