Table of Contents

Foreword to the English Edition Selected Abbreviations	V IX
Chapter 1. Place and Function	1
A. Emergence of a Formula for Self-description	1
I. Early Legal Theory	1
II. Early Legal Sociology	2
III. Recent Developments	3
B. Between Theoretical Interest and Practical Orientation	7
I. Second-order Observation	7
II. Theory as a Form of Life (Aristotle)	9
III. On the Function of Legal Theory	10
C. Distinctions and Overlappings	13
I. On Legal Doctrine	13
II. Legal Philosophy	15
Chapter 2. Norms	19
A. Fundamentals	19
I. Types and Concepts	19
II. Conditional Scheme	21
III. An Abstract Normative Understanding of Rules	23
B. The Universality of Law	27
I. Kant's Practical Philosophy	27
II. Applying the Law	30
C. Recent Philosophy of Language (Linguistic Turn)	32
D. A Pragmatic Understanding of Rules	36
	50
Chapter 3. System I	39
A. The Unity and Hierarchy of Law	39
	43
B. The Concept of System	
I. Philosophy of Nature	43
II. Practical Philosophy	46
C. System building in Legal Positivism	50
I. On Juristic 'Construction'	50
II. Completeness, Consistency, and the Positivity of Law	54
III. Interim Results	55
IV. Signs of Disintegration (Kelsen)	56
D. Printing as a Requisite Medium	59
Chapter 4. System II	63
A. Distinguishing between System and Environment	63
B. Operative Closure	66
I. Autopoiesis	66
II. Time	68
III. Functional Specification and Binary Coding	70
IV. Self-reference and External Reference (re-entry)	73
C. Dynamic, Recursive Network	75
I. Network instead of Hierarchy	75
II. The Paradox of the Beginning	76
D. Systems Theory and Computer Culture	79
D. systems theory and computer culture initiality in the second	.,
Chapter 5. Validity	85
A. State-centring	85
I. On the Traditional Theory of the Sources of Law	85
II. The Problem of (State-sanctioned) Authority	86
B. Natural law, Justice and Moral Philosophy	91
I. The Concept of Natural Law and its Historical Context	91 91
1. The Concept of Ivaluial Law and its Historical Context	71

Table of Contents

II. Philosophy of Justice	92
III. Moral Philosophy	94
C. Dynamisation	97
I. Positive Law	97
II. Normative concept of validity and justification	100
III. Validity as a Circulating Symbol	102
D. Social Epistemology and Normativity of Law	104
I. Heterarchy of the Sources of Law	104
II. Social Conventions and Practical Knowledge	106
Chapter 6. Interpretation	109
A. Interpretation or Concretisation?	109
I. The Approach of Recent Methodology	109
II. On Methods	111
B. Forming Models	115
I. In Legal Positivism	115
II. Philosophical Hermeneutics	120
III. Legal Hermeneutics	124
C. The Paradox of Deciding	128
D. 'Postmodern' Methodology	131
I. De-paradoxing the Decision Paradox	131
II. Legal Structures and Factual Structures	132
III. The Significance of Common Knowledge	133
IV. Moderating the Claims of Rationality	137
Chapter 7. Evolution	139
A. Legal History	139
B. Developmental History of Law (Weber)	143
C. Evolutionary Theories	150
I. Evolutionary Theories and Systems Theory	150
II. On the Autonomy of Law	153
D. Media as Pre-adaptive Advances	157
I. On the Link between Evolutionary Theory and Media Theory	157
II. Primary Orality and the Use of Text	161
III. Printing	165
IV. Electronic Media and the Computer	167
Literature	171
Index I	189
Index II	195