

**OBSERVATIONS ON THE RIGHTS
AND DUTY OF JURIES, IN TRIALS
FOR LIBELS: TOGETHER WITH
REMARKS ON THE ORIGIN AND
NATURE OF THE LAW OF LIBELS**

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Observations on the Rights and Duty of Juries, in Trials for Libels: Together with Remarks on the Origin and Nature of the Law of Libels by Joseph Towers

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JOSEPH TOWERS

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OBSERVATIONS

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RIGHTS AND DUTY

OF

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IN

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TOGETHER WITH

REMARKS ON THE ORIGIN AND NATURE

OF THE

LAW OF LIBELS.

By JOSEPH TOWERS, LL.D.

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(1785)

P R E F A C E.

THE Writer of the following Observations not being a lawyer by profession, some apology may seem necessary, for his attempting to write upon a subject, which may be thought more peculiarly the province of the professors of the law. But it is a subject, as he conceives, of great importance to the general interests of liberty, a subject in which every Englishman is concerned, and in which some of the gentlemen of the long robe, from the habits of their profession, and from their connexions

nexions and future prospects, are perhaps, not perfectly impartial. It is, however, a subject, which should be generally understood by men of all ranks, and especially by those who are liable to serve on juries; for the liberty of the press is essentially connected with it, and with that liberty every other branch of public freedom.

As the writer of these Observations has read most of the pieces that have been published relative to the law of libels, and perused almost every trial of this kind that has been published, he is not unacquainted with the language of the law upon that subject, and could have expressed himself with a greater conformity to the technical.

technical phrases of that profession. But as he writes not for lawyers, but chiefly for men of other professions and employments, he thought it best to make use of language that should be generally intelligible. Every man, who is liable to serve on a jury should endeavour, as far as his other avocations will admit, to make himself acquainted with the duties of that important office: and it is not possible for this knowledge to be too generally disseminated.

In any incidental expressions that may be used, in the course of these Observations, relative to the gentlemen of the law, the Writer hopes it will not be imagined, that he meant
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any thing disrespectful to the members of that profession in general. For many of them he has a great personal esteem and regard. He considers it as a very honourable profession ; and he has a high sense of the worth of many of those who are engaged in it. He has not forgotten, that if the profession of the law has been disgraced by a JEFFERIES and a SCROGGS, it has also been adorned by a HALE, a SELDEN, a SOMERS, and a CAMDEN.

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OBSERVATIONS, &c.

AMONG the several great and distinguished privileges, of which the inhabitants of this country are possessed, none is more important to their personal security, than the right of trial by jury. But this right has, in particular instances, been rendered less beneficial to the subject than it might have been, by the ignorance or timidity of those who have served on juries; and by the arts which have been employed to confine them within narrower limits than was intended by the constitution, and to bewilder their understandings

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for writing, printing, or publishing, but merely to inquire into the fact of publication, and into the innuendoes, or application of the blanks, if there be any; and if the publication be proved, they are to find the defendant guilty, leaving the innocence, or criminality, of the book or paper styled a libel, wholly to the determination of the court. Whether such book or paper be in law a libel, is, we are told, a question of law upon the face of the record; and to the determination of this the jury are not competent.

THIS doctrine, though not very ancient, is certainly not new. It was maintained, in the last century, by some of those judges, and crown lawyers, who were enemies to the rights of juries, and to the freedom of the press; and their example has been copied since, and much legal dexterity exerted, in order to prevail on juries to submit to this diminution of their power and