

*AVIATION AND TRESPASS.*

The recent case in the French courts where two aviators were mulcted in damages for injury done to property in the course of a flight—or possibly, more correctly, at its termination—calls our attention to our own law on the subject. As yet, no important case has come before our courts to test the rights of the landowner on the one hand and the aviator on the other. This is perhaps a little surprising as the practice of aviation has been in vogue now for some years, and the number of aircraft in use has been steadily increasing. That there are questions of law to be decided is not to be doubted. Circumstances have never previously been such as to call these rights into question. We propose in this article to examine the rules of law by reference to which these rights must eventually be decided—to state, in other words, the landowner's rights as against the aviator, and the aviator's rights as against the landowner.

When an aviator alights in a man's field, the latter in ninety-nine cases out of a hundred is exceedingly pleased with the compliment unintentionally paid him. He usually puts his field at the visitor's disposal. He offers help, petrol, water, information and advice, and everything else which may or may not be of service. The aviator is no trespasser in such circumstances. He is merely a licensee by implication. The owner of the field submits to the consequences of the unexpected arrival, not only without protest, but with pleasure. If the neighbours throng in upon him, his pleasure is not lessened. If a representative of the press insists upon interviewing him, he submits to this consequence without demur. And why? Because aviation is a novelty. There is excitement, interest, and sensation. But the novelty will, in course of time, wear off. It is then that persons will cease to look upon the uninvited guest with the same enthusiasm for the past-time sport or occupation of aviation. The damage done in alighting will receive more attention. The flow of hospitality will be more stinted. There will be the question who is to pay for this, and who is to pay for that? It is no