

SON FOR MRS. ASTOR; NAMED FOR FATHER

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Both Mother and Baby Said to be Very Well, the Child Strong and Well Formed

ROSES FROM VINCENT ASTOR

And Many Congratulations from Friends---Baby Is the Sixth John Jacob Astor

Mrs. Madeleine Force Astor, survivor of the Titanic disaster, in which her husband, Col. John Jacob Astor, lost his life last April, gave birth to a son at 8:15 o'clock yesterday morning at the Astor home, 840 Fifth Avenue. The baby, who will be the sixth to bear the name of the founder of the Astor fortune, and who comes into an estate of \$3,000,000, is said to be strong, well formed, and to bear a striking resemblance to his father. He weighs seven and three-quarters pounds.

It was said last night at the house that Mrs. Astor and her son were doing splendidly. She has received many messages of congratulation from her friends and relatives, among them being a cablegram from Vincent Astor, who is at present with his mother, Mrs. Ava Willing Astor, on a motor trip on the European Continent. Shortly after the receipt of the cablegram an immense box of American Beauty roses came to Mrs. Astor from a Fifth Avenue florist, bearing the name of Vincent Astor.

The first news of the arrival of the Astor baby was made known in a bulletin issued by Dr. Edwin B. Cragin, the attending physician, which read:

["]Mrs. Astor has a son, born at 8:15 o'clock. His name is John Jacob Astor. Mother and son are in good condition.["]

This was given out to the newspaper men who were waiting outside the house. The public interest that centred around the posthumous child of Col. Astor had been responsible for a new institution, "the birth watch."

An hour later Dr. Cragin issued another bulletin in which he said:

["]The baby weighs seven and three-quarters pounds. There was no other doctor present. The nurses present were Helen Nesbit and Miss McLean.["]

Mrs. William H. Force has been with her daughter constantly for the last week, in the house. Mrs. Astor's sister, Miss Katherine Force, has also been with her. Mr. Force visited the house shortly after the birth of the child.

Naturally there was some little excitement both within and outside the house when it became known that the baby had been born and that it was a boy.

The servants wore broad smiles as they gave out Dr. Cragin's bulletins, and those who had been with the Astor family for years were allowed to have a peep at the baby. It is said that Mrs. Astor herself was in favor of going to the country for the event, but that she was persuaded to come to New York by Vincent

Astor, who thought the proper place for an Astor heir to be born was in the Astor home. Mrs. Astor will remain at the house until Sept. 1, when she plans to go to the country, but she will not go to Bernardsville, N. J., where her father has leased a cottage.

Baby Is Sixth John Jacob Astor

The new arrival is the sixth of the Astor name, this being the fifth generation since the great-great-grandfather came to America from Germany. The fifth John Jacob Astor has been christened already in the youngest generation---a son of William Waldorf Astor, who has become a citizen of England.

The first John Jacob Astor was born in the village of Waldorf, Germany, in July, 1764, and died in New York in March, 1848. His son, John Jacob Astor, 2d, who was weak mentally, was born in 1795 and died in 1834 without issue. John Jacob Astor, 3d, son of William B. Astor, died in December, 1887. John Jacob Astor, 4th, his nephew, was the Col. Astor who died on the Titanic, and he was the only son of William B. Astor, 2d. William Waldorf Astor, whose young son is the fifth to bear the name, is a cousin of the late Col. Astor and son of John Jacob Astor, 3d.

\$3,000,000 FOR ASTOR BABY

To be Held in Trust Until the Child Is of Age

Under the terms of the will of Col. John Jacob Astor, made just before Miss Madeleine Talmage Force and he were married last Fall, provision was made for any posthumous or surviving child by his second marriage. The clause making this provision did not differentiate between male and female children.

Col. Astor directed that in the event that he should be survived by any child or children other than his son, William Vincent Astor, and his daughter, Ava Alice Muriel Astor, each child who should survive him should be made the beneficiary of a \$3,000,000 trust fund until attaining majority. This was the smallest provision made in his will, which left \$5,000,000 until death or remarriage to his widow, \$5,000,000 to Miss Muriel Astor, and the bulk of his estate to William Vincent Astor outright.

Although the new Astor baby is to receive a \$3,000,000 start in life from the moment of birth, its real share in the estate is practically much larger. The will directed James Roosevelt Roosevelt, brother-in-law of Col. Astor; Nicholas Biddle, and Douglas Robinson, brother-in-law of Col. Theodore Roosevelt, as trustees of Col. Astor's last testament, to set aside parts of his realty or personalty for the creation of the trust fund of \$3,000,000.

Even should the trustees elect to make up the trust fund entirely of personalty, instead of following the Astor custom of making real estate investments, it was pointed out yesterday that at compound at 5 per cent. the child would have about \$10,000,000 on attaining majority. If the trust fund is made up of realty in New York City two or three times this sum would not be too much to expect in twenty-one years.

The birth of the Astor baby, contrary to some speculation, is of no financial advantage to its mother. The will of Col. Astor provides that in the event of a posthumous child dying without issue, its trust fund will revert to the residuary estate, which was willed to William Vincent Astor.

There now devolves upon Surrogate Cohalan the duty of naming a special guardian for the new Astor baby. It is the fourth infant in the eyes of the law to be one of the large beneficiaries of the estate. Its mother was such an infant, being under 21 years of age until June 19, as are Vincent Astor, now head of the American branch of the family, and his sister, Muriel.

Will Probated Without Protest

The guardians of the other Astor infants were appointed by Surrogate Fowler, who is now in Europe. Although it was pointed out that their guardians might question the will, and although Mrs. Astor, whose remarriage was forbidden on pain of forfeiture of her \$5,000,000 trust, and Miss Muriel Astor would have profited largely by the breaking of the will, the guardians appointed by Surrogate Fowler allowed the will to be probated without protest.

It was remarked yesterday that Surrogate Cohalan had expressed himself on the question of the Astor will by declaring that a clause forbidding a young widow to remarry on penalty of losing a bequest was unfair and might be construed as against public policy. No final settlement of the Astor estate can be made until the guardian to be appointed by Surrogate Cohalan has appeared before the court.

It is one of the peculiarities of probate law that an infant may wait until his majority to attack his father's will as regards personal property, but a distribution of real property must be attacked immediately. This provision had its origin in the desire of the courts to make sales of real estate final and to prevent the clouding of titles by lawsuits brought long afterward by heirs. Any attack on the Astor will in behalf of the new Astor baby must be made this year. A probate lawyer who discussed the situation said yesterday:

"In such large estates as the Astor estate, which consist principally of realty, and the realty of which does not change hands from generation to generation, but is kept in the family, like the lands of a royal family or ducal house, it seems that this provision might, without harm to any innocent party, be made inoperative. For instance, if the new Astor baby were to question his father's will twenty years hence, it would be likely that the bulk of the realty William Vincent Astor got from his father would still be in his hands, and the legal quarrel would be between them only."

Text of Will Concerning New Baby

The testamentary provision for the new Astor baby was contained in the eighth clause of Col. Astor's will, which read:

I give and bequeath to the executors of this, my will, such number of separate sums of \$3,000,000 each, or property in the judgment of such executors of that value to be selected by them, as shall be equal to the number of my children who shall survive me, other than my son, William Vincent Astor, and my daughter, Ava Alice Muriel Astor, to be had and holden by such executors and their successors in the trust as trustees upon separate trust, one such trust for the benefit of each of my children other than the said William Vincent Astor and Ava Alice Muriel Astor, who shall survive me, until such child shall attain the age of 21 years, or sooner die, which trust in each case, in respect to each trust fund, shall be to collect and receive the rents, issues, income, and profits of so much thereof as shall be real estate, and invest and keep invested so much thereof as shall be personal estate, with power to call in and change the investments thereof, from time to time, and to collect and receive the income thereof, and after paying out all lawful expenses and charges to apply the net income from the said trust estate arising or so much thereof as in the judgment of the trustees shall be necessary or proper for that purpose to the use, support, maintenance, and education of the child for whose benefit such trust fund shall be held until such child shall arrive at the age of 21 years or sooner die; accumulating for the benefit of such child until attaining the age of 21 years so much of the net income of said trust fund as shall not be applied to his or her use, support, maintenance, and education before that time, and when such child shall attain the age of 21 years to convey, transfer, deliver, and pay over to such child in fee simple and absolutely the capital of such trust estate with all gains, increases, and capital thereof, if any, and all accumulations and income of said trust estate, or if such child shall die before attaining the age of 21 years, then in such case, upon the death of such child, to convey, transfer, deliver, and pay over, and I hereby give, devise, and bequeath the capital of the said trust estate, together with said accumulations in fee simple and

absolutely unto such persons and in such estates, interests, and proportions as such child shall in and by his or her last will and testament in that behalf direct, limit, and appoint, and in default of such appointment or in so far as the same shall fail effectually to dispose of the said fund or its accumulations unto the issue of such child, him or her surviving, if more than one, share and share alike, per stirpes and not per capita, or in default of such issue I then direct that the capital of said trust fund, together with said accumulations, shall fall into and form part of my residuary estate hereinafter disposed of.

Lawyers Consider Clause Valid

When Col. Astor's will was offered for probate this Spring, after his death, there was much speculation among lawyers on the question of whether or not the eighth clause of his will was an effective provision for a posthumous child. This question was raised academically then. It has now become a practical one. Whether or not it will be raised in court depends on the decision of the guardian, whom Surrogate Cohalan has it in his power to appoint.

Lawyers who were questioned by THE TIMES reporters when the will was offered for probate expressed themselves as satisfied that the eighth clause was a satisfactory provision in the eyes of the law for any posthumous heir. It was agreed by them and others who thought the provision might possibly be questioned that in the event of its overthrow, the structure of the will would stand. By this was meant that although the courts might in some imaginable contingency give a posthumous child an equal share with other children and pool the property left to Vincent and Muriel for division in three equal shares with Vincent, Muriel, and the posthumous child as beneficiaries, there was not even a remote possibility that on this account the courts would take occasion, on the raising of this point, to disturb other provisions of the will, such as the penalizing of the widow's remarriage.

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