

GERMAN VIEW OF "PRIVACY."

Reichstag Soon to Consider a Bill Prohibiting Printing of Photographs of Persons Without Their Consent.

Foreign Correspondence THE NEW YORK TIMES.

BERLIN, Oct. 17.—In a recent editorial THE NEW YORK TIMES discussed the question of the "right of privacy." It is interesting to note that the subject now also receives much attention in the German press. This is due to the fact that the Reichstag will soon have to consider a bill which relates to the reproduction of photographs of private persons. According to this measure photographs can be reproduced only with the consent of the person whose picture is taken. Such restriction, however, is not to be applied to photographs which show persons in landscapes, processions, and similar affairs.

Only for official purposes, as for example, for the identification of criminals, shall the reproduction of the photographs be allowed, without the consent of the person photographed.

The demand for the adoption of such a radical bill as outlined above was brought about by the strange action of two Hamburg photographers, who, when Bismarck died, surreptitiously entered the death chamber of the deceased and took a flashlight photograph of the body. It is needless to say that the Bismarck family took energetic steps against the culprits. Suit was brought not only for trespass, but in a civil action an order was asked for the destruction of the objectionable plates. Five different decisions were rendered on the subject. All of the courts upheld the rights of the heirs.

The Reichsgericht, the Supreme Court of Germany, while not considering the "right of privacy" as the most important part of the Bismarck matter, rendered a decision in favor of the heirs on the ground that the objectionable photograph had been obtained by trespass. This decision has been severely condemned by some of the foremost German jurists. Prof. Kohler of the Berlin University, an eminent legal authority, says the decision is absurd. On the same ground, for example, the owner of a villa in Switzerland, from where one can see the Moenchhof or the Matterhorn, could obtain a judgment for trespass against any person who from his house without his permission had obtained a view of the mountains. Furthermore, he is opposed to the

so-called "right of privacy," on the ground that a person's physiognomy is the gift of God, and does not belong to one's self. Any one in the public eye should recognize the fact that the world feels the necessity to see the faces of public personages.

Of course, the professor says this is meant with the reservation that the photograph is not of an insulting or libelous nature. But while taking this very liberal position on the question of the "right of privacy," the professor severely condemns a recent decision on the subject rendered by the New York Court of Appeals. It will be remembered that the American court rendered a decision in a case where a milling concern had reproduced the picture of a young lady, without her permission. Prof. Kohler says that the decision of the court, which maintained that the reproduction of the young woman's picture was legal, as long as the same had not been of a libelous nature, is greatly to be regretted. On the contrary, he maintains the lady was entirely justified in bringing suit against the milling concern, for the use of her picture was in no way connected with a public event, with a poem, other literary or musical work, but merely with a most prosaic foodstuff advertisement. E. T. H.