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The Nature Of The Judicial Process.

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Nature Of The Judicial Process

B. N. Cardozo



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the main rule of judgment to the judge when precedent and custom fail or are displaced Acquiescence in such a method has
its basis in the belief that when the law has left the situation uncovered by any pre existing rule there is nothing to do except
to have some impartial arbiter declare what fair and reasonable men mindful of the habits of life of the community and of the
standards of justice and fair dealing prevalent among them ought in such circumstances to do with no rules except those of
custom and conscience to regulate their conduct The feeling is that nine times out of ten if not oftener the conduct of right
minded men would not have been different if the rule embodied in the decision had been announced by statute in advance In

the small minority of cases where ignorance has counted it is as likely to have affected one side as the other and since a controversy has arisen and must be determined somehow there is nothing to do in default of a rule already made but to constitute some authority which will make it after the event Some one must be the loser it is part of the game of life we have to pay in countless ways for the absence of prophetic vision No doubt the ideal system if it were attainable would be a code at once so flexible and so minute as to supply in advance for every conceivable situation the just and fitting rule But life is too complex to

Nature of the Judicial Process B. N. Cardozo, 1957 **Cardozo** Andrew L. Kaufman, 1998 Benjamin Nathan Cardozo unarguably one of the most outstanding judges of the twentieth century is a man whose name remains prominent and whose contributions to the law remain relevant This first complete biography of the longtime member and chief judge of the New York Court of Appeals and Justice of the Supreme Court of the United States during the turbulent years of the New Deal is a monumental achievement by a distinguished interpreter of constitutional law Cardozo was a progressive judge who understood and defended the proposition that judge made law must be adapted to modern conditions He also preached and practiced the doctrine that respect for precedent history and all branches of government limited what a judge could and should do Thus he did not modernize law at every opportunity In this book Kaufman interweaves the personal and professional lives of this remarkable man to yield a multidimensional whole Cardozo's family ties to the Jewish community were a particularly significant factor in shaping his life as was his father's scandalous career and ultimate disgrace as a lawyer and judge Kaufman concentrates however on Cardozo's own distinguished career including twenty three years in private practice as a tough minded and skillful lawyer and his classic lectures and writings on the judicial process From this biography emerges an estimable figure holding to concepts of duty and responsibility but a person not without frailties and prejudice

The Nature of the Judicial Process Oleg Benyuch, 1921

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