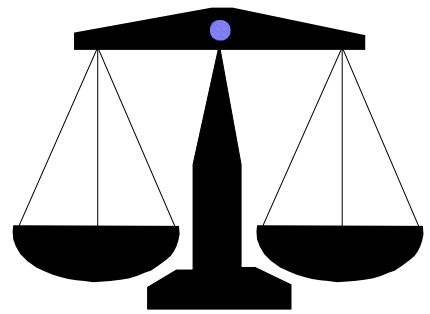


The Benjamin N. Cardozo High r i e f

Rick Hallman, Principal



Vol. IX No. 27 May 2, 2008

Monday, May 5, 2008

Faculty Conferences, Per. 2, 9, 10
School Leadership Mtg. – 4:00 P.M.

Tuesday, May 6, 2008

Report Cards MP II

Wednesday, May 7, 2008

PA Meeting – 7:30 P.M.

Thursday, Friday, May 8/9, 2008

Drama Production

Today's Smile: "Law of Close Encounters: The probability of meeting someone you know increases dramatically when you are with someone you don't want to be seen with."

1. The Life of Benjamin N. Cardozo (continued from "The World of Benjamin Cardozo by Richard Polenberg)

"As Cardozo saw it, the facts in the case were "uncontroverted": Snyder was guilty, the jury had found him so, and he deserved to be punished. So Cardozo thought he had succeeded in reconciling individual rights with social needs. On one side: "Privileges so fundamental as to be inherent in every concept of a fair trial that could be acceptable to the thought of reasonable men will be kept inviolate and inviolable, however crushing may be the pressure of incriminating proof." On the other: "But justice, though due to the accused, is due to the accuser also. The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance true." The law risked being discredited "if gossamer possibilities of prejudice to a defendant are to nullify a sentence pronounced by a court of competent jurisdiction in obedience to local law, and set the guilty free."

Cardozo's opinion expressed the preeminent value he attached to social order. It also reflected many of the same assumptions that led him to approve New Deal social welfare legislation: an inclination to defer to legislative or judicial bodies unless a statute or procedure was "flagrantly unjust"; a tendency to conceive of differences in terms of degree, not kind; a reluctance to construe constitutional doctrine too rigidly (as he said in *Snyder*: "A fertile source of perversion in constitutional theory is the tyranny of labels"); and a realization that his own conceptions of right and wrong were only his and not necessarily everyone else's. As he put it, "Not all the precepts of conduct precious to the hearts of many of us are immutable principles of justice, acknowledged semper ubique et ab omnibus...wherever the good life is a subject of concern."

Legal scholars praised Cardozo's opinion, but Felix Frankfurter voiced mild criticism. Writing from England, where he was teaching at Oxford, Frankfurter complained that the justice's view that the Fourteenth Amendment's due process clause had substantive meaning, even in the limited way he applied it, could be used by conservative justices to strike down state efforts at economic regulation. In his reply Cardozo agreed that "the criminal must have a square deal," adding, "I tried my best in New York to give effect to that belief when cases of the third degree came before us for decision. I know you were not in sympathy with my view as [to] the effect of an illegal search, but that was probably a less important evil than brutality. Be that as it may, the Snyder case brought before us, not the question of the wisdom of the Mass. rule as to "views," but its validity—under the 14th Amendment—as you have been quick to

appreciate. Well, I protest against the idea that I must change my conclusion as a sort of penance for the wrongs of other judges in applying the 14th Amendment too strictly where the statutes had relation to property or contract.”

He would not be convinced, Cardozo concluded, “until you can prove me a sinner in cases where economic interests are at stake.”

A week before Cardozo wrote this letter, Herman Snyder and James A. Donnellon had gone to the electric chair. After the Supreme Court decision came down in January, Governor Joseph B. Ely had granted them a one-month respite so their lawyers could decide what to do, but, in fact, there was nothing to be done. After meeting with Snyder’s mother and Donnellon’s sister, and rejecting their tearful entreaties, Ely set the execution for midnight on February 20. That day, however, a winter blizzard hit the east coast, stalling the train which was carrying the executioner from New York City to Boston. So both men were granted one more day of life. They were electrocuted on February 22, 1934, just after midnight.

Cardozo had once reflected on a judge’s duty to enforce the law, however harsh. In the summer of 1933 a friend, vacationing in England, had sent him a postcard with a picture of the lodgings of Sir George Jeffreys, England’s infamous “hanging judge.” Lord Chief Justice during the reign of King James II, Jeffreys had presided at the trials of hundreds of men who, having supported the abortive rebellion led by the Duke of Monmouth in 1685, were executed, many of them drawn and quartered. “I read a biography some years ago that made me feel he had been a good deal maligned,” Cardozo wrote, perhaps only half-seriously, of the man known as “bloody Jeffreys.” The laws of his day were cruel and he enforced them. Perhaps posterity will think little better of us. What a reward—if I can’t sell the 75th St. house—to have it reserved as a memorial—the home of bloody Cardozo.”

2. Announcements and Congratulations

Congratulations to **Carol** and **Tom Rainey** on the marriage of their son **Kevin** to **Marissa Scalzo** on Sunday, April 27, 2008.

Congratulations to **Anne** and **Vincent Prestia** on the birth of their first grandchild **Joseph Luca** on April 25, 2008. He weighed 6lbs. 15ozs. and was 19 ½” long. The proud parents are **Christopher** and **Kristine Prestia**.

Congratulations to **Jimmy** and **Melisa Vargas** on the birth of their daughter **Valeria**. She was born on April 27, 2008 and weighed 7 ¼ lbs. and was 20”.

3. MENU

| | <u>Breakfast</u> | <u>Lunch</u> |
|-----------|--------------------------|-------------------------------|
| Monday | Pancakes w/Warm Syrup | Grilled Chicken “Salsa Style” |
| Tuesday | English Muffin w/Cheese | Chicken Nuggets w/Sauce |
| Wednesday | Bagel Bar | Beef Gyro w/Tzatziki Sauce |
| Thursday | Cinnamon Biscuit w/Jelly | Chicken Patty on Wheat Bun |
| Friday | Cheese Omelet on Bun | Beef Chili |

