

University of Nebraska - Lincoln

DigitalCommons@University of Nebraska - Lincoln

---

Sociology Department, Faculty Publications

Sociology, Department of

---

2006

# Theory, Values, and Practice in the Legal Lifeworld of Sociological Jurisprudence: Roscoe Pound's Views on Professional Women

Michael R. Hill

*University of Nebraska-Lincoln*, michaelhilltemporary1@yahoo.com

Follow this and additional works at: <http://digitalcommons.unl.edu/sociologyfacpub>



Part of the [Family, Life Course, and Society Commons](#), and the [Social Psychology and Interaction Commons](#)

---

Hill, Michael R., "Theory, Values, and Practice in the Legal Lifeworld of Sociological Jurisprudence: Roscoe Pound's Views on Professional Women" (2006). *Sociology Department, Faculty Publications*. 354.

<http://digitalcommons.unl.edu/sociologyfacpub/354>

This Article is brought to you for free and open access by the Sociology, Department of at DigitalCommons@University of Nebraska - Lincoln. It has been accepted for inclusion in Sociology Department, Faculty Publications by an authorized administrator of DigitalCommons@University of Nebraska - Lincoln.

Hill, Michael R. 2006. "Theory, Values, and Practice in the Legal Lifeworld of Sociological Jurisprudence: Roscoe Pound's Views on Professional Women." Presented to the Annual Meeting of the American Sociological Association, Montreal, Quebec.

# Theory, Values, and Practice in the Legal Lifeworld of Sociological Jurisprudence: Roscoe Pound's Views on Professional Women

Michael R. Hill<sup>1</sup>

## INTRODUCTION

*It is our interest at hand that motivates all our thinking,  
projecting, acting, and therewith establishes the problems to be  
solved by our thought and the goals to be attained by our actions.*

— Alfred Schutz<sup>2</sup>

**T**HE LIVED SOCIAL DIMENSIONS of Roscoe Pound's theories of sociological jurisprudence deserve criticism in light of his often progressive worldview and frequent support of civil liberties. Especially important in this regard are his views on women. Despite Sayre's (1948: 390) assertion that "there is no dualism to Pound," the archival record reveals internal contradictions. That is to say, Pound's attitudes toward women were multi-dimensional. His social attitudes-in-practice informed his sociological ideas and thus illustrate the lived conflicts in his professional lifeworld.

Alfred Schutz (1970b: 76), the Austrian phenomenological sociologist who found refuge in America at the New School for Social Research during World War II, argued that inconsistency in our everyday understanding of the world is not only possible, but often typical:

---

<sup>1</sup> Michael R. Hill is the Editor of **SOCIOLOGICAL ORIGINS**. Email: editor@sociological-origins.com

<sup>2</sup> Quotation from Alfred Schutz (1970a: 111). My sincere thanks to Mary Jo Deegan and Miguel Carranza — this paper would not have been possible without their support and encouragement. For archival assistance, I am indebted to the staff members of repositories at Harvard Law School Library, the Nebraska State Historical Society, Northwestern University, Radcliffe College, the University of Chicago, the University of Iowa, and the University of Nebraska.

The stock of knowledge at hand at any particular moment of our conscious lives is by no means homogeneous or integrated. Its elements are neither consistent in themselves or necessarily compatible with one another. . . . For our purpose, therefore, knowledge means not only explicit, clarified, well-formulated insight, but also all forms of opinion and acceptance relating to a state of affairs as taken for granted.

In sum, it is possible at times, to live professionally in worlds where rhetoric and experience are radically divorced — without quite realizing it. Paradoxically, Pound understood the potentially wide gulf between the law “in action” and the law “in books” (*see*, for example, Pound 1910), but failed to perceive any serious contradictions within himself. Some of the internal discrepancies that crisscrossed Pound’s lifeworld included: (1) a profound belief in Masonry as an inclusive brotherhood of man (whereas the reality of its social exclusivity was plain for all to see), (2) his embrace of Quakerism with his simultaneous love of military science and military history, and (3) his conviction that while professional women could accomplish great things, they could not contribute substantially to the world of law — at least if able men were willing and available. In this paper, I attend specifically to Pound’s contradictory treatment of female students and colleagues in the social sciences. Parenthetically, it should be kept in mind that Pound considered law to be intrinsically a social science.

### ROSCOE POUND: A SOCIOLOGICAL INTRODUCTION<sup>3</sup>

Sociologists are probably familiar with Roscoe Pound's stature as an eminent and influential legal scholar, but are likely unacquainted with his accomplishments as a botanist and — most pointedly — *as a sociologist*. To better frame Pound's professional associations with women in the social sciences, I provide here a brief account of his interdisciplinary successes. Roscoe Pound (1870-1964) was a native son of frontier Nebraskan, a pioneering ecologist, an insightful sociologist, *and* a noted jurist.<sup>4</sup> He originated the legal movement known today as the American school of sociological jurisprudence. This 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 U.S. law for a full half century.

Generally remembered today 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.”<sup>5</sup> Pound's integration of sociology and law began after 1901 at the University of Nebraska where Edward A. Ross' groundbreaking theoretical work in *Social Control* (1901), *Foundations of Sociology* (1905) and *Social Psychology* (1908) set Pound “in the path” that became the American

---

<sup>3</sup> For more detailed biographical accounts, *see* Glueck (1964), Hill (1989), Hull (1997), Sayre (1948), and Wigdor (1974). Brief accounts appear in Hill (2005 & forthcoming).

<sup>4</sup> Not to mention an accomplished linguist, ballroom dancer, and Civil War buff!

<sup>5</sup> Small to Pound, 1 July 1916, Box 228, Folder 19, Roscoe Pound Papers, Harvard Law School Library.

school of sociological jurisprudence.<sup>6</sup> 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 U.S. Supreme Court for fifty 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).<sup>7</sup> Frequently cajoled by E.A. Ross to write a short monograph on sociological jurisprudence *per se*, Pound's five-volume *Jurisprudence* appeared at last in 1959.

Born in Lincoln, Nebraska, on October 27, 1870, Pound took the A.B. (1888), M.A. (1889) and Ph.D. in botany (1899) at the University of Nebraska. With Frederick Clements, Pound established the American school of plant ecology (Tobey 1981) by publishing the seminal *Phytogeography of Nebraska* (1898). For this work, Pound received the international scientific medal of the *Academie Internationale de Geographie Botanique* in 1899. Simultaneously, working in his father's law firm, combined with a year of legal studies at Harvard (1889-90), Pound also learned the law and was appointed Dean of Nebraska's College of Law in 1903. Ever the interdisciplinarian (in much the same mold as geologist-sociologist Lester F. Ward), Pound also joined the American Sociological Society (ASS) circa 1907 and remained an active member for twenty-five years: presenting papers at annual meetings, publishing articles in the *American Journal of Sociology*, and serving on ASS committees with Jane Addams, Robert E. Park, and Albion W.

---

<sup>6</sup> For a sociological sketch of Ross, *see* Hill (1999).

<sup>7</sup> For the comprehensive bibliographic details of Pound's work, *see* Setaro (1942) and Strait (1960).

Small, among others. After brief appointments at Northwestern University (1907) and the University of Chicago (1909), Pound made his permanent academic home in Harvard's Law School (1910). By the time he settled in Cambridge, where the Harvard campus sadly had no department of sociology, Pound was a professional intimate of three future ASS presidents: Albion W. Small (1912-13), Edward A. Ross (1914-15), and George Elliott Howard (1917) and had the ear of dozens of other prominent sociologists. During the ensuing years at Harvard, Pound refined the principles of sociological jurisprudence, encouraged Nicholas Timashef and Georges Gurvitch in their researches on the sociology of law, served collegially with Talcott Parsons and Pitirim Sorokin on graduate committees. As Harvard's first University Professor (1936-64), Pound also taught occasional courses in the sociology curriculum.

Conceptually, Pound's sociological perspective held that law is a social creation — profoundly 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.<sup>8</sup> Rejecting concepts of absolute legal “rights,”<sup>9</sup> 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.<sup>10</sup> In the modern world of ever quickening 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

---

<sup>8</sup> *Report of the 29<sup>th</sup> Annual Meeting of the American Bar Association*, 1906, vol. 29, I: 395-417.

<sup>9</sup> *Journal of Ethics*, 1915, vol. 26, pp. 92-116.

<sup>10</sup> *Publications of the American Sociological Society*, 1920, vol.15: pp. 16-45.

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* (1934-36) 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 (1946-48), personally conducting site visits and interviews on mainland China.

## POUND'S THEORY OF SOCIAL ADJUSTMENT

Central to Pound's sociological conception of law was the notion of "adjusting" competing interests (broadly classified as social, public, and individual) through adjudication of contending claims by the courts (Pound 1920). For Pound, the ultimate principle on which judicial decision should be founded was the preservation of social order (Pound 1928). His formula for "making adjustments" could both oppress and liberate, as the preservation of the social order was deemed to require.

The practical effect of Pound's theory of adjustment depends ultimately on what one values fundamentally when concrete adjudications must be made between conflicting interests. If one's values are reflexive and enlightened, the solutions can be creative and progressive. But, if one's values are conservative and reactionary, the liberal rhetoric of Pound's ideas can be subverted to justify oppressive actions. This feature of Pound's theory is here illustrated in his attitudes toward the professional education and employment of women. Pound's often contradictory social attitudes reflect his adjustment of liberal idealism to his own frequently unreflexive biases and self-interests. Except for very brief, grudging acknowledgments that legislation can sometimes serve class interests (for example, Pound 1958), he gave no inkling that he ever understood the potential for the hegemonic subversion of social theories and judicial ideals, especially his own. Pound's faith in the ultimate integrity and values of the male-dominated legal profession *per se* was unshakable. His theory of interests reflects — and is compatible with — his own unreflexive "adjustment" to life in a privileged, upper-middle class, professional world of white males.

## POUND, WOMEN, AND LIBERAL SEXISM

Pound's attitudes toward women were simultaneously supportive and oppressive. He held many women scholars (including his noted and accomplished sister, Louise) in high collegial esteem, yet there is currently no known record, for example, that he tried to secure qualified women for faculty positions while he served as Dean of the Harvard Law School.<sup>11</sup> He approved of co-education, but only if the practice did not deprive "deserving" males of a place in the classroom.

Women scholars with international reputations played instrumental roles in Pound's professional network. His collegial contacts with female sociologists were striking, and included: Edith Abbott, Grace Abbott, Jane Addams, Sophonisba P. Breckinridge, Eleanor Glueck, Florence Kelley, Julia Lathrop, Mary van Kleeck, and Miriam Van Waters, among others.<sup>12</sup> These women engaged with Pound in significant social movements: child labor law legislation, the National Consumer's League, the American Institute of Criminal Law and Criminology, and various organizations oriented to social action. When called to duty by the Abbotts, his response could be immediate, positive, and enthusiastic. He wrote to Grace Abbott in 1918, "On receipt of your telegram I threw aside everything else and went to work on the child labor matter."<sup>13</sup>

---

<sup>11</sup> At the least, I discovered no record in the course of my research. One cannot argue that Pound was unaware of qualified women. For example, Florence Kelley, S.P. Breckinridge, Frances Brown Taylor, Crystal Eastman, Florence Allen, and Frances Kellor all had law degrees. Miriam Van Waters was admitted to the California bar and served as a distinguished juvenile court judge. Van Waters was retained by Pound and Frankfurter as a researcher for the Harvard Crime Studies, but they did not apparently seek her services as a faculty lecturer in the classroom.

<sup>12</sup> For sketches on Edith Abbott, Jane Addams, Sophonisba P. Breckinridge, and Florence Kelley, Mary van Kleeck, *see* the respective essays in Deegan (1991). For greater detail on Addams, *see* Deegan (1988 & 2002). For an account of Julia Lathrop's work, *see* Addams (1932).

<sup>13</sup> Pound to Abbott, 24 June 1918, Box 1, Folder 5, Ernst Freund Papers, Special Collections, Joseph Regenstein Library, University of Chicago.

Substantive sociological research efforts were also concluded through the National Commission on Law Observance and Enforcement (van Kleeck, Van Waters, and Edith Abbott), and the Harvard Crime Studies (Glueck and Van Waters). Pound sought Lathrop's help for the Cleveland Survey of Criminal Justice. Pound also utilized the behind-the-scenes contacts of philanthropist Ethel Sturgis Dummer to secure the services of Van Waters for the Harvard Crime Studies.<sup>14</sup> In addition, Ada Comstock, President of Radcliffe College, served with Pound as a Commissioner on the National Commission on Law Observance and Enforcement.

Thus, Pound knew and appreciated the professional and intellectual talents of academically well-trained women<sup>15</sup> from co-educational institutions. And, when Pound was invited in 1925 to become the President of the University of Wisconsin, an offer he eventually declined, he noted:

This offer is most attractive, both to my wife and to myself as Westerners, as graduates of a State University, and as believers in the Western system of co-educational State Universities.<sup>16</sup>

Despite his support for co-education, however, the rights of women could, in Pound's worldview, take second place to what he considered more compelling interests.

Pound saw the law as a man's world — especially so as long as there were qualified men who wanted to practice and the facilities for training men were in short supply. In a 1944 letter, he wrote:

---

<sup>14</sup> Dummer to Pound, 10 July 1926; Pound to Dummer, 12 January 1927, A-127, Box 34, Folder 698, Ethel Sturgis Dummer Papers, Schlesinger Library, Radcliffe College.

<sup>15</sup> Indeed, Pound's mother, Laura Biddlecome Pound, was well-educated for her era and led a life devoted to private learning and volunteer public service in Lincoln, Nebraska. Pound's two wives (his first wife died, to Pound's great personal sorrow) were bright, capable women who engaged in club work, but neither pursued nor achieved the professional accomplishments reached by the outstanding women named in the preceding paragraphs.

<sup>16</sup> Pound to Callahan, 28 January 1925, Box 1, Folder 12, Nathan Roscoe Pound Collection, State Archives, Nebraska State Historical Society.

As to my connection with the matter, the question [of admitting women to the Harvard Law School] did not arise again until the time when it became necessary for us to limit numbers as the School was outgrowing even what we had supposed would be ample quarters. When it became necessary to limit the entering class to 600 I remember that for a time I had to wrestle with as many as 1100 applicants for admission and down to the time when I retired from the Deanship there were always many hundreds of applicants beyond the number we could admit. It seemed to me that it would be a mistake to admit women under such circumstances. When we could not take care of anywhere near all of the young men, graduates of the best colleges in the country, it did not seem to be expedient to displace more men applicants to admit women. When I taught at Nebraska we had a number of women students, as we had also at the University of Chicago and at Michigan the summer I taught there. Northwestern when I was a teacher there did not admit women. As a product of the co-educational college I have no objection to women students, but I do not think it advisable to admit them to a professional school which cannot take care of all the men who have a legitimate claim to admission.<sup>17</sup>

In the world of limited, elite opportunities for professional training, Pound relegated women to second-class citizenship. Pound's logic, in protecting classroom space for men, was structurally similar to his protection of American teaching jobs for economically displaced American law professors as against refugees from Nazi Germany.

---

<sup>17</sup> Pound to M. Johnson, 6 December 1944, Paul Sayre Papers, University Archives, Special Collections, University of Iowa.

Pound also opposed the Equal Rights Amendment, ostensibly for reasons of constitutional law, but it must be recalled that Pound's legal philosophy made no room for "rights" in any inalienable sense. Given that support for the Equal Rights Amendment is often a litmus test for middle class feminists, the meaning of Pound's opposition must be placed in the context of earlier times. Indeed, many progressive women in the 1920s, including sociologists Jane Addams, Florence Kelley, and most others in the Hull-House group, opposed the amendment because they feared it would strip away protective legislation for working class women, legislation that had been obtained only by long struggle (Goldmark 1953: 180-188; Lemons 1973).

Pound joined a group of forty-three lawyers and law school teachers to endorse a statement, prepared by Paul Freund, a Harvard law professor, in opposition to the proposed Amendment. The detailed statement concluded with this observation:

The basic fallacy in the proposed Amendment is that it attempts to deal with complicated and highly concrete problems arising out of a diversity of human relationships in terms of a single and simple abstraction. This abstraction is undoubtedly a worthy ideal for mobilizing legislative forces in order to remedy particular deficiencies in the law. But as a constitutional standard, it is hopelessly inept. That the proposed equal rights amendment would open up an era of regrettable consequences for the legal status of women in this country is highly probable. That it would open up a period of extreme confusion in constitutional law is a certainty.<sup>18</sup>

---

<sup>18</sup> Statement, "These Lawyers and Legal Scholars Oppose the So-Called Equal Rights Amendment," undated, Box 69, Folder 7, Roscoe Pound Papers, Harvard Law School Library. A draft of the statement, in the same location, is dated 20 September 1945.

Pound's opposition went beyond simple endorsement of a public statement. Mrs. Thomas McAllister, Chair, of the National Committee to Defeat the Un=Equal Rights Amendment, wrote in 1946 specifically to thank Pound for his "assistance in bringing to the attention of the Congress the legal question involved" in the proposed amendment.<sup>19</sup> In Pound's view, opportunities for women are desirable, but not at the cost of substantial disruptions to the social order. Pound conceptualized the improvement of women's legal status as a progressive development accomplished through incremental adjustments as required in specific circumstances, an assumption reflected in his *Encyclopaedia Britannica* articles on the legal status of women (Pound 1922b, 1926). Today, Pound's position on the Amendment can be seen negatively, given his relativist perspective on "rights," but can also be judged positively, if his primary concern was to preserve protective legislation for working-class women in the labor force.

Pound's relationships with intellectually sharp women were largely at a distance rather than shoulder to shoulder. His sisters in Nebraska admired him<sup>20</sup> and, so far as the archival record indicates, he generally maintained cordial relationships with the professional women with whom he had contact. Independent accounts of Pound's attitudes toward women are rare, however, but the few existing reports are generally critical.

Pound taught very few women students, none at Harvard until after he resigned the Law School deanship in 1936 and was appointed University Professor, a status allowing him to offer whatever courses he wanted in virtually any department. Until he offered his sociology of law course at Harvard in the Department of Sociology in the 1940s, in which students from Radcliffe were

---

<sup>19</sup> McAllister to Pound, 12 July 1946, Box 69, Folder 7, Roscoe Pound Papers, Harvard Law School Library.

<sup>20</sup> Pound's two sisters were well educated (Louise earned a coveted doctorate at Heidelberg), and in one notable year all three siblings separately published articles that were indexed in the *International Index to Periodicals*.

allowed to enroll,<sup>21</sup> Pound apparently taught no women students in regular winter courses except at the University of Nebraska (1899-1907), the University of Chicago (1909-1910), and his night course at the New School for Social Research (1930s), as women were barred from the law schools at Northwestern and Harvard. Edith Abbott took courses from Pound at Nebraska and her sister, Grace Abbott, took courses from Pound at the University of Chicago. In the manuscript version of Edith Abbott's biography of Grace Abbott, Edith wrote that Ernst Freund and Roscoe Pound were men "who liked to have some women students" in their courses. Abbott (1939, 1950) struck that observation from her published account, however, apparently preferring to pass over Pound's classroom preferences in public silence.<sup>22</sup> U.S. Circuit Judge Florence Allen, who took instruction from Pound at the University of Chicago, recalled:

I had always admired Dean Pound as a teacher, but the four women in Chicago University Law School when I was there felt he discouraged us in our wish to practice law. He thought it was no field for a woman. (Allen 1965: 49).

Allen's account clearly attributes patriarchal bias to Pound. Grace Abbott took law courses at the same time as Allen and may have been one of Allen's her classmates, but after six months of work at the University of Chicago Grace Abbott dropped out, noting "I'm not interested in taking any more law courses" (Abbott 1950: 376). Grace Abbott continued:

I'm not interested in subjects like "Bills and Notes," or "Wills," or "Real Property."  
I want to understand fundamental legal principles so that I can know what the rights

---

<sup>21</sup> In 1942-43, Pound's sociology course included twelve students from Radcliffe. In 1946, seven Radcliffe students took the course. Class rosters, Box 83, Folder 6; Box 196, Folder 9, Roscoe Pound Papers, Harvard Law School Library.

<sup>22</sup> Abbott Biography, Edith and Grace Abbott Papers, Abbott Addenda, Special Collections, Joseph Regenstein Library, University of Chicago.

of a poor man really are. Now that I've had the basic courses I'm willing to stop, and I've talked with father about it, and he thinks I'm right.

According to Allen's account, Pound contributed to what is today be called a "chilly climate" for women law students, and Grace Abbott may have been one of his casualties — unwittingly abetted by Abbott's father.

There are virtually no character portraits of Pound authored by the intellectually accomplished women who knew him. Thus, the following sketch, written by Willa Cather (a noted Nebraska writer and classmate of Pound's sisters), is particularly intriguing for its insight into Pound as a man seen by a perceptive and articulate woman:

He was one of those who come back on Charter Day [at the University of Nebraska], in his own mind at least, one of the heroes of the yore days. He was tall and slender and wore his hair parted in the middle. He stood around the halls button-holing old acquaintances and showing the University to them. He exhibited to them campus, buildings, and faculty, with an air of proprietorship and pleased condescension. He was, by the length of the word he used, a member of the botanical seminar. He called everything by its longest and most Latin name, and the less his victim knows about botany the more confidential he becomes and the more copiously he empties forth Latin words upon him. In his early youth he was a notorious bully, and all the very little boys of the neighborhood used to be afraid to go past his home. Now he bullies mentally as he used to physically. He loves to take rather weak minded persons and brow beat them, argue them down, Latin them into a corner, and botany them into a shapeless mass. It is the same bully instinct a little refined. He seemed very

enthusiastic about University matters, but it seemed rather boyish and immature in a man of his age. It was not a large kind of enthusiasm that could take principles and beliefs. It was a petty traditional sort of enthusiasm that was confined to a few people and incidents. He is liberal to all university enterprises but it seems to be rather to perpetuate his own name and fame among the students. He has no particular business except hanging around the University in order that people may ask who he is and be told what fine marks he used to get in his classes. He has ability enough, but he never got past the blue-ribbon sheepskin, “vos salutamus” stage. He is a university graduate, and that’s all he ever will be in this world or that to come.<sup>23</sup>

The text above is reproduced from a typescript in the Roscoe Pound Papers at the Nebraska State Historical Society. How it got there — or whether it represents an early draft or subsequent revision prepared by Cather herself — is unknown. A slightly altered version was published by Cather in the *Hesperian* on March 10, 1894 (and is reprinted in Cather 1970, I: 122).<sup>24</sup> Although Cather enjoyed a reputation as an “incomparable roaster” (Slote 1966: 17), and did not identify Roscoe by name in her essay, the Pound family discovered little comfort in Cather’s description of Roscoe and brought

---

<sup>23</sup> Unsigned statement, undated, attributed to Willa Cather, Box 4, Folder Clippings, Nathan Roscoe Pound Collection, State Archives, Nebraska State Historical Society.

<sup>24</sup> The few minor differences between the typescript in the Roscoe Pound Papers and the published version of Cather’s character sketch of Roscoe Pound are primarily stylistic. There is a substantive distinction, however, in the wording of the penultimate sentences. Where the typescript reads:

He has ability enough, but he never got past the blue-ribbon sheepskin, “vos salutamus” stage.

The published version (Cather 1970, I: 122) reads:

He has ability enough, but he just seemed to quit growing when he graduated. He has never got past the blue-ribbon, sheepskin, “vos salutamus” stage.

a hiatus to Cather's schoolgirl friendship with Roscoe's sister, Louise.<sup>25</sup> Cather's short essay pointedly suggested that Roscoe Pound had a well-developed potential for posturing, for becoming too full of his remarkable achievements. The most recent criticism on Cather's writing (Woodress 1987: 87) argues that "there is a good bit of truth in the 'character' she wrote, and she may not have given any thought to how easily identifiable her subject would be."

All the same, the same characteristics: the glad-handing, the good-natured bullying, and the cheery pride in his *alma mater*, are precisely the attributes so often admired by unreflexive males as the zenith of the hale fellow well met. For example, Alvin S. Johnson's<sup>26</sup> account of Pound's linguistic expertise was much more favorable than Cather's. He (Johnson 1952: 99) admired Pound's abilities and winked at his use of that skill to verbally dazzle the local townsfolk:

And to the hundreds' and thousands' who had struggled and fought with Latin and Greek in the University of Nebraska, I know only one who had penetrated into the real secrets of the literature, and that was Roscoe Pound, who would use his wonderful command of Greek and Latin literature to *epater les bourgeois*.

During a period of strained faculty relations at Nebraska, Johnson (1952: 173-174) was impressed by Pound's ability to rouse his fellow academics to join in good natured choral singing that helped heal their differences. At the same time, the faculty at Nebraska comprised a primarily male club. Pound felt at home with his brothers, he was a man's man.

Sadly, the brilliant accomplishments of the women professionals that Pound knew and with whom he worked did not convince him that women have inalienable rights to equal opportunity,

---

<sup>25</sup> See William M. Curtin, in Cather 1970, I: 122.

<sup>26</sup> A Nebraskan, Johnson later co-edited the prestigious *Encyclopaedia of the Social Sciences*.(1930-1934).

rights that should be guaranteed by the state. Pound undoubtedly thought these women capable of *appropriating* but not contributing to the highest levels of male achievement. In this way, Pound consistently admired the work of the Abbotts, Breckinridge, Lathrop, and other accomplished women while holding generally that women had little if any place in professional law schools.

### CONCLUSION

To the extent that Willa Cather's stinging portrait is valid, Roscoe Pound can be seen clearly as a man unaware that others sometimes saw him very differently than he saw himself. He believed himself a liberal, progressive man — and in many ways he was. At the same time, he could display insensitivity to anti-Semitism and harbor condescending, patriarchal attitudes toward the education of women for the professions. Pound's attitudes toward women<sup>27</sup> exhibit complexity and internal contradictions. In striving for progressive solutions on one dimension, he was often a conservative on others. The social order, according to Pound, resulted from myriad adjustments between competing interests, and these adjustments were accomplished, in his view, by a court system that rose high above the special interests of any class, group, or sex. Pound's social attitudes toward women mirrored both this theory and his own unreflexive conception of the social and sexual order. As a liberal male, Pound often moved toward progressive social goals, but in so doing he carried with him the baggage of his unexamined patriarchal lifeworld.

---

<sup>27</sup> Although space does not permit discussion here, Pound's attitudes on race and culture are equally complex and problematic.

## REFERENCES

- Abbott, Edith. 1939. "Grace Abbott: A Sister's Memories." *Social Service Review* 13(3): 351-407.
- \_\_\_\_\_. 1950. "Grace Abbott and Hull House, 1908-1921." *Social Service Review* 24(3): 493-518.
- Addams, Jane. 1932. *My Friend, Julia Lathrop*. New York: Macmillan.
- Allen, Florence E. 1965. *To Do Justly*. Cleveland: The Press of Western Reserve University.
- Cather, Willa. 1970. *The World and the Parish: Willa Cather's Articles and Reviews, 1893-1902*. Edited by Bernice Slote. 2 vols. Lincoln: University of Nebraska Press.
- Deegan, Mary Jo. 1988. *Jane Addams and the Men of the Chicago School, 1892-1918*. New Brunswick: Transaction Books.
- \_\_\_\_\_, (Ed.). 1991. *Women in Sociology: A Bio-Bibliographical Sourcebook*. New York: Greenwood Press.
- \_\_\_\_\_. 2002. *Race, Hull-House, and the University of Chicago: A New Conscience Against Ancient Evils*. Westport: Praeger.
- Glueck, Sheldon, (ed.). 1964. *Roscoe Pound and Criminal Justice*. With an introduction by Sheldon Glueck and a foreword by Earl Warren, Chief Justice of the United States. Dobbs Ferry: National Council on Crime and Delinquency.
- Goldmark, Josephine. 1953. *Impatient Crusader: Florence Kelley's Life Story*. Urbana: University of Illinois Press.
- Gouldner, Alvin W. 1970. *The Coming Crisis of Western Sociology*. New York: Basic Books.

- Hill, Michael R. 1989. "Roscoe Pound and American Sociology: A Study in Archival Frame Analysis, Sociobiography, and Sociological Jurisprudence." Ph.D. dissertation. Department of Sociology, University of Nebraska-Lincoln.
- \_\_\_\_\_. 1999. "Edward Alsworth Ross." Pp. 907-908 in *American National Biography*, volume 18, edited by John A. Garraty and Mark C. Carnes. Published under the auspices of the American Council of Learned Societies. New York: Oxford University Press.
- \_\_\_\_\_. 2005. "Nathan Roscoe Pound (1870-1964)." Pp. 1965-7 in *Dictionary of Modern American Philosophers*, Volume 3, edited by John Shook. Bristol (UK): Thoemmes Continuum.
- \_\_\_\_\_. Forthcoming. "Roscoe Pound." To appear in the *Blackwell Encyclopedia of Sociology*, edited by George Ritzer. Malden: Blackwell.
- Hull, N.E.H. 1997. *Roscoe Pound and Karl Llewellyn: Searching for an American Jurisprudence*. Chicago: University of Chicago Press.
- Johnson, Alvin S. 1952. *Pioneer's Progress: An Autobiography*. New York: Viking.
- Lemons, J. Stanley. 1973. *The Woman Citizen: Social Feminism in the 1920s*. Urbana: University of Illinois Press.
- Pound, Roscoe. 1910. "Law in Books and Law in Action." *American Law Review* 44 (January-February): 12-36.
- \_\_\_\_\_. 1920. "A Theory of Social Interests." *Publications of the American Sociological Society* 15: 16-45.

- \_\_\_\_\_. 1928. "The Social Order and Modern Life." Pp. 71-103 in *The Creative Intelligence and Modern Life*. (University of Colorado Semicentennial Series, 1877-1928, Vol. 5). Boulder: University of Colorado.
- \_\_\_\_\_. 1958. "Class Interest and Economic Pressure: The Marxian Interpretation." Pp. 196-218 in *The Ideal Element in Law*, by Roscoe Pound. (Tagore Lectures, 1948). Calcutta: University of Calcutta.
- Sayre, Paul. 1948. *The Life of Roscoe Pound*. Iowa City: College of Law Committee, State University of Iowa.
- Schutz, Alfred 1970a. *Alfred Schutz on Phenomenology and Social Relations*, edited by Helmut R. Wagner. (Heritage of Sociology Series). Chicago: University of Chicago Press.
- \_\_\_\_\_. 1970b. *Reflections on the Problem of Relevance*. New Haven: Yale University Press.
- Setaro, Franklyn C. 1942. *A Bibliography of the Writings of Roscoe Pound*. Cambridge: Harvard University Press.
- Slote, Bernice. 1966. "First Principles: Writer in Nebraska." Pp. 1-29 in *The Kingdom of Art: Willa Cather's First Principles and Critical Statements, 1893-1896*, edited by Bernice Slote. Lincoln: University of Nebraska Press.
- Strait, George A. 1960. *A Bibliography of the Writings of Roscoe Pound, 1940-1960*. Cambridge: Harvard University Law School.
- Tobey, Ronald C. 1981. *Saving the Prairies: The Life-Cycle of the Founding School of American Plant Ecology, 1895-1955*. Berkeley: University of California Press.
- Wigdor, David. 1974. *Roscoe Pound: Philosopher of Law*. Westport: Greenwood Press.
- Woodress, James. 1987. *Willa Cather: A Literary Life*. Lincoln: University of Nebraska Press.