

# Contents

INTRODUCTION	1
PART ONE. THE ENFORCEMENT OF MORALS	9
<i>Chapter 1. Lord Devlin and the Enforcement of Morals</i>	10
Lord Devlin's Critics	14
The Role of Morals in the Law	19
The Community's Moral Standards	24
Some Additional Criticisms of Devlin's Theory	26
<i>Chapter 2. Homosexuality</i>	30
The Roots of the Problem	30
The Homosexual and the Law	33
Reasons for Condemning Homosexual Behavior	35
An Analysis of the Arguments	37
The Case Against Criminal Sanctions	62
Conclusion	71
<i>Chapter 3. Contraception and Abortion</i>	74
The Problem	74
A Short History of Religious and Moral Thinking on Contraception and Abortion	79
The Law on Abortion	98
Some Essential Facts About Abortion	103
Philosophical Arguments Against Abortion—with Responses	107
Further Arguments Against Abortion—and Further Responses	116
Arguments for Liberal Abortion Laws	120
A Modified Defense of the Right to Have an Abortion	122
<i>Chapter 4. Freedom of the Press and Censorship</i>	125
Censorship in the World Community	126
Censorship in the United States	131
The Case for Censorship	133
The Libertarian Response	144
The Limits of Liberty	150

<b>Chapter 5. <i>Obscenity and Pornography</i></b>	156
The Case for Censorship	159
The Problem of Defining Obscenity	164
The Effects of Obscenity	178
The Case Against Censorship	181
Solutions to the Problem	184
The Recommendations of the Commission on Obscenity	186
Appendix	188
<b>PART TWO. CRIMINAL PUNISHMENT</b>	191
<b>Chapter 6. <i>The Concept of Punishment</i></b>	192
The Rights of the Accused	192
The Nature of Punishment	200
The Aims of Punishment	202
Excuses	219
<b>Chapter 7. <i>Imprisonment</i></b>	229
<b>Chapter 8. <i>The Death Penalty</i></b>	236
Deterrence	238
Retribution	244
Some Arguments Against Capital Punishment	247
The Constitutional Issue	251
Cruel and Unusual Punishment	254
The Limits of Capital Punishment	255
<b>PART THREE. TRUTH, FRAUD, AND BUSINESS ETHICS</b>	259
<b>Chapter 9. <i>Truth in the Marketplace: Advertisers, Salesmen, and Swindlers</i></b>	262
The Sophists and Modern Advertising	265
<i>Caveat Emptor</i>	270
The Confusion of Needs and Desires	274
False Claims of Need	276
False Claims of Effectiveness	279
The Promotion of Dangerous Products	283
The Audience for the Ad	285
Misleading Statements or Contexts	287
Concealment of the Truth	288
A Final Word on Advertising	293
<b>Chapter 10. <i>Competition and Corporate Responsibility</i></b>	298
Unfair Competition	301
Immoral Competitive Practices	303

<b>PART FOUR. FRONTIERS OF LAW AND MORALS</b>	<b>309</b>
<i>Chapter 11. Affirmative Action and Reverse Discrimination</i>	311
Racial and Sexual Discrimination	311
Affirmative Action Programs	317
The Question of Merit	329
The Consequences of Affirmative Action Programs	337
Some Constitutional Considerations	338
Alternatives	340
<i>Chapter 12. Civil Disobedience</i>	342
The Dilemma of the Unjust Law	342
The Higher-Law Approach: The Divine-Law Version	345
The Higher-Law Approach: The Natural Law Version	346
Martin Luther King on Civil Disobedience	349
Civil Disobedience and the Immorality of the Law	350
Civil Disobedience of Protest and of Personal Integrity	351
The Civil Disobedient and Punishment	353
The Courts and Civil Disobedience	364
The Civil Disobedient and Nonviolence	368
Summary and Conclusion	372
<i>Chapter 13. Terrorism, Guerrilla Warfare, and International Morality</i>	375
Defining Terrorism	375
Terrorist Ideology and Rhetoric	384
Terrorists and the Law of Nations	388
Responses to Terrorism	394
<b>CHAPTER NOTES</b>	<b>398</b>
<b>SELECTED BIBLIOGRAPHY</b>	<b>422</b>
<b>INDEX</b>	<b>447</b>