THE NOTION OF AN IDEAL AUDIENCE IN LEGAL ARGUMENT

by

GEORGE C. CHRISTIE

Duke University, Durham, North Carolina, U.S.A.



KLUWER ACADEMIC PUBLISHERS DORDRECHT / BOSTON / LONDON

TABLE OF CONTENTS

Preface	ix
Chapter 1.	Introduction 1
Chapter 2.	The Notion of an Ideal Audience as an Analytical Tool
Α.	A General Philosophical Example—Illuminating the Power of Rhetoric
B.	An Example from Legal Theory—Is a Predictive Theory of Law Logically Possible?
Chapter 3.	What Are the Constraints that Can Be Imposed on Arguments Addressed to an Ideal Audience?26
Chapter 4.	Some Universal Features of Ideal Audiences in Legal Contexts 41
Chapter 5.	Different Conceptions of the Ideal Audience— A First Look
Chapter 6.	Accounting for Differences in Perceptions of the Ideal Audience—Some Preliminary Observations
А.	Competing Visions of the Way the State Should
В.	Be Organized
Chapter 7.	Choosing Between Competing Visions of the Good—the Case of Necessity
A. B.	The Need to Choose76Choosing to Sacrifice the Property of Others811.Destroying Property to Save Human Life812.Destroying the Property of Others to Preserve One's Own Property and the Taking and Consumption of the Property of Others85

viii

C.	Sacrificing the Life of an Innocent Person to Save the Lives of a Greater Number of Innocent Persons	89
Chapter 8.	The Conflict Between the General and the Particular—Some Legal Background	108
A. B.	Some Historical Background and Examples The Scope of the Modern Tort of Negligence	108 117
Chapter 9.	The Conflict Between the General and the Particular—Theoretical Perspectives	129
A.	The Case for General Principles Put Forth by	100
B.	Dworkin	129
С.	General Principles	138 143
Chapter 10.	Ambivalent Attitudes with Regard to Discretion	152
А.	Introduction	152
B. C.	An Analytical Framework The Irresistible Urge to Narrow the Scope	154
D.	of Discretion Structural and Ideological Factors Behind the	161
	Urge to Broaden the Scope of Discretion	166
Chapter 11.	Toleration of Diverse and Even Inconsistent Outcomes	180
Chapter 12.	Conclusion	193
Cases Cited.	•••••••••••••••••••••••••••••••••••••••	200
Bibliography		205
Index	• • • • • • • • • • • • • • • • • • • •	211