

PREVENTION OF THE PUBLICATION OF PORTRAITS OF PERSONS.

We believe that the measure introduced in the legislature by Senator Ellsworth, to prevent the publication of portraits or attempted portraits of individuals without their consent, aims at a very desirable reform, and that it is possible, though perhaps not very easy, to frame a workable law. The debate in the senate last week disclosed that the principal practical difficulty concerns the question of caricatures, not intended for portraits pure and simple, but to point a moral or graphically present an argument. As remarked in an editorial in the *Evening Post* of March 5th, such cartoons are "allowable by prescription." They have been used with striking effect as expedients of political agitation both in this country and England for many years. The services of Thomas Nast in the movement against the Tweed ring are still vividly remembered. And in later times, personal cartoons have undoubtedly materially influenced the results even of presidential elections. Sensible as we are of the great susceptibility to abuse of such method of appeal to the public, we do not believe that popular sentiment demands or could be brought to favor its absolute suppression. It must be remembered that a person so caricatured has a clear and substantial remedy by an ordinary suit for libel if he chooses to exercise it.

The case is different where a portrait, or an alleged or attempted portrait, of a person is inserted in a periodical or other print, not with any didactic or satirical purpose, but merely to present his physiognomy to the public. If the workmanship be inferior or slovenly, and the result be actually to hold the subject up to ridicule or contempt, it may be that a cause of action would lie and a substantial recovery could be had for libel. But broader than this consideration is the one that, whether the portrait be good or bad, the right of privacy is morally entitled to protection, and it is desirable to guard such right, by legislation permitting suit to be brought and recovery readily to be had for unauthorized publications, even of true likenesses. This, of course, would not prevent the insertion in papers of portraits of individuals in proper cases. Experience of human nature shows that there is little difficulty in inducing the average man to consent that the light of his countenance be permitted to beam upon his appreciative and admiring countrymen, whenever an