

IRRA



COMMON GROUND

INDUSTRIAL RELATIONS RESEARCH ASSOCIATION
FOR WESTERN NEW YORK

FALL 1987

PRESIDENT'S MESSAGE

by Eric Lawson, Jr.

I compose these remarks on one of the certified "dog days of summertime."

Temperature in the high 80's, humidity off the board, with only a languid breath of air for relief. It's a day when backyard swimming pools and air-conditioned offices assume much importance. Funny how our priorities can be influenced.

One of the priorities which shall occupy me beyond this sticky day is the health and well-being of the Western New York IRRA Chapter. One measure of our organization's health is the quality of its monthly meetings and the attendance at those meetings. I wish to linger on the programs for two of those months since they will offer the membership a bit extra. I'm speaking of the programs for September and November, the two mini-cons which will be presented this year.

The kick-off program for this fall will be a mini-con entitled "Drug Testing and Substance Abuse at the Work Place." David Keicher chairs the committee which arranged for this timely program.

It is estimated that 15% of all employees are abusing drugs. Over 30% of the Fortune 500 companies, including General Motors, presently have drug testing programs in place at some or all of their plants.

Testing of candidates for employment, passive or random testing, and testing of employees suspected of misconduct raise important questions about the rights of employees. Where public employees are involved, major constitutional issues arise when blood or urine samples

are taken. Test results are not always reliable. The use of drugs or alcohol on or off company premises raise questions regarding the balance of privacy considerations against the employer's right to operate a safe and efficient facility. An underlying issue relates to the nature of substance abuse. Is it a health issue or is it an issue related to misconduct? The September program will examine these issues in detail in the mini-con portion of the program.

November 17th will be the date of the second mini-con. Choose your title for the program, "Power Grieving", "To Arbitrate or Settle, That Is the Question", or simply, "Am I going to Win/Lose This Case If It Goes to Arbitration?"

The format of the program involves separate evaluations by arbitrators (including the regional members of the National Academy of Arbitrators) and advocates of a somewhat typical fact pattern that might exist at the conclusion of the third step of the grievance proceeding. Issues presented include a major procedural question, matters of fact, burdens of proof, privileged conduct, sabotage, just cause and other enticing questions intended to leave the participants somewhat uneasy about the outcome of this matter should it be arbitrated.

Our dinner speaker will be Arvid Anderson, the President of the National Academy of Arbitrators.

The November mini-con will be held at the Buffalo Yacht Club. A map will help you locate this facility which is right off the Porter Avenue exit of the Thruway. We chose the Buffalo Yacht Club

(Continued on Next Page)

PRESIDENT'S MESSAGE Cont.

to add a bit of diversity to our programming; however, there is a cost attached to that selection. We are obligated to pay for at least 100 dinners by the Club. Obviously WNY IRRA will depend on your patronage.

The mini-cons are designed to take only a small portion out of your work day. They are packed with information which we hope the membership will find appealing and timely. The formats of the two programs are intended both to deliver valuable information and to promote a hearty exchange of views between the participants.

COMMON GROUND notes with sadness the death of **Andrew Miller** of cancer on July 5, 1987. Andy was well known in WNY labor relations circles, most recently serving in an executive capacity with ITT Aimco. He had previously worked for Globe Albany and Bethlehem Steel. IRRA's condolences go out to Andy's family and friends.

Dick Bradley, Buffalo Area Director of the Occupational Safety and Health Administration and longstanding IRRAer, has been elected President of the Niagara Chapter, American Society of Safety Engineers. Dick has been with OSHA for 13 years and served in its Albany office before coming to Buffalo. The Buffalo office covers six WNY counties, employs 22 people, and does almost 1300 inspections a year. Dick has been a mediator/fact-finder for NYSPERB and is currently a member of the IRRA Program Committee.

Dennis J. Campagna and **Linda S. Crovella** have joined the law firm of Flaherty, Cohen, Grande, Randazzo & Doren. The firm, all of whose partners are IRRA members, represents employers in labor relations and employment matters. Mr. Campagna and Ms. Crovella are 1987 graduates of UB Law School.

Nicholas J. DiNezza has been appointed a Project Manager for the Niagara County Labor-Management Council. IRRA Past President **Jim McDonnell** is Executive Director of the Council. Mr. DiNezza recently retired as Works Manager for the Durez Division of Occidental Chemical. About half of his 32 years with Durez were spent in Personnel and Labor Relations.

In addition to the mini-cons, our planned programs for October and January are ~~very~~ of note. Scheduled for October 27 is a program put together by **Dick Bradley** titled "OSHA in the Reagan Years: Watchdog or Pussycat"? The program features a talk by **John Pendergrass**, head of OSHA in Washington. On January 26, we will have our annual "Law Night." The likely topic is "value assumptions in labor law."

The mini-cons deserve your patronage. Let them and the rest of the IRRA programs for the year become one of your priorities.

TRANSITIONS

Jean Doerr has been appointed Administrative Law Judge in the Buffalo office of the NYS Public Employment Relations Board. Ms. Doerr is a 1982 graduate of UB Law School. Prior to her appointment, she practiced labor law in Buffalo, and has been a part-time instructor for UB and Empire State College.

Scott D. Harris has joined the law firm of Wyssling, Schwan & Montgomery as an associate. The firm specializes in labor and employment law, primarily on behalf of unions. Mr. Harris is a 1983 graduate of the University of Toledo Law School.

Stuart M. Pohl, a member of the IRRA Advisory Board, has resigned his partnership in the law firm of Lipsitz, Green, Fahringer, Roll, Schuller & James. He has accepted a teaching position at St. Bonaventure starting this Fall, where he will be teaching courses in personnel administration, management science, and labor relations. He will also be doing mediation and arbitration work out of offices at 69 Forestview (Williamsville 14221). He can be reached at 688-3958.

Richard A. Torrey has been appointed by Governor Cuomo to a six-year term on the State Mediation Board, replacing **Daniel J. McGraw**. For the past decade, Mr. Torrey has served as a legislative liaison with the NYS AFL-CIO, and he is a member of the Capital District IRRA. Chairman of the State Mediation Board is **Msgr. Jim Healy** of Buffalo and a Vice President of the WNYIRRA.

WELCOME TO NEW MEMBERS

Please extend an enthusiastic welcome to the following additions to our ranks:

Frank J. Blasioli,
UAW-GM Human Resource Center

Art Braunscheidel,
UAW Local 686

Wilma M. Duzen,
Employee Relations Supervisor at Arcata
Graphics

Marcella Fugle,
Director, New York State United Teachers

Daniel Gallagher,
Business Manager, IBEW Local 2154

Thomas M. Grace,
President of Local 167, Public Employees
Federation

Richard Hanlon,
Vice President of NYSUT Local 2642 (E.C.C.)

William T. Hilvert,
VP of Human Resources at Castle Company in
Rochester

John S. Kelly,
Director of Human Resources for the
Presbyterian Homes of WNY

Eugene V. Kolls,
President of the Williamsville Teachers
Association

Donald C. O'Connor, III
Student

Robert E. Pfell,
Director of Human Resources at CECOS Inter-
national

Charles I. Price,
International Representative, United Auto
Workers

Jane Ruff,
President of NYSUT Local 2642 (E.C.C.)

C. Michael Taeger,
Curtis Screw Company

Christopher J. Wallace,
Student

UPCOMING EVENTS

The WNY Institute for Dispute Settlement, operated by IRRAers Tom Rinaldo and Don Goodman, will again be offering a series of one-day arbitration seminars in Syracuse. The sessions include Arbitration Practice (Sept. 17), Arbitration Procedure (Sept. 18), Discipline & Discharge (Oct. 15), and Management Rights, Standards for Interpreting Contract Language (Oct. 16). The seminars are priced at \$90 each. For more information, call 884-6733.

The Buffalo Area Chamber of Commerce, in cooperation with the NYS Department of Labor, will be sponsoring several workshops this Fall of likely interest to IRRAers. Topics include Immigration and Naturalization Policy (with attention to the new certification requirements), recent developments in Unemployment Insurance, and Disability Insurance Benefits. Dates are not yet set. For more information, call the Chamber at 852-7100.

The Center for Management Development at

UB will be offering a number of seminars this Fall that may be of interest to IRRAers. They include: "Incentive Compensation Planning" (Oct. 7-8), "How to Improve Your Negotiating Skills" (Oct. 19-20, in Rochester), "How to Hire and Fire Employees" (Oct. 21-22), "Improving Management Skills for the New or Prospective Manager" (Nov. 11-13), and "How to Build and Manage a Winning Team" (Dec. 2 in Rochester, Dec. 3 in Buffalo). For more information, call 636-3200.

The NYS Public Employment Relations Board, together with the Institute of Industrial Relations at LeMoyne College, is sponsoring a conference at the Hotel Syracuse in Syracuse commemorating the 20th anniversary of the Taylor Law. Speakers will include Dr. Thomas Sobol, NYS Commissioner of Education, Edward Cleary, President of the NYS AFL-CIO, and Harold Newman, Chairman of the PERB. Registration is \$25 and should be sent to Dr. Mark Karper at Lemoyne (Syracuse 13214).

NEW NLRB REGIONAL DIRECTOR IS ON BOARD

For those of you who missed the announcement, the Buffalo office of the National Labor Relations Board has a new Regional Director. He is **Richard Ahearn**, and he succeeds Tom Seeler, who retired last December. Mr. Ahearn (who after this will be "Rich," as we suspect he would prefer) was kind enough to spend a couple of hours with your humble and obedient editor, during which he offered a glimpse of himself and his view of the job. Herewith a recap.

Rich is an exceptionally engaging and personable fellow with an infectious laugh. He's a 1968 graduate of Columbia College, and after brief flings as a schoolteacher and a Neighborhood Youth Corps head, he entered law school at Northeastern University in Boston. Rich spent a summer internship at the Boston office of the NLRB, which apparently set the hook pretty solidly, inasmuch as he's been with the Board since receiving his law degree in 1974. Rich's first posting was right here in Buffalo, where he spent a year and a half as a field attorney. After three years in Albany, also as a field attorney, Rich moved to Baltimore as a supervisory attorney. During his eight years in Baltimore, Rich advanced through the ranks to Deputy Regional Attorney and then Regional Attorney, the chief lawyer in the office. Rich is a man on a fast track, since at 40 he is now in the top non-political post in the NLRB hierarchy.

Rich views his job as going beyond the formal, within-office duties of the Regional Director. Those duties are central, to be sure. The RD is the administrative head of the office, with overall responsibility for ensuring that the operation runs smoothly and productively. As a critical link between the Board and the public, it is his function to ensure that the National Labor Relations Act is carried out promptly and effectively. On representation questions, he is ultimately responsible for determining whether the Board has jurisdiction over a particular bargaining unit, which unit is "appropriate" under the law, who is eligible to vote, and sometimes whether under the circumstances an election can be held at all. On unfair labor practice charges, he decides (upon receiving advice from the Regional

Attorney) whether to issue a formal complaint, a decision that is reviewable only by his boss, the General Counsel in Washington.

These are the traditional functions of the RD. But Rich also believes that his role includes making the NLRB understandable to the labor relations community in particular and the public in general. He thinks it is important to develop confidence in the quality of Board's work on the part of its users. He thinks he (and others in the Board leadership) should be, and he expects to be, a visible presence in the labor relations community. In that vein, he intends to become active in the labor law section of the New York State Bar Association and in the Western New York IRRRA. (We could have signed him up on the spot, but we — nostra culpa! - neglected to bring along a membership form.) Rich says he wants to have an ongoing dialogue with the Board's constituencies, he wants to receive their views, comments and criticisms, and he wants to respond to their concerns.

It was that comment that led naturally into the next obvious topic of conversation. Although the Board has always been a target of criticism, we suggested, the complaints, especially from unions and the AFL-CIO, seem to have become louder and more passionate in recent years. Rich thinks the Board has received a bum rap (our term — he was too polite to use it). He argues that the NLRA has served its purpose, even if it might benefit from some fine tuning. And he rejects the contention that the current Board has subverted the principles of the Act. He says that the areas in which this Board has reversed prior decisions are not at the heart of the Act, and in any case the Board had been having trouble in the courts with the postures that it has been criticized for changing. In the key area of discrimination on the basis of union membership, he notes that cases are not being decided differently, and he points out that the "merit factor" — the number of complaints issued as a percentage of charges filed by the public — has remained constant over the years.

Well, then we asked, if the Board is faithfully executing the Act, is there a problem with the

(Continued on Next Page)

REGIONAL DIRECTOR Cont.

Act? Rich let that one lie, apparently preferring to concentrate on matters over which he had some control. We had the feeling that Rich has some well thought out views on the subject, which he might express over a beer but not in an interview with someone taking notes.

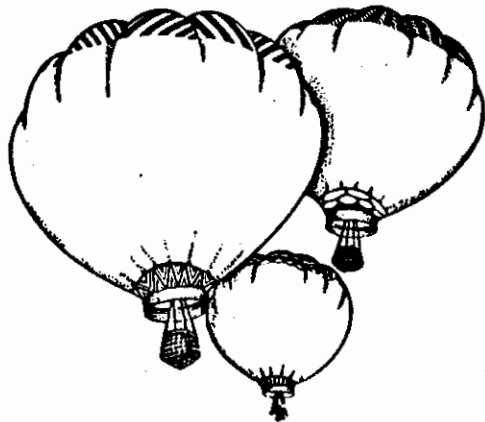
We hope Rich Ahearn follows through on his intent to become active in IRRA, for it will be our gain. He's an articulate spokesman for the Board and a genuinely interesting personality. He's an accomplished marathoner, with a personal best of under 2:50 (which is very impressive to those of us who get tired driving 26 miles); a tennis player; a classical music fan (or "aficionado," as they say at Kleinhans); and a family man. Rich's wife, Susan, and their two pre-school daughters moved up to join him last month. COMMON GROUND urges all IRRAers to wish the Ahearns a warm welcome.

FINANCIAL REPORT

Balance as of 7/1/86.....\$ 9,116.59
 Balance as of 3/16/87..... 10,348.08

Receipts	6459.18	Disbursements	4908.62
Printing	3.25.00	Interest	179.18
Mar, Apr, May mtgs..	3163.89	March meeting.....	779.00
Speaker expenses...	174.64	April meeting.....	1278.00
Supplies	400.01	May meeting.....	1493.00
IRRA national dues...	160.00	Membership renewals	2730.00
JAR trophies	64.60		
ALRA reception.....	800.00		
Miscellaneous	130.58		

Balance as of 7/7/87..... 11,898.64



ACKNOWLEDGEMENTS

A Tip of the Hat to:

- Marie Antonucci**, who will coordinate site arrangements for dinner meetings.
- Elena Cacavas**, for much appreciated help in producing COMMON GROUND.
- Dan Chavanne, Pat Chavanne, and Rivona Ehrenreich**, who will run the reception table at dinner meetings.
- Mike Fischer** of Conax Corporation, a new member of the Executive Board.
- Joe Gentile** of the State Mediation Board, a new member of the Advisory Board.
- Ed Kelly**, who will coordinate speaker recognition activities.
- Ed Schmidt**, who will prepare maps to sites of dinner meetings.

WNY CHAPTER AMONG IRRA'S LARGEST AND MOST ACTIVE

Last February the newsletter of the national IRRA published brief descriptions of its 59 local chapters. You may be interested to know that our 300 members ranked us in the top 8, comparable with much larger cities like Atlanta, Washington and Chicago, and larger than Pittsburgh, Columbus, Cleveland, Milwaukee, St. Louis, Kansas City, Dallas, Houston, Denver, San Diego and Seattle. The only decidedly larger chapters than us were in New York City, San Francisco and Detroit. We are also among the most active chapters in terms of programs and services (like COMMON GROUND). Anybody interested in more information on this point may contact Howard Foster at 636-3247.

