

The Nature and Timing of the U.S. Supreme Court's Interpretation of Precedent

Thomas G. Hansford
(hansford@gwm.sc.edu)
Department of Government and International Studies
University of South Carolina

James F. Spriggs, II
(jfspriggs@ucdavis.edu)
Department of Political Science
University of California, Davis

Prepared for presentation at the Midwest Political Science Association Meeting, Chicago, IL, April 25-28, 2002. We presented a prior version at the Western Political Science Association Meeting, Long Beach, CA, March 22-24, 2002. We appreciate the assistance of John Daniels, of the U.C. Davis Social Science Data Service.

Precedent, by which we mean the legal policies or rules enunciated in prior court opinions, represents one of the most important concepts in American law. These legal rules matter because they provide information to decision makers, allowing them to anticipate the outcomes of their actions and predict answers to legal questions. In deciding whether and how to apply past legal rules to new factual circumstances, judges obviously have discretion, especially in cases involving novel legal and factual circumstances. Yet, the norm of *stare decisis* suggests that judges should utilize the rules from past cases when settling current disputes. While scholars debate the role of precedent at the U.S. Supreme Court (e.g., Spaeth and Segal 1999; Knight and Epstein 1996; Songer and Lindquist 1996), research indicates that lower court judges (e.g., Johnson 1987; Songer, Segal, and Cameron 1994) and actors outside courts (Spriggs 1997) generally comply with U.S. Supreme Court precedent. As result, the nature and content of precedent has enormous implications for social, political, and economic outcomes.

The exact nature of the legal rule established by a Supreme Court precedent does not necessarily remain static over time (see Levi 1949; Wahlbeck 1997). Subsequent Court decisions can shape a precedent by restricting or broadening its applicability, for example. The Supreme Court's interpretation of precedent therefore represents a meaningful legal and political event, as it can directly influence the scope and vitality of a legal rule. In doing so, the interpretation of precedent can potentially influence distributional consequences, as decision makers change their understanding and application of the precedent.

The literature on the quantitative study of precedent contains three strands. First, starting with Merryman's (1954) study of the California Supreme Court, a variety of articles examine either the citation of court opinions (e.g., Landes and Posner 1976; Merryman 1977; Kosma 1998; Landes, Lessign, and Solimine 1998) or patterns of citations among state courts (e.g.,

Caldeira 1985; Walsh 1997). These studies help us to understand why one court cites the opinions of another court. However, this scholarship does not seek to explain how, why, or when a court interprets a precedent.

Second, a small set of studies investigates how the U.S. Supreme Court interprets its own precedents (e.g., Brenner and Spaeth 1995; Johnson 1985, 1986; McGuire and MacKuen 2001). For example, Spriggs and Hansford (2001) show that the Supreme Court is more likely to overrule one of its precedents when it is either ideologically distant from the precedent or when the Court has previously interpreted the precedent in a negative manner. In addition, Spriggs and Hansford (2002) examine how the Court's majority opinions in the 1991 and 1995 terms chose to legally interpret the set of available Supreme Court precedents. Their analysis indicates that the U.S. Supreme Court's ideological compatibility with a precedent and the prior interpretation of a precedent can influence whether the Court interpreted it positively or negatively. While these studies are illuminating, political scientists are just beginning to provide compelling explanations for why and when the Court interprets precedent.

Third, several recent studies attempt to determine whether precedent constrains the decisions made by justices on the U.S. Supreme Court. While attitudinalists argue that precedent does not constrain the justices' votes (Segal and Spaeth 1993; Spaeth and Segal 1999), others contend that there are strong theoretical reasons to expect it to matter (e.g., Knight and Epstein 1996; Rasmusen 1994; Spriggs and Hansford 2002). While there is some empirical support for the idea that precedent can influence Supreme Court decisions (e.g., Richards and Kritzer N.d.), our understanding of the causal influence of precedent on the justices' decisions remains underdeveloped.

We build on these small, but growing, bodies of literature by examining systematically the Supreme Court's interpretation of its precedents over time. That is, once the Court establishes a precedent, what explains why the Court subsequently interprets it positively (i.e., follows the precedent) or negatively (e.g., limits or distinguishes the precedent)? We begin to answer this question by arguing that the justices treat precedent in order to maximize the extent to which the Court's body of precedent reflects their own policy preferences and to increase the likelihood that their contemporary opinions will be efficacious. We test our argument with two time-series cross-sectional logit models that utilize data on the Court's interpretation of the precedents it established between the 1946 and 1995 terms.

The Interpretation of Precedent

Once the Court articulates a legal rule in an opinion, that rule does not necessarily remain constant or static over time. The Court rarely defines doctrine in a complete or comprehensive manner in any one opinion. It often takes a series of opinions to clarify a rule, fill in important details, and define its scope or breadth (see Landes and Posner 1976, 250). Legal rules can thus evolve over time as a result of repeated interpretations, clarifications, and alterations by the Court.

Broadly speaking, the legal interpretation of precedent takes two forms. First, the Court can interpret a precedent "positively" by relying on it as legal authority. When doing so, for example, the Court can indicate that a precedent is "controlling" or "determinative" for a type of dispute (Spriggs and Hansford 2000). Second, the Court can "negatively" interpret a precedent by restricting its reach. For instance, the Court can distinguish a precedent by finding it inapplicable to a new factual scenario or limit a case by restating the legal rule in a more limited

way (see Murphy and Pritchett 1979, 491-495). The meaning and vitality of a precedent can therefore fluctuate over time as the Court interprets it in subsequent cases.

Consider the case of *Miranda v. Arizona* (1966). *Miranda* specified that, unless criminal suspects are advised of their Fifth Amendment rights, prosecutors could not use statements made during custodial interrogations at trial. While *Miranda* made clear that custodial interrogation consisted of questioning at a police station, it was not immediately apparent whether or how *Miranda* would apply in other settings. The Court filled in these details by interpreting the meaning of *Miranda* in subsequent cases over the years, treating it positively in 12 cases and negatively in 11.¹ For example, in *Minnick v. Mississippi* (1990), the Court, following *Miranda*, made clear that once a suspect requests legal counsel interrogation must cease. This positive interpretation serves to reinforce and institutionalize the ruling in *Miranda*. In *U.S. v. Russell* (1973), by contrast, the Court chose to distinguish *Miranda* by stating that it did not apply to entrapment. By distinguishing *Miranda* in this case, the Court chose not to expand its meaning. Consequently, the Court's interpretation of *Miranda* over time has influenced its meaning, reach, and vitality.

Why The Court Interprets Precedent

We start with the assumption that the justices' overarching goal is to influence legal policy in a manner consistent with their policy preferences. Research consistently indicates that justices' votes (Segal and Spaeth 1993), as well as other choices they make while on the bench, such as assigning opinions or joining opinion coalitions (Epstein and Knight 1998; Maltzman, Spriggs, and Wahlbeck 2000), derive in part from this motivation. The interpretation of precedent serves two vital functions, both of which bear on the justices' desire to enact legal

policy consistent with their policy preferences. First, justices interpret precedent to influence the current state of legal policy. By interpreting precedent, the Court can alter the scope and authority of existing legal rules and, in doing so, influence how other decision makers view and implement them. The Court's interpretation of precedent can influence lower court judges, future Supreme Court justices, and decision makers outside of Courts, such as federal bureaucratic agencies or the police. Thus, by interpreting precedent, and changing the existing legal status quo in the process, the Court can influence present and future distributional outcomes.

The second reason justices interpret precedent is to justify the new policies they establish in their current opinions. The American public, especially attentive members of society, expects the Court to base its decisions on legally relevant criteria. Most notably, the norm of *stare decisis*, by which courts are to follow the legal principles articulated in previously decided cases, instructs courts to base their decisions on precedent. Thus, while legal authority comes in a variety of forms—such as abstract rights principles or modes of interpretation (e.g., original intent)—one of the most pervasive (and arguably persuasive) arguments used in Court opinions is an appeal to precedent (Gates and Phelps 1991). *Stare decisis* therefore provides justices with incentives to link current policy choices to those from the past.

These incentives to utilize precedent mainly derive from sources external to the Court (see Knight and Epstein 1996; Rasmusen 1994; Spriggs and Hansford 2002). Lacking significant implementation powers, the Court largely relies on its external reputation to encourage compliance with its opinions. By fostering the legitimacy of the Court, the justices can enhance the power of their opinions and improve their prospects for influencing

¹ We gathered these data from *Shepard's Citations*, counting any majority opinion that "Followed" *Miranda* as positive interpretation and any majority opinion that "Distinguished" *Miranda* as negative interpretation. The

distributional outcomes. Judge Patricia Wald (1995, 1372) makes this point when noting that the main reason judges write opinions is to promote a court's "credibility." As she notes (1995, 1372): "One of the few ways we [judges] have to justify our power to decide matters important to our fellow citizens is to explain why we decide as we do." Thus, the justices' desire to promote both the legitimacy of their opinions and the Court's reputation represents an instrumental goal, aimed at enhancing their policy influence.² Consistent with this argument, research shows that Court opinions can affect public confidence in the Court or support for an opinion (Caldeira 1986; Grosskopf and Mondak 1998; Hoekstra 2000).

Precedents vary in their legal vitality, or the extent to which they maintain legal relevance, authority, and applicability. This variation in the authority of precedent has important implications for the Court's ability to legitimate its policies. The vitality of a precedent is primarily a function of the Court's prior legal interpretation of it. If the Court has positively interpreted a precedent then it takes on greater authority, is more institutionalized, and hence has greater legal weight. As a result, precedents having been previously positively interpreted by the Court provide good vehicles for justifying current Court outcomes. The Court can therefore maximize the legitimacy of an opinion by relying on precedent that has received prior positive treatment. Repeated positive treatments may institutionalize a precedent and make it more costly, in terms of legitimacy, to later interpret the precedent in a negative fashion (Ulmer 1959). Landes and Posner (1976, 250) note that: "Where, however, the rule has been, as it were, solidified in a long line of decisions, the authority of the rule is enhanced."

Court has not "Criticized," "Limited," "Questioned" or "Overruled" *Miranda*.

² Other scholars argue that justices may adhere to *stare decisis* out of a feeling of duty or obligation. The broader literature on norms suggests that decision makers sometimes follow norms because they have internalized them, and thus receive utility from the act of compliance (see Crawford and Ostrom 1995). Legal scholars commonly invoke this type of argument--variously called role orientations, institutional mission, duty, or obligation--when explaining judicial decision making (see Dworkin 1978; Gibson 1978; Gillman 1999; Howard 1977).

If, by contrast, the Court has negatively interpreted a precedent then that case's legal authority is diminished. Previous negative treatments weaken the vitality of a precedent and make it easier or less costly, in terms of legitimacy, for the Court to treat it negatively in the future (Spriggs and Hansford 2001). Thus, the vitality of a precedent affects the extent to which the interpretation of the precedent increases or decreases the legitimacy of the Court's treatment decision.

In short, the expected utility associated with the interpretation of a precedent is simply a combination of the expected utility associated with affecting the current status of an extant precedent/policy and the expected utility associated with the effect of the treatment of precedent on the legitimacy, and thus ultimate impact, of the new policy being established by the Court:

$$U(\textit{interpretation}) = U(\textit{influence over extant policy}) + U(\textit{legitimation of new policy})$$

We first turn to a discussion of the utility of interpreting a precedent positively and afterwards address the utility of negative interpretation.

The Positive Interpretation of Precedent

When will the Supreme Court choose to interpret a precedent in a positive manner? If the utility of interpreting a precedent depends upon the utilities associated with potential effects on extant policy and the legitimacy of new policy, then the utility of a positive interpretation of a precedent can be represented as:

$$U(\textit{positive interpretation}) = U(\textit{influence over extant policy}) + U(\textit{legitimation of new policy})$$

We will address these two components of this utility function in turn.

Influence Over Extant Policy

The Court can strengthen a precedent by interpreting it in a positive manner. The utility of influencing the meaning of an extant precedent is affected by the degree to which the Court

agrees with the precedent in question. The closer the precedent is to the Court, ideologically speaking, the greater the utility (in terms of influence over extant policy) the Court receives from interpreting it positively. By contrast, the more ideologically removed the Court is from the precedent, the smaller the utility of interpreting the precedent positively.

This type of utility will also depend on the current vitality of the precedent in question. If the Court is ideologically close to a precedent and the precedent has been limited or otherwise weakened in the past, then there is an even greater policy incentive to bolster the vitality of this precedent by treating it positively. This positive interpretation of the precedent may increase its applicability in lower courts and otherwise revive the importance of this favorable precedent. There is less of a policy incentive, relatively speaking, for a Court to positively treat an ideologically proximate precedent if the precedent is already very vital. Thus, the vitality of a precedent will condition the effect that ideological distance will have on this utility function. We can represent the utility of positively influencing extant precedent with the following weighted combination:

$$U(\textit{influence over extant policy}) = -b_1 * \textit{Ideological Distance} + b_2 * (\textit{Ideological Distance} * \textit{Vitality}) - b_3 * \textit{Vitality of Precedent}$$

The positive sign for the interaction term (*Ideological Distance*Vitality*), in conjunction with the negative sign for *Vitality of Precedent*, represents our argument that when ideological distance approaches zero, the Court will derive less utility from positively interpreting a precedent that already has a good deal of vitality (thus the negative sign for *Vitality of Precedent*). As ideological distance increases, however, the policy incentive to positively treat low-vitality precedents will disappear, and hence we expect a positive coefficient for the interaction term.

Legitimation of New Policy

The utility associated with the extent to which a positive interpretation of a precedent will increase the legitimacy of the Court's new decisions and policies will be determined solely by the vitality of the precedent. If a precedent has been treated positively in the past and has not been treated negatively (i.e., the precedent has a high degree of vitality), then it takes on greater authority, is more institutionalized, and hence has greater legal weight. As a result, vital precedents provide good vehicles for justifying current Court outcomes, and the Court can maximize the legitimacy of an opinion by relying on such precedents. If, by contrast, the Court has negatively interpreted a precedent then that case's legal authority is diminished. As Judge Patricia Wald (1995, 1399) notes, "Over time, precedent ignored or widely criticized loses its vitality." The Court's reliance on such a precedent is therefore less likely to contribute to the legitimacy of a new policy. The ideological distance between the Court and the precedent will not play a role in this utility function, since the extent to which a precedent will legitimize a decision will be independent of ideological considerations. We can represent the utility associated with policy legitimization as:

$$U(\textit{legitimation of new policy}) = b_4 * \textit{Vitality of Precedent}$$

Assuming that b_3 is equivalent to b_4 in magnitude, the combination of $U(\textit{influence over extant policy})$ and $U(\textit{legitimation of new policy})$ yields the following:³

$$U(\textit{positive interpretation}) = -b_1 * \textit{Ideological Distance} + b_2 * (\textit{Ideological Distance} * \textit{Vitality})$$

This function indicates that the Court gains more utility from treating an ideologically close precedent than an ideologically distant precedent. Thus, as ideological distance increases and precedent vitality remains low, the likelihood of the Court treating the precedent positively

³ For the sake of simplicity, we assume that b_3 and b_4 are the same in magnitude. Even if b_3 and b_4 differ in magnitude, they will cancel each other out to some extent.

decreases. More interestingly, the vitality of a precedent exerts no influence over a Court that is in perfect ideological agreement with the precedent. In this situation, increases in vitality lead to increases in $U(\text{legitimation of new policy})$ which are offset by decreases in $U(\text{influence over extant policy})$. When there is a large ideological distance between the Court and a precedent, this model indicates that the utility, and thus likelihood, of positive treatment increases if the precedent is particularly vital.

The Negative Interpretation of Precedent

When will the Court interpret a precedent in a negative manner (e.g., limit or distinguish the precedent)? If, as above, the utility of interpreting a precedent depends upon the utilities associated with potential influence on extant policy and the legitimacy of new policy, then the utility of a negative interpretation of a precedent can also be represented as:

$$U(\text{negative interpretation}) = U(\text{influence over extant policy}) + U(\text{legitimation of new policy})$$

Again, we will address these two components of this utility function in turn.

Influence Over Extant Policy

The Court weakens a precedent when it interprets it in a negative fashion. The Court will thus derive greater utility (in terms of influence over extant policy) from negatively interpreting precedents that are ideologically distant from the Court. The closer the precedent is ideologically to the Court, the less utility the Court receives from interpreting it negatively.

The effect of ideological distance on this type of utility also depends on the current vitality of the precedent in question. When considering ideologically distant precedents, the Court will garner greater utility from reducing the applicability of a vital precedent, as opposed to negatively treating a precedent that has already been significantly limited or criticized. Precedents that already have a low degree of vitality are not likely to be exerting much influence

over lower courts or other relevant decision makers. Thus, there is less benefit to negatively interpreting weakened precedents, as opposed to vital precedents that are still influencing policy outcomes.

When considering a precedent preferred by the Court, greater precedent vitality will further diminish the already small utility associated with treating this precedent negatively. Thus, the vitality of a precedent will condition the influence that ideological distance will have on this utility function. We can represent the utility of negatively influencing an extant precedent in the following manner:

$$U(\textit{influence over extant policy}) = b_1 * \textit{Ideological Distance} + b_2 * (\textit{Ideological Distance} * \textit{Vitality}) - b_3 * \textit{Vitality of Precedent}$$

This utility function suggests that when ideological distance equals zero, the utility of treating a precedent negatively will decrease as the vitality of the precedent increases. As the ideological distance between the Court and a precedent increases, however, the effect of vitality will change in direction and vitality will exert a positive effect on the utility of the Court treating the precedent in a negative fashion.⁴ In other words, the Court gains more policy utility from negatively interpreting a vital (rather than a non-vital) precedent with which it disagrees.

Legitimation of New Policy

The Court can incur legitimacy costs from interpreting a vital precedent in a negative fashion. The vitality of a precedent thus determines the extent to which the Court receives disutility from the negative interpretation of a precedent. While it is easier for the Court to legitimize its decisions by relying on (i.e., positively incorporating) precedents that have a good deal of vitality, it is costly, in terms of legitimacy, to negatively interpret a vital or institutionalized precedent. Therefore, the more vital a precedent is, the smaller the utility (in

terms of maintaining the legitimacy of the new policy being established) that results from treating the precedent negatively. The ideological distance between the Court and the precedent will not play a role in this utility function. This utility function can be represented as:

$$U(\textit{legitimation of new policy}) = -b_4 * \textit{Vitality of Precedent}$$

By combining the above two utility functions, we obtain the following:

$$U(\textit{negative interpretation}) = b_1 * \textit{Ideological Distance} + b_2 * (\textit{Ideological Distance} * \textit{Vitality}) - (b_3 + b_4) * \textit{Vitality of Precedent}$$

This function indicates that the utility and thus likelihood of negatively treating a precedent will increase as ideological distance increases. Precedent vitality exerts a negative influence on the utility obtained through negative interpretation, in part because the negative treatment of a vital precedent reduces the legitimation of the new policy or decision being established by the Court. However, the positive weight for the interaction term (*Ideological Distance*Vitality*) will counteract this negative effect as ideological distance increases and thus the policy benefit of altering a vital precedent increases.

Summary of Argument and Expectations

In summary, we suggest that the Court's expected utility associated with the interpretation of precedent is a function of the combination of the desire to influence the state of an extant precedent and to establish new policy that is perceived as legitimate, and thus efficacious. The greater the expected utility resulting from a positive interpretation of precedent, the more likely the Court is to interpret the precedent in a positive fashion. Likewise, the greater the expected utility associated with the negative interpretation of a precedent, the more likely the Court is to interpret the precedent negatively. Specifically, we expect the Court's decision to interpret precedent to be affected by a combination of the ideological distance between the Court

⁴ This will occur when ($b_2 * \textit{Ideological Distance}$) is greater than the absolute value of $-b_3$.

and the precedent and the vitality of the precedent. Table 1 provides a summary of the specific hypotheses discussed above.

[Table 1 About Here]

Data and Methods

To examine empirically the U.S. Supreme Court's interpretation of precedent, we begin with the universe of the Court's orally argued full-opinion and per curiam opinions (including judgments of the Court) decided between the 1946 and 1995 terms.⁵ We then used *Shepard's Citation's* to identify every Supreme Court opinion that subsequently interpreted one of these 5,970 opinions. Shepard's is a legal citation service that, among other things, provides a highly reliable classification of the manner in which the Court interprets a precedent in subsequent cases (see Spriggs and Hansford 2000). We then used *Shepard's Citations* to determine when the Court positively or negatively interpreted each of these precedents. Following *Shepard's*, we considered any treatment case that "Followed" one of these precedent as giving that precedent positive interpretation. We coded any situation in which the Court "Distinguished," "Criticized," "Limited," "Questioned," or "Overruled" one of these precedents as negative interpretation.⁶

The precise question we wish to answer is the following: in a given year, how likely is the U.S. Supreme Court to interpret one of its precedents either positively or negatively? To capture this process, we created a data set that contains an observation for each precedent in each year, beginning in the year it was decided and ending in 1996. We then estimated two separate time-series cross-sectional logit models, one for positive interpretation and one for negative

⁵ We gathered these data from Spaeth (1995, 1997), and we excluded any case for which Spaeth did not assign an ideological direction to the case outcome.

⁶ Some "Questioned" codes may not actually indicate that the Court negatively interpreted a precedent (see Spriggs and Hansford 2000). We therefore read all treatment cases that questioned a precedent and removed any case in which the Court indicated that Congress (or a past Court opinion) had previously overturned the precedent, but the treatment case did not actually negatively interpret the precedent.

interpretation.⁷ Because both dependent variables are somewhat skewed (1.9% of the precedent-years resulted in positive interpretation, and 2.0% of precedent-years resulted in negative interpretation), we employed King and Zeng's (2001) rare events logit model. In addition, to control for the possibility of correlated errors across a single precedent over time, we used "robust" standard errors, and clustered on each of the precedents in our analysis (see White 1980).

Independent Variables

Ideological Distance. To measure the ideological distance between a precedent and the Court in each year, we relied upon data from Spaeth (1995, 1997). We measured the ideological orientation of a precedent as the percentage of the time the median member of the majority voting coalition in the precedent voted liberally in the issue area of the case (e.g., civil rights, First Amendment) over his or her Court career (Epstein et al. 1996, Table 6-2). To measure the ideological tenor of the Court in each year, we calculated the median value of the justices' issue specific liberalism scores. Our measure of *Ideological Distance* is the absolute value of the difference between the issue-specific ideology of the median of the majority voting coalition in a precedent and the issue-specific ideology of the median member of the Court in each year. We expect the coefficient for this variable to be negative in direction for the positive treatment model and positive for the negative treatment model.

Vitality of Precedent. To measure the vitality of a precedent, we used *Shepard's Citations* to count the number of times the Court's majority opinions interpreted a precedent in a positive

⁷ We do not use multinomial logit (MNL) because the categories of positive interpretation and negative interpretation are not mutually exclusive, as a precedent can receive both positive and negative interpretation in the same year. In 5% of the years in which a precedent is interpreted, it is interpreted both positively and negatively. To use MNL we would have to make an assumption and code any case that is interpreted both positively and negatively as either positive only or negative only. We did so and created a three-category dependent variable (no interpretation, positive, or negative) by assigning any precedent treated both positively and negatively in the same

or negative manner up until the year prior to the one under consideration.⁸ We then took the difference between the number of prior positive and negative interpretations. Larger positive scores indicate that the Court has interpreted the precedent positively more often than negatively in years prior to the one being explained. We expect *Vitality of Precedent* to have a negative coefficient in the negative treatment model. Based on our theory, we do not expect *Vitality of Precedent* to exert an effect on the probability of positive interpretation when *Ideological Distance* equals zero (we do expect it to play a role in the interaction term discussed below). Nonetheless, we include this variable in the positive interpretation model and expect the coefficient to be zero.

According to our argument, *Vitality of Precedent* conditions the influence of *Ideological Distance*. We therefore include the interaction term *Ideological Distance* * *Vitality* in both of our models. Based on the above argument, we expect *Ideological Distance* * *Vitality* to have a positive coefficient in the positive treatment model. Since *Vitality of Precedent* should have a negative coefficient in the negative treatment model, we expect *Ideological Distance* * *Vitality* to have a positive coefficient. A positive estimate for the interaction term would indicate that as ideological distance increases, the negative effect of precedent vitality is attenuated.

In addition to the three independent variables of theoretical interest, we also include a series of control variables that can be divided into two groups. The first set comprises two variables that prior research shows influence the Court's interpretation of precedent. Spriggs and Hansford (2001) show that a precedent is more at risk of being overruled by the Supreme Court if it was accompanied by concurring opinions and was decided by a minimum winning coalition.

year as positive interpretation; and in another dependent variable we set them to negative interpretation. Both sets of results are consistent with those presented in Table 2.

We thus include *Concurring Opinions in Precedent* and *Voting Margin in Precedent* in both models.⁹

The second set of control variables represents factors that influence *whether* a precedent is likely to be interpreted by the Court, and proper specification of our model necessitates that we include them as independent variables. These factors largely relate to the extent to which the precedent is either salient or remains relevant for contemporary legal problems. First, the extent to which a precedent is relevant, and thus might be interpreted by the Court, can be captured nicely by the total number of times the Court has legally interpreted the precedent in prior years (*Total Prior Interpretations*).¹⁰ Second, a precedent whose issue area remains active on the Court's agenda (*Court Agenda*) is more likely to be interpreted.¹¹ Third, precedents dealing with a larger number and range of legal issues and legal provisions (*Breadth of Precedent*) may have a higher probability of being interpreted by the Court.¹² Fourth, cases that have greater salience are more likely to receive legal interpretation, and we consider two sources of salience: amicus curiae participation in the precedent (*Amici filings in Precedent*), and media attention to the precedent when it was decided (*Media Coverage of Precedent*).¹³ Fifth, cases based on

⁸ We excluded from this count any memorandum opinion that interpreted a precedent. We also excluded from the negative interpretation count any "Questioned" code that did not truly interpret the precedent (see Spriggs and Hansford 2000).

⁹ We measured these variables, respectively, as the number of concurring opinions accompanying the precedent and the number of justices in the majority decision coalition minus the number in the minority coalition. We obtained these data from Spaeth (1995, 1997).

¹⁰ Using *Shepard's Citations*, we counted the total number of majority opinions that had interpreted a precedent—Followed, Explained, Harmonized, Distinguished, Criticized, Limited, Questioned, or Overruled—up to the year prior to the one being explained. We included the "neutral" treatment of precedent (Explained and Harmonized) in our count of the total number of interpretations because, while it does not represent substantive interpretation of precedent, it does nonetheless indicate that the case is still at risk of receiving such interpretation.

¹¹ To capture change in the Court's agenda over time, we first calculated the number of opinions handed down by the Court each year from 1946 through 1996 in each of the Court's 12 value areas using Spaeth (1995, 1997). We then coded this variable as the number of cases decided by the Court in each year in the value area of the precedent.

¹² We used Spaeth (1995, 1997) to measure this variable as the number of issues and the number of legal provisions (e.g., constitutional issue, statutes) in a precedent.

¹³ We used the United States Supreme Court Data Base--Phase 2 (Gibson 1997) to calculate the number of amicus curiae briefs filed in each case. To account for the general increase in the number of briefs filed per case

constitutional interpretation (*Constitutional Precedent*) may be more likely to receive subsequent interpretation.¹⁴ Sixth, any case that has previously been overruled by the Court (*Overruled Precedent*) is less likely to subsequently be legally interpreted.¹⁵ Finally, we control for the age of a precedent at time t by including a four-segment linear spline function of the number of years since the Court decided the precedent (*Age of Precedent*). Each segment represents a quartile of the distribution of the age of precedent found in our data (1-7, 8-15, 16-25, and 26-51 years old).¹⁶

Results

While the interpretation of precedent is a meaningful political and legal event, it does not occur as frequently as some might expect at the U.S. Supreme Court. Prior research indicates that the Court cites approximately 12 to 15 of its precedents in an opinion (Landes and Posner 1976; Johnson 1985) but only substantively interprets about 20% of those citations. These studies therefore suggest the Court legally interprets approximately two to three of its precedents per treatment case. Our data indicate that of the 5,970 precedents decided between the 1946 and 1995 terms, the Court subsequently interpreted 2,770 of them (46.4%) by the end of the 1995 term. Approximately 30% of these precedents received positive interpretation by the Court, while 31.7% of them were negatively interpreted.

over this time period, we constructed a term-specific z-score, which indicates whether a given case had more (or less) filings than the average case heard during a term. *Media Coverage in Precedent* is coded as one if, on the day after the Court decided a case, it was mentioned as the lead case in a story on the front page of the New York Times (Epstein and Segal 2000).

¹⁴ We coded this variable as one if the Court decided the precedent based on constitutional grounds, using Spaeth (1995, 1997).

¹⁵ We coded this factor as one if the Court had previously overruled a precedent (Spriggs and Hansford 2001).

¹⁶ As a diagnostic, we also included a variable that captured the time since the Court's previous interpretation of a precedent, operationalized as a four linear-segment linear spline function (see Beck, Katz, and Tucker 1998). While this set of variables is somewhat collinear with the age of precedent spline function (and as a result the *Age of Precedent* coefficients are somewhat less robust) our theoretical variables of interest manifest little change.

Our particular aim is to explain the occurrence and timing of the Court's positive and negative interpretation of precedent. More specifically, we seek to explain whether, in each year, the Court interprets a precedent positively or negatively. Of the 150,409 precedent-years in our analysis, the Court positively interpreted a precedent in 1.9% of them while it negatively interpreted a precedent in 2.0% of the observations. Although the Court legally interpreted the average precedent about one time, there is a fair amount of variation. The number of years in which the Court interpreted a precedent varied from zero to 13 for positive interpretation and zero to ten for negative interpretation. The first positive interpretation of a precedent occurred an average of 9.1 years after the Court decided the precedent, while this figure is 8.8 years for negative interpretation. Tables 2a and 2b present data regarding the frequency and timing of the Court's interpretation of these precedents.

[Insert Tables 2a and 2b About Here]

Table 3 presents the results of our rare events logit models of the interpretation of precedent. The data analysis provides strong support for our argument, as all six of the parameter estimates of theoretical interest in the two models conform to our expectations. Before turning to a discussion of these data, we note that, as one would expect, the probability of any one precedent being interpreted in a year is low. For example, the average precedent has a .9% chance of being negatively interpreted by the Court in a year.¹⁷ Yet, as we show below, variation in the factors of theoretical interest demonstrably influences the occurrence and timing of interpretation.

[Insert Table 3 About Here]

We hypothesized that the manner in which the Court interprets a precedent depends on the extent to which the Court agrees with its policy. The estimates for *Ideological Distance*

provide strong support for this contention. The negative and statistically significant coefficient in the positive interpretation model indicates that the Court is less likely to positively interpret a precedent (with a *Vitality of Precedent* score of 0) as it becomes ideologically removed from the precedent. As indicated by the positive coefficient in the second model, the greater the ideological distance between the Court and a precedent, the greater the likelihood of the Court interpreting the precedent in a negative manner. Substantively speaking, the likelihood of an “at risk” precedent being interpreted negatively by the Court in a year is 9.8% for an ideologically close precedent and 15.0% for a precedent that is ideologically distant.¹⁸

Our other central contention is that the vitality of a precedent influences how the Court interprets the precedent. To start, we hypothesized that precedent vitality will condition the effect that ideological distance has on the Court’s decision to interpret a precedent positively. When the Court is ideologically “close” to a particular precedent, the legitimacy benefit associated with following precedents that are vital should be attenuated by the policy benefit associated with bolstering a favorable but weak precedent. We expected the coefficient for *Vitality* to be zero in the positive treatment model, and based on our results it is statistically indistinguishable from zero.¹⁹ This result supports our contention that any additional legitimacy resulting from a positive interpretation of a favorable and vital precedent will be offset by the desire to bolster favorable precedents that are currently less vital.

¹⁷ To calculate this figure, we set all variables at their mean (or mode for categorical variable).

¹⁸ To produce these figures, we varied *Ideological Distance* from its minimum value of 0 to its maximum value of 55.85. We set other variables at one standard deviation above their mean if they increased the prevalence of negative interpretation, and one standard deviation below the mean if they decreased negative interpretation (rounded up to the next whole number for categorical variables). Thus, these calculations demonstrate the influence of ideological distance on precedents that have an above average likelihood of being negatively interpreted by the Court.

¹⁹ Since the null hypothesis is a nonzero coefficient, we must minimize Type II errors. Since $p=.47$, we are comfortable rejecting the null.

The situation is different for a precedent that is ideologically distant from the Court. There are no policy benefits associated with bolstering a weak precedent of this type and thus precedent vitality should exert a positive effect. That is, the Court should only treat an ideologically distant precedent positively if the precedent is sufficiently vital to increase the legitimacy of the Court's decision and opinion. The positive and statistically significant estimate for *Ideological Distance* * *Vitality* supports this hypothesis.

Turning to the negative interpretation of precedent, we see further support for our argument regarding the importance and conditional influence of precedent vitality. The coefficient for *Vitality of Precedent* is negative and significant, indicating that when *Ideological Distance* is zero (the Court agrees with a precedent), the likelihood the Court will interpret a precedent negatively decreases as the vitality of a case increases from low to high.

As demonstrated by the positive estimate for the interaction term, an increase in the ideological distance between the precedent and the Court reduces the negative effect of precedent vitality. The more vital an ideologically distant precedent is, the greater the utility (in terms of influence over extant policy) of treating that precedent in a negative manner. As the Court moves further away from the policy established by a vital precedent, the policy incentive to alter the precedent begins to outweigh the legitimacy cost associated with negatively treating a precedent that has become somewhat institutionalized.

In Figure 1, we illustrate the conditional relationship captured by the interaction term in the negative interpretation model. The curve depicted by circles represents the influence of *Vitality of Precedent* when *Ideological Distance* is at its minimum value (i.e., when the Court prefers a precedent). As indicated, if the Court is ideologically proximate to the precedent then the likelihood of negative treatment decreases as precedent vitality increases. The curve depicted

by triangles represents the influence of vitality when the precedent is ideologically distant from the Court (i.e., *Ideological Distance* is set at its maximum value). This curve demonstrates that when the Court is ideologically distant from a precedent then it is more likely to negatively interpret strong precedents than weak ones. This result suggests that, while the Court uses precedent to legitimize its policies, it is strongly motivated by policy incentives to interpret an ideologically distant precedent in a negative manner, especially if the precedent is very vital.

[Figure 1 About Here]

We now turn to a brief discussion of the results for our control variables. The number of concurring opinions accompanying the precedent increases the probability of negative treatment but does not decrease the likelihood of the precedent being treated positively. Similarly, larger majority voting coalitions in a precedent decrease the probability of negative treatment but do not increase the likelihood of positive treatment.

All the factors we included to control for the likelihood of the Court interpreting a precedent in a particular year are statistically significant. The Court is more likely to interpret precedents that have been interpreted in the past, that deal with issues on the Court's agenda, and that have not been overruled by the Court. Further, the Court appears more likely to interpret broad precedents, constitutional precedents, and precedents that received media or organized interest attention when they were decided. The set of linear functions controlling for the age of a precedent indicates that, all else being equal, the Court is more likely to interpret younger precedents than older ones. This result supports the argument made by others that the informational value of an opinion decreases over time (see Landes and Posner 1976; Kosma 1998).

Discussion and Conclusion

Our understanding of the way in which the Court interprets its precedents remains somewhat underdeveloped. While nearly everyone agrees that legal rules are important and that the Court's interpretations of them have consequences for legal and political outcomes, relatively little research has attempted to understand the process by which they change. This paper represents an attempt to understand how, when, and why the Court interprets its precedents. By uncovering the essential factors that lead the Court to interpret precedent positively or negatively, we hope to produce a clearer understanding of Supreme Court decision making.

At the center of our theoretical argument is the notion that justices interpret precedent in order to impact distributional outcomes. By interpreting precedent in a case, they can influence the scope and vitality of prior legal rules, as well as justify the outcome in the case being decided. Thus, while the justices want to influence the applicability and status of extant precedents, they also need to interpret precedent in manner that helps to maximize the legitimacy and authority of the contemporary decisions and legal rules they are establishing. Thus, precedents will be interpreted based on the ideological distance between the Court and the precedent and the vitality of the precedent.

Our empirical results provide considerable support for this argument. First, we demonstrate that the Court's interpretation of precedent depends on the extent to which the Court agrees with a precedent. As the ideological distance between the Court and a precedent increases the likelihood of the Court interpreting the precedent positively decreases, while the likelihood of the Court interpreting it negatively increases. Second, we demonstrate that the vitality of a precedent influences the Court's decision about how to interpret it. More specifically, we find that precedent vitality conditions the effect of ideological distance on the Court's decision to positively or negatively interpret a precedent.

It is important to point out, however, that in our model precedent vitality does not act purely as a constraint on the decision to interpret precedent. Prior research typically characterizes precedent as a constraint on the Court that either exists (e.g., Knight and Epstein 1996) or does not exist (e.g., Segal and Spaeth 1993, 1996). While we do not directly assess the norm of *stare decisis*, we do focus on the importance of precedent vitality. We argue that the vitality of precedent can both provide an opportunity for the Court (in terms of influencing extant policy) and represent a constraint on the Court's choices (in terms of needing to legitimize policy). Thus, our theory and empirical results point towards a new way of understanding the role of precedent at the Court. The treatment of precedent is not simply a function of policy preferences or the result of highly constrained judicial choices. Instead, precedent vitality combines with judicial policy preferences to determine how a precedent will be interpreted over time.

While this paper begins to answer the question we have posed, several issues need to be addressed in the future. First, our theoretical model assumes that the utility associated with influencing the status of a precedent and the utility associated with legitimizing the policy being established in the Court's current opinion are equally important. This assumption needs to be further considered both theoretically and empirically. Second, our data indicate that the Supreme Court interprets less than half of its precedents. Subsequent research needs to provide a theoretically compelling answer for this observed behavior. Third, one could further examine the way in which precedents become institutionalized and the law "settles" over time (e.g., Phillips and Grattet 2000). In short, we need to provide further insight into how, why, and when the Court legally interprets precedent.

References

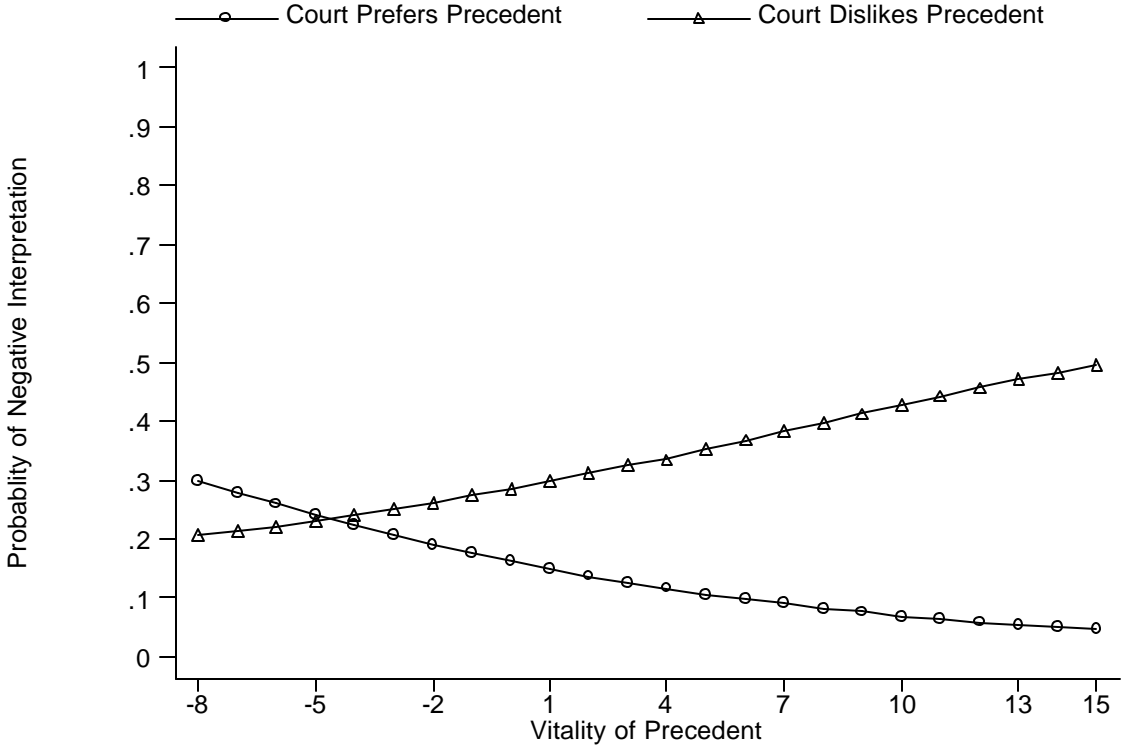
- Beck, Nathaniel, Jonathan N. Katz, and Richard Tucker. 1998. "Taking Time Seriously: Time Series-Cross Section Analysis with a Binary Dependent Variable." *American Journal of Political Science* 42:1260-1288.
- Brenner, Saul, and Harold J. Spaeth. 1995. *Stare Indecisus: The Alteration of Precedent on the U.S. Supreme Court, 1946-1992*. Cambridge, MA: Cambridge University Press.
- Caldeira, Gregory A. 1985. "The Transmission of Legal Precedent: A Study of State Supreme Courts." *American Political Science Review* 79(March):178-193.
- Caldeira, Gregory A. 1986. "Neither the Purse Nor the Sword: Dynamics of Public Confidence in the Supreme Court." *American Political Science Review* 80(December):1209-1226.
- Dworkin, Ronald. 1978. *Taking Rights Seriously*. Cambridge, MA: Harvard University Press.
- Epstein, Lee, and Jack Knight. 1998. *The Choice Justices Make*. Washington, DC: Congressional Quarterly Press.
- Epstein, Lee, and Jeffrey A. Segal. 2000. "Measuring Issue Salience." *American Journal of Political Science* 44(January):66-85.
- Epstein, Lee, Jeffrey A. Segal, Harold J. Spaeth, and Thomas G. Walker. 1996. *The Supreme Court Compendium: Data, Decisions and Developments*. Washington, DC: Congressional Quarterly Press.
- Gibson, James L. 1978. "Judges, Role Orientations, Attitudes, and Decisions: An Interactive Model." *American Political Science Review* 72(September):911-924.
- Gibson, James. 1997. *United States Supreme Court Judicial Data Base — Phase II*. University of Houston.
- Gillman, Howard. 1999. "The Court as an Idea, Not a Building (Or a Game): Interpretive Institutionalism and the Analysis of Supreme Court Decision Making." In *Supreme Court Decision-Making: New Institutional Approaches*, ed. Cornell Clayton and Howard Gillman. Chicago: The University of Chicago Press.
- Grosskopf, Anke, and Jeffery J. Mondak. 1998. "Do Attitudes Toward Specific Supreme Court Decisions Matter? The Impact of *Webster* and *Texas v. Johnson* on Public Confidence in the Supreme Court." *Political Research Quarterly* 51(September):633-654.
- Hoekstra, Valerie J. 2000. "The Supreme Court and Local Public Opinion." *American Political Science Review* 94(March):89-100.

- Howard, J. Woodford. 1977. "Role Perceptions and Behavior in Three U.S. Courts of Appeals." *Journal of Politics* 39(November):916-938.
- Johnson, Charles A. 1985. "Citations to Authority in Supreme Court Opinions." *Law and Policy* 7(October):509-523.
- Johnson, Charles A. 1986. "Follow-Up Citations in the U.S. Supreme Court." *Western Political Quarterly* 39(September):538-547.
- Johnson, Charles A. 1987. "Law, Politics, and Judicial Decision Making: Lower Federal Court Uses of Supreme Court Decisions." *Law and Society Review* 21(2):325-340.
- King, Gary, and Langche Zeng. 2001. "Logistic Regression in Rare Events Data." *Political Analysis* 9(2):137-163.
- Knight, Jack, and Lee Epstein. 1996. "The Norm of Stare Decisis." *American Journal of Political Science* 40:1018-1035.
- Kosma, Montgomery N. 1998. "Measuring the Influence of Supreme Court Justices." *Journal of Legal Studies*. 27(June):333-372.
- Landes, William M., Lawrence Lessig, and Michael E. Solimine. 1998. "Judicial Influence: A Citation Analysis of Federal Courts of Appeals Judges." *Journal of Legal Studies* 27(June):271-332.
- Landes, William M., and Richard A. Posner. 1976. "Legal Precedent: A Theoretical and Empirical Analysis." *The Journal of Law and Economics* 19(August):249-307.
- Levi, Edward H. 1949. *An Introduction to Legal Reasoning*. Chicago: The University of Chicago Press.
- Maltzman, Forrest, James F. Spriggs, II, and Paul J. Wahlbeck. 2000. *Crafting Law on the Supreme Court: The Collegial Game*. New York: Cambridge University Press.
- McGuire, Kevin T., and Michael MacKuen. 2001. "A New Look at Stare Decisis: Citation Patterns on the U.S. Supreme Court." Presented at the Annual Meeting of the Midwest Political Science Association.
- Merryman, John Henry. 1954. "The Authority of Authority: What the California Supreme Court Cited in 1950." *Stanford Law Review* 6:613-XXX.
- Merryman, John Henry. 1977. "Toward a Theory of Citations: An Empirical Study of the Citation Practice of the California Supreme Court in 1950, 1960, and 1970." *Southern California Law Review* 50:381-428.

- Murphy, Walter F., and C. Herman Pritchett. 1979. *Courts, Judges, and Politics: An Introduction to the Judicial Process*. New York: Random House.
- Minnick v. Mississippi*. 1990. 498 U.S. 146.
- Miranda v. Arizona*. 1966. 384 U.S. 436.
- Murphy, Walter F., and C. Herman Pritchett. 1979. *Courts, Judges, and Politics: An Introduction to the Judicial Process*. New York: Random House.
- Phillips, Scott, and Ryken Grattet. 2000 “Judicial Rhetoric, Meaning-Making, and the Institutionalization of Hate Crime Law.” *Law and Society Review* 34(3): 567-606.
- Rasmusen, Eric. 1994. “Judicial Legitimacy as a Repeated Game.” *Journal of Law, Economics, & Organization* 10:63-83.
- Richards, Mark J., and Herbert M. Kritzer. N.d. “Jurisprudential Regimes in Supreme Court Decision Making.” *American Political Science Review*. Forthcoming.
- Segal, Jeffrey A., and Harold J. Spaeth. 1993. *The Supreme Court and the Attitudinal Model*. New York: Cambridge University Press.
- Segal, Jeffrey A., and Harold J. Spaeth. 1996. “The Influence of Stare Decisis on the Votes of United States Supreme Court Justices.” *American Journal of Political Science* 40: 971-1003.
- Shapiro, Martin. 1965. “Stability and Change in Judicial Decision-Making: Incrementalism or Stare Decisis.” *Law in Transition Quarterly* 2:134-157.
- Songer, Donald R., and Stephanie Lindquist. 1996. “Not the Whole Story: The Impact of Justices’ Values on Supreme Court Decision Making.” *American Journal of Political Science*. 49(November)1049-1063.
- Songer, Donald R., Jeffrey A. Segal, and Charles M. Cameron. 1994. “The Hierarchy of Justice: Testing a Principal-Agent Model of Supreme Court-Circuit Court Interactions.” *American Journal of Political Science* 38(August):673-696.
- Spaeth, Harold J. 1995. *Expanded United States Supreme Court Judicial Database, 1946-1968 Terms*. 1st Release. Ann Arbor, MI: Inter-University Consortium for Political and Social Research.
- Spaeth, Harold J. 1997. *United States Supreme Court Judicial Database, 1953-1995 Terms*. 7th Release. Ann Arbor, MI: Inter-University Consortium for Political and Social Research.
- Spaeth, Harold J., and Jeffrey A. Segal. 1999. *Majority Rule or Minority Will*. New York: Cambridge University Press.

- Spriggs, James F, II. 1997. "Explaining Federal Bureaucratic Compliance with Supreme Court Opinions." *Political Research Quarterly* 50(September):567-593.
- Spriggs, James F., II, and Thomas G. Hansford. 2000. "Measuring Legal Change: The Reliability and Validity of *Shepard's Citations*." *Political Research Quarterly* 53(June):327-341.
- Spriggs, James F., II, and Thomas G. Hansford. 2001. "Explaining the Overruling of U.S. Supreme Court Precedent." *Journal of Politics* 63(August): 1091-1111.
- Spriggs, James F., II, and Thomas G. Hansford. 2002. "The U.S. Supreme Court's Incorporation and Interpretation of Precedent." *Law and Society Review*. Forthcoming.
- Ulmer, S. Sidney. 1959. "An Empirical Analysis of Selected Aspects of Lawmaking of the United States Supreme Court." *Journal of Public Law* 8:414-436.
- U.S. v. Russell*. 1973. 36 Led 2d. 366.
- Wahlbeck, Paul J. 1997. "The Life of the Law: Judicial Politics and Legal Change." *Journal of Politics* 59(August):778-802.
- Wald, Patricia M. 1995. "The Rhetoric and the Results of Rhetoric: Judicial Writings." *University of Chicago Law Review* 62(Fall):1371-1419.
- Walsh, David J. 1997. "On the Meaning and Pattern of Legal Citations: Evidence from State Wrongful Discharge Precedent Cases." *Law & Society Review* 31(2):337-360.
- White, Halbert. 1980. "A Heteroskedasticity-Consistent Covariance Matrix Estimator and a Direct Test for Heteroskedasticity." *Econometrica* 48(May): 817-838.

Figure 1. The Conditional Influence of the Vitality of Precedent.



Note: This graph represents the influence of *Vitality of Precedent* on precedents “at risk” for negative interpretation (see footnote 18), setting *Ideological Distance* at its minimum for precedents favored by the Court and at its maximum for those disliked by the Court.

Table 1. Summary of Hypotheses Regarding the Interpretation of Precedent

Independent Variable	Expected Effect on:	
	Positive Interpretation	Negative Interpretation
Ideological Distance	-	+
Ideological Distance * Vitality	+	+
Vitality of Precedent	0	-

Table 2A. Number of Years in which the Court Interprets a Precedent

<i>Number of Interpretations</i>	<i>Positive Interpretation</i>	<i>Negative Interpretation</i>
	Number of Precedents (Percentage)	Number of Precedents (Percentage)
0	4,162 (69.7)	4,076 (68.3)
1	1,230 (20.6)	1,208 (20.2)
2	332 (5.6)	427 (7.2)
3	126 (2.1)	152 (2.6)
4 or More	120 (2.0)	107 (1.8)
Total	5,970 (100)	5,970 (100)

Source: We collected these data from *Shepard's Citations*. We coded any treatment case that "Followed" a precedent as positive interpretation. We coded any situation in which the Court "Distinguished," "Criticized," "Limited," "Questioned," or "Overruled" a precedent as negative interpretation (see page 13 and footnote 6).

Table 2B. Average Time Until the Court Interprets a Precedent

<i>Sequence of Interpretation</i>	<i>Positive Interpretation</i>	<i>Negative Interpretation</i>
	Mean Number of Years (Median)	Mean Number of Years (Median)
First Interpretation	9.1 (6)	8.8 (6)
Second Interpretation	12.6 (10)	13.5 (11)
Third Interpretation	14.7 (12.5)	15.5 (14)
Fourth or Greater Interpretation	17.8 (16)	18.8 (18)

Table 3. Rare Events Logit Model of the Court's Interpretation of Precedent, 1946-1995

<i>Independent Variable</i>	<i>Positive Interpretation</i>	<i>Negative Interpretation</i>
	<i>Coefficient (robust s.e.)</i>	<i>Coefficient (robust s.e.)</i>
Ideological Distance	-.0073 (.0025)**	.011 (.002)***
Vitality of Precedent	.024 (.034)	-.098 (.029)***
Ideological Distance*Vitality	.0029 (.0016)*	.0028 (.0013)*
<i>Control Variables:</i>		
Concurring Opinions in Precedent	.152 (.026)	.082 (.024)***
Voting Margin in Precedent	-.020 (.008)	-.019 (.007)**
Total Prior Interpretations	.198 (.019)***	.156 (.016)***
Court Agenda	.019 (.002)***	.013 (.002)***
Breadth of Precedent	.077 (.024)***	.115 (.020)***
Amici Filings	.035 (.006)***	.025 (.006)***
Media Coverage	.186 (.061)***	.295 (.052)***
Constitutional Precedent	.412 (.054)***	.500 (.045)***
Overruled Precedent	-.943 (.449)*	-.357 (.212)*
Constant	-4.005 (.105)	-4.243 (.096)
Number of Cases	5,970	5,970
Time at Risk (Number of Observations)	150,409	150,409

*** p ≤ .001 (one-tailed test); ** p ≤ .01 (one-tailed test); * p ≤ .05 (one-tailed test).

Note: This model also includes a four-segment linear spline function controlling for the age of a precedent at time *t* (estimate, standard error): 1-7 years old (-.055, .012), 8-15 years old (-.094, .011), 16-25 years old (-.070, .011), 26-51 years old (-.006, .009).