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Practicing Law and General Semantics

By *Edward B. Duffy*

IT IS MY purpose here to describe the ways in which I have found general semantics useful to me in practicing law. In order to do that it will be necessary to describe some of the terms, ideas, and methods created and used by Alfred Korzybski in his books, papers, and lectures, but more particularly in his book, "Science and Sanity — An Introduction to Non-Aristotelian Systems and General Semantics," which he published in 1933.

Fundamental to his system is his theory that humans, in order to live as effectually as humans can, must acquire a life long habit of being

conscious of abstracting,
i.e. of being constantly
aware that the objects we
see are abstractions from
a lower level of reality, the
process or event level.

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When we label an object by assigning a symbol, a word to it, and describing or defining it, we have abstracted from the object level of reality and have proceeded to a higher level of abstracting. Humans have the ability, because of their power to create and use symbols, including words, to reach higher and ever higher levels of abstraction.

On the lowest level of abstraction, the process or event level, or the submicroscopic level, any object we select may be considered as "a chunk of nature, a clog of electricity, a mad dance of electrons — something acted upon by everything else, and reacting upon everything else — something which is different all the time — something which we can never recognize, because when it is gone, it is gone, etc." This something has an infinite number of characteristics.

If we could see the infinite number of characteristics "the world would be a maze; no law, no order, no intelligence would be possible." Our nervous systems are not stimulated by all of the characteristics of an event but only by a small part. We get our experience of an event "by exploring, summarizing, abstracting" some of the characteristics from the event level and in doing so create our familiar objective world.

Korzybski illustrates this with an electric fan. "When the fan is rotating rapidly we do *not see* the separate blades, but we see a disk. 'Mat-

ter' and 'objects' are such disks; in other words, a 'joint phenomenon' of the rotating blades and our abstracting organism. We cannot put our finger through the disk, although it is a fiction, because the rotation of the blades is much more rapid (for one of the reasons) than the velocity of our finger. Similar reasons explain why we cannot put our finger through a table."

Leaving the object level of reality and proceeding to the next higher level we leave the "non-verbal world" and enter a different world — the verbal world. This world has been created by humans through their ability to use symbols and to have higher order abstractions.

When we pass from the object level to the first verbal level and give our object a label, a name, a description or a definition, we abstract from the large number of characteristics which appear at the object level by leaving out many of the characteristics (details) and so have fewer characteristics on our descriptive level.

When we make statements or talk about our label, description or definition we proceed to a higher order abstraction by leaving out some of the characteristics which appear in our description. We can continue to higher and higher order abstractions (generalizations, theories, inferences) but each time we proceed to a higher abstraction we leave out some of the details which appeared in the next lower abstraction.

Korzybski wants us to be habitually conscious of the fact that we do abstract and of the different levels of abstraction. He warns us against confusing levels of abstractions and not to identify or behave as if the descriptive level were the object level or as if the inference level were the descriptive or object level, etc.

Korzybski used an analogy of a map to a territory which goes like this: If we had an actual territory in which the cities of New York, Chicago and San Francisco existed in that order when proceeding from East to West; and if we made a map which showed San Francisco between New York and Chicago, we would say that the map was faulty and inaccurate; that its structure was not similar to the structure of the territory. Now Korzybski pointed out these interesting things about maps. 1. The map is not the territory. This is the same as saying the descriptive level is not the object or event level or the verbal description is not the non-verbal object. 2. No map shows "all" the territory. It does not show the buildings along the roads, or if it does it does not show the details of construction, etc. This is the same as saying that when we proceed from a lower level (territory) to a higher level (map) we abstract by leaving out most of the details which exist on the lower level. 3. Maps are self-reflexive; i.e. the ideal map of a territory, being made in the territory, would show the map and this map would show a

map, and so on. This is the same as saying that we can verbally proceed to higher and higher abstractions infinitely. We can talk about talk about talk, etc. Korzybski further said that our languages must be considered as maps and that what he said about maps should also be said about languages.

Maps and languages, to be reliable, must have a structure similar to the structure of the territory which they are supposed to represent, or the nonverbal world about which they speak.

I have found statements like the following very useful in my dealings with the verbal world, i. e., reading, writing, talking, listening: 1) the word is not the thing; 2) an inference is not a statement of fact; 3) no one knows all about anything; 4) we should not be dogmatic about anything since dogmatism implies that we have all the facts; 5) since many characteristics have been left out in any statement we make about anything, it is possible, even probable, that some important characteristics, which would make a difference to our conclusions, have been left out; 6) maps and languages are made by men, men who have the ability, through design or ignorance, to create entirely fictitious maps and languages, which bear little or no resemblance to the territory or the nonverbal world; 7) humans react to their environment, including their verbal environment. We are affected by the language we hear including the language we use in talking to ourselves; 8) what you are depends upon where you have been and what life experiences you have had, including your cultural and social training and the assumptions about reality which you have acquired.

I shall now give some examples of people behaving as if the inferential level of abstracting were the descriptive level; as if the descriptive level were the objective level of abstracting; as if they were not abstracting.

Many witnesses make statements of inferences as if they were statements of fact and behave as if what they have testified to *is* what happened and are fortified in this belief by the oath which they have taken to tell "the truth, the whole truth, and nothing but the truth." Rather than allow any doubt arise as to whether there is a difference between what happened and what they say happened, they will become belligerent and act as if their veracity is being questioned.

One of the most flagrant cases of an inference being made as if it were a statement of fact occurred recently in Pennsylvania in a homicide case. The defendant was arrested and charged with the murder of a woman and assault and battery on two men. Whoever committed the crimes was unknown to the victims. The two men who survived the beating, and who were somewhat under the influence of liquor at the

time of the crime, identified the defendant some days later as the person who had committed the crimes. There was no other evidence connecting the defendant to the crime, except that he was unable to prove an alibi that he was home sleeping at the time of the crime. When defendant was arrested he was taken to the home of a man with whom he had been several hours prior to the crime. This man when testifying for the Commonwealth was asked whether defendant did anything unusual in his presence and replied that the defendant sort of winked or something. He further said that he didn't rightfully know whether it was a wink or something that was in his eye. Witness was asked: "What did you take this wink to be?" and he replied: "I think he was trying to get me to make an alibi for him to cover up some of his actions and I don't know nothing about any of his actions." This testimony was allowed to go to the jury over objection. The defendant was convicted and sentenced to life imprisonment. Now it seems to me that we have here an example of an inference about defendant's meaning conveyed by means of a wink, if it was a wink. An inference presented to the jury as if it were a statement of fact and no doubt, under the circumstances, having some weight with the jury in arriving at their verdict.¹ Consciousness of abstracting and awareness of the levels of abstracting would have been helpful to enable the defendant's attorney and the judge to recognize that there was a confusion of or identification of levels of abstraction; that one level, the inference was being treated as if it were the descriptive level — the statement of fact level.

To take some examples from my own practice, I recall a woman client who wanted a divorce. She said that her husband had changed in his behavior toward her; that for some months he had shown no affection for her and had in fact neglected and ignored her. He refused to talk to her and spurned all advances which she had made in an effort to adjust their differences. She believed that he must be interested in another woman because it was unnatural for a man to stay away from his wife so long. Here we have an example of a mixture of facts and inferences, with the inferences treated as if they were facts. Because she believed the verbal map which she had made from her "facts" and "inferences" was the non-verbal world of reality, she could not see any other reason for her husband's behavior than the ones she had assigned. I had the husband come to my office for the purpose of trying to effect a reconciliation. I remembered that my client's case was built largely on inferences and that inferences are not facts and at best are only probably true so I began to search for some of the factors that had been left out by my client in her abstracting. After gaining his confidence he confided

¹ Commonwealth vs. Holder 390 Pa. 221, 134 A.2d 868 (1957).

in me that he loved his wife and did not want a divorce; that for some reason he had some months ago become impotent; that he was ashamed of his condition and in order to avoid a disagreeable situation he had behaved in the manner described by his wife. Reconciliation was not difficult to effect and I believe that both parties learned something about general semantics.

Another basic assumption in general semantics is that no two objects, things, organisms, happenings, etc. in the universe are alike in all respects. Every object, event, happening is unique and differs in some details from every other object, event and happening. There are, to be sure, some similarities between objects and the structure of our language but the structure of our language is such that it tends to stress the similarities and ignore the differences. When we generalize about individuals as a group, i.e., create higher order abstractions, we tend to abstract the characteristics which are similar in the individuals and leave out the differences. Korzybski warns us to be constantly aware of the differences as well as the similarities. He further has said: "All individuals are very 'real,' and every one of them is different. According to one of the important rules of correct symbolism we label every individual with a different name, so that every individual has one and only one name. We wish to produce two other words 'man' and 'animal.' I said, 'we wish'; it is so because there is no such thing in the world as 'a man' or 'an animal.' These labels are names for abstractions of high order, for 'ideas' and not things. Smith, Brown, Jones, etc., are 'realities,' objects, but they all are different, and the collective name 'man' is given to an idea and not a thing."

Many of the words we use are labels for "ideas" and not for things, such as criminal, defendant, juvenile delinquent, lawyer, judge, court, thief, alibi, jury, etc. In each of these cases there are only individuals behaving in some manner. Many of our prejudices against classes arise from our inability to recognize the uniqueness of all objects and individuals and our behaving as if the label for an "idea" was the symbol for a thing. Words like communist, Red, Jew, Negro, convict, parolee, poor white, Southerner, gambler, etc. are likely to cause us to use a stereotype picture of an individual who is made to represent all members of a class. The fact is that there are only individuals, all different. Gambler₁ is not gambler₂, who is not gambler₃. The index to indicate individuals is a device invented by Korzybski to keep us aware of the uniqueness of individuals and that in the non-verbal world there are only individuals.

This assumption is helpful whenever generalizations, higher order abstractions or class names are used. The "index" compels you to apply the conclusions, theories, inferences, generalizations, etc., which we have

generated from high order abstractions to specific individuals where the differences frequently make a difference.

When two witnesses tell stories which are essentially different it is assumed that one of them is not telling the truth. When such testimony is all there is in the proof of a case it becomes necessary for the jury to find the liar. Once that has been done the verdict is automatic. In determining the veracity of a witness the jury takes into consideration the manner in which he testified, his appearance on the stand, whether he appeared to be evasive, etc. If you accept the assumptions and principles of general semantics I think you would say of such situations that all parties concerned including the jury, assume that the maps (verbal or otherwise) which we make of a territory can and should be identical. If we abstract differently this assumption is false. They further assume that you can tell a liar by his appearance, by his manner, by the way he answers questions. Any statement made about such conditions, unless it is a report or description, must be an inference and as such, at best, only probably true. There must be cases where the testimony of the witness who makes the worst appearance is more similar in structure to the structure of the happening about which he has testified than is the testimony of the smoother, better appearing witness.

There is another field in which the "law" appears to make an identification. A declaration made by a person who is dying and who is said to know of his impending death is allowed to be offered in evidence as an exception to the hearsay rule. This is allowed on the assumption that a person who is about to meet his Maker could not do otherwise than tell the truth. Such a statement is usually given great weight by the jury for the same reason. This assumption is not necessarily true. The person dying may be an atheist; he may not believe in his impending death; a motive of revenge may be stronger than his fear of lying at such a time; but more important than all this he may be mistaken. Dying declaration₁ is not dying declaration₂.²

The non-verbal world is a world of process. Everything on the event level and the object level of reality is in a state of constant change. Nothing is exactly the same from one second to the next. These changes are small from the point of view of the object level and we usually do not notice the change until a sufficient number of small changes has taken place. Our language structure is such that our words seem to imply that the world of reality is static. To the extent that our maps

² Commonwealth vs. Brown 388 Pa. 613, 131 A.2d 367 (1957). In this case a defendant was convicted upon the identification testimony of a witness who made a dying declaration. The dissenting opinion discusses the "myth" of the dying declaration.

neglect to show the dynamic nature of the event level and object level of the non-verbal world they are false and misleading. Korzybski suggested a "date" index to make us aware of change. Defendant ¹⁻¹⁹⁴⁰ is not defendant ¹⁻¹⁹⁵⁷. In 1940 after a series of hold-ups, and when he is twenty years of age and in rebellion against society, defendant may have been considered a "vicious criminal," a person unlikely to reform, and in order to protect society the maximum sentence may have been given him. In 1957 after seventeen years in prison defendant may have made a better adjustment to society, the rebellion may have burned itself out. He may have a quite different personality. When the newspapers, prosecutor and others remember only his behavior in 1940 and protest his release on parole they are failing to take into account the process nature of reality. Of course change is not always for the "better." Our defendant may not have changed much in his attitudes toward society; he may have harbored a grudge all these years and be actually "worse" than in 1940.

The structure of our language is such that we tend to talk about things in two values. Korzybski calls this an "either-or" orientation. People are good or bad, tall or short, white or black, rich or poor, successful or failures, emotional or unemotional, neglectful or considerate, sane or insane, careless or careful, guilty or not guilty. In the non-verbal world things differ by small steps. We live in a "degree" world where things should be evaluated on a scale in degrees with the words which are usually used in either-or evaluations at opposite ends of the scale. Between black and white there are many steps of varying shades of gray.

Humans, because of their ability to generate higher order abstractions by the use of words as symbols or as noises, have the capacity to create entirely fictitious verbal words. We also have the ability to behave as if the verbal world which we created is the real world and to be affected by it in the same way we are affected by our non-verbal environment. These verbal worlds may be handed down from generation to generation, used as models in place of models of the world of reality, with any critical questioning prohibited. All of us possess a verbal world which we have gradually acquired since our birth. Our assumptions, beliefs, personal philosophy taken together describe our own private verbal world. To some extent at least these verbal worlds are false and unreliable. Just how false and unreliable would depend upon our checking them against the world of reality for evidence of similarity of structure. Korzybski describes humans who do little or no checking of their verbal worlds against the non-verbal world as intentionally oriented people and those who do check for similarity of structure as extensionally oriented. Hu-

mans, by their nature, must deal in higher order abstractions and create verbal worlds. Indeed, all human progress is due to this natural capacity. Modern science, however, has shown the value of being extensionally oriented and of checking our higher abstractions against the object and event levels of reality. Korzybski suggests a balanced living between these two orientations, using both for maximum survival value.

General semantics effectively demonstrates that there are no abstract qualities in the non-verbal world. They exist only in our verbal world, created by us from our personal feelings or goings-on in our bodies. The redness we see in the rose is not in the rose but in us. The rose is eventually made of atoms, electrons, etc. in which there is no "color." Light reflecting upon the rose strikes our eyes, stimulates certain nerves, and eventually stimulates certain patterns of brain cells. Whatever takes place as the result of these stimuli causes us to have a "mental picture" which we label "red rose." Because of our language structure and especially because of the "is" of identification, i.e. the verb "to be" used in its various forms — as an identification, as, he *is* a bad boy, he *is* a juvenile delinquent, he *is* a criminal — we tend to believe and to behave as if the quality is in the thing. Korzybski suggests we overcome this tendency by the use of such language as, "The rose *appears* red to me." With respect to humans there are no qualities in the non-verbal world. There are only individuals behaving in certain ways with relation to other individuals. In making our higher order abstractions, beginning at the object level, we eventually arrive at some evaluation of their behavior. How we evaluate, what qualities we assign, will depend upon who we are, what our particular interest in the behavior is, what our assumptions are concerning such behavior.

There are many other useful "tools" in general semantics but space limitations require me to omit them. The assumptions, principles and methods of general semantics when practiced over some period of time causes a change in your behavior. In all verbal situations whether you are reading the newspaper, a report, cases in research, etc. or talking or listening to clients and others you are conscious that the talk represents an abstraction. What is said is not the happening and some, possibly important, characteristics have been left out. Some statements, because they are made in the form of a declarative sentence, sound like statements of fact, but are actually inferences, and as such, are less reliable than statements of facts. You find that words no longer bring about a spontaneous or signed reaction in you; that you feel less "emotional" about what is said; that you are able to delay your reaction to words by recognizing that they may be symbols or mere noise, and, if symbols by trying to understand what they mean. You develop a more relaxed at-

titude toward verbal situations. I have these "tools" of general semantics at hand whenever I am involved with language. I believe that it helps me to better evaluations of the problems that come across my desk.

To take a few examples: A and B enter into a contract wherein A agrees to build a dwelling in accordance with certain plans and specifications. These parties have, in effect, made a map of a future territory. A great many disputes arise from the failure of A and B to make a map (plans and specifications) with a sufficient number of details so that it will have a structure similar to the structure of the territory to be created. No map can contain all the details of the territory and when A and B examine the map they abstract differently and if they think they have the *same* "picture" in their heads they are mistaken. The "pictures" each one has can be made similar by asking each other questions about the construction, materials, etc. B is frequently disappointed because the house when built does not resemble the house which B "pictured" from the plans and specifications. A good way to overcome this disappointment is to have a set of plans and specifications that contain a wealth of details and to select an experienced builder whose previous work you have examined and whose workmanship meets your approval.

X has had a dispute with her next door neighbor which started when X complained to her neighbor about the neighbor's son's behavior. X says that the boy, who is ten years old, is incorrigible; that she has warned him a number of times to stay off her property; that he is always running across her property tramping on her flowers and breaking her windows; that when she complained, the boy's mother defended him and told her that she was a troublemaker. Questioning develops that he is not "always" running across her property but that he has come on her yard a half dozen times in a year chasing a ball that accidentally went into her yard. He stepped on one of her flowers on several occasions and the window which he broke was broken last year when a ball was accidentally batted by the boy's friend "who is just as bad as he is." The boy's father paid for a new window and gave his son strict orders to stay off her property. She feels that it is a terrible thing to be called a trouble-maker and that she is not a trouble-maker and what can she do about the situation. I don't mention "general semantics" or any of the technical terms but I try to get her to use different language to describe the incident, using my knowledge of general semantics to get her to discover her misevaluations. Sometimes in this kind of situation I am successful but more than likely my client will say, "So there is nothing I can do about it?" I usually tell her that there are a number of things you can do about it, including moving out of the neighborhood, which is never popular with my client. Finally I tell her that if she will change

her assumptions about how this ten-year old boy should behave she will stop having signal reactions which emotionally disturb her and begin to have delayed symbol reactions which will change the situation entirely.

In examining a report of the financial condition of a business I remember that the report is a map; that it does not contain "all" the details and that it is dated. I find it important to know who prepared the report. Is he a disinterested reporter? Is he an expert? What opportunity for observation did he have? Did he make or supervise the taking of inventory? Or did he accept someone else's report and if so, what other person? Did he verify the accounts receivable? What changes have taken place since the date of the report? What characteristics in the territory have been left out which might affect the future of the business? Has the spark-plug of the business died or is he about to retire? Has some powerful competitor been born? Have there been technological improvements which will affect the future of the business?

In preparing a case for trial, in talking with witnesses, I remember what I have learned from general semantics. I try to be extensional by checking the territory whenever possible. I like to use plans, photographs, diagrams, exhibits as extensional help. I find that the language of general semantics is helpful in talking to juries and to judges.

I am firmly convinced that training and practice in the methods of general semantics is useful and beneficial to anyone, particularly lawyers.