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PEACEFUL HOUR

4,000 shares and various smaller blocks, and in January, after Mr. Morgan had bought the Ryan Equitable Life stock, the Guaranty Trust Company absorbed the Morton and Fifth Avenue Trust companies. The Equitable Life owned on December 31 last $5,023,100 of the $25,000,000 capital stock of the National Bank of Commerce, or above 20 per cent; $1,453,100, or almost 50 per cent, of the stock of the Equitable Trust Company, and $1,294,100 of the $2,000,000 capital stock of the Mercantile Trust Company.

The control of these three institutions, therefore, may be said to lie with Mr. Morgan, since by the action of the two surviving trustees of the Equitable Life Assurance Society the full control of that institution has been turned over to him, with power to make or not to make a new voting trust agreement, and the institution will be conducted in harmony with the Guaranty Trust Company, the Bankers' Trust Company and the other banks of the Morgan group. Under the insurance law, it should be noted, the Equitable Life will be obliged to divest itself of the ownership of these stocks by the end of 1911.

The Ryan deed of trust provided that the directors should be divided into four classes, thirteen directors to be elected each year, of whom seven should be elected by the policyholders and six by the trustees, in line with the plan of mutualization adopted by the directors in 1905, official ratification of which was blocked by litigation. As is pointed out in the letter of the trustees to Mr. Morgan, the policyholders have from the beginning delegated to the trustees their privilege of selecting representatives on the board.

Ryan Offered Stock to Society.

Mr. Ryan two or three years ago announced his intention of retiring from active business, retaining his connection with only three institutions or corporations, and it was in pursuance of that purpose that he turned over the Equitable control to Mr. Morgan. It has been understood, receiving for the 502 shares out of the total 1,000 the sum paid by him to James Hazen Hyde for the block, $2,500,000, plus interest at 4 per cent from the date of the purchase in 1905. The stock was offered by him on the same terms to the Equitable itself two or three years ago, it has been credibly reported, but the offer could not be accepted.

It came out in the insurance investigation that the late E. H. Harriman demanded a half interest in the 502 shares of Hyde stock, which Mr. Ryan refused to sell to him, but in the spring of 1909 an agreement was entered into between the two financiers under which Mr. Ryan was to turn over to Mr. Harriman at the expiration of the trust agreement the desired one-half of the 502 shares of majority stock. Mr. Harriman's death prevented the consummation of the contract of sale, the transaction with Mr. Morgan following.

The purchase of the Equitable control by Mr. Ryan, which followed the rejection by Mr. Hyde of much higher offers from other financiers and syndicates, marked the close of an internal conflict of intense bitterness, engendering enmities the traces of which have not yet, after the lapse of five years, been obliterated, and threatening the stability of the society.

Presidency of Paul Morton.

The trouble started on February 15, 1905, with the submission to the directors of petitions signed by President James W. Alexander and nearly forty other officers asking that James Hazen Hyde be not re-elected vice-president and that a voice in the election of directors be given to the policyholders.

With the transfer of the stock control to Mr. Ryan, Paul Morton, formerly a vice-president of the Atchison and Secretary of the Navy, who had a short time previously come to New York to assist Mr. Ryan in the management of his various corporate interests, was elected chairman of the board, with plenary powers, and the resignations of all the old officers were handed in. Mr. Morton soon afterward succeeded Mr. Alexander as president, an office which he still fills. The Equitable Life has thriven under his direction, and at the end of last year reported assets of the colossal total of $486,109,628.

SUE TO RECOVER FISH STANDS.

Henry Sorgén and several other owners of fish stands under the Williamsburg Bridge applied yesterday to Justice Giegerich for an injunction restraining Controller Prendergast, Peter Aitken, superintendent of markets, and other officials from interfering with their occupancy of the stands.

Moving This Spring?

See what the "Want Ads." offer to-day. If you don't see what you want, advertise for it. The cost is a trifle.

THE TRIBUNE,
154 Nassau St.
Uptown, 1364 Broadway.

PASSENGER PLANES NEXT

"That's Only a Beginning," Says Hamilton, of Great Flight.

APPARATUS BEING IMPROVED

Bird-Man Promises Spectacular Exhibitions in the City and Up the Hudson.

"That's only a beginning," is the opinion expressed by Charles Keeney Hamilton yesterday, when he was congratulated on his wonderful feat of Monday.

The little red haired man-bird who was the first in the world to make an intercity cross-country flight on schedule, is full of optimism as to the future, and the immediate future, too, of aeroplanes.

Planes carrying two and possibly three passengers from New York to St. Louis and similar distance across country are a possibility of a year's development, he thinks, and he points in support of the rosy idea to the development of the last year.

The planes themselves, the engine and the propeller, said Hamilton, were being perfected more and more every day, and it was easy to see that the nervy aviator believed that with perfected apparatus people generally would lose all sense of fear in trusting themselves to the air.

Four Demonstrations Ahead.

Hamilton himself has four demonstrations ahead of him now. He has sent to Hammondsport, N. Y., for a new propeller, which he expects will arrive either to-day or to-morrow. Then he plans a flight up the Hudson River, at least as far as Grant's Tomb, and possibly the full ength of Manhattan Island, and back down to Governor's Island. His intention is to have this flight advertised for a definite day, hour and minute, so that New Yorkers may be recompensed for some of the disappointments of last fall. He has a contract to fly at Nashville on June 20, however, in connection with the military manœuvres there, and if his propeller does not arrive within two days, he said yesterday that he would postpone his New York flight until after the Nashville engagement.

At his hotel yesterday, taking things easy after his strenuous efforts of Monday, Hamilton acted as if he thought he had disappointed New Yorkers generally because he didn't add an up-the-river flight to his long trip from Philadelphia. He appeared to think that he owed New Yorkers something because of delays in a Jersey swamp, and though he didn't have very much to say about it, it was pretty evident that he meant to pay that fancied debt with something of an exhibition.

He spoke lightly yesterday of the possibility of a flight up Broadway itself at a height of, say, thirty feet, and more seriously of a flight across Manhattan Island, which would carry his machine directly over the roofs of our tallest skyscrapers and towers.

Over the Tall Buildings.

Those winds that boom out of the canyons between masses of stonework on the south end of Manhattan, of which other aviators have spoken in hushed tones, fail to frighten Hamilton, and he is as ready to sail over the thickest built part of New York as he is to sweep over the Hempstead plains.

Apart from his New York and Nashville flights Hamilton still has his eye on Louis Paulhan's long distance continuous flight record of 117 miles, and he is making arrangements now for a flight in California, during which he confidently expects to hang up new figures on that matter.

That attempt, Hamilton said yesterday, would probably be made some time within the next three or four weeks, but as to what city will be selected for the start and finish of the trip he was not ready to be quoted.

The machine which made the New York-Philadelphia schedule trip on Monday rested quietly yesterday in the shed at Governor's Island, and will probably be housed there until it is packed for shipment to Nashville toward the end of the week. If the new propeller arrives in time Hamilton will certainly make a flight up the river, and very likely the more spectacular flight over the centre of Manhattan Island.

The red bird rested yesterday—that is, he put in a quiet day at the Hotel Astor—modestly receiving congratulations on his long flight, but he asserted that with the exception of a rather sore face, brought on by the exposure to sun and wind on Monday, he had no need of anything in the way of rest.

FOR MAILS BY AEROPLANE

Sheppard's Bill Would Authorize Making Experiments.

[From The Tribune Bureau.]

Washington, June 14.—That Representative Morris Sheppard, of Texas, takes the possibilities of the aeroplane seriously was demonstrated this afternoon when he introduced a bill which provides that the Postoffice Department shall immediately begin experiments with the machines as a method of mail transmission. Mr. Sheppard's idea is that the Postoffice Department can use Washington as a base and conduct the experiments with the outlying towns. His bill makes no appropriation for the purpose, but authorizes the department to spend as much money as is necessary to make a thorough investigation of the possibilities.

Mr. Sheppard believes that the transmission of mails by aeroplanes will prove a much more efficient, speedy and economical method than any thus far employed. "It may appear that the bill is premature," he said, "but I am convinced that within the next three months such progress will be made in aerial navigation that the plan I propose will not only be practicable, but desirable. Experiments of this character are being conducted in several foreign countries, and I see no reason why they should not be tried here, even though they should prove unsuccessful."

FAILS IN ALTITUDE FLIGHT

Brookins Would Break Own Record—Wins Race with "Wind Wagon."

Indianapolis, June 14.—Against a stiff wind Walter Brookins, of Dayton, Ohio, driving a Wright biplane, attempted late to-day at the Indianapolis speedway to better his own world's aeroplane record for altitude, which he set yesterday at 4,384½ feet. Making a few wide circles, he reached the height of 1,700 feet in seven minutes. Continuing his upward dash, he soared to 2,083 feet in 12 minutes 45 seconds. At this height Brookins met a strong cross current, and with a short turn, he began a swift descent to within 200 feet of the earth. He alighted after manœuvring over the automobile course. Weather conditions curtailed the day's programme.

In one of two exhibition flights this afternoon Brookins raced with a "wind wagon," a novel automobile driven by a rear screw propeller operating against the air. The race was two and a half miles, once around the motor track, and the aeroplane won by 25 yards. The time was 4:58.

GUNBOAT FOR CABRERA'S SON.

Diego Cabrera, son of the President of Guatemala, who tried to commit suicide in France a week ago, arrived yesterday from Cherbourg on the Kronprinzessin Cecilie, accompanied by two physicians. He had been abroad for a year or more, seeking to recover from tuberculosis, but had grown steadily worse. The wound he inflicted was superficial. At the Grand Central station he was put aboard a private car, which will take him to New Orleans, where a Guatemalan gunboat will be waiting to take him home.

DIRIGIBLE COMES TO TOWN

Continued from first page.

dirigible before he made any effort at heading for New York, as though he wished to escape from the dust and clamor of man-inhabited earth to gain the clearer, untrammelled byways and lanes of the air world. Having reached an altitude at which he calculated on catching a favoring current of wind to waft him toward his destination, Owens straightened out in his course and fairly raced eastward toward the Hudson.

1,500 Feet Above Newark.

By the time he was over Newark Owens had attained a height of more than fifteen hundred feet, and the world lay at his feet, the Hudson flashing in the sun like a dew laden spider's web and the mass of steamboats and other craft having been reduced to flylike proportions. As he neared the Manhattan shore Owens deftly lifted a bag of sand ballast and dumped it out over the side of the dirigible, to fall in a silver spray into the waters below him.

Lightened by even such a small thing as grains of sand, the yellow gas bag with its human pilot took a lurch toward the earth, as though it were a horse that had stumbled, then found its feet again and rose even higher in the air.

About half an hour after he had left the crowds in Hillside Park Owens reached the lower end of Manhattan Island, by this time at a height of about three hundred feet, and started in to perform a few aerial evolutions over the City Hall. The first inkling of his visit that people in the tall office buildings received was when they happened to glance in the direction of the Hudson shortly before 11 o'clock. Suspended there in the air, dancing and twisting about like a bubble, its sides flashing in the sunlight, the big gas bag slowly drifted closer and closer to the earth, as though it were a bit of gossamer that had been dropped by some of the inhabitants of another planet.

When it had reached a point about five hundred feet from the New York side of the Hudson those same people in the lofty office buildings who had strained their eyes and made idle conjectures as to just who and what the iridescent bit of air flotsam might be now became filled with understanding, and started in to welcome the dirigible and its pilot with shouts, screams and gurgles of long restrained excitement.

The great yellow bubble grew larger, more tangible and nearer, and soon the magic word had gone through great office buildings, by the medium of stenographers, elevator attendants and office boys, that an airship had come to town. From the roof tops of all the skyscrapers came exclamations of wonder and interest. People strained their necks and their eyes and their imaginations, as they gazed at the visitor from the clouds.

Grows Into Plainer Sight.

Now they could make out the outlines of the framework below the gas bag; they could see the figure of Owens, as he shifted his weight, like a tight rope walker, to meet every twist and lurch of the dirigible. Another minute, and the whirr and hum of the motor was borne to them on the light wind. Then it was that the air was shattered by the volume of perhaps a hundred thousand cries of welcome, of wonderment, of admiration.

As though in recognition of this outburst from the throats of the Manhattaners, the yellow gas bag dropped a pretty courtesy in the air and descended to take an even closer look at its earthly neighbors. All the harbor craft in the river and in the Upper Bay had also sighted the messenger from the clouds, and the booming and shrieking of their sirens added to the din that must have been borne up to Owens, as he balanced himself on the delicate frame of the dirigible.

Disdaining the welcome that was thus tendered him, Owens threw out another bag of glistening sand and the gas bubble hurtled upward in the air, leaping over the tallest of the buildings as a cat would over a chair. Despite his rise to higher altitudes, the people on the streets and in the lofty buildings could still make out the outlines of the gas bag and the slender figure of Owens, as he directed his course.

As if in evidence that the stranger was created by man, and not some mirage of the air that would evaporate while yet the people gazed at its graceful flight, the faint whirring from the flashing propeller and the steady sputtering from the motor of the balloon reached the earth's surface and made the visitor kin with those below.

Points to City Hall.

Pushing its leisurely course through the air, the dirigible flew over the piers that line West street, skirted the crest of the Gerken Building and pointed its prow toward the City Hall Park. Loungers in the park, men hurrying to business and the busy thousands disgorged from the Brooklyn Bridge then took up the welcome to Owens and his ship. They stopped short in their tracks, waved hats and handkerchiefs in the air and unbosomed themselves in tribute to the aerial traveller.

Predictions as to Owens's programme were rife in the streets and the buildings. Men and women, girls and boys all made different guesses as to just what and where the aeronaut would do and land—and they were all wrong.

It has been noften said by men skilled in the navigation of the air that lower Manhattan Island is about as bad a place to navigate above, owing to the wind currents generated by the narrow chasms between the tall buildings, as any treacherous ocean channels, and Owens found it all of that.

Despite every effort on his part, the dirigible turned and twisted in tortuous manner, as a dancer in the mazes of a difficult figure, and as it plunged into hidden whirlpools of air vacuums and reared its prow to the heavens in response to the buffeting of aerial breakers, those on the ground gasped and clenched their hands.

It seemed inevitable that the youthful aeronaut should be dashed against the granite walls of the buildings that lay in his path like jagged rocks. Only his remarkable agility and steadfast nerve prevented such a disastrous ending to the voyage in the air.

The aeronaut finally succeeded in balancing his craft and maintaining a fairly even keel, and the thousands gazing heavenward breathed easier as they saw that it was so. Most of those who watched him as he made his jerky, dipping flight across the city, had been prepared somewhat, by previous flights of air pilots, to wonders of daring accomplished in the air, but nothing like the evolutions performed by this new claimant for aerial laurels had ever been witnessed until now, and they awaited with mingled feelings to see if he would escape unscathed.

Over a Skyscraper Now.

Having regained control of his airship, Owens made his precarious way over the top of the Postal Telegraph Building, and hovered for a second over the Postoffice. Then, finding that he was getting too close to earth, Owens dropped another bag of yellow sand, sending his air craft soaring aloft once more. He then turned the prow of his balloon toward the North River, as if headed back for the starting place, and those in the streets heaved sighs of disappointment, for they took it for granted that the aeronaut was going to leave them.

They were thrilled anew a moment later, however, when Owens described a sweeping, graceful semi-circle, gradually coming closer to the roofs of the buildings, and headed uptown. As if to prove to those who watched his erratic flight that he was absolute master of the situation, Owens headed his dirigible directly over the roof of a building at Broadway and Chambers street.

After taking this last hurdle Owens found himself over the northwestern end of City Hall Park, now so close to the ground that the black smoke from his exhaust blew in eddies about the tower of the City Hall, while the yellow gas bag almost scraped against the flagstaff on its crest. As the airship careened this way and that, like a drunken man, the crowd watching below swayed in silent sympathy.

Owens glanced downward as he hovered over the park, and seemed to be looking for a good spot in which to alight. After making a preliminary turn about the City Hall he flashed over the roof of the county courthouse, where justices, court attendants and others were gathered. As if he were the skipper of an ocean liner, Owens then tossed overboard a length of rope, as if seeking an anchorage.

In an instant some of the more excitable youths on the roof of the courthouse, in Chambers street, had grasped the rope and given it a mighty tug. That caused the airship to descend suddenly, and before Owens could yell in protest the balloon had bumped the roof and rebounded into the air. Luckily for Owens the rope gave way under the strain, but not before the frail network of the frame had buckled in the middle.

In Desperate Straits Now.

Owens now realized that he was in desperate straits, and he ran along the narrow supporting beam at the side of his craft and hastily dumped out another bag of sand. The effect on the airship was magical and it shot upward again into the blue above it.

Although he had escaped the momentary dangers of the network of buildings about Park Row, Owens soon realized that he was still in a bad plight. The collision with the courthouse had put his motor almost out of the running, and his airship was drifting in the air currents like a rudderless vessel on the ocean. Owens knew that his only salvation lay in finding a clear space in which to land before a contrary wind took him out to sea.

He managed to face the airship toward the Long Island shore, for he calculated on finding some less densely populated spot in that direction. By constantly throwing out more ballast Owens was able to clear the Brooklyn Bridge, though he came perilously near hitting one of the towers with his gas bag. He then allowed the dirigible to drift on the air currents in the direction of Brooklyn while he made frantic attempts to repair his motor.

He knew that even if he dropped in the river it was preferable to descending among tall buildings, with consequent danger of demolition by stone walls, and he thought that if he could repair the motor he might still be triumphant.

A few minutes, however, sufficed to show him that the motor was injured beyond hope of immediate repair, and as he was by this time above the low roofed houses at Gates and Nostrand avenues, in Brooklyn, he decided that his best course was to bring his flight to an end right there. With that determination he climbed into the framework and loosened the gas valve. In an instant the yellow tube began to crinkle and flatten, and the balloon lurched down, with broken spirit and dying breath.

Skimming the roofs of several houses Owens finally landed with a crash in a large maple tree in front of No. 393 Gates avenue. Hardly had the noise of his descent died away when the street was alive with people, all shouting advice and commands. Owens, perched in the branches of the tree, refused to desert his ship until a truck company answered a call. The firemen ran up ladders and made the airship fast. Then Owens descended. As he reached the ground after his tempestuous flight his manager, who had followed in an automobile, gave him a drink and a cigar. The machine was then loaded on a wagon and taken back to New Jersey, accompanied by Owens.

The young aeronaut was cool still when surrounded by wondering men and boys, and said he would fly Manhattanward again when his airship was repaired. If he does, and his flight is similar to yesterday's, there will be an even larger turning out of the citizens to watch him.

HARVARD BIPLANE WRECKED

Secret Flight at Night Disastrous to Crimson Airship.

[By Telegraph to The Tribune.]

Boston, June 14.—Harvard's new biplane, the Harvard I, which had its first trials this morning, was wrecked to-night when J. V. Martin, who has had charge of it, sought to make a secret flight on Soldiers' Field. Martin got the machine out of its quarters at the Stadium about 8 o'clock and with the help of a number of students made ready for the trial. He took his place and a few moments later the machine was racing across the field.

Fifty yards away was a dump, and as the machine gained speed it got beyond Martin's control, and headed straight for this. Before the aviator could turn off the power and bring it to a stop the machine struck the dump, careened to one side and ripped the front wheels completely off the frame.

Considerable other damage was also done to the biplane, so that it will be a week or more before it can again be used. The trials this morning were only on the ground, and it had been planned to attempt a flight to-morow.

PLANS INTERCITY FLIGHT TO-DAY.

Topeka, Kan., June 14.—J. C. Mars announced this afternoon that he would attempt a flight from Topeka to Kansas City to-morrow orning n his biplane. He will stop at Lawrence and Olathe. He expects to travel the sixty-seven miles in three hours, including stops, for a prize of $5,000.

SUES STRIKE SYMPATHIZERS

Shirtwaist Concern After Mrs. Belmont and Other Workers.

Mrs. Oliver H. P. Belmont and Miss Inez Milholland, other officers of the Women's Trade Union League, the International Garment Workers' Union and others who took part in the shirtwaist makers' strike last November, were named as defendants in a suit under the Sherman anti-trust act yesterday.

The papers were filed in the United States Circuit Court by counsel for A. Sitomer & Co., shirtwaist manufacturers, of No. 37 Walker street, who said that they lost $50,000 in the labor battle. Under the triple damage clause of the act, they are suing for $150,000.

The manufacturers have invoked Section 7 of the act, which is the conspiracy clause used in the hatmakers' suit in Danbury, and applies to all kinds of combinations and conspiracies in restraint of interstate trade and commerce. The defendants are charged with violations of this clause by compelling the concern and the firms to which they gave materials to be made into shirtwaists to comply with the "unfair, unreasonable and arbitrary demands of the Women's Trade Union League" to employ only union labor.

A. Sitomer & Co. is a New Jersey corporation. In the complaint it is alleged that since the strike the company has been injured in its business to the amount of $50,000. Although the company complied with the union demands, it could do no business, it is alleged, because the firms which were its principal customers were under boycott and their employes on strike until an injunction was obtained from Justice Amend.

TO INSPECT MILK PLANTS

One Hundred Women to Leave City To-night on Special Train.

More than one hundred representatives of various women's clubs of this city will leave the Erie station to-night at 10:30 o'clock on their way to Binghamton, whence they will journey in automobiles to visit a number of the bottling and condensing plants of the Borden Condensed Milk Company. The trip will be made in a special train of nine Pullman sleeping cars, and the Borden company, whose guests the women will be, has arranged that each member of the party shall have a lower berth.

The party will reach Binghamton on Thursday morning. After breakfast the visitors will start in twenty-five automobiles provided for their use and go direct to the Borden bottling plant, at Brisben. Here the treatment of the milk will be shown, from the dairyman's huge can, as it is delivered, to the bottles in their heavily iced cans, ready to be shipped to the city.

From Brisben the party proceeds to Norwich, in the Chenango Valley, where the women will be the guests of the Norwich Woman's Club at luncheon. After luncheon the visitors will travel back to Oxford, through which they passed on their way to Norwich.

The first bottling plant the Borden company established will be seen at Oxford. Back to Norwich again, the members of the party will have an opportunity to witness the exact process by which milk is condensed. The return to Binghamton will be made in the late afternoon, and that evening the party will be taken in charge by a committee composed of thirty women of Binghamton, who will entertain at the Monday Afternoon Club, where dinner will be served.

After the dinner the party will again board the special train, which will be found at every plant visited, ready for occupancy in case of accident to the automobiles, and proceed to Middletown, where the process of manufacturing caramels and chocolates will be inspected. This accomplished, the special train and its occupants will return to New York, arriving in time for dinner.

BALDWIN'S BEST FLIGHTS

Covers Nearly Nine Miles Before Crowd at Hempstead.

[By Telegraph to The Tribune.]

Hempstead, Long Island, June 14.—Many spectators from all about Long Island and from Brooklyn and Manhattan came out to the Hempstead Plains this evening in automobiles to see Captain Thomas S. Baldwin perform some remarkable flights with his biplane and also win a pilot's license, having made nearly nine miles without once coming to the ground. He maintained an average height of about seventy-five feet.

Baldwin's machine had been repaired and was apparently none the worse for its smash-up of last night. Joseph Seymour made three circuits of the course, rising higher than on any of his former trials.

The biplane that was built by Philip W. Wilcox, a Columbia student, will be given a trial to-morrow. The machine resembles the Farman biplane with the exception that the Wilcox machine has two rudders and has an eight-cylinder 60-horsepower engine. Wilcox will at times drive the machine, as will also Lewis Strang, a former automobile driver, and Major Oscar Erlandsen, of the 1st Signal Corps, N. G. N. Y.

JURY DISMISSED, RECONVENED

Come Back and Put Different Aspect on Divorce Suit.

After reporting last Saturday that they could not agree on a verdict and being discharged the jury in the divorce suit brought by William O. Horn against Kathleen Horn was reconvened yesterday by Justice Newburger under unusual circumstances.

Counsel for Horn made inquiries among the jurymen, who still are members of the June panel, and what he learned placed a different aspect on the case. Instead of having disagreed as to the charges of the husband, the jury found them established, but could not agree on the sanity of Mrs. Horn, whose defence was that she was mentally irresponsible.

When the twelve men were again in the jury box yesterday Justice Newburger asked the foreman how they came to report a disagreement. The foreman replied that the jury understood that they were expected to agree on both questions at issue. James W. Osborne, counsel for Mrs. Horn, objected to the proceeding. The question of the validity of Mrs. Horn's defence will now have to be decided before the husband can have his divorce decree.

DR. M'KIM'S MOTION REFUSED

Must Answer Wife's Complaint at Reno Within Three Days.

Reno, Nev., June 14.—The motion of Dr. Smith Hollins McKim, of New York, for permission to file a plea in abatement attacking the jurisdiction of the Nevada courts in the suit of his wife for divorce was denied to-day in the District Court. Dr. McKim has three days in which to file an answer to his wife's complaint.

The court held that as the question of Mrs. McKim's residence, on which it was proposed to contest the jurisdiction of the court, was one of the necessary allegations of the complaint, to allow the defendant to contest this allegation through a plea of abatement would open the way for all the issues of the case to be contested in a similar manner.

AUTO TRUCK KILLS BOY

Little Fellow Fails to Get Out of the Way and Skull Is Crushed.

Irving Ringler, eight years old, of No. 858 East 169th street, was run over and killed by an auto truck at Prospect avenue and 169th street yesterday afternoon. The boy had been playing in a grass plot in the centre of Prospect avenue and as he started for home the truck shifted suddenly from the right to the left side of 169th street and struck him. A front wheel passed over the boy's head, crushing his skull.

COURT FREES THE AIR

Wright Injunctions Against Curtiss and Paulhan Dissolved.

BIG MEET WILL BENEFIT

No Bars Against Foreign Aviators Who May Take Part in International Contests.

"Anybody can build a flying machine now, and"—but Charles K. Hamilton, who had blown from New York to Philadelphia and back the day before, stopped right there. He was beginning to comment last night at the Hotel Astor on the decision of the United States Circuit Court of Appeals in the afternoon reversing the lower court which had granted a temporary injunction to the Wright Company against the Herring-Curtiss Company and Louis Paulhan. In an upper room Glenn H. Curtiss, who had flown from Albany to New York, gave out a statement, and Mr. Hamilton did not want to say anything to conflict with it.

The court's decision, which embraced as well the temporary injunction obtained against Louis Paulhan, the French aviator, sent a thrill of joy through the whole Curtiss camp. It meant the cancellation of the $10,000 bond given by Mr. Curtiss when the fight was begun, and freed the aviation field, it was said, for at least a year, from restrictive litigation, for the case, based on alleged infringement of the Wright patents, must still be decided on its merits.

It was said last evening that the removal of the injunction would free the Aero Club from its contracts with the Wrights providing for a license fee for all aero meets and would make the international meet in October one free from all restrictions, and hence broader in its scope.

The decision of the court is not subject to appeal. It was late in the afternoon when it was rumored about the Federal Building that the case had been decided. The clerks of the court, however, did not give it out for publication. They kept it secret, locking the papers up when they left for the day. The court said, after calling attention to the fact that the injunction in the Curtiss case was granted at Buffalo:

There is no dispute as to the proposition that the question whether or not there has been infringement of this patent, however broadly it may be construed, depends upon the question whether or not in defendant's machine a tendency to spin or swerve is checked or counteracted by the operation of the vertical rudder. That, of course—on its theoretical and its practical side—is a question of fact. The record before us contains numerous affidavits which were not presented until after original decision and which, as both sides state, were admitted upon motion for rehearing without discussion of their contents by the court, but for the purpose of bringing the case more fully before the Court of Appeals.

Sharp Conflict of Evidence.

In this record, upon the question of fact above stated, there is a sharp conflict of evidence, numerous affiants testifying. All their statements are ex parte affidavits made without any opportunity to test their probative force by cross-examination. Under such circumstances it seems to us, irrespective of any of the other questions in the case, that infringement was not so clearly established as to justify a preliminary injunction.

Mr. Curtiss was found in his room in the Hotel Astor with his counsel, Emerson R. Newell. On a bed was a map of the greater city and its environs, which was used by Hamilton in patient study before he left Governor's Island for Philadelphia. Curtiss had his statement all ready. It follows:

While the motion for an injunction has been undecided by the courts, I have refrained from discussing its various phases as much as possible, but at no time have I had any doubts as to what the final decision would be. In fact, the original decision was probably due to this confidence on my part to a large extent, as well as to the fact that the motion was brought while I was flying at Rheims, and my side of the case had to rest on my unsupported testimony regarding the operation of my machine. In the evidence admitted by Judge Hazel on the motion for a rehearing my previous affidavits were fully substantiated by others who had successfully flown my machine.

Every one who has ever operated a Curtiss machine declares that there is never any swerving occasioned by the movement of the ailerons, which was the principal contention made by the Wrights, who claimed that it became necessary for an operator of my machine to use the steering rudder in order to overcome this alleged turning tendency.

According to the claims of the Wrights the movement of the wing tips of their aeroplane for balancing causes the machine to swerve from its course. Then, according to their statements, which are true as to their machine, it becomes necessary to turn the rudder to the side offering the least resistance, so as to bring the machine back to its course or to hold it there. The steering of their machine is done in practically the same manner, according to their claims. In my machine the balancing operation is entirely divorced from the steering operation. In balancing, one aileron is raised to the same degree that the other is pulled downward, the resistance on one side of the machine remaining the same. The rudder is never brought into play for any purpose except to guide the machine, just as the rudder of a boat is used. Incidentally the rudder is turned to the side opposite to that which the Wrights have maintained it is necessary for it to be turned.

Theory vs. Facts, Says Curtiss.

It has been a case of theory and supposition pitted against facts, and the facts have been in our favor. If the Wrights had ever operated my machine they could never have made the claims that they did. My attorneys, J. E. Bull and E. R. Newell, gave close attention to the technical side of the case and presented the case in a convincing manner, eliminating all sentimental arguments. The affidavit of Dr. A. F. Zahm must have been of great value in the consideration of the technical and theoretical points. I am glad the decision has been made, as it sustains the position I have maintained, and clears away the clouds in the aeronautical sky.

Clarence Shearn, counsel for Paulhan, said:

"The decision means that during the time from the present until the cases on their merits are decided—a year or more—as to cubus will be removed from American inventive genius. It will give a stimulus to invention in this country and means a great deal to the art, leaving those who wish to engage in it entirely untrammelled."

Mr. Newell said that the Wrights would be able to collect for infringement on their patents prior to the final decision, if it went their way, but he denied that the Curtiss machine was in any way an infringement. The charge by the Wrights, he said, was that the infringement consisted in the use of the ailerons, or balances, in combination with the vertical steering rudder. He said that the Curtiss machine was built on an entirely different model; that the ailerons were worked independently of the rudder on his aeroplane.

No Change in Curtiss's Plans.

Mr. Curtiss will go to Louisville in a few days. He said he would not change his plans because of the decision, as he had gone ahead under the bond without feeling that there could be other than a reversal of the lower court.

"The only thing the Wrights have," said Mr. Curtiss, "that is absolutely new is a method of automatically turning the rudder when the wings are warped toward the side of least resistance to prevent turning. Our machine does not need that automatic device. Their machine does."

New propellers were being made at Hammondsport, Mr. Curtiss said, to be used in the coming flights. He denied that he had been influenced in his progress in aviation, in the actual building of his machine or experimentation by anything the Wrights had done prior to his work at Hammondsport. He had made four machines and had flown in them, he said, before he knew the Wrights were engaged in the same field.

Captain Baldwin, when seen at Garden City, said: "I am glad a decision has been reached. With the injunction in force matters in aviation were kept tied up."

The Aeronautical Club of America will meet in this city on June 22 to effect a permanent organization. Delegates from other clubs will be here at the time, it was said by one of the friends of Mr. Curtiss last night that this club would probably control all meets.

Indianapolis, June 14.—Upon learning to-night of the dissolution of the temporary injunction against Paulhan and the Herring-Curtiss Company, Wilbur and Orville Wright issued the following statement:

"It is a pity, but we have read too much of the troubles of other inventors to expect altogether to escape extensive litigation. The dissolution of the injunction will greatly increase the expense of defending our rights, but in the end we will undoubtedly win.

"The only question was as to whether the defendants, in fact, infringed. On this point there was some conflict of testimony as to the manner in which the defendants operate their machines and, as in an application for preliminary injunction all doubts must be resolved in favor of the defendants, we were put to a disadvantage, inasmuch as we had no witness who has actually operated the infringing machine.

"As to the merits of the dispute, apart from the legal technicalities, it is admitted on all hands that we have originated the method of control which produces successful flight, and that, after seeing it, the other aviators almost universally abandoned their former inefficient methods and adopted our system of presenting the right and left ends of the machine at different angles of incidence."

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