

Coolidge was publicly thanking Mr. Nagel for his support in the national campaign, confident that he could still tip the political scales in Missouri as he did in 1908. Mr. Nagel was not supinely partisan, however, in giving that support; two years before he had helped to re-elect Senator James A. Reed. He favored Coolidge in 1924 because Coolidge had released political prisoners and restored the Department of Justice to its true function of protecting the people. He refused to aid La Follette, though he admired the man and approved many of his policies, because La Follette, to get votes, was appealing to those who had suffered from intolerance during the war.

To vote now in memory of war experiences, [Mr. Nagel said] unmindful of the tremendous issues immediately at stake, is to indulge resentment, than which no more dangerous motive for public or private conduct can be accepted.

His feeling toward his own experiences during the war might have been written by Lincoln: "I can forgive where I have not been forgiven."

Although in later years Mr. Nagel's activities were confined more closely to the interests of his city and his state, his views have been, and will remain, a force to be reckoned with wherever intelligent men with long memories gather to interpret the history of our times. Anyone seriously interested in discovering the causes of America's entrance into the First World War, as an aid in considering this country's relation to the present conflict in Europe, can give his days and nights, with great advantage, to the study of Charles Nagel's life and works.

CHARLES NAGEL AND THE UNITED STATES CHAMBER OF COMMERCE

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Those of us who have been identified for many years with the business and commercial life of St. Louis have some personal knowledge of the interest and intelligent leadership of Charles Nagel in the business, professional, and educational affairs of this city. For many years he was a wise counselor to business

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men, guiding them and their companies not only in legal matters, but in a broad outlook on business life. Those who knew him as a member of the Cabinet of the United States and a founder of the organization which is now the United States Chamber of Commerce will like to be reminded of his active participation in the business leadership of the nation in those days. Younger men and women who knew him in the later years of his full life will be happy to learn of some of the opinions which he expressed in those earlier days, and their wisdom as evidenced by conditions in later years.

The author of this article has been fortunate to secure in the archives of the United States Chamber of Commerce some of the opinions of our distinguished fellow citizen. These statements are concise, clear and thought-provoking, and the reader will be interested to have Mr. Nagel's exact language. With this thought in mind, many quotations have been inserted.

In 1909 Charles Nagel entered the Cabinet of President Taft in the position of Secretary of Commerce and Labor. By 1911 he had become convinced that there should be a central organization at Washington in touch with chambers of commerce and trade associations throughout the country, and "able to keep purely American interests closely in touch with commercial affairs."

Mr. Nagel presented the subject to the Cabinet, and President Taft, recognizing the desirability of such a central organization of business men's organizations, discussed the subject in the message which he sent to Congress on December 7, 1911. By February, 1912, the project was under active consideration, and on March 1, 1912, President Taft formally requested Mr. Nagel to initiate the movement for a national organization. The following day Mr. Nagel issued a letter of invitation to over two thousand commercial and other business men's organizations to send delegates to a conference to be held at Washington on April 22. Out of this conference came the organization of the Chamber of Commerce of the United States.

Mr. Nagel became a director of the United States Chamber of Commerce in 1914, serving until 1917. In 1917 he became an honorary vice-president, holding this office until 1923. Meanwhile he was active as a member of the Building Committee, serving from 1919 to 1923. His committee service extended long-

est in connection with immigration, lasting until 1930. In the period from 1917 to 1922, Mr. Nagel rendered a great deal of service on special committees dealing with such subjects as war shipping, price control during war, labor provisions in the peace treaty, and veterans' organizations.

The Sherman Act and its enforcement is now and has been a matter of interest to every business man in the United States. I believe it will be interesting to review the opinion which Mr. Nagel expressed in the early part of 1922. This quotation includes his views on the Sherman Act, agricultural associations, labor unions, and labor relations in general. It follows:

Sherman Act

“This is the foundation of all legislation that has sought to put a restraint upon improper or oppressive conduct. I have come to the conclusion that upon the whole the Sherman Act was both comprehensive and wise. Read in the light of other legislation upon the same subject, it impresses me as a law suggested and framed by men of mature purpose and unquestioned ability. I cannot see that the later acts by which it has been sought to strengthen this law have added anything substantial to it. On the contrary, I am practically persuaded that everything that it has been sought to accomplish since then was fairly intended and expressed in the original law.

“We must remember that when the Sherman Act was first enacted, neither business men nor lawyers, nor judges for that matter, were prepared for it. * * * In the course of the years the courts have managed to give this law a reasonable or rational interpretation, and to apply it with very considerable force to the conditions that were originally intended to be restrained by it. * * * I think it safe to say that the courts are determined to vindicate the purpose of the statute. * * * There is no longer a disposition to predicate a penalty upon the mere existence of a literal combination. But throughout we see the determination to ascertain the existence of a wrongful purpose. In other words, every business man may now assume that he is not to be punished for an accidental conflict with a technical rule, but that he is to be judged upon the object for which his organization has been made.

“My own feeling, therefore, is that it would not only be use-

less to suggest amendments to this law, but that it would be unwise to support them if they were offered. I am speaking in broad terms, and I would make only one exception. The situation from the start would have been greatly relieved, and would now be very substantially aided, if the restraining character of the statute had been aided by a promoting feature. This could easily have been done by authorizing a national business corporation. In my opinion such authority would have at once relieved the Sherman Act from the suspicion of technical danger and would, at the same time, have relieved the organizations of different states from the necessity of combination that might conflict with technical restrictions; and still further, would have compelled large organizations to state their essential purpose in terms so clear and so unqualified that prosecution in proper cases would have been very much easier, and prosecutions in cases of innocence would have been correspondingly avoided."

Agricultural Associations and Labor Unions

"I know it has been quite generally accepted that agricultural associations and labor unions should be included in the broad denunciation of the Sherman Act, and should, generally speaking, in all respects be treated like a commercial or industrial organization. This view I do not share. I am persuaded that an agricultural association stands upon entirely different grounds. There is no parallel between an association of agriculturists and the kind of commercial or industrial combination that is denounced by the Sherman Act. A business man is not condemned for merely combining the funds necessary for carrying out an enterprise, and there is no more reason for condemning farmers for combining the products of their labor for preservation and advantageous sale. In other words, I admit that the agricultural association may be guilty of abuse, but I contend that it is not to be superficially judged by its mere form, and that at the inception, when the products are collected for disposal, it is just as innocent before the law as are the partners who combine capital for this, that, or the other business. If anything, this is more true of labor unions. There is no reason why they should not combine for the purpose of promoting conditions under which they labor, and of increasing wages which they are to be paid. Nor is there the slightest reason to believe that

any court would ever visit the penalties of the Sherman Act upon a mere showing of such a combination for self-protecting power. Again, I submit that a labor union cannot be classed and judged upon the same basis with a business organization. It stands apart. It has its own character; it has its own course, and its own purposes; and the law should not interfere until the true character and purpose is abandoned, to abuse power at the cost of the general public. * * *

“That commerce and agriculture and labor must be separately considered is made manifest by the fact that they are represented by three different departments in the executive branch of the government. The practical question is whether their activity or its manifestation, insofar as it concerns the public, can be sufficiently and safely controlled by a general law such as the Sherman Act, or whether it is necessary to have distinct provisions looking to both production and control for each of them. * * *

Labor Relations

“There is one phase of the relation between capital and labor, —the strike,—which calls for special comment. It can no longer be regarded as a mere test of strength between two contending forces. The immediate interest of the public is by this time fully recognized. But the true ground for that interest is not so clearly appreciated. We are concerned, not only with the unhappy results which strikes have upon the general public. We must reckon with the questions of justice and wisdom which underlie these crude and destructive manifestations of force. * * *

“I cannot believe that the law alone will provide a cure. Relief rests with a much more profound appreciation of the real cause for the conflict; which is intensely human, and which can be met only by introducing into our industrial system rules of equity and opportunity which the purely competitive method has always denied. The principle of supply and demand standing alone does not answer the problem. The relation of employer and employee must be inspired and sustained by something more than that.

“Without pursuing this matter further, I am persuaded, for illustration, that greater opportunity for change in occupation, and for advancement in employment, would have twofold consequences. It would, on the one hand, bring to the front undiscovered capacity to fill privileged and, therefore, costly places.

It would, on the other hand, serve to demonstrate that places of responsibility are generally not sinecures; and to send many a more contented man or woman back to the accustomed job."

That same year, 1922, Mr. Nagel had the following comments to make in regard to legislative remedies for labor problems and in regard to the future of industrial civilization:

Legislative Remedies

"I am satisfied that the constant reaching out for new legislative measures of relief is calculated to increase our difficulties, and not to control them. We are putting our pressure in the wrong direction. We are law ridden. The truth is that we are destroying our chance for evolving rational rules of action by constantly endeavoring to formulate special measures for particular conditions. There is an inherent fallacy in our system of legislation. It destroys flexibility, freedom of action, and understanding. Instead of undertaking to create conditions under which the people may work out their own happiness, we have embarked upon a great system for prescribing particular personal conduct. To say this one need not be an enemy to legislation; but to advocate specializing in conduct means, to my mind, much more than the abandonment of personal liberty. It means the destruction of the most potent influence which is the exercise of the combined judgment of the various parties in interest. * * *

"If I were asked to state what is the underlying cause of the prevailing difficulty, I should unhesitatingly say a lack of preparedness to deal with economic questions. The generally accepted resort to more and more laws may, I think, be attributed, in part at least, to an earnest desire to correct patent evils without an understanding of the fundamental principles. * * * I see no relief in the accepted method which simply piles up measures. I put my faith in a revolutionized individual who will read his success in the bettered condition of his neighbor, and whose voluntary activities will introduce rules of conduct that dispense with the vain effort to legislate us into propriety."

Labor Question

"I do not believe that the so-called labor question will ever be solved by law. I am satisfied that if drastic measures are resorted to; if the rule of compulsion either to work or to submit to arbitration is once invoked, the consequences will be just the opposite

of what is intended. This country is ruled in the last analysis by the majority, and while an intelligent and effective cooperation of that majority may be postponed for a long time by the influence of financial and press power, nevertheless, if the pressure of class upon class becomes sufficiently acute, there will be no real difficulty in a country as free as ours, with the means of communication which the people have, to turn the scales and to impose compulsion as against those who are now advocating it.

“This is only another way of saying that the real relief lies in voluntary action; and I, for one, am prepared to confess that of all civilized countries we are perhaps less advanced in this respect than any other country. * * *

“After all, the majority of the human race is reasonable. Unions could not exist if they had not sufficient ground for combination, and there is no longer any question that the agreements between proprietors and men must assume a much broader meaning than they have had; must embrace participation in management, opportunity for employment, personal relation as between boss and men, of a kind that up to a few years ago was unknown to us. Our own proprietors are proving it by their conduct, for we have one illustration after another to demonstrate what can be accomplished. Our embarrassment is the unfair competitor, and I am not certain that if a law is required for the proprietor of a sweat shop, we may not find the remedy for him in the old Sherman Act which denounces unfair competition, plans to undersell, etc., instead of trying to protect his employees by minimum wage. * * *

“I think federal authority might declare proprietors engaged in interstate commerce, who maintain sweat shops or employ child labor, to be guilty of unfair competition. This would be a fair employment of the interstate clause; while any other theory would rely upon a forced and strained construction of the Constitution.

“Whatever our course may be, we must face the fact that any intelligent industrial policy calls for a universal regulation and promotion of all commerce,—interstate and local. The effect of one upon the other is apparent. * * *

“Salvation is not to be found at the headquarters of the national administration alone. Indeed, I may add in this connection that it should be our aim in some respects to decentralize

national control; and even in the matter of national regulation, to encourage greater local representation and responsibility. The bureaucratic spirit has made great headway. It is not responsive to local conditions; and it subjects the individual citizen to intolerable embarrassment and hardship."

The Future

"My conviction that industrial changes of most far-reaching consequences are impending is firmly fixed. We are engaged, as other peoples are, in an effort to reconcile the time-honored principle of individual property right and the modern conception of equality and equity which has received a tremendous impetus from war propaganda. It cannot be doubted that in the name of personal liberty, property class rule has been perpetuated. It is apparent to me that both in Great Britain and in the United States the responsibility of the property holder will be subjected to a new test. I regard the challenge as certain to be made, and a more or less revolutionary change as inevitable. The practical question is, how is the change to be brought about?

"We ease our misgivings by the thought that during the war we strained the Constitution to save it. It would be more frank to say that we set it aside to revive it at will. We employed every power that either monarchical or democratic absolutism ever craved. We had a taste of both, and not knowing how to retreat or to resume, we try to employ enough of both to effect a cure, and not enough of either to hurt. The result is a political and economic compromise, that rests upon no well defined principle of private right or public interest, or both. * * *

"Generally it may be accepted that the advocates of change place their trust in legislative measures. I do not share their faith. They would only substitute an irresponsible master for one of at least some responsibility. They are steering for state control and state ownership of property and labor, the fallacy of which is, I think, easily demonstrated by what we already have. In my view, the only escape from the control of mixed authority and ineffective administration rests with the voluntary acceptance of progressive ideas by the proprietary class."

Mr. Nagel on several occasions advocated the federal incorporation of concerns engaged in interstate commerce. One of his addresses on this subject was delivered on May 17, 1916, at

New York City to the National Association of Manufacturers, and is found with other addresses in the volumes styled *Speeches and Writings of Charles Nagel, 1900-1928*, edited by Otto Heller, Dean of the Graduate School of Washington University. I believe it will be interesting to the reader to recall the introduction of Mr. Nagel by Philander C. Knox, formerly Secretary of State of the United States, at a meeting of the Chamber of Commerce of Pittsburgh on November 2, 1915, when Mr. Knox said:

"Sometimes an incident will more accurately describe a man than a volume of words. It was my good fortune in February, 1911, to have negotiated a treaty with the Honorable James Bryce, representing Great Britain, that had for its purpose the settlement of a long, outstanding and troublesome controversy that had existed between the United States and Great Britain for many years, and which had failed of peaceful solution by one of the most famous arbitrations in the history of international relations. It was a treaty designed to preserve that great and valuable herd of fur seals which occupied our territory off the coast of Alaska in the neighborhood of and including the Prybiloff Islands. * * * We succeeded in February of 1911 in reaching a provisional treaty with Great Britain, subject to our also being able to bring Japan and Russia into the same agreement. We proceeded so far that by the latter part of the summer of 1911 we had procured from Japan and from Russia the consent to send representatives to Washington for the purpose of seeing if a treaty could not be made to include all four nations.

"The subject was full of difficulties. It involved an accurate and a broad knowledge of international law. It involved a keen and discriminating business sense. It involved tact, patience, and industry. And although by virtue of my office the duty rested primarily upon me to undertake the solution of this great question with these four nations, I made a special request of the President of the United States, based upon my knowledge and observation of the distinguished gentleman who is today our guest, that he and not I should take charge of the solution of this difficult question. And to his credit I wish to say to my friends in Pittsburgh that that proposition, which had involved irritation, dispute, and at times blood among these four nations, was amicably, honorably, and successfully settled by the gentle-

man whom I have the honor now to present to you, the Honorable Charles Nagel, of St. Louis."

I have also compiled from the records of the United States Chamber of Commerce other statements of Mr. Nagel in connection with business. At the conference held in Washington on April 22, 1912, out of which grew the Chamber of Commerce of the United States, after mentioning subjects upon which dominant business judgment should be ascertained and expressed, Mr. Nagel said:

"Attempt after attempt has been made. Men have devoted their energy and their thoughts to it. They have organized national boards and organizations of other kinds. Somehow the measures have not entirely succeeded, and it has seemed to me that one of the great difficulties is that the government was never in a position to recognize one as against the other. * * * I trust you will never accept the idea that a mere board or committee, no matter how strong in itself, located here in Washington, no matter how well supported financially, can give what is here proposed. Whatever the representative body may be, whatever its shape, and whatever its strength, it must speak, when it does speak, for the commerce and industry of the United States, not by delegated authority, but on important occasions it must be prepared to say 'We now register the decision which has been deliberately made after discussion and consultation.'"

Addressing the twenty-fifth annual meeting of the United States Chamber in 1937, Mr. Nagel referred to a point of view which was as characteristic of him in 1912 as in 1937. He said:

"We have been given of late years to legislation for everything that has suggested itself. * * * We must remember that all legislation should be considered in the light of what it may ultimately do for us, and we have been unmindful of that because we have been a people to look for immediate consequences. We want results, of course, and unfortunately we have gradually gotten into a belief that if we enact a statute we have made a law. We have not. That is a mere resolution, and that resolution will be of no value whatever unless it is lived by, and if the resolution is too easily made it has a very poor chance of living at all. We have an idea that when we have made a promise we have kept it. The keeping is the task and not the making."

Speaking in 1925 at the dedication of the building occupied

by the Chamber, in Washington, Mr. Nagel touched upon the same theme, adding a reference to his point of view respecting the great desirability of promoting friendly relations between labor and industry. He had for years felt so strongly on this subject that when, in 1913, Congress passed the statute for separating the Department of Commerce and Labor into two departments, Mr. Nagel recommended to President Taft that he veto the bill, on the ground that the federal government should promote closer relations rather than recognize commerce and industry as separate and distinct from labor. In the address of 1925 Mr. Nagel said:

“No law can live, and no institution can survive, unless the wills of those who are to be governed or who are to be benefited, are in favor of that institution, and the truth is that the conditions in this country were ripe for a Chamber of Commerce of the United States. * * * What were the conditions? Up to that time we were divided by the rule of self interest in this country. The labor unions stood for one side, the merchants for another, industrials for another, agriculture for another, and each believed that its purpose must be to seek the greatest advantage for itself, regardless of the cost to the others. * * *

“That was our situation, and the idea of this institution was to organize the commercial and industrial forces of this country upon an intelligent basis, for their own information, for the enlightenment of the entire community of this country, and with a view to find rules of conduct that would permit them to prosper because those who were related to them in one way or another were equally prosperous with them. The purpose was to find a mutuality of interest in this country, instead of perpetuating the eternal antagonism that had prevailed.”

When Chief Justice of the United States, Mr. Taft in 1925 also spoke at the dedication of the building, saying with respect to Mr. Nagel's part in the organization of the Chamber:

“With small beginnings, under the initiation and approval of Mr. Charles Nagel, then the Secretary of Commerce and Labor, you have builded a center of influence that has made and will continue to make for the great good of this country. You have united together in a common and effective purpose the great body of intelligent and active business men of the United States, and you have furnished for the people of this country an instru-

ment for the effective organization of public opinion that is and will continue to be of the highest benefit."

Speaking at the annual meeting of the Chamber in 1920, Mr. Nagel said on the subject of immigration, in which he took keen interest for many years:

"I am unwilling to have immigration predicated solely and exclusively upon an industrial question. Admitting that we need immigration, as I think we do, I take the position that neither man nor woman is fit to work for us until they are fit to promise ultimate citizenship. The integrity of our institutions, the political question involved, lies at the foundation of the whole system, and if we propose to invite people from abroad to come to the land of the free, we must make sure that the land is free and is kept free."

The foregoing statements of one of our great lawyers and thinkers should be of special interest to all of us in these troubled days. The United States Chamber of Commerce in the twenty-eight years since its foundation has grown in numbers and in influence, and represents a large part of the enlightened, forward-looking opinion of the industrial and professional leaders of this nation. Mr. Nagel had the ability to look into the future and envision the higher standards in business life that could be attained by leadership offered in and by such an organization. The records of the men active in the affairs of the United States Chamber of Commerce evidence their cooperation at all times and on all measures that promote the best business interests of this nation. In this present emergency there has fallen upon our business men the responsibility of organizing industry and bringing it to high efficiency in carrying out the defense program that this nation must have. As we look into the future, which seems so uncertain at times and especially so in these days, we can feel confident in the leadership of the business men in this country. Is it too much to hope that the executive and legislative branches of our government may seek and follow the wisdom of such men?

The business life of this nation owes a lasting debt of gratitude to Mr. Charles Nagel for his intelligent understanding of business problems and his active promotion of coordinated leadership, as evidenced by the organization, growth and wise influence of the United States Chamber of Commerce.