

# Precedent 1

Christopher J. Peters

### L. R. A. as Authorities ,1914

*The Law of Judicial Precedent* Bryan A. Garner, Carlos Tiburcio Bea, Rebecca White Berch, Neil McGill Gorsuch, Harris L Hartz, Nathan L. Hecht, Brett Kavanaugh, Alex Kozinski, Sandra Lea Lynch, William H. Pryor (Jr.), Thomas Morrow Reavley, Jeffrey Stuart Sutton, Diane P. Wood, 2016 The Law of Judicial Precedent is the first hornbook-style treatise on the doctrine of precedent in more than a century. It is the product of 13 distinguished coauthors, 12 of whom are appellate judges whose professional work requires them to deal with precedents daily. Together with their editor and coauthor, Bryan A. Garner, the judges have thoroughly researched and explored the many intricacies of the doctrine as it guides the work of American lawyers and judges. The treatise is organized into nine major topics, comprising 93 blackletter sections that elucidate all the major doctrines relating to how past decisions guide future ones in our common-law system. The authors' goal was to make the book theoretically sound, historically illuminating, and relentlessly practical. The breadth and depth of research involved in producing the book will be immediately apparent to anyone who browses its pages and glances over the footnotes: it would have been all but impossible for any single author to canvass the literature so comprehensively and then distill the concepts so cohesively into a single authoritative volume. More than 2,500 illustrative cases discussed or cited in the text illuminate the points covered in each section and demonstrate the law's development over several centuries. The cases are explained in a clear, commonsense way, making the book accessible to anyone seeking to understand the role of precedents in American law. Never before have so many eminent coauthors produced a single lawbook without signed sections, but instead writing with a single voice. Whether you are a judge, a lawyer, a law student, or even a nonlawyer curious about how our legal system works, you're sure to find enlightening, helpful, and sometimes surprising insights into our system of justice.

Model Rules of Professional Conduct American Bar Association. House of Delegates, Center for Professional Responsibility (American Bar Association), 2007 The Model Rules of Professional Conduct provides an up-to-date resource for information on legal ethics. Federal, state and local courts in all jurisdictions look to the Rules for guidance in solving lawyer malpractice cases, disciplinary actions, disqualification issues, sanctions questions and much more. In this volume, black-letter Rules of Professional Conduct are followed by numbered Comments that explain each Rule's purpose and provide suggestions for its practical application. The Rules will help you identify proper conduct in a variety of given situations, review those instances where discretionary action is possible, and define the nature of the relationship between you and your clients, colleagues and the courts.

### *Notes on the Minnesota Reports ,1911*

*Settled Versus Right* Randy J. Kozel, 2017-06-06 This book analyzes the theoretical nuances and practical implications of how judges use precedent.

**Without Precedent** Anna R. Hayes, 2009-06-01 The first woman judge in the state of North Carolina and the first woman in the United States to be elected chief justice of a state supreme court, Susie Marshall Sharp (1907-1996) broke new ground for women in the legal profession. When she retired in 1979, she left a legacy burnished by her tireless pursuit of lucidity in the law, honesty in judges, and humane conditions in prisons. Anna Hayes presents Sharp's career as an attorney, distinguished judge, and politician within the context of the social mores, the legal profession, and the political battles of her day, illuminated by a careful and revealing examination of Sharp's family background, private life, and personality. Judge Sharp was viewed by contemporaries as the quintessential spinster,

who had sacrificed marriage and family life for a successful career. The letters and journals she wrote throughout her life, however, reveal that Sharp led a rich private life in which her love affairs occupied a major place, unsuspected by the public or even her closest friends and family. With unrestricted access to Sharp's abundant journals, papers, and notes, Anna Hayes uncovers the story of a brilliant woman who transcended the limits of her times, who opened the way for women who followed her, and who improved the quality of justice for the citizens of her state. Without Precedent also tells the story of a complicated woman, at once deeply conservative and startlingly modern, whose intriguing self-contradictions reflect the complexity of human nature.

**The Power of Precedent** Michael J. Gerhardt, 2011 The author connects the vast social science data and legal scholarship to provide a wide-ranging assessment of precedent. He outlines the major issues in the continuing debates on the significance of precedent and evenly considers all sides.

Constitutional Precedent in US Supreme Court Reasoning Schultz, David, 2022-03-15 Precedent is an important tool of judicial decision making and reasoning in common law systems such as the United States. Instead of having each court decide cases anew, the rule of precedent or *stare decisis* dictates that similar cases should be decided similarly. Adherence to precedent promotes several values, including stability, reliability, and uniformity, and it also serves to constrain judicial discretion. While adherence to precedent is important, there are some cases where the United States Supreme Court does not follow it when it comes to constitutional reasoning. Over time the US Supreme Court under its different Chief Justices has approached rejection of its own precedent in different ways and at varying rates of reversal. This book examines the role of constitutional precedent in US Supreme Court reasoning.

**Small Business Problems** Charles G. Daughters, United States. Congress. Senate. Special Committee to Study Problems of American Small Business, 1941

**Precedents and Case-Based Reasoning in the European Court of Justice** Marc Jacob, 2014-03-20 Marc Jacob analyses in depth the most important justificatory and decision-making tool of one of the world's most powerful courts.

Advanced Case Law Methods: A Practical Course Richard Cappalli, 2021-10-01 This book, by the author of *The American Common Law Method*, is an excellent source of continuing judicial education for judges at all levels as well as an accessible teaching tool for the classroom. An opening section explains the basic principles of common law methods for creating and applying case law. *Advanced Case Law Method* then examines the methods used by appellate courts in four states to create case lines on distinct topics. After each case in each line, the author poses several questions concerning the court's performance as a creator and user of case law. For instance, one chapter traces the at will employment doctrine as developed by the New York Court of Appeals and subsequent efforts to create public policy exceptions to the rule. Another looks at the struggle of the appellate courts of Pennsylvania to limit the intentional infliction of emotional distress tort doctrine. The New Hampshire group of cases goes back to the mid-18th century and examines railroad liability issues, culminating in the 21st century with duties imposed on internet information providers when the buyer of information causes harm to the seller. The Texas cases treat the spoliation doctrine which penalizes a party responsible for causing key evidence to disappear. Following the questions raised by the examined cases, *Advanced Case Law Methods* includes the suggested responses. The text is then supplemented by a section intended to make the questions and suggested responses a springboard for discussion at seminars, conferences and even classrooms. Judges, therefore, won't have to worry about doing homework and getting wrong answers. Published under the Transnational Publishers imprint.

**Stare Indecisis** Saul Brenner, Harold J. Spaeth, 1995-04-28 This book presents a full-length empirical study of why US Supreme Court justices have chosen to alter precedent.

**Legal Method** Ian McLeod, 2020-04-16 The Palgrave Macmillan Law Masters series is a long-running and successful list of titles offering clear, concise and authoritative guides to the main subject areas, written by experienced and respected authors. This ninth edition of Legal Method provides a lively introduction to the nature of the English legal system and its sources, and to the techniques which lawyers use when handling those sources. The text assumes no prior knowledge and makes its content accessible by clarity of expression rather than by dilution of content. In addition to more conventional sources, writers as varied as Jonathan Swift, Alexander Pope and T. S. Eliot are cited. This is an ideal course companion for both law undergraduate and GDL/CPE students. Includes end of chapter summaries and self-test exercises.

**The Nature and Authority of Precedent** Neil Duxbury, 2008-04-03 Neil Duxbury examines how precedents constrain legal decision-makers and how legal decision-makers relax and avoid those constraints. There is no single principle or theory which explains the authority of precedent but rather a number of arguments which raise rebuttable presumptions in favour of precedent-following. This book examines the force and the limitations of these arguments and shows that although the principal requirement of the doctrine of precedent is that courts respect earlier judicial decisions on materially identical facts, the doctrine also requires courts to depart from such decisions when following them would perpetuate legal error or injustice. Not only do judicial precedents not 'bind' judges in the classical-positivist sense, but, were they to do so, they would be ill suited to common-law decision-making. Combining historical inquiry and philosophical analysis, this book will assist anyone seeking to understand how precedent operates as a common-law doctrine.

A Theory of Precedent Raimo Siltala, 2000-11-25 In this study, the author identifies six types of judicial precedent-ideology and are tests them against judicial experiences in various countries.

Precedent in the United States Supreme Court Christopher J. Peters, 2014-02-11 This volume presents a variety of both normative and descriptive perspectives on the use of precedent by the United States Supreme Court. It brings together a diverse group of American legal scholars, some of whom have been influenced by the Segal/Spaeth attitudinal model and some of whom have not. The group of contributors includes legal theorists and empiricists, constitutional lawyers and legal generalists, leading authorities and up-and-coming scholars. The book addresses questions such as how the Court establishes durable precedent, how the Court decides to overrule precedent, the effects of precedent on case selection, the scope of constitutional precedent, the influence of concurrences and dissents, and the normative foundations of constitutional precedent. Most of these questions have been addressed by the Court itself only obliquely, if at all. The volume will be valuable to readers both in the United States and abroad, particularly in light of ongoing debates over the role of precedent in civil-law nations and emerging legal systems.

Precedent in Law Laurence Goldstein, 1987 It has been said that precedent is the life blood of legal systems. Certainly, an understanding of precedent is vital to an understanding of the workings of law. The principle that decisions should follow those of past similar cases seems simple enough, yet it turns out to be beset with difficulties. What is the justification for following precedents? Do we want absolute, unswerving following of past decisions or a weaker implementation that allows for limited departures? What social and theoretical forces wrought changes in the doctrine? Are judicial pronouncements on precedent rules or just conventions? How do we identify the ratio decidendi of a case? What are the means by which a general projectable conclusion may be elicited from a particular

judgment? These are some of the problems addressed by contributors to this volume.

**Without Precedent** Joel Richard Paul, 2019-02-19 From the author of *Unlikely Allies* and *Indivisible* comes the remarkable story of John Marshall who, as chief justice, statesman, and diplomat, played a pivotal role in the founding of the United States. No member of America's Founding Generation had a greater impact on the Constitution and the Supreme Court than John Marshall, and no one did more to preserve the delicate unity of the fledgling United States. From the nation's founding in 1776 and for the next forty years, Marshall was at the center of every political battle. As Chief Justice of the United States—the longest-serving in history—he established the independence of the judiciary and the supremacy of the federal Constitution and courts. As the leading Federalist in Virginia, he rivaled his cousin Thomas Jefferson in influence. As a diplomat and secretary of state, he defended American sovereignty against France and Britain, counseled President John Adams, and supervised the construction of the city of Washington, D.C. This is the astonishing true story of how a rough-cut frontiersman—born in Virginia in 1755 and with little formal education—invented himself as one of the nation's preeminent lawyers and politicians who then reinvented the Constitution to forge a stronger nation. *Without Precedent* is the engrossing account of the life and times of this exceptional man, who with cunning, imagination, and grace shaped America's future as he held together the Supreme Court, the Constitution, and the country itself.

**Notes on the Nevada Reports, Volumes 1 to 30 Inclusive** James Manford Kerr, 1911

**Philosophical Foundations of Precedent** Timothy Endicott, Hafsteinn Dan Kristjánsson, Sebastian Lewis, 2023-02-13 *Philosophical Foundations of Precedent* offers a broad, deep, and diverse range of philosophical investigations of the role of precedent in law, adjudication, and morality. The forty chapters present the work of a large and inclusive group of authors which comprises of well-established leaders in the discipline and new voices in legal philosophy. The magnitude of the resulting project is extraordinary, presenting a diverse array of innovative and creative philosophical investigations of the practice of adhering to past decisions, in law and allied fields of practical reasoning. And by the same token, the contributions elucidate the reasons that courts and other decision-makers may have for departing from what has been done before. The phenomena under investigation include the law and practice of common law and civil jurisdictions around the world. In addition to its fundamental relevance to common law jurisdictions, this work will be of broad and significant interest to theoretically minded audiences in continental Europe, Latin America, and Asia because it involves an extensive study of practices of precedent in civil law systems as well as common law systems.

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