## CONTENTS

V

vii

3

5

9

13

15

19

27

30

70

ix

### Preface to the Second Edition

Preface to the First Edition

I. THE TWO MORALITIES The Moralities of Duty and of Aspiration The Moral Scale

The Vocabulary of Morals and the Two Moralities Marginal Utility and the Morality of Aspiration Reciprocity and the Morality of Duty Locating the Pointer on the Moral Scale

**Rewards and Penalties** 

THE MORALITY THAT MAKES LAW POSSIBLE 33 II. Eight Ways to Fail to Make Law 33 The Consequences of Failure 38 The Aspiration toward Perfection in Legality 41 Legality and Economic Calculation 44 The Generality of Law 46 Promulgation 49 **Retroactive Laws** 51 The Clarity of Laws 63 **Contradictions** in the Laws 65

#### Laws Requiring the Impossible

#### CONTENTS

III.

Constancy of the Law through Time 79 Congruence between Official Action and Declared Rule 81 Legality as a Practical Art 91 THE CONCEPT OF LAW 95 Legal Morality and Natural Law 96 Legal Morality and the Concept of Positive Law 106 The Concept of Science 118 Objections to the View of Law Taken Here 122 Hart's The Concept of Law 133

145

Law as a Purposeful Enterprise and Law as a Manifested Fact of Social Power

THE SUBSTANTIVE AIMS OF LAW IV. 152 The Neutrality of the Law's Internal Morality toward Substantive Aims 153 Legality as a Condition of Efficacy 155 Legality and Justice 157 Legal Morality and Laws Aiming at Alleged Evils That Cannot Be Defined 159 The View of Man Implicit in Legal Morality 162 The Problem of the Limits of Effective Legal Action 168

Legal Morality and the Allocation of Economic<br/>Resources170Legal Morality and the Problem of Institutional Design 177171Institutional Design as a Problem of Economizing178The Problem of Defining the Moral Community181The Minimum Content of a Substantive Natural Law184

V. A REPLY TO CRITICS 187

The Structure of Analytical Legal Positivism191Is Some Minimum Respect for the Principles of<br/>Legality Essential to the Existence of a Legal System? 197

Do the Principles of Legality Constitute an "Internal Morality of Law"? Some Implications of the Debate

# APPENDIX: THE PROBLEM OF THE GRUDGE INFORMER

Index

245 255

200

224

