

CHARLES NAGEL—A FOREWORD

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It is fitting that the present generation of alumni, of teachers, and of students at the Washington University School of Law should pay tribute to Charles Nagel in a special issue of the *Law Quarterly*. Among our predecessors in each of these categories he was one of the most distinguished. Few would fail to rank him first of those who, by reason of character, professional ability, thoughtful utterance, and public activity, influenced the life and events of his time for the better and set a pattern which his successors will do well to study.

Much of the material for an over-all estimate of the man and his influence appears in the following pages; but it is too soon to attempt such an appraisal. The direction of events, national and international, is still too uncertain to permit placing any recent figure in relation to it. In the case of Mr. Nagel, because of the very sensitiveness of his nature, the conflicting lines of thought, which he drew from his environment, emerged so prominently that an inclusive judgment upon his ideas may never be possible.

Not so with his character—his integrity, his courage, his graciousness. These shone consistently through all that he did and are reflected in the accounts of him which follow. His personal qualities won him the affection and the admiration of many students and younger faculty members of Washington University. They found ways to enjoy his company and hear his views despite the insulation that generally surrounds a member of the Board. The human in others responded instinctively to the humanity in him. This same humanity made him an appreciative patron of art and literature and a generous donor to the University Library and the City Art Museum.

Mr. Nagel's vigorous espousal of civil liberties was a continuous element in his thought and action. To hear him say with vigor and determination that he would not set foot in Italy so long as Mussolini ruled or in California so long as Mooney remained in prison, was an experience not soon to be forgotten. Hitler had not then emerged on top in Germany, but it is im-

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possible not to know, without further words, Mr. Nagel's judgment of him, at the same time that one knows the effort which a man of Mr. Nagel's balanced sanity would make to understand the causes of dictatorship and the deeper issues of the present war.

Behind Mr. Nagel's advocacy of civil liberty lay a passionate belief in human freedom and human dignity. This it was which made his attitude clear and unequivocal. Beneath his other political thought lay a conflict of ideas that never was resolved. On the one hand there was at work a certain aversion to regulation, more fundamental than economic *laissez faire* or Jeffersonian individualism, which influenced his attitude on certain issues. A law, he often said, is of no avail without the will to follow it; and if the will exists, the law adds little to it. Hence he opposed regulatory legislation more often than he favored it, and he was not a believer in the League of Nations or the World Court, which seemed to him largely futile.

Yet "we must reckon with the questions of justice and wisdom" involved in modern labor relations, "which can be met only by introducing into our industrial system rules of equity and opportunity which the purely competitive method has always denied." Hence Mr. Nagel anticipated the theory of the N. R. A. and the Wage-Hour Law by more than a decade. In 1922 he advanced the view that "federal authority might declare proprietors engaged in interstate commerce, who maintain sweat shops or employ child labor, to be guilty of unfair competition." On the whole, "It cannot be doubted that in the name of personal liberty, property class rule has been perpetuated." To simplify regulation, he advocated federal incorporation of businesses engaged in interstate commerce—a measure still too radical for the New Deal. Nevertheless he opposed the Child Labor Amendment and concluded at one time, with reference to the general economic situation, that "the only escape * * * rests with the voluntary acceptance of progressive ideas by the proprietary class."

There in Charles Nagel's words, as in his life, lies the dilemma of our times—the dilemma of the United States today and, still more acutely, of England. He saw the difficulty himself: "The result is a political and economic compromise, that rests upon no well defined principle of private right or public interest, or