

ought to prevail among mankind assembled in communities, but is a creature of the municipal law of each country, to be enjoyed for such time and under such regulations as the law of each State may direct, and has no existence by the common law of England. It would follow from this that copyright in this country depends altogether on the statutes which have been passed on this subject." Again, in a recent case in Ireland, which arose out of a photograph having been made from recollection of an oil picture, "*The Death of Chatterton*," the Master of the Rolls in Ireland said, "I apprehend it is clear that by the common-law copyright or protection exists in favour of works of literature, art, or science, to this limited extent only, that while they remain unpublished no person can print them, but that after publication they are by common law unprotected." It is therefore quite certain that the common law affords the author of a photograph no protection in the shape of copyright after it has been published. The question then arises whether any statute affords him such a protection? Unfortunately, in the present defective state of our laws of artistic copyright, there is no authority for saying that any such protection exists: on the contrary, "The Copyright (Works of Art) Bill," which has passed the House of Commons, and is now in the Lords, expressly recites as a fact, "that by law, as now established, the authors of paintings, drawings, and photographs have no copyright in such their works." We trust that such an injustice will now be speedily remedied by the Bill being passed in such an amended form as is requisite for the protection of all parties whose interests it affects.—*Athenæum*.

MASON v. HEATH.

This case came before the Court of Common Pleas again on the 8th inst.

The plaintiff's counsel had obtained a rule nisi, according to the leave reserved at the trial of the case, when the verdict was given for the defendant, and the jury appended to their verdict a recommendation that Mr. Mason should receive one negative on payment of five guineas.

Mr. Hawkins, Q.C., and Mr. Gray showed cause against the rule, on behalf of Mr. Heath; Mr. Montagu Smith, Q.C., and Mr. Maude supported the rule.

Mr. Hawkins informed the Court that Mr. Heath had, immediately after the trial, complied with the recommendation of the jury, and had delivered the negative to Mr. Mason, on payment of five guineas. He then called the attention of the Court to the fact, that Mr. Mason's claim had always been for two negatives, for which he had tendered five guineas, considering that in excess of the sum which Mr. Heath was entitled to receive, which he estimated at a guinea for each negative. He said that it had never been a question of price on the part of Mr. Heath at all, as he would, at any time, have been but too glad to have got rid of the plaintiff, by giving him the negative, if he had been content with the one which the Prince had permitted him to have, but that Mr. Heath had been compelled to defend the action at great expense, owing to Mr. Mason insisting upon his claim to the second negative, the only second negative in existence being that taken expressly for another purpose by the Prince Consort's order. He also called attention to the fact of Mr. Heath's having, at all times, been anxious to refer the matters in dispute, and to Mr. Mason's persistent refusal to refer them, even after Mr. Justice Willes's strong expression of opinion that it was a case which ought to be referred.

Mr. Hawkins was proceeding to comment upon the evidence, when he was stopped by the Court, who called upon Mr. Montagu Smith to state in what manner he considered the Court could give effect to the rule.

Mr. Montagu Smith, in an elaborate argument, contended that the property in the negative passed to Mr. Mason, so soon as the Prince had given directions that that particular negative should be the one delivered to Mr. Mason, and he further contended that Mr. Heath, not having stated the price at which he would deliver the negative, had dispensed with the necessity of the plaintiff tendering any other sum before commencing his action.

Mr. Maude followed on the same side. Lord Chief Justice Erle said, that, notwithstanding the ingenuity shown by Mr. Montagu Smith and Mr. Maude in their arguments, he could not hold that any property whatever passed in the negative, so as to found an action for trover, and that Mr. Mason's remedy must rest upon breach of contract only. The

jury had found distinctly that no such contract as that set out in the declaration had been made at all, and although words had been put into their mouth at his own suggestion, raising the question as to a contract for a single negative, yet that the Court could not amend the record, even if they had desired to do so, so as to enable Mr. Mason to claim a verdict in respect of any such contract. The tender, as proved at the trial, and relied upon, was a tender for two only, and before any effect could be given to the recommendation of the jury, even treated as a finding that the same sum should be paid for one negative, it would be necessary that the jury should find a tender of that sum for one negative, or a distinct dispensation with the tender on the part of the defendant. No such questions, however, had been put to the jury at all, or suggested by the plaintiff's counsel at any part of the case. The rule must therefore be discharged, and verdict for the defendant stand.

THE CARTE DE VISITE.*

There is, in truth, much that will always be adverse to the production of an agreeable photographic likeness; but at the same time, it is quite as true that a very great deal might be done by a little more knowledge, thought, and painstaking, to render such portraits infinitely more pleasant than they are generally found to be.

People who are considered good-looking, and those even who are beautiful, have a hundred different aspects, and to seize the best one and reproduce it is a function of Genius and not of Chemicals. If you have had a friend whom you have wished to show off to another friend, have you not often been disappointed that the first was "in such bad looks" as really not to look even pretty? The person who was expected to be struck with admiration has wondered at your taste, and you have been obliged to own that there was matter for disappointment. Even in nature, out-of-door nature, this is so. The view which you saw from the hills above the old French town, with the evening sun lighting up the rich plain, making the mountains in the distance amethysts, and the river a line of gold, while the one cloud shadow lay over the old cathedral tower and blackened it, so that all the rest sparkled the more—what is that very same scene when the sky is grey, and the mountains grey too, and plain and river and cathedral are all of one monotonous slate-colour!

But though it may take a Reynolds to do justice to the beauty of the living creature, and a Turner to reproduce that of the mountain and the plain, there is much to be got out of the photographic lens—which it would be wickedness to disparage—infinitely more than it is ordinarily made to convey to us. There are one or two simple matters which might be borne in mind by photographers with immense advantage to their sitters and to their own reputations as well. They do not yet quite understand their trade.

The two great main considerations which should occupy the mind of every photographer are these: What is the best view he can take of his sitter, and what the effect of light and shade which will be most becoming to that sitter's countenance. On these two considerations the success of the portrait entirely depends.

Now as to the question of view there is some tolerable amount of understanding manifested by the great body of photographers. The sitter is generally so placed that the most favourable aspect of his face may come before the lens, and so that the rapid perspective to which he is subjected shall distort him as little as may be. It is pretty well known that if his legs are nearer the machine than his body the first will be disproportionately large for the last; that if his hand is stretched out towards the artist, it will be twice the size it ought to be, and that even the fact of his nose being nearer the camera than the rest of the face will give to that central feature a large and swollen aspect.

Such general rules as these applying equally to all sitters, are then pretty well understood. But this is not enough. The photographic artist who would wish to produce a really successful portrait, should study the special defects and special beauties of the individual before him, and consider in what the faults of such a physiognomy will assert themselves least strongly, and the merits show the most. This is the function of an artist, of a man of considerable natural abilities, and immense experience. It is exercised by some of the best French photo-

* Concluded from p. 226.