

## CIVIL TRIALS

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### SEVENTH AMENDMENT

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

#### TRIAL BY JURY IN CIVIL CASES

##### **The Right and the Characteristics of the Civil Jury**

**History.**—On September 12, 1787, as the Convention was in its final stages, Mr. Williamson of North Carolina “observed to the House that no provision was yet made for juries in Civil cases and suggested the necessity of it.” The comment elicited some support and the further observation that because of the diversity of practice in civil trials in the states it would be impossible to draft a suitable provision.<sup>1</sup> When on September 15 it was moved that a clause be inserted in Article III, § 2, to guarantee that “a trial by jury shall be preserved as usual in civil cases,” this objection seems to have been the only one urged in opposition and the motion was defeated.<sup>2</sup> The omission, however, was cited by many opponents of ratification and “was pressed with an urgency and zeal . . . well-nigh preventing its ratification.”<sup>3</sup> A guarantee of right to jury in civil cases was one of the amendments urged on Congress by the ratifying conventions<sup>4</sup> and it was included from the first among Madison’s pro-

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<sup>1</sup> 2 M. FARRAND, RECORDS OF THE FEDERAL CONVENTION OF 1787, at 587 (rev. ed. 1937).

<sup>2</sup> Id. at 628.

<sup>3</sup> J. STORY, COMMENTARIES ON THE CONSTITUTION OF THE UNITED STATES 1757 (1833). “[I]t is a most important and valuable amendment; and places upon the high ground of constitutional right the inestimable privilege of a trial by jury in civil cases, a privilege scarcely inferior to that in criminal cases, which is conceded by all to be essential to political and civil liberty.” Id. at 1762.

<sup>4</sup> J. ELLIOTT, THE DEBATES IN THE SEVERAL STATE CONVENTIONS ON THE ADOPTION OF THE FEDERAL CONSTITUTION 326 (2d ed. 1836) (New Hampshire); 2 id. at 399–414 (New York); 3 id. at 658 (Virginia).