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Pound, Roscoe (1870–1964)

Michael R. Hill

Roscoe Pound, sociologist, ecologist, and noted jurist, originated and promulgated the legal movement known as the American school of sociological jurisprudence. This revolutionary perspective remains the single most consequential application of sociological thinking in American society. Pound's sociological theories and empirical methodologies fundamentally transformed the prosecution and administration of US law for a full half-century.

Widely remembered as the dynamic and authoritative Dean of Harvard's Law School (1916–36), Pound was also a creative and insightful plant ecologist as well as a pioneering and innovative sociologist. Albion W. Small,

writing privately in 1916, observed that Pound is central to our understanding of the development of American sociology after 1906, concluding – with regard to sociology and law – that Pound was “not merely *magna pars* but practically the whole thing.” Pound’s integration of sociology and law began after 1901 at the University of Nebraska where Edward A. Ross’s groundbreaking theoretical work in *Social Control* (1901), *Foundations of Sociology* (1905), and *Social Psychology* (1908) set Pound “in the path” that became the American school of sociological jurisprudence. Later, as Dean of Harvard’s prestigious Law School, Pound inculcated sociological ideas into cadres of legal students destined to positions of power and influence, resulting in a widespread, sociologically infused legal perspective that dominated decision-making in the US Supreme Court for 50 years during the mid-twentieth century. A prodigious scholar, Pound wrote hundreds of legal, sociological, and botanical articles and published several well-received books, including *The Spirit of the Common Law* (1921), *Law and Morals* (1924), and *Social Control Through Law* (1942). Frequently cajoled by E. A. Ross to write a short monograph on sociological jurisprudence per se, Pound’s five-volume *Jurisprudence* finally appeared in 1959.

Conceptually, Pound’s sociological perspective holds that law is a social creation – an astonishing and deeply heretical idea for most lawyers at the beginning of the twentieth century. In 1906, Pound fired his first major salvo on behalf of sociological jurisprudence in an address to the American Bar Association, baldly painting American lawyers and judges as harmful conservatives (*Report of the 29th Annual Meeting of the American Bar Association*, 1906, Vol. 29, I: 395–417). Rejecting concepts of absolute legal “rights” (*Journal of Ethics*, 1915, Vol. 26: 92–116), Pound’s sociological “theory of interests” defines law as an institutional mechanism for balancing the complex and often competing claims of individual, public, and social interests (*Publications of the American Sociological Society*, 1920, Vol. 15: 16–45). In the modern world of rapid technological and social change, sociological jurisprudence mandated the “reshaping of our institutions of public justice to the requirements of the times.” When established legal

precedents fail to illuminate the intricacies of current situations, according to Pound, up-to-date sociological data become fundamentally important to jurists who must adjudicate conflicting claims lodged by divergent interests. Pound’s theory thus made empirical sociological research “a presupposition of the work of the lawmaker, judge and jurist.”

Leading by example, after co-founding the American Institute of Criminal Law and Criminology (1909), Pound – together with Felix Frankfurter – organized and directed the first full-scale interdisciplinary empirical survey of crime in America (*Criminal Justice in Cleveland*, 1922), a project immediately cited as a methodological exemplar by Robert E. Park and Ernest W. Burgess in the second edition of their influential *Introduction to the Science of Society* (1924). Pound’s subsequent sociological synthesis appeared as *Criminal Justice in America* (1930). At Harvard, Pound championed the Survey of Crime and Criminal Justice in Boston (1934–6) and sponsored Sheldon Glueck’s *One Thousand Juvenile Delinquents* (1934). As a commissioner working largely behind the scenes on Herbert Hoover’s National Commission on Law Observance and Enforcement (popularly known as the Wickersham Commission, 1929–31), Pound framed much of the massive final *Report* (1931), lauded the meticulous work of Chicago’s Edith Abbott, his former Nebraska student, in her *Crime and the Foreign Born* (1931), and successfully blocked the persistent tendency of Chicago’s Clifford Shaw and Henry McKay to overreach their ecological data in *The Causes of Crime* (1931). Pound undertook his last empirical study at age 75: the Survey of Criminal Justice in China (1946–8), personally conducting site visits and interviews on mainland China. The results remain today embedded in Taiwan’s legal code. Within the social sciences, Pound’s welding of sociology and law is most often compared to and contrasted with the decidedly anthropological interpretation of law adopted by Karl Llewellyn.

Pound died in Cambridge, Massachusetts, still an active scholar, on July 1, 1964.

SEE ALSO: American Sociological Association; Law, Criminal; Law, Sociology of; Park, Robert E. and Burgess, Ernest W.; Small, Albion W.

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