Contents

Abbreviations Foreword		ix
I. The Problem of Legal Positivism		1
	1. The Basic Positions	3
	2. The Practical Significance of the Debate	5
	A. Statutory Injustice	5
	B. Judicial Development of the Law	8
II.	The Concept of Law	11
0.8	1. Central Elements	13
	2. Positivistic Concepts of Law	14
	A. Primarily Oriented toward Efficacy	14
	(i) External Aspect	14
	(ii) Internal Aspect	16
	B. Primarily Oriented toward Issuance	16
	3. Critique of Positivistic Concepts of Law	20
	A. Separation Thesis and Connection Thesis	20
	B. A Conceptual Framework	23
	(i) Concepts of Law Omitting Validity	
	and Embracing Validity	23
	(ii) Legal Systems as Systems of Norms	
	and as Systems of Procedures	24
	(iii) Observer's and Participant's	
	Perspectives	25
	(iv) Classifying and Qualifying	
	Connections	26
	(v) Conceptually Necessary and	
	Normatively Necessary Connections	26

(vi) Combinations	26	
C. The Observer's Perspective	27	
(i) Individual Norms	28	
(ii) Legal Systems	31	
D. The Participant's Perspective	35	
(i) The Argument from Correctness	35	
(ii) The Argument from Injustice	40	
(iii) The Argument from Principles	68	
III. The Validity of Law	83	
1. Concepts of Validity	85	
A. The Sociological Concept of Validity	85	
B. The Ethical Concept of Validity	87	
C. The Juridical Concept of Validity	87	
2. Collisions of Validity	89	
A. Legal and Social Validity	89	
(i) Systems of Norms	89	
(ii) Individual Norms	91	
B. Legal and Moral Validity	91	
(i) Systems of Norms	92	
(ii) Individual Norms	93	
3. Basic Norm	95	
A. The Analytical Basic Norm (Kelsen)	96	
(i) Concept	96	
(ii) Necessity	98	
(iii) Possibility	102	
(iv) Content	104	
(v) Tasks	105	
(vi) Status	107	
B. The Normative Basic Norm (Kant)	116	
C. The Empirical Basic Norm (Hart)	121	
IV. Definition	125	
Index of Names		
Index of Subjects		