

HOUSE No. 4063

By Mr. Flynn of Bridgewater, petition of David L. Flynn that provision be made for injunctive relief for the unauthorized use of the name, portrait or picture of a person. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy.

AN ACT PROVIDING FOR INJUNCTIVE RELIEF FOR THE UNAUTHORIZED USE OF THE NAME, PORTRAIT OR PICTURE OF A PERSON.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 214 of the General Laws is hereby amended by
2 inserting after section 3 the following section:—
3 *Section 3A.* Any person whose name, portrait or picture is
4 used within the commonwealth for advertising purposes or
5 for the purposes of trade without written consent may bring a
6 bill of equity in the superior court against the person, firm or
7 corporation so using his name, portrait or picture, to prevent
8 and restrain the use thereof; and may also sue and recover
9 damages for any injuries sustained by reason of such use and
10 if the defendant shall have knowingly used such person's
11 name, portrait or picture in such manner as is forbidden or
12 unlawful, the court, in its discretion, may award exemplary
13 damages. Nothing contained in this section shall be so con-
14 strued as to prevent any person, firm or corporation, prac-
15 ticing the profession of photography, from exhibiting in or
16 about his or its establishment specimens of the work of such
17 establishment, unless the same is continued by such person,
18 firm or corporation after written notice objecting thereto has
19 been given by the person portrayed; and nothing contained
20 in this section shall be so construed as to prevent any person,

21 firm or corporation from using the name, portrait or picture
22 of any manufacturer or dealer in connection with the goods,
23 wares and merchandise manufactured, produced or dealt in
24 by him which he has sold or disposed of with such name,
25 portrait or picture used in connected therewith; or from using
26 the name, portrait or picture of any author, composer or
27 artist in connection with his literary, musical or artistic
28 productions which he has sold or disposed of with such name,
29 portrait or picture used in connection therewith.