

of the good people of this country. In the act which defines this offense and points out the punishment, a liberality of defense is given, unknown, I believe, in any other country where the party is tried for a libel on the government. Here the defendant is allowed, under the third section of that act, to give in evidence the truth of the matters charged as a libel in the publication, and the jury have a right to determine the law and the fact under the direction of the court. The true spirit of the law is that the defendant shall not be found guilty of publishing defamatory writings, unless they be false, nor, although they may be false, shall he be considered as guilty under the law, unless the intent of the publication appear to be malicious.

That such publication has proceeded upon a knowledge of the truth, he is permitted to give as matter of evidence; and if true, it must be allowed to go far to satisfy the minds of the jury that the malicious motives imputed to him are not true. In private actions for slander, where a man seeks pecuniary redress for the injury his character has sustained, the defendant is entitled to give in evidence, as a defense to the action, the truth of the words spoken or the written libel; and if the truth of the assertions be proved, it will amount to a justification. There is no difference, then, between the defense that may be set up to an action of slander, or libel on a private person, and that which is permitted under the law whereon this indictment is grounded.

The defendant has undertaken to satisfy the mind of the jury that, in this publication, he had no malicious intention against the President of the United States; I join issue with him on the point, and request your particular attention to it. He alleges that he did not impute improper motives to the President, and attempts to substantiate his allegation by referring you to his declaration in the outset, where he says that "I cannot believe him (the President) capable of such gross misrepresentations, for I still think well of his intentions, however I may disapprove of his conduct;" but to this I shall add that he goes on and concludes with a paragraph,