ish a person for operating a mail truck over its highways without procuring a driver's license from state authorities.[1396]

Clause 8. The 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.

COPYRIGHTS AND PATENTS

Origins and Scope of the Power

This clause is the foundation upon which the national patent and copyright laws rest, although it uses neither of those terms. As to patents, modern legislation harks back to the Statute of Monopolies of 1624, whereby Parliament endowed inventors with the sole right to their inventions for fourteen years.[1397] Copyright law, in turn, traces back to the Statute of Anne of 1710, which secured to authors of books sole publication rights for designated periods.[1398] These English statutes curtailed the royal prerogative to bestow monopolies to Crown favorites over works and products they did not create and many of which had long been enjoyed by the public.[1399] Informed by these precedents and colonial practice, the Framers restricted the power to confer monopolies over the use of intellectual property through the Copyright and Patent Clause. For example, the "exclusive Right" conferred to the writings of authors and the discoveries of inventors must be time limited. Another fundamental limitation inheres in the phrase "[t]o promote the Progress of Science and useful Arts": To merit copyright protection, a work must exhibit originality, embody some creative expression;[1400] to merit patent protection, an invention must be an innovative advance-

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[1396] Johnson v. Maryland, 254 U.S. 51 (1920).

[1397] Pennock v. Dialogue, 27 U.S. (2 Pet.) 1, 17, 18 (1829).

[1398] Wheaton v. Peters, 33 U.S. (8 Pet.) 591, 656, 658 (1834).

[1399] *Cf.* Graham v. John Deere Co., 383 U.S. 1, 5, 9 (1966). *See also* Golan v. Holder, 565 U.S. ___, No. 10–545, slip op. at 3 (2012) (Breyer, J., dissenting).

[1400] Feist Publications v. Rural Telephone Service Co., 499 U.S. 340 (1991) (publisher of telephone directory, consisting of white pages and yellow pages, not entitled to copyright in white pages, which are only compilations). "To qualify for copyright protection, a work must be original to the author. . . . Originality, as the term is used in copyright, means only that the work was independently created by the author (as opposed to copied from other works), and that it possesses some minimal degree of creativity. . . . To be sure, the requisite level of creativity is extremely low; even a slight amount will suffice." Id. at 345. First clearly articulated in The *Trade-Mark Cases*, 100 U.S. 82 (1879), and Burrow-Giles Lithographic Co. v. Sarony, 111