

THE
MADRAS LAW JOURNAL.

1]

JANUARY

[1947

THE SEPARATION OF THE JUDICIARY FROM
THE EXECUTIVE.

In his note on this subject, which was published in the issue of the Madras Law Journal, dated 12th December, 1946, Sir Alladi Krishnaswami Aiyar raises certain points one of which is easily met. It is really little more than a matter of elucidation. The Committee does not recommend any arrangement which would involve, as Sir Alladi observes, "continual shifts from one Magistrate to the other—Executive Magistrate to Judicial Magistrate, from Judicial Magistrate to Executive Magistrate and then again to a Judicial Magistrate." The recommendations of the Committee involve only one shift and that too not in every case under Chapters VIII to XII but only in a very limited class of cases. So far as Chapter VIII of the Criminal Procedure Code is concerned there need ordinarily be no shift at all. It is open to the Police to lay their 'information' direct before the Judicial Magistrate. (Please see paragraph 84.) In respect of proceedings under this Chapter a shift will be required only when the Executive Magistrate himself initiates the proceedings for special reasons or in view of any emergency, actual or apprehended. The position will be exactly similar under sections 133 and 145, Criminal Procedure Code. In respect of proceedings under section 144, Criminal Procedure Code, also there will be only one shift though this time it will be from the Judicial Magistrate to the Executive Magistrate. Here too the shift will be required only when the Judicial Magistrate is called upon to act in an emergency so sudden that the Executive Magistrate is not available. It will thus be seen that there need be only one shift and that too in situations a little out of the ordinary.

Certain other points raised by Sir Alladi touch on questions of policy or include debatable ground and it is not appropriate that I should enter into them.

I am much obliged to Sir Alladi for having drawn attention to a part of the Report which apparently required further clarification.

P. V. BALAKRISHNA AYYAR,
District Judge.

BOOK REVIEWS.

THE INDIAN SALE OF GOODS ACT, 1930, by Rai Sahib Om Prakash Aggarwala, M.A., P.O.S., published by Mr. Sultan Chand for S. Chand & Co., Publishers and Booksellers, Delhi-Lahore. Second Edition, 1946. 606 pages. Price Rs. 12-8-0.

A comprehensive and up-to-date book on the Sale of Goods Act, is a necessity to any lawyer and particularly to those engaged in work connected with commercial transactions. The subject has been not only exhaustively but very analytically and clearly dealt with in the book under review. The commentary on each section has been divided and dealt with under different heads and sub-heads together with the relevant case-law, English and Indian. Much labour and attention seem to have been bestowed in trying to supply as much useful information on the subject as possible. In the appendices are given the English Sale of Goods Act, Chapter VII of the Contract Act and much useful information as to "C.I.F., F.O.B., and Ex-Ship Contracts". The book is sure to prove useful not only to the legal profession but also to the public generally. The printing and neat get-up of the book has to be specially mentioned.

POLLOCK'S PRINCIPLES OF CONTRACTS, Twelfth Edition, 1946, by P. H. Winfield, K.C. LL.D. Published by Stevens and Sons, Ltd., Law Publishers, London. 602 pages. Price 40s net.

A "classic in law" like Pollock on Contracts is a book of constant reference and perennial usefulness to students of law. No better book can be thought of for clear and crisp statements of principles. It is no easy task to edit such a work in the light of new legislation and judicial decisions necessitating considerable alterations in and addition to the original work. While maintaining its continuity, Professor Winfield has wherever additions and comments have become necessary given his own contributions under square brackets and has also added a new chapter on "Remedies for Breach of Contract." The excellent manner in which this "legal classic" has been edited can best be appreciated only by those keen and discerning students of law who go through the book critically and deliberately. In spite of the hard conditions attendant on the publication of any book nowadays, the book under review has been finely printed and got up.

THE MADRAS ESTATES LAND ACT, Vol. I, by V. Vedantachari, Advocate, published by P. Varadachari & Co., 8, Linga Chetty Street, Madras, 1946. 328 pages. Price Rs. 7-8-0.

No local enactment has given room for so much of difficulty in interpretation as the Madras Estates Land Act. "Lawyers and Judges, all alike, have felt it to be one of the most difficult Acts on the Statute Book". No wonder that a critical and adequate commentary on the Act has been a long-felt want. The book under review has to be welcomed as containing a full and exhaustive commentary on the Act by one who is reputed to have a first-hand knowledge of the working of several sections of the Act. Much useful material has been supplied under the different sections of the Act. But the method adopted in giving reference to the cases in the footnote is not easy to follow. A table of cases cited and a fuller index would have made the book really more useful. The apparent hurry with which the book has been rushed through print has resulted in a number of avoidable mistakes and printers' devils which is likely to mar to a certain extent the good impressions of this otherwise useful publication.