Preface

This book should be the gateway to a variety of texts for those who encounter the bewildering expression "semiotics of law". Once we find ourselves in the position to meet those words, they help to be a reader, a listener, a speaker, or provide an orientation in space and time. The *history* of legal semiotics, now at least a century old, has never been written (a non-event itself pregnant with semiotic possibility). As a consequence, its sources are seldom clearly exposed and, as word, object and meaning change, are sometimes lost. This volume informs about major sources leading to legal semiotics as we know it today. The need for the exposure of semiotic sources is particularly acute because there were two names for the unfolding of semiotics in law and legal discourse at least until the second half of the 20th century: *significs* and *semiotics*, both of which covered a lawyer's focus on sign and meaning in law.

"We never come to thoughts. They come to us. That is the proper hour of discourse", Heidegger suggested.[1] The texts of this book form the gateways to that "hour of discourse." Gateways require portals. And thus the construction of this text—not merely a reader, splattered with a mosaic of the writings of others—is meant to be understood as a puzzle whose assemblage is to be teased into some sort of artificial order by the reader to suit her tastes. We have chosen readings with care, and woven them together with a number of *editorials*. They are offered throughout the text, within and apart from the readings. These should be read like the twining of the threads of fate by the Norns,[2] offering "what was", "is coming" and "may be" within the Well of Urd beneath the great ash tree, Yggdrasil, that stands at the center of the universe.[3] But that twining is all undertaken in the subjunctive tense. These editorials themselves produce a semiotic text inherently imbued with subjectivity and possibility, one whose texture may change as each is embedded by the reader

[1] Martin Heidegger, *Poetry, Language, Thought*. (New York: Harper & Row, 1971) (originally *Unterwegs zur Sprache* (1959)).

[2] Chisholm, Hugh, ed. (1911). "Norns". Encyclopædia Britannica (11th ed.). Cambridge University Press.

[3] *The Elder Edda: A Book of Viking Lore*.(2011). translated by Andy Orchard. Penguin Classics.

among the readings that the editorials twine to provide an initial structure to the longitudinal approach of semiotic consciousness that this volume manifests.

The volume at hand reaches from an English translation of the first inaugural lecture on the occasion of the opening of the Chair in Legal Significs at the Amsterdam University in 1916, via studies on "property", "contract" and the like, to equally fascinating studies on contemporary semiotic problems written by former students of the Roberta Kevelson Seminar at Penn State University 2012 and 2013. The Introduction, Part I, sets out the goals of this enterprise—the reading of texts in and of themselves, as symbol and reconstructed through engagement by those who happen to take them up. The embeddedness of text, in itself and within the cultural milieu in which it is invoked, and internal to the individuals who undertake that reading, complicates sign, symbol and interpretant in an ever-evolving change of character with a change of position. A reader of text may herself be text to an interpretant and symbol to yet another. Perspective, context and dynamic shifts characterize the richness of the semiotic engagement. But each perspective has a temporal element. We thus show how Umberto Eco's essay, "On the Style of the Communist Manifesto" provides a template through which the materials that follow might be read better, one in which meaning-making processes are encapsulated in cultural evolvements.

Parts II ("From Legal Significs to Legal Semiotics") and III ("Godfathers of Semiotics—Welby, Pierce, Greimas and Lacan") provide an environment grounded in "that which was." Part II presents an exploration of the dynamic relation of text, symbol and interpretant from the *significs* movement to legal semiotics. The parallel development of semiotics and significs highlights the focus on the instrumental values of the language of law which can be molded and used arbitrarily and pragmatically to meet specific goals. Semiotics focuses on the word as sign and the ways in which these signs contribute to an understanding of reality. We confront here an initial attempt at a science of the self-referencing meaning of legal language and as instrument beyond its literary and political character as rhetoric.

Part III changes furthermore the perspective, focusing on the Godfathers of semiotics—Welby (meaning), Pierce (firstness), Greimas (legal discourse) and Lacan (the semiotics of the personal in text). This section turns attention to the semiotics of the structures of semiotics itself. It starts with the discussions between Welby and Pierce over the meanings of significs and of semiotics. These discussions and the consideration of the character of Firstness, Secondness and Thirdness (as proposed by Charles Sanders Peirce) then acquire a dynamic character in the hands of Greimas, who unifies legal semiotics with economic, institutional and other social discourses. He added a layered structure to semiotic analysis, which is dynamic and no longer fundamentally static as in earlier work. We return to the embedded self in semiotics with Lacan. We consider here the embedding of meaning in language, and the making of that meaning within communities of interpretants.

Part IV introduces the semiotics of law today, that which is becoming. These are organized in the manner of the ancient organization of what is now understood as civil law. The semiotically rich foundation is provided in the introductory materials of Justinian's Institutes. The Institutes provide an example of the institutionalization

of a semiotically arranged legal universe. Read with the sensibilities of the semioticians or the student of significs, the Institutes read like a "how to" of instrumental semiosis. The rest follows the ancient ordering (itself a semiotic device) of law: persons, things, and obligations, in both public and private law. Each of the categories, persons, things and obligations, suggest their own semiotics. Here we draw on Roberta Kevelson's insight of the means through which traditional logic is converted into semiotic logic, and the rhetoric of property in law into the methodology of legal semiotics. We confront language here as much as an instrument whose range of motion is to a great degree woven into the social norm and cultural structures of the communities of interpretant that seek to use it to change social norm and culture. But we understand this as a layered and complex conversation in which there is neither singularity nor stasis in law or law system. The language of law, and its semiosis, assumes a distinct dimension where multiple languages of law speak simultaneously to an object of law. Law's "is" becomes comprehensible only in the plural!

Part V turns to that which "may become." Here the focus is on developing semiotic awareness, from the evolution of semiotics to its embedment within the rising generation of scholars now making this evolution their own. It ends with a strong nod to the future—for nothing is more semiotically driven than the deconstruction of the edifices within which semiotics may be encased, ossified, within a theory that both confines and entombs it in space and time. This end thus is meant to serve as a beginning of sort, and an example of the product of a rigorous semiotic approach. It must always break the constraints of its own structures in the dynamic interaction between the sign, the symbol and the interpretant—as individual and community in fluid interaction in three-dimensional social space. We point to the future for semiotics: the embrace of the totality within which details are subsumed and acquire meaning, the avoidance of fragmentation and enclosure of the particular within their own artificially self-contained worlds of meaning. One encounters the understanding, that all meaning is transitory and merely an opening to something else. It is only in this way that contemporary semioticians will know which questions to ask, how to frame them, and whether, in the end, it is still worth to do so whilst crossing their Halys.

The materials in this book weave together the fabric of semiosis and significs. It does so quite embedded within the cultural imperatives of the civilization that gave these terms meaning and made them an effective tool for the dissection of law, and its reconstitution as an instrument to be used by the lawyer to advance the interests of her clients, and for judges, as a means of restructuring language as a narrative of law whose power could bend behavior to its strictures. Lawyers make meaning, indeed, but they do so like Croesus making meaning of the oracle at Delphi, and recognizing that meaning may re-make the maker. Judges, legislators and administrative regulators make meaning like the oracle, with the innocent conceit of the gods, but like them, unable to escape the destiny they render through the narratives of their lawmaking and decisions. And both realize their meaning making only through the participation of the community through which this meaning making is put in operation.

Beyond that, the object of this book is to provide a longitudinal framework within which one can better approach the development of our consciousness of the problem of meaning and its uncovering. Semiotics did not arise from the mind of a single individual as an act of will already formed and fully developed. There is a semiotic element to semiotics as well, it is to the business of bio-semiotics that this journey from the 19th century origins to the present best suggests. For lawyers the ultimate comfort of semiotics is the premise of a momentary and specific certainty of meaning. For lawyers, that alone is enough of a reason for undertaking its study. For they operate in a self referential world in which meaning itself is the only source of meaning, piled higher and deeper, and sorted to suit the fancy of the state apparatus that tends to it, for the constitution of its own self-reference. Where this is a simple and singular act, the art of semiotics of the last century, is useful. But in a world of singular objects that serve as multiple signs with even more interpretive possibilities, the complications that follow will ensure that the work of the lawyer, to extract a momentary and instrumental use of meaning for an temporal and temporary end, will move meaning and its construction, that is, will move semiosis beyond its 19th and 20th century structures.

A book of this sort would not be possible without the contribution of many people, whose contributions to this book, both substantive and administrative, have been invaluable. We thank our students who, during that short period (2008–13) when the study of semiotics flourished at Pennsylvania State University, participated in the Legal Semiotics seminar and the related annual Round Tables dedicated to Roberta Kevelson. The richness of their contributions and their work for the Round tables cannot be underestimated. More specifically, we would like to thank our administrative assistant, Maggie White; this book would not have emerged from its cocoon without her very considerable efforts. Great thanks as well to Tomonori Teraoka, M.I.A. (School of International Affairs 2013), Pennsylvania State University, who played an instrumental role in moving this project from idea to completed work. We thank, as well, all of the contributors to this book, living and dead, who have played an instrumental role in the genesis of legal semiotics and have contributed to its future development in critical ways. Finally we thank our editors at Springer, and especially Diana Nijenhuijzen and Neil Olivier, whose supports have truly made this volume possible.

Carlisle, PA, USA Jan M. Broekman
University Park, PA, USA Larry Catá Backer

http://www.springer.com/978-3-319-09836-4

Signs In Law - A Source Book
The Semiotics of Law in Legal Education III
Broekman, J.; Catà Backer, L. (Eds.)
2015, XVIII, 431 p. 11 illus., Hardcover
ISBN: 978-3-319-09836-4