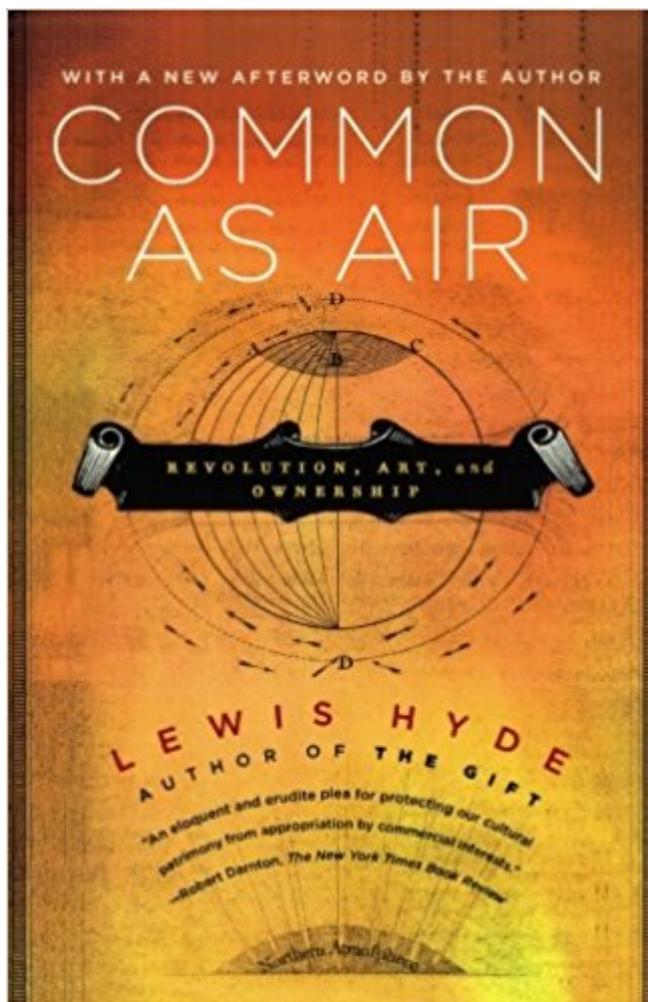


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Common As Air: Revolution, Art, And Ownership



Synopsis

Common as Air offers a stirring defense of our cultural commons, that vast store of art and ideas we have inherited from the past and continue to enrich in the present. Suspicious of the current idea that all creative work is "intellectual property," Lewis Hyde turns to America's Founding Fathers—men such as Adams, Madison, and Jefferson—in search of other ways to imagine the fruits of human wit and imagination. What he discovers is a rich tradition in which knowledge was assumed to be a commonwealth, not a private preserve. For the founders, democratic self-governance itself demanded open and easy access to ideas. So did the growth of creative communities such as that of eighteenth-century science. And so did the flourishing of public persons, the very actors whose "civic virtue" brought the nation into being. In this lively, carefully argued, and well-documented book, Hyde brings the past to bear on present matters, shedding fresh light on everything from the Human Genome Project to Bob Dylan's musical roots. Common as Air allows us to stand on the shoulders of America's revolutionary giants and thus to see beyond today's narrow debates over cultural ownership. What it reveals is nothing less than a vision of how to reclaim the commonwealth of art and ideas that we were meant to inherit.

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Customer Reviews

The question of how our cultural commons, our shared store of art and knowledge, might be made compatible with our modern age of stringent copyright laws, intellectual property rights, and restrictive patenting is taken up with considerable brio by Hyde (*The Gift*). Moving deftly between literary analysis, historiography, biography, and impassioned polemic, the book traces the idea of

commonage from its English pastoral manifestations and pays particular attention to the American founding fathers' ideals of self-governance and civic republicanism grounded in the vision of a public realm animated by openly shared knowledge and property rights that functioned for the benefit of society rather than individuals alone. Hyde leaps nimbly, if sometimes too hurriedly, from the Ancient Mariner to the human genome project, ultimately offering a vision of human subjectivity that is fundamentally social, historical, and plural. If the book is perhaps not wholly successful in showing how we might concretely legislate for a cultural commons that would simultaneously allow for financial reward and protection from monopoly, it is nonetheless a fascinating and eminently readable attempt to coordinate commerce and creativity in what he sees as an increasingly restrictive economy of ideas. Copyright © Reed Business Information, a division of Reed Elsevier Inc. All rights reserved. --This text refers to an out of print or unavailable edition of this title.

In his seminal book *The Gift* (1983), Hyde invited us to bridge the chasm between the values of the artist and the pressures of the marketplace by considering traditional economies based on reciprocal gift giving. With his latest selection, the poet-translator-cultural anthropologist-public intellectual again examines the intersection between creativity and commerce, in particular, the question of whether the fruits of creative labor can or should be privately owned. As before, Hyde's impetus in writing is in part fear of the constraints unrestrained capitalism seems to impose on artists and cultural innovators; a considerable portion of this account is devoted to chronicling the recent corporate land grab of knowledge and the thorny bramble of intellectual property law. But this is less a manifesto of the misleadingly named copy-Left movement than it is a search for cultural consensus on which meaningful rules can be based. Finding inspiration and precedent in the concept of the commons in English land-tenure law (as well as the examples of Benjamin Franklin and Bob Dylan, among others), Hyde argues that art and ideas constitute an inherently public cultural commons that is most fertile when authors have only limited permission to enclose their works from unauthorized use. Deeply researched and powerfully felt, this book presents a compelling case for an alternate paradigm, and showcases the originality that readers cherished in *The Gift*. --Brendan Driscoll --This text refers to an out of print or unavailable edition of this title.

Hyde provides an interesting perspective on the current controversies with intellectual property rights. Several elements of the historical perspective from England and the U.S. Founding Fathers are interesting additions to the discussion, illustrating the perspective of information as a

"commons", and explaining the invention of patent and copyright as a limited monopoly, intended to allow the creator to profit ... but with limits. As was pointed out by reviewer ShortBaldYogi, the author, while advocating free access to information through such means as Creative Commons copyright, chose NOT to do so for his own work! I would put greater weight on his argument if he'd followed it himself. One area which the book doesn't address, but might be helpful, would be some further development of the legal history of IP law in the USA. Hyde discusses the Founding Fathers' philosophy, ending with the Constitution. However, like all important aspects of constitutional law, the document itself is a beginning, not an end.

This book explains the true meaning "commons" in the context of the public good. This is critical to an understanding of the development of copyright, both in terms of the law and also in terms of critical thinking about this complex subject. Further, the writing style is excellent. The writing is readable, clear, and direct. I recommend this book highly.

And extremely well written book that provides a lot of insight to how copyright laws in America are otherwise restricting our ability to learn. Lewis Hyde is able to blend an vast amount of facts that would seem unrelated into a coherent book that enlightens more than tells. He often sights the work of famous individuals such as Thomas Jefferson and Thomas Locke that have expressed there opinion on patents and copyright laws. Overall Hyde's approach to these matters is very moderate displaying a rather calm tone through out that doesn't overpower the reader with his emotions leaving only the reader to determine how they feel on the matter. While I am still not a supporter of heavy patents, Common has Air has taught me that patents are important, but rather in the short term such as the 19 years limit on patents' that Thomas Jefferson purposed. Bravo, Hyde.

A wonderful book that suggests how US copyright law may change to maintain the Founder's intent in a digital age.

This is an excellent treatise on "the commons" in relation to property rights and the common good.

I've been working on a film about our commons, working with people who care about seeds, cultural commons, intellectual property and its limits on sharing, the water, our air....and it is hard to make a clear argument for why these commons are related and worth fighting for. Hyde is a magician with words, and he's pulled a winner out of his hat. The topic is vital, and the read is a pleasure.

Most boring read to date, so boring I can barely write about it but requires a certain amount of words.

Did you know the poems of Emily Dickinson - she died one hundred and twenty four years ago - will continue to be owned by Harvard University Press until 2050? That during the 2008 presidential campaign Fox News forced John McCain to remove a commercial from YouTube featuring unauthorized footage from a Fox-moderated debate? That the RIAA filed over 20,000 lawsuits against illegal downloaders, often teenagers, for claims in excess of \$9,000 a track? These are the problems with contemporary intellectual property law that Lewis Hyde seeks to solve with his new book, *Common as Air: Revolution, Art, and Ownership*. Relying heavily on the American founders, Hyde argues forcefully that we have moved away from the vision of the commons held by the founders and towards an increasing "market triumphalist" enclosure on the commons. This enclosure, it is argued, is stifling American arts and sciences. The dominating theme of this book is what Hyde calls the commons. The commons is a type of property wherein multiple parties exercise rights. For Hyde, we should strive for a more robust commons and cultural output should be managed as a "collectively owned resource" where diverse individuals possess a right of action. To support this idea, Hyde relies almost exclusively upon the writings of the American founders to support this assertion. Indeed, the Constitution itself supports this view. According to that document, the project of copyright in this country is "to promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries." Hyde here quite correctly states that the primary goal of copyright in our constitutional system is to enlarge and invigorate the commons. This is to be achieved by assigning limited monopolies to individuals so as to properly incentivize creators and therefore "promote the Progress of Science and useful Arts." For Hyde and the founders, the expansion and strengthening of the commons is important for many reasons. To begin with, a robust commons is necessary to nurture the collective civic, creative, and spiritual dimensions of society. The devolution of power here serves to enrich the whole rather than the elite because the rights of action in the intellectual property belong to all rather than a few. The ability of the masses to draw freely upon their cultural past empowers them to improve their future. Beyond this, a more lively circulation of knowledge builds the foundation for democratic self-governance. For these reasons it is argued that the proper understanding of copyright law is that it serves to protect the commons rather than an individual's private property rights in cultural produce. While *Common as Air* outlines some good policy

prescriptions, such as imposing shorter limits on the exclusive rights granted to creators, it fails in its objective of setting out a coherent and desirable framework for intellectual property law. To begin with, the majority of the book is dedicated to explaining the commons with copious reference to the past. This could have been done in one chapter. Further, there is simply too much page space in this book detailing anecdotes of Benjamin Franklin's life. This space would better have been served by policy discussion on how a functioning commons would operate. Instead, the only concrete policy discussion takes place within the last half of the final chapter. Throughout the book, Hyde rails against free markets and market privatizers. Early in the book he is so bold as to proclaim that "[a]lmost by definition, the commons needs to stint the market, for if the 'free market' is free to convert everything it meets into an exchangeable good, no commons will survive." However, perhaps Hyde has identified the wrong culprit. For Hyde, the commons is to be governed by a "public or collective being." Necessarily the "collective being" that will govern the commons will be government. It is government, if we look closely, that has caused most of the problems commonly associated with the ills of contemporary intellectual property law. The most obvious governmental dictate that has contributed to the current intellectual property mess is the Copyright Act of 1976. This act extended copyright protection to the author's life plus seventy-five years after her death. The act also extended copyright in works made for hire and works copyrighted before 1978 to ninety-five years. This was no market production. This was a congressional act. Congress is also the author of the Digital Millennium Copyright Act, a piece of legislation that is rightly and roundly criticized in Mr. Hyde's book. Finally, it was the government that decided the Federal Circuit would have exclusive jurisdiction to hear patent law cases. This decision robbed patent law of an important competitive function. In most other cases and controversies the federal District and Circuit courts produce superior law through jurisdictional competition. Circuit splits signal to the Supreme Court of the United States that an issue needs to be addressed. Mr. Hyde's socialistic vision always leads to a monopolistic government. Adopting this model will only serve to exacerbate the problems of intellectual property law by universalizing system error. Contrary to Mr. Hyde's conclusions, it is the decentralizing and liberating nature of markets that needs to be implemented in order to save intellectual property law from itself and resurrect the original understanding of the Copyright Clause that Mr. Hyde is so fond of.

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