shaping the law school curriculum of the future, this writer predicts the treatise will have its greatest effect. Estate planning and estate and gift taxation are still relatively new courses in the crowded undergraduate law school curriculum; how many hours of credit should be allotted for their study is a pressing problem. While there are excellent casebooks, by and large it has remained for the instructors to develop a vertical study of the cases and case patterns in any particular phase of the subject matter, and, at the same time, to maintain a horizontal coordination and relationship of the Code sections to each other. There have been no treatises to which the students could be referred in order to shorten the class time spent in surveying where we have been, so that we may know better where we are and are likely to be. In this respect, the authors have admirably succeeded. For the classicist instructor who believes that the implications of sections 2036 and 2037 cannot be understood and appreciated without tracing the problem of the transfers there subsumed from *Shukert v. Allen* through the Technical Changes Act of 1949, valuable time is saved by the thorough historical background in chapter 6. The same is true of chapter 5 concerning transfers in contemplation of death; in fact, as the result of the lesser importance of section 2035 by virtue of the more than three year conclusive presumption against such transfers, it would seem that the study of this excellent chapter plus selected leading cases can readily substitute for classroom discussion. In short, based upon experience both as a student and as an instructor, this writer has until now felt that a combined three hour course in estate and gift taxation and estate planning was too short to be realistic. But with judicious use of this treatise by both student and teacher, utilizing the highly analytical written lectures of Professors Lowndes and Kramer to supplement classroom discussion of the cases, materials, and footnotes of an excellent casebook, such of Surrey and Warren, *Federal Estate and Gift Taxation*, it is diffidently suggested that such a course can be successful and justify its place in the modern curriculum. If this treatise has some small part in encouraging the administrators of our law schools to allot three precious credit hours to such a course, knowing that this and no more is needed, hundreds of the lawyers of the future will enter the practice better equipped for the role of estate planners and tax counsellors in their own communities; a decentralization of estate and gift tax learning will be hastened to accompany the Bureau of Internal Revenue's own decentralization. It may well be this reviewer's present appraisal will then seem too conservative.

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THE DEVELOPMENT OF CONSTITUTIONAL GUARANTEES OF LIBERTY. By Roscoe Pound. New Haven: Yale University Press, 1957. Pp. vi, 207. $3.50.

Revised from lectures given at Wabash College, this little volume is a sketch of an idea becoming an institutionally embodied ideal. The idea is the liberty of the individual, even against government. The idea became an ideal when it became a goal of social organization and action. The institutions are legal, but not merely legal. They are the institutions of fundamental law that operate to limit the making, executing, and applying of laws by legislature, executive, and courts.

Pound divides his account into four periods. They are: "(1) medieval England—the Conquest to the Reformation; (2) the era of the Tudors and Stuarts, from the Reformation to the Revolution of 1688; (3) the American colonies down

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to the Declaration of Rights of the Continental Congress (1774); and (4) the era of written constitutions, culminating in the federal Bill of Rights (1791)."[1] He explains his not carrying the story beyond that point by saying that we have since been "developing the applications of the constitutional guarantees as they had grown up from the Middle Ages and from Coke's exposition of them in the seventeenth century."[2]

The text runs only 111 pages. It is followed, happily, by 89 pages of selections from source material illustrating the text. The selections begin with the Charter of Liberties of Henry I (1100), and include the Magna Carta (1215), the Confirmation of the Charters (1297), the Petition of Right (1627), the English Bill of Rights (1688), the Virginia Declaration of Rights (1776), and the federal Bill of Rights (1791). There are also selections from Glanvill, from Fortescue's *On Praises of the Laws of England*, from Coke's *Commentary on Magna Carta*, and from great leading cases in which points of fundamental law were established—later to be written into the United States Constitution.

It will be obvious from the scope of the subject and the short span of the text that this is, as indicated, a sketch and not a full portrait. Unfortunately, although it is the work of an acknowledged master of the law, this sketch does not project the strength and character of the subject that one gets from a sketch of a human subject by Michelangelo, or any other master of painting. The result is more like a simplified, specially edited blueprint. Significant features are unerringly, and concisely noted. Missing, however, are the courage, suffering, and other dimensions of human character necessarily put to the test, as the rational idea of human liberty was adopted as an ideal for action and gradually written into viable law against the pressures of privilege and power.

The result is a book that lawyers will admire and that laymen might study with profit. But it is not a book to excite and inspire the layman, and draw him into further study of constitutional history. The drama must be brought to this book (and perhaps necessarily to any book in this field) by the reader, from his own knowledge of the human struggle underlying every step toward our present constitutional guarantees of liberty.

Summary, if well done, reveals proportion and direction, and thus gives perspective. This is well-done summary of the development of our constitutional guarantees of liberty. That is why it will be admired by lawyers. Whether the perspective is entirely true depends upon the accurateness of Pound's generalizations. The one area where other experts might question this work is in Pound's treatment of the King's prerogative. C. H. McIlwain, in his *Constitutionalism Ancient and Modern*, pictures the English King of the early period as possessed of a fuller law-making and judging power than Pound gives him herein. If McIlwain has the right of it, one of Pound's fundamental propositions would need supporting evidence and explanation to avoid being judged questionable.

Pound states: "Whereas in the final Roman theory law proceeded from the emperor—was made by him—in the English theory it was pre-existing and was found by the king or by his justices and applied to the cases before them as something binding on them no less than on the parties."[3] On that stated difference, Pound bases the difference in the declarations of rights and guarantees of liberty within the civil law and the common law. In civil law they are characteristically exhortations to government—exhortations which government can

1. p. 2.
2. p. 2.
3. p. 8.

ignore without legal recourse by the citizen. In common law the rights of the individual are legally enforceable, at the suit of the aggrieved person. There is no doubt that the present difference exists. There may be doubt that its basis is the ascribed early difference in legal theory.

The first chapter, on medieval England, has bold and sweeping generalizations, most of which bear the master's touch and bring a spontaneous smile of approval and admiration. The final three chapters generally are pretty dull stuff, ticking off the legal developments that formally record the richly human process of achieving government without tyranny.

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