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**The Declaration of Independence and the Constitution:
Securing Rights and the Example of Copyright**

by

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I. Introduction and Summary

This September 17, Constitution Day, is special because it takes place in the 250th anniversary year of the Declaration of Independence. It is an especially fitting moment to reconsider the American Revolution's deeper crisis over the source and security of rights and the relationship between the [Declaration of Independence](#) and the [Constitution](#) in answering it. The Declaration grounded life, liberty, and the pursuit of happiness in natural right, based legitimate government on popular consent, and declared the security of those rights to be government's fundamental purpose. The Constitution supplied the fundamental legal structure for carrying the Declaration's principles forward, grounding authority in popular ratification and conferring powers sufficient to meet national responsibilities.

The Constitution also brought copyright within the new national framework by expressly empowering Congress to secure authors' exclusive rights. Copyright presents a parallel: authors' rights moved from uncertain and fragmented protection to a national constitutional foundation. After independence, Americans grounded literary property in an author's natural right to the

fruits of one's intellectual labor, but protection remained fragmented among the states. But the Constitution of 1787 included the Copyright Clause and the First Congress gave that authority practical operation through the Copyright Act of 1790. The Declaration-Constitution relationship, and the parallel example of copyright protection, remain relevant today: Congress must continue to secure authors' rights as technology and markets change.

John Quincy Adams later supplied a powerful account of the relationship between the Declaration and the Constitution. In his 1839 [*Jubilee of the Constitution*](#), Adams described them as "parts of one consistent whole, founded upon one and the same theory of government." He also characterized the Constitution as the "concretion of those abstract principles" proclaimed in the Declaration. Adams's account of the broader constitutional development sheds light on the constitutional history of copyright.

The American Revolution involved a crisis over the source and security of Americans' rights. Initially, the colonists relied upon overlapping sources: the English Constitution and common law, colonial charters, and natural rights. The First Continental Congress claimed rights based upon "the immutable laws of nature, the principles of the English constitution, and the several charters or compacts."

As the imperial controversy deepened, reliance upon English constitutional protections became increasingly untenable. Parliament asserted supreme authority, colonial charters and institutions were overridden, and repeated petitions for redress failed. As Adams later summarized the transformation in the [*Jubilee*](#), "English liberties had failed them." Americans therefore appealed "from the omnipotence of Parliament" to a higher source: "the rights of man." "Thenceforth," Adams wrote, "their charter was the Declaration of Independence. Their rights, the natural rights of mankind."

The Declaration grounded American independence in a higher law, declaring that men are "endowed by their Creator with certain unalienable Rights" and that governments are instituted "to secure these rights," deriving their "just powers from the consent of the governed." It thus addressed both the source and security of rights: government does not create rights, but exists to secure them.

The Constitution supplied the fundamental legal structure for carrying those principles into effective government. The [*Articles of Confederation*](#) had proved, in Adams's words, "radically defective." The Constitution represented a "return to the principles of the Declaration of Independence" because its authority emanated from the people and because it created a national government possessing powers sufficient to accomplish its assigned purposes.

Adams contended that the Declaration's principles were expressed in the Constitution's Preamble:

We the people of the United States, in order to form a more perfect union,
establish Justice, ensure domestic tranquility, provide for the common defense,
promote the general welfare, and secure the blessings of liberty to ourselves and

our posterity, do ordain and establish this Constitution for the United States of America.

Importantly, the Constitution contained and distributed governmental authority to give those principles practical effect. The rights to be secured included property. In the political philosophy of the Founding Fathers, individual liberty included the right to enjoy the fruits of one's labor – a principle with direct significance for copyright. Free State Foundation President Randolph May and I have examined the Founding Fathers' understanding of natural property rights understanding and its connection to copyright in our book, [*The Constitutional Foundations of Intellectual Property: A Natural Rights Perspective*](#) (Carolina Academic Press, 2015).

Yet ratification of the Constitution did not complete the project. John Quincy Adams emphasized that the new Constitution still had “to be demonstrated by its practical operation.” He credited the First Congress with organizing government “conformably to the new constitution, and to give it practical operation” by establishing courts, executive departments, and a revenue system. And he credited the Washington Administration for having “settled upon firm foundations the practical execution of the Constitution.”

Copyright illustrates the kind of problem that the new constitutional system was designed to address. Under British law, authors' rights had an uncertain foundation, and America lacked a comprehensive system for protecting literary property. Following independence, American states increasingly recognized copyright, frequently in natural rights terms. Yet separate state laws could not provide national protection. James Madison called the “want of uniformity in the laws concerning . . . literary property” one of the “vices” of the American political system under the Articles of Confederation.

The Constitution addressed that deficiency by supplying the national authority that the states acting separately lacked. Article I, Section 8 empowers Congress: “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.”

The First Congress then put that constitutional power into operation. On May 31, 1790, President Washington signed the first federal [Copyright Act](#), entitled “An Act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the times therein mentioned.” The Act gave qualifying authors and proprietors the “sole right and liberty of printing, reprinting, publishing and vending” their protected works for fourteen years, renewable for another fourteen, and supplied rules and remedies for national enforcement.

The recurrence of the word “secure” is significant. The Declaration stated that governments are instituted “to secure” rights that precede government. The Constitution authorized Congress to promote progress “by securing” authors' exclusive rights. And the first Copyright Act described its purpose of “securing” protected works to authors. “Securing” rights thus has two related aspects: protecting rights not created by government, and providing consistent protection to all. That responsibility includes defining the legal boundaries and conditions for recognizing, exercising, and enforcing those rights.

Copyright therefore provides a focused illustration of the Declaration-Constitution relationship. The Declaration announced enduring principles concerning rights and the purpose of government. The Constitution established institutions and powers capable of securing those rights. The new federal government then gave those powers “practical operation.” Copyright similarly moved from uncertain and fragmented protection to an express constitutional foundation and an effective national system of protection.

The natural rights principles of the Declaration remain true, and those principles support the just claims of creative artists to the fruits of their efforts. The Copyright Act of 1790 was only the first implementation of the Copyright Clause, not its completion. Congress retains responsibility to secure copyrights as technologies, markets, and new forms of creative expression emerge.

In 2026, Congress can fulfill its duty by strengthening protection for sound recordings, combating large-scale piracy, improving practical enforcement through the Copyright Claims Board, preserving Congress’s constitutional role against the ALI’s misguided effort to reshape copyright through its Restatement, and resisting new exceptions that would permit artificial intelligence (AI) services to exploit copyrighted works without consent or compensation to creative artists.

II. The American Revolution as a Crisis Over the Source and Security of Rights

The American Revolution was a response to a crisis over the source and security of the rights of Americans. Through the early stages of the controversy with Great Britain, American colonists asserted their rights on overlapping legal foundations: the English Constitution and common law, colonial charters, and natural rights. A notable example is the July 1774 [*Fairfax Resolves*](#), a document that was principally drafted by George Mason and adopted by a meeting of freeholders presided over by George Washington. It stated:

That the Claim lately assumed and exercised by the British Parliament, of making all such Laws as they think fit to govern the People of these Colonies, and to extort from us our Money without our Consent, is not only diametrically contrary to the first Principles of the Constitution, and the original Compacts by which we are dependent upon the British Crown and Government, but is totally incompatible with the Privileges of a free People, and the natural Rights of Mankind.

Washington presented the Fairfax Resolves to the Virginia Convention. Historians have credited the Fairfax Resolves with influencing the Convention’s position going into the First Continental Congress. The Virginia Convention selected Washington as one of its seven delegates to the First Continental Congress.

Another example of American colonial understanding of English law, charters, and natural rights as reinforcing sources of liberty is the September 1774 [*Suffolk Resolves*](#). The Suffolk Resolves were adopted by delegates from towns in Suffolk County, Massachusetts. It stated:

The late Acts of the British Parliament, for blocking up the harbour of Boston, for altering the established form of government in this colony, and for other purposes, are gross infractions of those rights to which we are justly entitled by the laws of nature, the British Constitution, and the charter of the province.

Significantly, the First Continental Congress endorsed the Suffolk Resolves only days after its adoption. Moreover, the First Continental Congress made its own direct appeal to overlapping foundations for American colonial rights in its October 1774 [*Declaration and Resolves*](#). Meeting “as Englishmen,” the Congress declared that Americans possessed rights by “the immutable laws of nature, the principles of the English constitution, and the several charters or compacts.” Congress specifically claimed “life, liberty and property,” the common law of England, trial by local juries, applicable English statutes, and the immunities and privileges guaranteed by royal charters and provincial law. It also identified representative government as “the foundation of English liberty, and of all free government.”

In his [*Notes of Debates in the Continental Congress*](#) for September 8, 1774, John Adams recorded Henry Lee as stating that “[t]he Rights are built on a fourfold foundation—on Nature, on the British Constitution, on Charters, and on immemorial Usage.” Adams similarly recorded John Jay as saying that “[i]t is necessary to recur to the Law of Nature, and the British Constitution to ascertain our Rights.” Decades later, John Adams recalled in his *Autobiography* that one of the major disputes within the First Continental Congress was “[w]hether We should recur to the Law of Nature, as well as to the British Constitution and our American Charters and Grants.” Adams strongly favored making an appeal to natural law because he foresaw that it might become “a Resource to which We might be driven” by Parliament.

By mid-1775, John Adams’s warning had become reality: the constitutional crisis reached its apex, as the rights that Americans claimed as Englishmen and under their colonial charters were being denied both in principle and in practice. Armed conflict had begun, reconciliation with Britain was rapidly failing, and resort to natural law was becoming all but inevitable. Following the fighting at Lexington and Concord and Bunker Hill, the Second Continental Congress issued its July 1775 [*Declaration of the Causes and Necessity of Taking Up Arms*](#). That Declaration recited taxation without consent, expanded admiralty jurisdiction, deprivation of jury trial, suspension of legislatures, alteration of charter government, transportation to England for trial, and quartering of soldiers, before asking the decisive question: “What is to defend us against so enormous, so unlimited a power?”

Indeed, the crisis over the source and security of Americans’ rights ran deeper than any particular grievances. True, the established English constitutional order was not devoid of restraints upon arbitrary power, and historical precedents for resisting it. Magna Carta had long stood for the subjection of royal power to law, and the Glorious Revolution of 1688–89 provided the more immediate precedent of a monarch losing the throne after violating the laws and liberties of the kingdom. Even so, Magna Carta, the common law, acts of Parliament, and colonial charters supplied Americans with no effective recourse or protection from a Parliament claiming supreme authority over the colonies.

The futility of further appeals to a Monarch and supreme Parliament was seen in the Second Continental Congress's July 1775 [*Olive Branch Petition*](#), the American colonists' last major effort at reconciliation with the Crown and restoration of constitutional relations. King George III refused to receive the Olive Branch Petition and, in August 1775, issued his [*Proclamation for Suppressing Rebellion and Sedition*](#), declaring the colonies to be in "open and avowed Rebellion."

The [*Declaration of Independence*](#), adopted by the Second Continental Congress on July 4, 1776, acknowledged the futility of further appeals to British law, imperial institutions, and colonial charters. It catalogued a "long train of abuses and usurpations" – the denial by King and Parliament of Americans' rights to representative government, trial by jury, independent courts, charter protections, and taxation by consent. These were not simply objections to unpopular policies. They described the denial of rights that Americans had claimed under English law and their colonial charters. Moreover, the Declaration charged that Americans' prior petitions for redress "in the most humble terms" were answered "only by repeated injury."

Accordingly, in the Declaration of Independence, the Second Continental Congress no longer asked British institutions to vindicate American rights. Instead, Congress made its break from political union with Britain and asserted American nationhood based exclusively on a higher source of law:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,--That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.

In his 1839 address, [*The Jubilee of the Constitution*](#), delivered in New York City at the New York Historical Society on the fiftieth anniversary of George Washington's first presidential inauguration (and later published in expanded form), former President John Quincy Adams traced the crisis manifested by particular British abuses of colonial rights to the failure of the legal foundations upon which Americans previously relied. According to Adams:

But the English lawyers had decided that Parliament was omnipotent—and Parliament, in its omnipotence, instead of trial by jury and the Habeas Corpus, enacted admiralty courts in England to try Americans for offences charged against them as committed in America; instead of the privileges of Magna Charta, nullified the charter itself of Massachusetts Bay; shut up the port of Boston.

Thus, "English liberties had failed them," and "[f]rom the omnipotence of Parliament the colonists appealed to the rights of man." The American solution to the crisis over the source and security of their rights was an exclusive appeal to a higher law and the formation of a new

nation. As Adams put it: “Thenceforth their charter was the Declaration of Independence. Their rights, the natural rights of mankind.”

III. The Constitution Give Governing Form to the Declaration’s Principles

John Quincy Adams supplied an eloquent historical account of how the Constitution gave institutional form to the Declaration’s principles in his 1839 [*Jubilee of the Constitution*](#). Indeed, the address was Adams’s mature, sustained interpretation of American constitutional development from the Declaration through the Constitution and its early implementation. According to Adams, “The Declaration of Independence and the Constitution of the United States are parts of one consistent whole, founded upon one and the same theory of government.”

For Adams, the [*Articles of Confederation*](#) had departed from the Declaration’s theory of government by resting national authority on state sovereignty, acting through their legislatures, rather than on the constituent authority of the people. That defect was not merely theoretical. He called the Confederation “radically defective,” citing its “incompetency” “for the management of the affairs of the Union at home and abroad.” Congress “could contract, but they could not perform,” making it “impossible for them to establish justice in the intercourse of the nation with foreign states.”

In Adams’s view, the [*Constitution*](#) embodied “a return to the principles of the Declaration of independence.” In the *Jubilee*, he repeatedly looked to the Constitution’s Preamble as an expression of that return. Its opening words, “We the People,” located constituent power in the people themselves, a principle implemented through the Constitution’s ratification by popularly elected state conventions rather than by state legislatures. The Preamble then identified the ends for which the new government was established: “to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty.” (The Constitution’s dating clause likewise identified September 17, 1787, as “the Independence of the United States of America the Twelfth.”)

The Constitution supplied the fundamental legal structure for carrying the Declaration’s principles forward. Adams praised its “consistent adjustment of its mighty powers,” which gave the national government powers sufficient to meet its responsibilities and exigencies while distributing them within the constitutional structure. Those powers included authority over taxation, commerce, war and foreign affairs, together with executive and judicial capacity that the Confederation had lacked. At the same time, the Constitution distributed national authority among the “three great departments—legislative, judicial, and executive,” while preserving the House as the “popular branch,” giving the states a role through the Senate, and making federal constitutional authority “paramount” over conflicting state authority. These grants and arrangements of authority supplied the institutional means for pursuing the Preamble’s ends and giving the Declaration’s principles practical effect. In Adams’s account, this combination of adequate power and constitutional structure made the Constitution the “concretion of those abstract principles” first proclaimed in the Declaration.

Notably, the rights to be secured under the Constitution included rights of private property. Adams wrote that “separate property is the natural and indisputable right of separate exertion,”

reflecting the Founding Fathers' political philosophy that individual liberty included the right to acquire and enjoy the fruits of one's labor.

IV. From Constitutional Security to Practical Operation

The Constitution placed rights and governmental power on a new and stronger legal foundation. But constitutional authority required actual implementation through institutions, laws, and enforcement. As John Quincy Adams further explained in *Jubilee of the Constitution*, the Constitution still had "to be demonstrated by its practical operation." He credited the First Congress and Washington Administration with that achievement.

Adams described the First Congress as organizing the government "conformably to the new constitution, and to give it practical operation." Among the measures he specifically identified were the creations of a "comprehensive and efficient system of revenue," "inferior and supreme" courts, the Departments of State, Treasury, and War, the Post Office, provisions concerning Indian treaties and the Northwest Territory, the existing military establishment, compensation for federal officers, and the proposal of constitutional amendments that later would be ratified as the Bill of Rights.

Adams also identified concrete achievements of the Washington Administration. He pointed to the preservation of peace with the major European powers, the release of American captives held in Algiers, and the reduction and conciliation of hostile Indian tribes. Additionally, Adams opined that Hamilton's funding system and the First Bank of the United States "operated like enchantment for the restoration of the public credit." In Adams's judgment, Washington "settled upon firm foundations the practical execution of the Constitution" and helped fix its character "as a practical system of government."

The First Congress and Washington Administration also provide the immediate setting for the establishment of an effective national system of copyright protection, a development traced below.

V. Copyright Before the Constitution: Uncertain and Fragmented

The history of copyright presents an intriguing parallel to this larger development in American constitutionalism. Before independence, the source and security of authors' rights were uncertain. After independence, Americans described copyright in the language of natural rights and property, but protection remained dependent upon separate state laws.

Copyright law in Britain had itself emerged from an unsettled history. The Statute of Anne of 1710 established statutory protection for authors and proprietors, but it left open the question of whether an author possessed a property right in his writings independent of statute. In *Millar v. Taylor* (1769), the Court of King's Bench held that an author possessed a perpetual common-law property right in a published work even after the statutory term under the Statute of Anne had expired. But the House of Lords in *Donaldson v. Beckett* (1774) rejected the proposition that such a perpetual common-law right continued after publication once the statutory term had

expired. The two decisions thus exposed a fundamental uncertainty over the relationship between an author's underlying property claim and the statutory rights supplied by Parliament.

For Americans, the uncertainty was even greater. Whatever rights English common law or the Statute of Anne recognized in Britain, neither provided the colonies with a comprehensive and dependable copyright system. Protection in colonial America was episodic and often specific to an individual author or work. Authors or publishers could petition a colonial legislature for a special enactment granting exclusive printing or publishing rights in a particular book or other work. Even after independence, this individualized legislative mechanism remained available alongside the emerging general state copyright statutes. Noah Webster, known as America's "Father of Copyright," himself illustrated the point in 1784 when he asked James Madison to seek a general Virginia copyright law but, failing that, to present a petition for a "particular law" securing Webster the exclusive right to publish and sell his own works in Virginia.

Independence did not immediately solve the institutional problem. During the 1780s, authors including Webster pressed the states to protect literary property, and Webster traveled extensively to promote state copyright legislation. Connecticut enacted the first general state copyright law in 1783, and all of the other states except Delaware followed. Several of those laws expressly described copyrights using natural rights terminology. Connecticut declared it consistent with "natural justice and equity" that authors be secured in the profits of their works. Massachusetts described legal security for the fruits of one's intellectual labor as "one of the natural rights of all men."

These enactments reflected a broader natural-rights understanding of literary property. Under that understanding, a person possesses a just claim to the fruits of his labor, including intellectual labor, and government does not originate that underlying claim so much as recognize and protect it through law. As we have put the point elsewhere, "a person has a natural right or just claim to the fruits of his or her own labors—which are his or her private property." The public benefits produced by copyright protection and the author's individual property claim were therefore complementary rather than competing considerations. Free State Foundation President Randolph May and I examine the Founding Fathers' natural property rights understanding of copyright in detail in [*The Constitutional Foundations of Intellectual Property: A Natural Rights Perspective*](#) (Carolina Academic Press, 2015).

But state legislation left a problem closely resembling the broader deficiencies of the Confederation discussed by Adams. James Madison identified it directly in his April 1787 [*Vices of the Political System of the United States*](#). Among the defects arising from the "want of concert in matters where common interest requires it," Madison specifically included the "want of uniformity in the laws concerning naturalization & literary property." Copyright thus presented, in miniature, the same institutional problem confronting the Confederation more generally: individual states could recognize and protect authors' rights within their own jurisdictions, but the existing national arrangement provided no reliable means of securing those rights uniformly throughout the Union.

VI. Securing Copyright Under the Constitution

The Constitution supplied that missing national authority. Article I, Section 8 provides that Congress shall have Power: “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.”

The Clause vested in the new national Congress an express power to secure authors’ exclusive rights. In [*Federalist No. 43*](#), Madison described both the right and the institutional advantage the Constitution supplied. “The copyright of authors,” he wrote, “has been solemnly adjudged, in Great Britain, to be a right of common law,” while “[t]he public good fully coincides . . . with the claims of individuals.” But the decisive federalism point followed: “The States cannot separately make effectual provisions” for copyrights and patents. The Constitution remedied that deficiency by empowering Congress to establish effective national protection for authors’ and inventors’ exclusive rights – protection capable of operating throughout the Union rather than depending upon separate and potentially inconsistent state enactments.

Copyright can therefore be placed within the Constitution’s larger purpose “to establish Justice.” In the *Jubilee*, Adams never discusses copyright, and copyright law does not appear to have been a significant subject of his public career or writings. But copyright developed as part of the same constitutional settlement and reflected the same underlying concerns. The Copyright Clause was one of the enumerated powers through which the Constitution pursued the Preamble’s ends.

Moreover, the first federal [Copyright Act](#) was enacted by the First Congress that Adams praised for giving the Constitution “practical operation.” And it was signed into law by President George Washington during the administration that Adams credited with settling the Constitution’s practical execution upon “firm foundations.”

The Copyright Act of 1790’s title echoed the Constitution’s language: “An Act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the times therein mentioned.” Section 1 recognized that qualifying authors and proprietors possessed the “sole right and liberty of printing, reprinting, publishing and vending” their maps, charts, and books for an initial fourteen-year term, renewable for another fourteen years. The Act prescribed registration and publication requirements, required the deposit of copies, prohibited unauthorized printing and sale, provided forfeitures and monetary remedies for infringement, and authorized enforcement of those rights in federal and state courts. Its rules, procedures, and remedies thus comprised a modest yet enforceable nationwide mechanism for copyright protection.

The progression from the Declaration to the Constitution to the Copyright Act is especially striking because each link in the chain employs the language of securing rights. The Declaration announced that men possess rights antecedent to government and that “to secure these rights, Governments are instituted among Men.” Eleven years later, the Copyright Clause authorized Congress to promote progress “by securing for limited Times to Authors and Inventors the exclusive Right” to their writings and discoveries. And in 1790, Congress entitled its first federal

copyright statute an Act “for the encouragement of learning, by securing the copies” of protected works to their authors and proprietors.

“Securing” rights thus has two related aspects: protecting rights that are not created by government but precede it, and providing consistent protection of those rights to all. That responsibility necessarily includes defining the legal boundaries and conditions under which those rights are recognized, exercised, and enforced. A right’s practical existence depends on legal recognition. But it also depends on rules and institutions that define its scope, provide remedies, enable enforcement, and give its protection sufficient geographic reach and uniformity to make the right dependable in practice. Madison’s analysis appears to mark this distinction. The states had already recognized authors’ claims, yet their separate laws could not supply what he called “effectual provisions” throughout the Union. The Copyright Clause empowered Congress to do so, and the Copyright Act of 1790 supplied the operative rules.

The Supreme Court’s 1834 [*Wheaton v. Peters*](#) decision reinforces, rather than alters, this institutional point. The Court rejected the existence of a general federal common-law copyright in published works – reflecting its broader view that there was no general federal common law at all – and held that federal copyright protection existed, if at all, under the Acts of Congress. Whatever questions *Wheaton* raised concerning the precise relationship between natural right, common-law literary property, and statutory copyright, the case’s review of legal history recalled the murky status of copyright in Eighteenth Century English law, and it underscored the practical significance and clarity of the constitutional settlement. Authors no longer had to depend upon an uncertain body of unwritten law whose existence and scope might differ from jurisdiction to jurisdiction. The Constitution vested copyright authority in Congress, and congressional legislation supplied the positive-law mechanism by which copyrights were secured nationally.

That distinction is fully compatible with the Founding Fathers’ natural-rights understanding of copyright. In their view, authors held a just claim to the fruits of intellectual labor. But that did not require every incident, duration, remedy, or procedural condition of copyright to exist independently of positive law. The state copyright statutes of the 1780s reflected the same distinction: several expressly described authors’ claims in natural-rights terms while prescribing by legislation the duration, conditions, and remedies through which those rights would be protected. Consonant with that basic understanding, the Constitution transferred authority over copyright to Congress, which could define the legal particulars of protection and provide for nationwide enforcement.

Copyright thus provides a focused illustration of the developmental relationship between the Declaration and Constitution. The Declaration answered the Revolutionary-era crisis over the source of rights by grounding them in a higher law and declaring government’s purpose to secure them. The Constitution provided the legal superstructure for carrying those principles forward, and the new government established under it gave the Constitution’s powers to secure rights’ “practical operation.” Copyright followed a closely related course: the natural property right of authors arose from their intellectual labor, the Copyright Clause placed protection of that right within the constitutional structure, and the Copyright Act of 1790 gave that authority practical effect through national law.

VII. Conclusion: Congress's Continuing Responsibility to Secure Copyright

The natural rights principles of the Declaration of Independence remain true. So, too, does its premise that government exists to secure rights grounded in individual liberty and labor, including the just claims of authors and other creative artists to the fruits of their creative efforts. The Constitution's assignment to Congress of the power "to secure" authors' exclusive rights likewise remains operative.

The Copyright Act of 1790 was only the first implementation of the Copyright Clause, not its completion. Since then, Congress has repeatedly extended copyright to new categories of works and adjusted the terms of protection, remedies, and enforcement mechanisms through which those rights are secured. Congress retains authority and responsibility to secure copyrights as technologies, markets, and new forms of creative expression emerge.

In 2026, there are several ways by which Congress can better secure copyrights:

- **Sound recordings:** Establish a full public performance right for AM/FM broadcasts.
- **Criminal enforcement:** Pursue willful, commercial-scale copyright piracy more vigorously.
- **Copyright Claims Board:** Adopt targeted improvements recommended by the Copyright Office to make small claims faster and more practical.
- **Congressional authority:** Preserve Congress's constitutional role against efforts, including through the ALI Restatement project, to reshape copyright outside the statutory framework.
- **Online piracy:** Provide effective remedies against large-scale foreign piracy operations, including appropriately safeguarded site blocking.
- **Artificial intelligence:** Resist new exceptions that would permit artificial intelligence and other emerging technologies to exploit copyrighted works without consent or compensation to creative artists.

By taking these and other steps, Congress can give continuing practical effect to the Declaration's principles and the Constitution's commitment to secure authors' exclusive rights.

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