INDEX

Seite

Editors' Introduction 1

JULIUS STONE, Sydney

Meaning and Role of Definition of Law 3
1. Law Generally and its Elements 3
2. Is it Desirable and Feasible to Define Law? 6
3. Some Logical Problems of Definition 11
4. Reflections on some Suggested Conceptual Boundaries of the Law Field 15
5. Current Attempts to Integrate Current Conceptions into a Definition of Law 22
6. "Definition of Law" and the Province of Jurisprudence 30

Zusammenfassung 33

Résumé 34

ANTHONY R. BLACKSHIELD, Sydney

Some Approaches and Barriers to the Definition of Law 35
1. Introduction 35
2. The Complexity of Law 36
3. Definitions by the Standards of Particular "Types" 41
4. The Problem of Law as an Empirical Reality 47
5. "Law" and "The Law" 52
6. Conclusions 56

Zusammenfassung 59

Résumé 60

GEOFFREY SAWER, Canberra

Substance and Form in the Relations between Federal and State Legislation in Australia 61

Zusammenfassung 73

Résumé 74

DAVID P. DERHAM, Melbourne

Truth and the Common Law Judicial Process 75

Zusammenfassung 89

Résumé 90

MICHAEL D. KIRBY, Sydney

Dialectics and Law 91
I.: The Concept of Dialectics 91
A. The Traditional Dialectics 91
1. Vicissitudes in Meaning 91

2. The Common Feature: Non-Contradiction 92
3. Chronological Developments 92
B. The new Dialectics 97
1. The Common Feature: Dynamism 97
2. The New Dialectics in Philosophy 98
3. The new Dialectics in the Sciences 102
II.: Dialectics and Soviet Law 105
A. Marxist Theory 105
1. A Law for Revolution 105
2. Fundamental Norms 108
B. Soviet Practice 109
1. General Imprecise Use of the Term "Dialectic" 109
2. Fundamental Norms: Policy and Soviet Law 110
3. Questioning the Prognosis: Withering Away? 111
III.: Conclusions 113
Zusammenfassung 114
Résumé 115

GORDON HAWKINS, Sydney
Freewill, Responsibility and Punishment 117
1. Introduction 117
2. Absolute Psychic Determinism 118
3. Critique of Absolute Psychic Determinism 119
4. Determinism Again 121
5. A Possible Solution? 123
6. The Nature of Punishment 125
7. The Retributive Element (1) 126
8. The Retributive Element (2) 128
9. The Retributive Element (3) 129
10. The Justification of Punishment (1) 131
11. The Justification of Punishment (2) 132
12. Conclusion 135
Zusammenfassung 137
Résumé 138

OTTO BONDY, Sydney
The Moral Law Theory: Its Methodological Implications For Moral and Legal Philosophy 139
1. The Problem 139
2. The Categorical Imperative 143
3. Form and Contents of the Moral Law 148
4. Application of the Moral Law Theory 151

5. The Basic Fact of Morality 154
6. The Common Methodological Basis of Moral and Legal Philosophy 156
7. Scientific and Metaphysical Approaches 158
8. Moral and Legal Philosophy Re-united 161
Zusammenfassung 163
Résumé 164

PATRICK M. FARRELL, Melbourne
The Location of Law in the Moral System of Aquinas 165
A. Happiness 169
B. The Movement Towards Beatitude 171
C. The Principles of Human Action 174
Zusammenfassung 193
Résumé 194

R. DARRELL LUMB, Brisbane
The Duty of Obeying the Law 195
Zusammenfassung 217
Résumé 218

BARRY MILLER, Sydney
Being and the Natural Law 219
1. Introduction 219
2. Natural Law 220
3. Application of the Natural Law 227
4. Conclusion 232
Zusammenfassung 234
Résumé 235

ILMAR TAMMELO, Sydney
The Nature of Facts as a Juristic Tópos 236
1. Revived Iusnaturalism and the Nature of Facts 236
2. Origins of the Notion of the Nature of Facts 239
3. The Nature of Facts as "a Form of Juristic Thought" (Radbruch) 241
4. "Concrete Natural Law" Based on the Nature of Facts (Maihofer) 244
5. Reflection on the Theories of the Nature of Facts 250
6. The Nature of Facts as a Juristic Tópos 256
Zusammenfassung 260
Résumé 261
About the Contributors 262