

September 12. 1787.

Col: Mason Mr. Gerry urged the necessity of juries to guard against corrupt judges. He proposed that the Committee last appointed should be directed to provide a clause for securing the trial by juries.

Col: Mason perceived the difficulty mentioned by Mr. Gorham. The jury cases cannot be specified. A general principle laid down, on this and some other points, would be sufficient. He wished the plan had been prefaced with a Bill of Rights, and would second a motion if made for the purpose. It would give great quiet to the people; and with the aid of the State declarations, a bill might be prepared in a few hours.

Mr. Gerry concurred in the idea, and moved for a Committee to prepare a Bill of Rights. Col: Mason seconded the motion.

Mr. Sherman was for securing the rights of the people where requisite. The State declarations of rights are not repealed by this Constitution; and being in force are sufficient. There are many cases ¹⁵⁶⁶ where juries are proper, which cannot be discriminated. The Legislature may be safely trusted.

Col: Mason. The laws of the United States are to be paramount to State Bills of Rights.

On the question for a Committee to prepare a Bill of Rights, —

New Hampshire, Connecticut, New Jersey, Pennsylvania, Delaware

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1175.

Maryland, Virginia, North Carolina, South Carolina, Georgia, no 5; -
Massachusetts, absent.

The clause relating to exports being reconsidered, in the instance of Col. Madison who urged that the restriction on the States would prevent the incidental duties necessary for the inspection and safe keeping of their produce, and be ruinous to the staple States, as called the five Southern States, he moved as follows: "provided, nothing herein contained shall be construed to restrain any State from laying duties upon exports for the sole purpose of defraying the charges of inspecting, packing, storing and indemnifying the losses of keeping the commodities in the care of public officers, before exportation". In answer to a remark which he anticipated, to wit, that the States could provide for these expences, by a tax in some other way, he stated the inconvenience of requiring the planters to pay a tax before the actual delivery for exportation.

Mr. Madison seconded the motion. It would at least be harmless; and might have the good effect of restraining the States to bona fide duties for the purpose, as well as authorizing explicitly such duties; this perhaps the best guard against an abuse of the power of the States on this subject, was the right in the General government to regulate trade between State and State.