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**Franklin D. Roosevelt — “The Great Communicator”**

**The Master Speech Files, 1898, 1910-1945**

**Series 1: Franklin D. Roosevelt’s Political Ascension**

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**File No. 299**

**1928 Not dated**

**Speech Draft with lgh. Insertions, etc. by F.D.R.**

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The Governor's request was influenced by Bernard L. Shientag, state industrial commissioner, who in a letter to the Governor declared that the department is seriously undermanned and that steps must be taken at once to speed up its work if it is not to fall so far behind that it would be next to impossible to catch up.

Commissioner Shientag, in his letter to the Governor, said that the number of referees and examiners is inadequate and that it takes from three to six months before a case is given first trial. Speaking of the Buffalo situation, he said: "I am advised that there are 3,245 compensation cases pending undisposed of. That is from four to five times as many as should ever be in hand in that office. Nine hundred and twenty-one of these cases are what is known as final adjustments; that is, cases which involve a permanent injury. The assistant to the commissioner advises that it takes at least from three to six months to get a case on the calendar for the first time."

Charges that orders issued to employees by the bureau of inspection with respect to accident prevention and fire hazards are being ignored on a wholesale scale were also made by Mr. Shientag. He said he had information in his possession showing that 2,415 orders relating to fire prevention have been uncompleted with for more than six months, 1,076 for more than a year. He added that in upstate industries 315 fire prevention orders remain uncompleted with for more than six months, 145 of them have been disregarded for more than one year.

A check made today by your correspondent shows that comparatively few of these violations were made by employers in the seventh inspection district of the commission. This district covers Erie, Chautauque, Cattaraugus, Allegany, Steuben, Wyoming, Livingston, Orleans, Niagara and Genesee counties.

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In contrast to that condition when in February of 1928 Professor Lindsay Rogers, the Moreland Act Commissioner appointed by Governor Smith, investigated the Buffalo Office along with all the other district offices in the State, he did not find a single compensation case in which unwarranted delay had occurred although the Buffalo Office disposes of 25,000 cases annually. Neither here nor anywhere in the State did Professor Rogers find a single case of fraud although the Compensation Bureau awards to the working people of this State compensation payments amounting to \$30,000,000.00 annually.

Here are the facts on the so called investigation of the Labor Department. An Industrial Survey Commission was appointed in February 1926 by concurrent resolution of the Legislature to investigate and report on the merits of proposed amendments to the labor laws. emanating from this committee and appearing in the newspapers from time to time between December 2, 1927 and January 20, 1928, there appeared veiled charges of fraud in connection with the adjudication of compensation claims. Assemblyman Cornaire in an interview with the New York Sun January 17, 1928 alleged that the State Fund and private insurance companies had suffered losses of hundreds of thousands of dollars and that the heavy losses from these fraudulent claims made it impossible to pay injured

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"I am advised that there are 3,245 compensation cases pending undisposed of. That is from four to five times as many as should ever be on hand in that office. Nine hundred and twenty-one of these cases are what is known as final adjustments; that is, cases which involve a permanent injury. The assistant to the commissioner advises that it takes at least from three to six months to get a case on the calendar for the first time."

Orders that orders issued to employees by the bureau of inspection with respect to accident prevention and fire hazards are being ignored on a wholesale scale were also made by Mr. Shientag. He said he had information in his possession showing that 2,915 orders relating to accident prevention have been unaccomplished with for more than six months, 1,076 for more than a year. He said that in upstate industries 315 fire prevention orders remain unaccomplished for more than six months, 145 of them have been disregarded for more than one year.

A check made today by your correspondent shows that comparatively few of these violations were made by employers in the seventh inspection district of the commission. This district covers Erie, Chautauque, Cattaraugus, Allegany, Steuben, Wyoming, Livingston, Orleans, Niagara and Genesee counties.

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workmen their full due of compensation. This same champion of the insurance companies in the Brooklyn Eagle of January 17, 1928 was quoted as stating, "hundreds of thousands of dollars are being stolen by employees of the Compensation Bureau, by doctors, shyster lawyers and runners." Here in Buffalo on December 2, 1927 the Buffalo News quoted Henry Sayer, former Industrial Commissioner under Governor Miller and Executive Secretary to the Commission, as believing "the fake claim situation in New York and Buffalo is something terrible." As a matter of fact Mr. Sayer and other members of the Survey Commission were in Buffalo for nearly a week at the time the Buffalo News printed this statement and neither Mr. Sayer or any member of his Commission visited the Labor Department offices in Buffalo nor did they have the slightest knowledge or information on which to base the above allegation. Immediately after the publication of these charges, Governor Smith on January 24, 1928 appointed Mr. Lindsay Rogers as a Moreland Commissioner to examine the administration of the Department of Labor, New York State. This is what Mr. Rogers has to say at the very start of his report. "At my first hearing held at the Department of Labor at New York on January 30, 1928, these charges were read into the stenographic record. The following day I held a hearing in Albany. Senator Truman, Assemblyman Cornaire and Mr. Sayer testified. They either withdrew completely or modified to a vanishing point the charges which led to my appointment as Moreland Commissioner." In other words they ran to cover. In his report to the Governor, among other things Professor Rogers says, "No evidence was presented to me indicating the dishonesty or improper conduct of any employee of the Department of Labor. Charges of fraud against the Department have not been sustained. The Workmen's Compensation Bureau so far as its honesty is concerned comes out of my investigation with a clean bill of health." He further states "That Mr. Henry D. Sayer, the Executive Secretary of the Industrial Survey Commission, is an ex-industrial commissioner and President of the Wolf Industrial Service, Inc., and thus was investigating the Department out of whose activities his company derived its income, determined the nature and scope of the inquiry by the Industrial Survey Commission." Professor Rogers thus uncovers the real purpose back of the Legislative Investigating Committee.

Now it might be well to direct attention to the fact that Mr. Ottinger, as Attorney General, has absolutely nothing to do with the functions of the Labor Department. By virtue of his office his deputies are obliged to appear as counsel for the Labor Department in the prosecution of Labor Law violations but these violations together with all the evidence is assembled solely under the supervision of the Industrial Commissioner. So also in compensation cases the Attorney General has no other function than to act as counsel for the Industrial Board in the preparation of findings and in the argument of cases before the Appellate Division. It is extremely doubtful whether in the four years of Mr. Ottinger's term he has personally seen a compensation case. It is doubtless true that new amendments and the more liberalizing tendency of the new amendments caused employers and insurance carriers to appeal an increasing number of cases to the Appellate Division. Mr. Ottinger's staff of deputies was insufficient to handle the increasing volume of work and he secured the appointment of additional deputies to care for the work.

Mr. Ottinger in his speech in Buffalo refers to certain liberalizing amendments of the Compensation Law which "we" recommended. Evidently he meant to include himself with the Governor. As a matter of fact the

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Compensation Act itself was passed by a Democratic Legislature, signed by a Democratic Governor and it is a further fact that ~~every important~~ *practically* liberalizing amendment or addition was recommended and forced through a reluctant Legislature by Governor Smith. For instance, a year ago Governor Smith recommended an increase of compensation benefits from \$20.00 to \$30.00 per week. The Legislature finally yielded and permitted an increase to \$25.00 for temporary disability but held down the permanent partial disability rate to \$20.00.

An indication that Mr. Ottinger is not thoroughly familiar with the Compensation Law or Procedure is evident from his statement in Buffalo that "We also drafted a law which was passed which extended the period in which claimants could report their injuries. Under this Act the Labor Bureau enjoys a discretionary power to permit a person to file a claim even after the expiration of one year but not exceeding two years." As a matter of fact there has been no law passed in the last four years extending the time in which a claimant may report an accident. On Governor Smith's insistent recommendation, the Legislature passed an amendment last year which extended the time in which a claimant might file a claim for injury, not to exceed two years. Mr. Ottinger cannot be criticised for approving and supporting Governor Smith's many recommendations for improvement and liberalizing of the Workmen's Compensation Act but his attempt to secure credit for any of these amendments is most ridiculous. Mr. Ottinger stated here that during the past four years the Attorney General's Office has handled 15,000 cases against violators of the Labor Law. He could do no less without resigning his position as Attorney General since his office requires him to do so in every case presented by the inspectors of the Labor Department. It might be well to mention that if your fellow townsman, Mr. Ward, is elected Attorney General, it will also be his duty to assist the Industrial Board in preparing compensation cases for argument when employers appeal to the higher courts. Mr. Ward will be compelled to do this although he was one of the most ardent opponents to the Compensation Law when it was under consideration by the Legislature in this State. Mr. Ward felt that the Compensation Law would be ruinous to his practice as a lawyer specializing in negligence cases. (Hon. Adelbert Moot, the former President of the Bar Association, informed me of this fact only a year ago and detailed the conversation he had with Mr. Ward just prior to the enactment of the Compensation Law.) *Wag.*

One of the things that has occupied the attention of the Industrial Commissioner at Buffalo during the past four years has been the conduct of certain attorneys in demanding and accepting excessive fees from clients entitled to compensation benefits. In two cases it was necessary for the local representative of the Industrial Commissioner to lay complaints against these attorneys with the Erie County Bar Association and through such action secure the return of \$450.00 which had been taken from these claimants as fees. It is worthy of note that while the Attorney General or his Deputy was advised fully as to the facts, no assistance in the action was forthcoming from the Attorney General's Office. The matter was necessarily handled entirely by the Commissioner and his representative. Professional ethics probably restrained the ardor of the workers champion in these cases.

There is plenty of evidence to support a finding that the Attorney General's Office insofar as the Labor Bureau is concerned is far from being efficient and competent.

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