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LARS LINDAHL

POSITION
AND CHANGE

A Study in Law and Logic



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To Åke and Iris Odelberg

Preface

The present study which I have subtitled *A Study in Law and Logic* was prompted by the question of whether an investigation into law and legal systems could lead to the discovery of unrevealed fundamental patterns common to all such systems. This question was further stimulated by two interrelated problems. Firstly, could an inquiry be rooted in specifically legal matters, as distinct from the more usual writings on deontic logic? Secondly, could such inquiry yield a theory which would nevertheless embrace a strict and simple logical structure, permitting substantive conclusions in legal matters to be deduced from simple rules governing some basic concepts?

Before the development of deontic logic, W. N. Hohfeld devoted his efforts to this question at the beginning of this century. However, with this exception, few jurists have studied the interrelation between law and logic projected in this way. Nevertheless, two great names are to be found, Gottfried Wilhelm Leibniz and Jeremy Bentham—both philosophers with legal as well as logical training. Bentham's investigations of logical patterns in law have only recently attracted attention; and as for Leibniz, his achievements are still almost totally unexplored (his most important writings on law and logic have not even been translated from Latin).

My initial interest in the question was evoked by Professor Stig Kanger. Although primarily a logician and philosopher, Stig Kanger has been interested also in the fundamentals of legal theory. His writings on law and logic are among the few important contributions to the subject in recent times.

The present study is an attempt to research an area of the general theory of law which I have chosen to call the theory of *legal positions*. Although the logical apparatus used in the book is, from a logician's standpoint, quite elementary, the text might be more difficult to follow for the jurist or legal philosopher not conversant with formal logic. However, each of the two parts of the book begins with an introductory chapter (Chapters 1 and 6) where the background to the subject is presented in a largely informal manner.

On a more personal note, I would like to thank Professor Stig Kanger for his support and encouragement which made it possible for me to accomplish this study. My sincerest appreciation for her steadfast interest goes to Helle Kanger, herself a student of political science. Both, Stig and Helle Kanger, have consistently followed my endeavours and helped me to overcome various difficulties.

Dr. Ingmar Pörn whose interests encompass similar questions in the broader field of the social sciences has provided me with valuable insights. My good friend, Dr. Paul Needham, translated the book into English, and, with his philosophical and logical abilities, provided many useful suggestions for which I am very grateful. Next, I would like to give my very warm thanks to Professor Stanley Bender who scrutinised the final version of this book and with his acumen provided much important and constructive criticism. I am also very grateful for all the time, effort and interest Professor Bender devoted to helping me with numerous practical details. Then, I wish to thank Mrs. Susan Pearce for having painstakingly typed most of the book, and I am in everlasting debt to my mother and to my fiancée, Lena, for the understanding they have shown and for the many details they have helped with, too numerous to mention.

This study has been supported by a grant from the Swedish Council for Social Science Research, and I wish to take the opportunity to express my sincerest thanks and appreciation to the Council and its Secretary, Mr. Åke Bruhn-Möller, as well as to Professor Stig Strömholm, Dean of the Faculty of Law, University of Uppsala, for the kindness and patience they have shown me.

Uppsala, November 1976

LARS LINDAHL

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