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Legal Reason: The Use of Analogy in Legal Argument

Lloyd L. Weinreb

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Legal Reason describes and explains the process of analogical reasoning, which is the distinctive feature of legal argument. It challenges the prevailing view, urged by Edward Levi, Cass Sunstein, Richard Posner and others, which regards analogical reasoning as logically flawed or as a defective form of deductive reasoning. Lloyd Weinreb reveals that it is the same as the reasoning used routinely everyday--derived from the innate human capacity to recognize the general in the particular, on which thought itself depends. Moreover, the use of analogical reasoning is dictated by the nature of law, which requires the application of rules to particular facts.

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