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Labor, Learning, and Paine's Public Intellectual Properties

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Labor, Learning, and Paine's Public Intellectual Properties

In the early years of the American revolution, Thomas Paine wrote a letter that, at first glance, was not necessarily about intellectual property.[1] Amidst the stakes of the war for independence in 1778, Paine, an English emigrant based in Pennsylvania, wrote to Henry Laurens, a South Carolina slave-trader and then-President of the Continental Congress, about what he thought were »useful« classes of citizens. In his categorization of labor and how forms of work related to representative government, Paine described first the importance of farmers and »cultivators«, then »manufacturers and mechanics of every kind«, and finally »merchants and shopkeepers.«[2] However, aware of the absence of the type of work demonstrated in the crafting of the letter itself, that of writing and expression, Paine remarked, »I am a Farmer of thoughts, and all the crops I raise I give away«.[3]

Paine's interpretations of intellectual labor and its compensation varied depending on the circumstances.[4] On the one hand, in times of war or upheaval, Paine believed that it behooved writers like him to eschew intellectual property protection, »to give away their crops,« or books »for free,« in the service of the collective cause. *Common Sense* and *The American Crisis,* for example, were openly circulated to that end, and funds raised were donated to the Continental Army. Yet on the other, Paine argued, »peace shall give time and opportunity for study« and »the country will deprive itself of the honor and service of letters and the improvement of science, unless sufficient laws are made to prevent depredations on literary property.«[5] Reflecting the far more porous lines between art and science in the eighteenth century, Paine's »crops« could relate either to copyright, a form of intellectual property for creative expression that included his writing, or patents, which protected inventions, designs, and technical processes.[6] Without support for learning, he reasoned – science, as we understand it today, as well as art, literature, philosophy, and scholarship in all its forms – the civic and collective life of the country would suffer. And laws, specifically intellectual property ones, were needed to ensure that did not happen.

Two hundred and fifty or so years later, the tension Paine presented between access and ownership speaks directly to the themes of »Creative Methodologies: Allies or Adversaries in Legal History?« Paine was himself the 18th-century equivalent of a public intellectual, a writer and thinker whose approach was inherently designed to communicate with as wide an audience as possible. Like other »men of letters« of the period, which included both free and enslaved Black Americans, Indigenous Americans, immigrants and emigrants of countless ethnicities, and women of all backgrounds, Paine was someone who wrote and thought about labor, learning, and how they came together in the creation and functioning of democratic society.

When historians today consider the role of public-facing research methods in legal-historical scholarship, the intertwined histories of labor and learning are timeless in their relevance. Intellectual property is a subject of study in its own right, but

1 Thomas Paine, Letter to Henry Laurens, Spring 1778, in: Public Advertiser of New-York, 30 May 1807, https://www.thomaspaine.org/writings/1778/to-henry-laurens-spring-1778 (last accessed 11 November 2025).

2 Ibid., 1.

3 Ibid.

4 For analysis of Paine's relationship to publishing, see Michael J. Everton, ›The Would-be-Author and the Real Bookseller‹: Thomas Paine and Eighteenth-Century Printing Ethics, in: Early American Literature 40,1 (2005) 79–110; idem, The Grand Chorus of Complaint: Authors and the Business Ethics of American Publishing, Oxford 2011; Trish Loughran, Disseminating Common Sense: Thomas Paine and the Problem of the Early National Bestseller, in: American Literature 78,1 (2006) 1–28.

5 Thomas Paine, A letter addressed to the Abbé Raynal on the affairs of North-America: in which the mistakes in the Abbé's account of the Revolution in America are corrected and cleared up, reprinted for C. Dilly, 1782, https://catalog.hathitrust.org/Record/100259208 (last accessed 16 November 2025), 23.

6 For a discussion of Paine's involvement with patents, see Edward G. Gray, Tom Paine's Iron Bridge: Building a United States, Philadelphia (PA) 2024.

also serves as a methodological lens, an approach to understanding the balance between access and ownership that Paine discussed, amongst other aspects of the relationship between government and communication. In my own research, I explore the history of media through the lens of copyright consciousness, or how people thought about and interreacted with different elements of copyright or textual property in the 18th century.[7] The concerns raised by writers, printers, booksellers, and other artists and involved in producing expressions, from books and pamphlets to music, maps, drawings, and other images, were echoed in deliberations in law and government about how to best »encourage the progress of science and useful arts« and to »encourage learning«.[8] Those debates, while certainly taking place in the courtroom and involving legislation, also played out in broader legal culture which in turn influenced and was influenced by popular culture as a whole.

Academia, then and now, is a part of those interwoven legal and popular cultures. Far from the stereotypical image of the ivory tower, the brief history of Paine, labor, and learning demonstrate how interactions between access and ownership, embodied in debates over forms of intellectual property like copyright, have a messy, meandering, but nonetheless linked line to contemporary discourses on the same subjects. Certain digital humanities methodologies, for example, provide a model not only for how to study labor and learning in the late 18th century but how to address access and ownership today.[9] Thanks to funding from the Robert David Lion Gardiner Foundation as well as support from the Iona University Provost office and Cornell University Press, my co-editors and I were able to publish an open access essay collection called *American Revolutions in the Digital Age*.[10] Drawing on a Non Commercial – No Derivatives 4.0 International (CC BY-NC-ND 4.0) license, the collection is freely available to download. It includes essays which examine the role of media and information in the Age of Revolutions and use a range of digital tools to do so.

American Revolutions in the Digital Age essentially combines the thematic or topical analysis of public-facing communication in the late 18th century with methods of public-facing communication in the 21st century. Because of the funding received from the Gardiner Foundation, we were able to both provide an honorarium to contributors so that they had the resources to work on their scholarly expressions and a subvention to Cornell Press so that they could afford to make the book freely available. While there was and is much more that can be done to support both scholars and readers, and I do not mean to imply otherwise, our goal was to balance the need for ownership, or recognition and compensation for one's intellectual labor, with access, or the importance of sharing learning and knowledge as widely as possible.

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7 Nora Slonimsky, ›To Save the Benefit of the Act of Parliament‹: Mapping an Early American Copyright, in: Law and History Review 40,4 (2022) 625–654.

8 Jeanne C. Fromer, Christopher Jon Sprigman (eds.), Copyright Law: Cases and Materials, vol. 7 (2025), https://www.copyrightbook.org/download/Copyright%20Law%20-%20Cases%20and%20Materials%20v7.0.pdf (last accessed 1 December 2025).

9 Scott B. Weingart et al. (eds.), The Digital Humanities Literacy Guidebook, Carnegie Mellon University, updated 11 November 2022, https://cmu-lib.github.io/dhlg/ (last accessed 1 December 2025).

10 See Nora Slonimsky, Mark Boonshoft, Ben Wright (eds.), American Revolutions in the Digital Age, Ithaca (NY) 2024, https://www.cornellpress.cornell.edu/book/9781501771859/american-revolutions-in-the-digital-age/ (last accessed 1 December 2025).