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Language of Law, A Symposium --Preface

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PREFACE

THE STUDY of language is not altogether new, but it had never before received the kind of attention which has been bestowed upon it in the last half century. Nor has this scrutiny been reserved to philosophers or academic halls, at least not since its popularization via "semantics." Not strangely, but unfortunately, the popularization of the language study seems to have made it *unpopular* with portions of the intellectual elite who refuse its wisdom in the name of some esoteric if wispy kind of sophistication.

Indeed the study of the language of law is not new. To begin with, that is the way it is mostly studied these days, through its language. But there is more than one way to look at language, as the studies in semantics have so well demonstrated, and at legal language, which the studies in legal semantics have shown. Studies in legal semantics began in this country with Oliver Wendell Holmes, receiving their emphasis in the heyday of legal realism in the thirties. While some count legal realism as dead, it is far from that. It is no more — or less — than absorbed. Its influence has been and will be considerable. Even those who are familiar with these studies of language and more particularly legal language may not know of *general semantics* and its application to legal language and processes. Twenty-five years ago, Alfred Korzybski put into circulation his monumental work, *Science and Sanity*. Man could no more be excused for his ignorance of the uses and abuses of language in his business of living. This study hit more deeply and swept more broadly than earlier studies. No, it is not claimed as a panacea, but the work itself must be read to be believed, perhaps to be understood. No interpreter has yet been able to say it as well, or with as much complexity for that matter, as Korzybski. (S. I. Hayakawa, Irving Lee and J. Samuel Bois have of course done magnificent jobs in their interpretations.) This is an approach which recognizes that our language habits have too much dulled our living potentials, have too much blocked our awareness of what we are and what we are about. J. Samuel Bois put it simply enough: General semantics is guided awareness.

We have room here to deal with only the one small facet of general semantics which is its study of our language habits. This methodology hits so much more deeply than the earlier but more widely known "semantics" as to make some knowledge of it imperative for every legal professional who would continue to regard himself a master of words. Else let him heed the warning of Judge Schaefer in the foreword to this symposium: Words will surely end the master.

To those who are not familiar with general semantics, some orientation comes in the first two articles. Mr. Duffy, in testimonial, brings familiarity with some of the basic terms, devices and ideas of general semantics as well as some of the possibilities of its everyday application in legal practice. The next article attempts application of these ideas to legal discourse — the “language of the profession” — as at once a vehicle of communication and the receptor of certain traditional logical forms.

Mr. Loewinger carries the examination even further in a sharp analysis of the “laws of evidence.” Like Korzybski, he hits hard at certain basic assumptions.

Mr. Hayakawa, the well-known semanticist, takes a different perspective in bringing out the view that legal language, while being a special form of discourse, shares with all forms of language the double potential of being treated as if it were the non-verbal world or of being treated merely as a means of dealing with that world. He shows the insights of a legal scholar in well suggesting something of the relationship between legal realism and functionalism on the one hand and the broader general semantics on the other.

An even different perspective is displayed by Mr. Lasswell who demonstrates the usefulness of a general semantic kind of approach in the legal process, beyond the necessary limits of the earlier legal realism. Here is the Korzybski methodology at work, the placing of the legal process into its world process context, suggesting how a contemporary psycho-logical approach ties law in with human behavior and with human values, the basics of human life. For one with vision, the possibilities of more all-embracing systems loom ahead, maybe even a degree more of certainty.

Twenty-five years should seem to those who are living it a long time for such a study to wait before receiving more than bare recognition from the legal profession, a profession which relies so much on its language tools. Of course, in the long run, “time” is unimportant. The important fact is that we may be on the way.

This symposium is dedicated to the life and works of Alfred Korzybski — in the hope that others may be encouraged to take up where his works were halted.

WALTER PROBERT

Symposium Editor