

editor of decent standing suggests that the veil of privacy be withdrawn.

As a rule, in the better class of publications, the consent of the subject is procured, and a photograph obtained from him as a basis for the lithographer's or engraver's art. Legislation of the kind proposed would tend to exclude the exhibition of mortifying snap-shots by newspaper artists, and enable the individual to control the time and manner of the appearance of his likeness. Undoubtedly the right now exists to enjoin the publication of the portrait of a living person. The difficulty is that often the first notice of the intention to publish is the actual appearance of the picture. If a cause of action for damages exists after publication, the recovery could scarcely be more than nominal where there is no caricature, but the intent was to present a *bona fide* portrait.

If any remedy be attempted it should take the form of a definite penalty, suable for by the person aggrieved. It would make the law practically nugatory to simply pronounce its infractions misdemeanors punishable by fine and to be prosecuted by district attorneys. The centres of the offending are the large cities and towns, where public prosecutors have always so much work of serious importance on hand that it could not be hoped that such comparatively petty infractions of law would be faithfully followed up.

On the theory of protecting the right of privacy, therefore, the experiment seems worth trying of conferring the right to sue for a penalty for the publication of any pictorial representation of a person's face or form.

The objection may be raised that a double and concurrent remedy would thereby be granted for such pictures as are libellous. But as matter of fact, a large majority of caricatures and cartoons that are now printed are unquestionably libellous, and it is not probable that men in public life would be more apt to prosecute an action for a small penalty than they are to sue for heavy damages for defamation. And a new law as proposed would give persons wantonly dragged into publicity a means of redress, the exercise of which would tend to make the newspapers more careful and discriminating. The key to the situation is that it is the custom now to deliberately violate legal rights, the newspapers taking all risk. If a tangible means of redress existed in favor of everybody, such risk would be more cautiously run.—*New York Law Journal*.