

Preface to the English edition

This book is a translation of *U/enighetsanalyse – med særlig sikte på jus og allmenn rettsteori* (Oslo 1996, mimeographed; Oslo 1998, Universitetsforlaget/Scandinavian University Press). I have shortened the book to some extent by omitting sections II B 3.3.5 og IV 4. A few references to the literature have been deleted or added. In other respects this English edition is identical to the Norwegian edition.

The task of translating the Norwegian text into English gave rise to many challenges. The very act of going from a dense Germanic language like Norwegian to a grammatically more flexible language like English in itself raises many problems. But also on account of the content of the work, the translation of *U/enighetsanalyse* was very demanding. In the first place it is a matter of a work that has language itself as its subject; the work presents certain general structures in our concrete use of language, and builds the presentation up as a close interplay between the level of theory and concept on the one hand and the level of examples of language usage on the other. Secondly it is a matter of a work that had itself to establish and justify its perspective; one aspect of this was that to a considerable extent there was a need for innovation with respect to concepts and terms.

The fact that these difficulties have shown themselves to be surmountable is to a great extent thanks to the exceptional obligingness and commitment on the part of my colleague Patrick Chaffey in the Department of British and American Studies. Throughout the years 1999-2003 we co-operated very closely on this translation. In the main the work consisted in his writing first drafts of translations of parts of the book, drafts which I reworked, and which we then discussed, word for word, until we had gone through the whole manuscript; after this I went through the manuscript in several rounds and in so doing discussed innumerable questions with him. For long periods of time we had lengthy discussions on a daily basis. Without his help I do not know whether I would have managed to see the translation safely completed, and it would in any event most certainly have been less faithful to the original. It is with great pleasure and gratitude that I look back on our co-operation.

At different stages of the work on the translation I received valuable help from colleagues in Norway and abroad in solving different problems that the work occasioned. I should like to thank Zenon Bankowski, Ronald Craig, Dagfinn

PREFACE TO THE ENGLISH EDITION

Føllesdal, Neil MacCormick, Stanley L. Paulson, Robert S. Summers and Stuart Toddington.

I also want to thank Arnt Myrstad, Aleksander Peczenik and Eivind Smith for their encouragement and valuable support along the way.

Finally I should like to express my gratitude to my closest family for their encouragement and patience; the English edition is, like the Norwegian edition, dedicated to them.

The Norwegian Research Council, Lovsamlingsfondet (the Statute Collection Fund) and Anders Jahre's Fund provided financial support for the work on the translation.

Parts of section II F appeared earlier in (2000) 13 *Ratio Juris*, and section III 3 appeared earlier in (1999) 18 *Law and Philosophy*.

Oslo, March 2003

Svein Eng

Preface to the Norwegian edition

My thinking concerning the perspective and topic of the present work started in the mid seventies. In the main the work was written in the period from 1983 to 1995.

The work had itself to establish and justify its perspective; this is not present in a well delimited form within existing research traditions.

My main motive for writing this work lay in a combination of two factors: On the one hand, I have a strong and enduring interest in epistemology. On the other hand, I discovered that language and argumentation phenomena that I consider interesting and significant, had not been systematically treated in the literature, but had been dealt with piecemeal, overlooked or denied. Two examples are definition activity formulated in everyday language (with appurtenant boundary between analytically un/true and other propositions) and fusion of descriptive and normative propositions. More generally it is the case that the literature has not captured the wealth of nuances, the internal coherence (system character and dynamics), the independence and the factual significance that all characterise the critically reflexive form that constitutes the perspective and topic of the present work. Thus the literature has to a great extent related blindly to important parts of our power of judgement mediated in and through everyday language, including important parts of lawyers' power of judgement.

Through my work on legal topics it became clear to me that a close connection exists between on the one hand the critically reflexive form brought into focus in the present work, and on the other hand lawyers' language and argumentation. Parallel to and in interplay with my other works in law and the philosophy of law, the present work took shape, and publication became the aim. This was a step-wise and lengthy process. For one thing, it took me a long time to conceptualise, as well as to collect and present evidence for, the wealth of nuances, internal coherence and factual significance that characterise the critically reflexive form. For another, it took me a long time to cognise and conceptualise the independence of the critically reflexive form, including the fact that the perspective and topic of the present work is not reducible to particular -isms on the level of fundamental philosophical positions, or in other ways situated in any univocal relationship to this level.

For comments on a version of 1994–1995 I wish to thank Associate Professor Øyvind Baune, Professor Jes Bjarup, Professor Jørgen Dalberg-Larsen, Professor Åke Frändberg, Associate Professor Arnt Myrstad, Professor Aleksander Peczenik

PREFACE TO THE NORWEGIAN EDITION

and Professor Jon Wetlesen. My thanks also go to the late Professor Torstein Eckhoff for comments on an earlier work which later grew to become Chapter V.

The present work was defended for the Doctorate in Law in December 1996. In relation to the version used for the disputation I have brought the bibliography up to date and amplified and clarified some points, but I have not made any material changes.

I wish to thank the Faculty of Law Library at the University of Oslo for efficient help with the provision of literature.

For assistance with getting the manuscript ready for printing, I wish to thank in particular Lisbeth Markussen Eng. She provided extensive help in checking the language, verifying quotations and reading the proofs. I further want to thank the students of law Alf Petter Høgberg, who commented on punctuation and in co-operation with me set up a draft for running heads, Karl Kristian Lofstad, who assisted with proof-reading, and Vidar Helgesen, who checked quotations from judgments.

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