NOTES ON RECENT LEADING ARTICLES IN LEGAL PERIODICALS.

ALBANY LAW JOURNAL.—April.

Natural-Born Citizen of the United States. Alexander Porter Morse. This short paper takes up a subject which has been a good deal discussed in the newspaper press of the present day. That discussion has disclosed a sufficient degree of ignorance of the subject to make it reasonable to suppose that there are many persons who will find the information here given of value. Mr. Morse objects to the phrase "natural-born" as pleonasm, and desires that it should be discarded, but as it was used in the first of our acts upon naturalization, and has since been continuously used for over a century, it may well be considered to have acquired a recognized status as a phrase which it would be difficult to secure for the alternative "native citizen," which is Mr. Morse's preference.

COLUMBIA LAW REVIEW.—April.

Proposed Reform in Marriage and Divorce Laws. Amasa M. Eaton. The extreme difficulty in securing uniformity of reform in the laws of the different states on the subject of marriage and divorce is a generally recognized fact. The history of the attempt by the American Bar Association, and the numerous committees and conferences appointed and held by that association, to secure some uniformity in these laws impresses this fact very forcibly upon the mind of the reader. It is true that states have modified their laws and that some degree of reform has been secured, but apparently uniformity is as far off as ever. The first committee of the American Bar Association which was appointed to confer upon this subject was that of 1878; in 1904 the committee is still conferring and still very far from the proposed end. Mr. Eaton asks, "What would be the effect of such a law as this?" the following being the law in question:

"SEC. 1. The —— Court of this state now having jurisdiction over petitions for divorce, shall henceforth have jurisdiction over all such petitions only when actual service of process shall have been made upon the respondent within this state, irrespective of any question of domicile.

"SEC. 2. In hearing and determining all such petitions, the law of the state where the marriage took place, in conjunction with the law of the state where the cause of divorce arose, shall be the law under which the court shall determine the case.

"SEC. 3. All acts and parts of acts inconsistent herewith are hereby repealed."

Codification of the Doctrine of Rescission. Francis M. Burdick. The discussion between Mr. Williston and Mr. Burdick reaches, in this article, to a considerable degree of heat. Putting aside, however, the predilections of the contestants for the "English rule" and the "Massachusetts rule," and the misconception which each is alleged to have formed of the idea advocated by the other, the discussion affords valuable matter for thought for those who are less strongly moved by the point of view, but interested in the subject itself.

The Peonage Cases. William Wirt Howe. In this article there is no attempt on the part of the author to give his own opinion as to the law or the state of facts in regard to the so-called peonage cases which have received so much attention from the newspapers and the general public. It is simply attempted to define peonage and to show how the cases were brought to the attention of the courts, the state

of the facts in each case, and the present status of legal decision in regard to them. All this is done clearly, thoroughly, and with very remarkable detachment from any bias—local, personal, or legal.

GREEN BAG.—April.

Robert Cooper Grier. Francis R. Jones. So little has been written about Mr. Justice Grier that even this slight sketch—for which the author states it was almost impossible to gather sufficient data—is enlightening and of much interest. One thing comes out clearly: Robert Cooper Grier graduated from the school of self-sacrifice, and this may account for that suppression of self which has left us so small an account of his personal career; his history is in the work to which he gave his life.

Problems of Survivorship. Clarke Butler Whittier. The problems are stated, discussed, and a line of judicial decisions given. The problems, however, remain problems to the end. It may be owing to Mr. Whittier's apparent dislike of presumptions of every kind that he fails to discuss those of the civil law; a note only has any reference to them. Some view of the civil as well as of the common law would seem to be necessary to any thorough discussion of the topic under review.

The Trial of Maximilian. Rupert Sargent Holland. Mr. Holland has given us a very interesting bit of legal history, with which most of his readers will probably not be too familiar. The series of events leading up to the trial and execution of Maximilian seem to belong to a past era, a period of history not to be repeated, in spite of the proverb. Yet Mr. Holland may be right in his prediction that similar cases may arise and the point of law involved, but left unsettled, become again one of vital interest.

The Actual Decision in the Merger Case. Bruce Wyman. Mr. Wyman seems somewhat bold in his title. He would seem to imply that all the voluminous and learned articles which we have read with respectful attention have not yet conveyed to us the truth as regards this much-discussed decision. But in reading the brief article one finds that it was written before the avalanche of such articles had fully started on its irresistible course. Mr. Wyman merely gives a short digest of the decision and reserves his own opinion for the present.

HARVARD LAW REVIEW.—April.

The Hawaiian Case. Emlen McClain. The "Hawaiian Case" was decided in June, 1903, and attracted a good deal of attention at the time, as involving an interesting question of constitutional law. It here gives a reason for a review of the cases which have passed upon the question of the citizenship of persons within territory recently acquired by the United States. The review is done in a manner which gives it a greater value than attaches to the average article which has been written upon the subject. The conclusion at which Mr. McClain arrives is shown by the latter portion of his concluding paragraph, which is here given:

"It will certainly be difficult to establish a theory of the constitution under which children born of white parents permanently residing in Porto Rico or the Hawaiian or Philippine Islands are not American citizens, and it will be equally difficult to point out any recognized distinction between children born of white parents and those whose parents are negroes, Malays, or Indians, provided at the time of the child's birth such parents are subject to the laws of the United States

with the intention of continuing subject to those laws. No such distinctions as to color have been recognized with reference to citizenship by birth, though they have been perpetuated as to citizenship by naturalization. Bearing in mind the important fact that rights of citizenship do not include political rights, which are not regarded as inherent but as conferred in accordance with the dictates of public policy, there seems to be no particular reason for denying the rights of citizenship to any class of persons who are subject to the laws."

MICHIGAN LAW REVIEW.—April.

A Proposed International Incorporation Law. Horace L. Wilgus. After a short discussion of the national incorporation laws which have been proposed and discussed by other persons, Mr. Wilgus presents his own proposed law. The act is divided into thirteen parts, containing one hundred and ninety-three sections. Mr. Wilgus thinks that almost any proposed law should receive full, fair, and just consideration, criticism, and discussion; this, of course, would include his own proposed law, and it can hardly be doubted that he will be accorded serious hearing and fair consideration when time has been given for a thorough examination of the voluminous text of the proposed act.

The French Jury System. Simeon E. Baldwin. France, having no jury trial for civil cases, and the jury for criminal cases having only been introduced during the Revolution of 1790, is naturally somewhat backward in her jury system. It may be interesting to those who so dislike our own jury system to see that France is not reforming her limited system out of existence, but that she is endeavoring to follow more closely the jury system of the English-speaking peoples.

YALE LAW JOURNAL.—April.

Statutory Estates in Place of Estates Tail. Albert Martin Kales. Mr. Kales claims to desire merely to add something to the information imparted by Mr. Zane on this subject in a recent article which appeared in the *Harvard Law Review.* He, however, takes issue with Mr. Zane on a number of points, so that the article is really a discussion of the law regarding these statutory estates from the viewpoint of the two authors. The result of the statutes upon the subject do not appear to be very satisfactory; they do not seem to have attained the end for which they were provided, as the uncertainty is not less than before the passing of these acts.

The Doctrine of Continuous Voyages. Charles B. Elliott. The war between Russia and Japan, and the possibility that one or more of the allied nations may become involved at any time, has given a new impetus to topics of International Law, and its doctrines regarding neutral vessels. The immediate cause of this article is a statement by Mr. Tayler in his work on International Law respecting the extension of the doctrine of continuous voyages. The effect of the interposition of a neutral port between the port of departure and a belligerent port in order to evade the neutrality laws was overcome by the doctrine of continuous voyages, which declared the interruption by stopping at the neutral port to be simply an evasion, and that a voyage thus interrupted was to be considered as a continuous voyage. Mr. Taylor condemns the doctrine and contends that it is now discredited, though accepted by our own country. Mr. Elliott shows very clearly that while the rule has been received with disfavor, in our country as in others, it has been adopted and acted upon by all the great nations, until it is now a well-established rule.