

election, which is not false in fact ; but must be answerable for all falsehoods and groundless slanders, as well in civil, as in a criminal prosecution.

That though every one has a right to publish the proceedings of the government, in all its departments, yet if the publications are made of measures, which have never happened, the writers and printers are amenable, provided that any injury is done, or may be done, to the government by it. The fact of writing or publishing being proved, the burden of proof rests on the defendant, to prove the truth of the facts published, which if he cannot do, he must submit to punishment ; unless he can shew, that it was innocently done from mere error and mistake.

That though no one can justify the false publication of facts, in regard to the measures of the government, yet if facts are truly published, no one can be punished for reasoning erroneously upon them, or for publishing his reasons, however wrong he may be in his conclusions.

That the general government's having the power of punishing libels against the government itself, by a necessary inference from the constitution, does by no means give it the power of punishing those which are published against its president or other officers, who are also the subjects of the state governments ; unless the libel is made and published, with an intent to injure the government itself. Which intent, must be averred in the indictment, and be found by the traverse jury, or jury of trials, otherwise he cannot be convicted. As this distinction most plainly results from the constitution, there can be no doubt but that every candid, sober man will be ready to give it a full force in his mind ; because, were whatever he may wish the constitution, he must be content to take it as it is.

And finally, that a reasonable, constitutional restraint, judiciously exercised, is the only way, in which the freedom of the press can be preserved, as an invaluable privilege to the nation.—FINIS.