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AN APPRECIATION OF EUGEN EHRLICH

BY ROSCOE POUND

EUGEN EHRLICH, one of the leaders in contemporary science of law, died on April 1, 1922, shortly after the manuscript of this paper was received. Born at Czernowitz in Roumania in 1862, he studied at Vienna, where he took his doctorate in law and was for a time a docent. In 1897 he became professor of Roman law in the University of Czernowitz having already attracted the attention of legal scholars everywhere by his book, *Die stillschweigende Willenserklärung* (1893), in which he treated brilliantly one of the difficult problems of the civil law. In 1902 he published his *Beiträge zur Theorie der Rechtsquellen*. The next year he began his career as a leader in twentieth-century science of law with his booklet *Freierechtsfindung und freie Rechtswissenschaft* (originally a lecture before the Juridical Society of Vienna) which is translated in part in volume IX of the Modern Legal Philosophy Series. This was followed by the development of the well-known Seminar for Living Law, described in his paper *Erforschung des lebenden Rechts*, in Schmoller's *Jahrbuch für Gesetzgebung*, XXXV, 129 (1911), in *Das lebende Recht der Völker von Bukowina* (1913) and in Professor Page's paper, *Ehrlich's Czernowitz Seminar of Living Law*, Proceedings of Fourteenth Annual Meeting of the Association of American Law Schools (1914). His chief work, *Grundlegung der Soziologie des Rechts*, appeared in 1913 and in 1918 a work of scarcely less importance, *Die juristische Logik*.

A thorough student of Roman law and the modern codes, well acquainted with English law, Professor Ehrlich lived and taught in a place where modern law and primitive law came together and a modern complex industrial society jostled with groups of much older types. Thus he had exceptional advantages which he did not fail to improve. His studies of the rôle of non-litigious custom in the development of law have put historical theories of law upon a surer foundation.

Equally at home in German, French and English he wrote for scientific legal periodicals throughout the world. His paper, *Montesquieu and Sociological Jurisprudence*, 29 HARVARD LAW REVIEW, 582, printed exactly as received from him, attests his mastery of English. He had accepted an invitation to come to America and deliver a course of lectures at the Lowell Institute and to address the Association of American Law Schools in December, 1914, but was prevented by the outbreak of the war which cut off Czernowitz from the rest of the world. At the close of the war it was hoped that he might be able to accept a renewed invitation. Unhappily the hardships incident to the war in which Czernowitz was fought over backward and forward repeatedly, undermined his health and he did not live to be restored to his work in the re-established university. His death while still in the fulness of his powers is a serious loss to the science of law.

THE SOCIOLOGY OF LAW

MAY I not begin these observations with a question? Is there such a thing as a worldwide Law? Or are there Laws, differing in various states, among various peoples? Most jurists and many laymen would be inclined at once to answer the second question in the affirmative; they have always heard of a French, an English, a Roumanian law, hence it seems very natural for them to believe in the multiplicity of Laws. Were one to suggest that over and above all of these varieties there must exist some universal legal ideas, they would answer that this is a conception which goes with