

HOUSE No. 2248

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 Sixty-Nine.

AN ACT THAT PROVISION BE MADE 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
14 construed as to prevent any person, firm or corporation,
15 practicing the profession of photography, from exhibiting in
16 or about his or its establishment specimens of the work of
17 such establishment, unless the same is continued by such
18 person, firm or corporation after written notice objecting
19 thereto has been given by the person portrayed; and nothing

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