ARBITRATION NO. #129

Inland Steel Company

Indiana Harbor Works

and

Grievance No. 16-C-288

United Steel Workers, CIO

Local 1010

Hearing, January 28, 1955
Transcript received February 7, 1955
Company post hearing brief
received February 28, 1955
Union post hearing brief
received March 21, 1955
Award made April 8, 1955

Chas. B. Gordy
Arbitrator

THE PROBLEM

The letter of stipulation addressed to the Arbitrator under date of November 12, 1954, and signed by Mr. Lieberum for the company, and by Mr. Clifton for the union, states the subject of this grievance in the following terms:

"The question to be decided by the Arbitrator is whether or not the Company was in violation of Article V, Section 5 of the December 1, 1950 Collective Bargaining Agreement when it denied Grievance No. 16-C-288, filed June 21, 1951. The Company contends that the Cold Strip Temper Mill Crane Operator (No. 35, No. 35A, No. 35B) Wage Incentive Plan 77-2427 installed May 14, 1951 and the Cold Strip Sheet and Coil Temper Mill Tracer Wage Incentive Plan 77-0127 installed May 14, 1951 provide equitable incentive earnings in accordance with the provisions of Article V, Section 5 of the December 1, 1950 Collective Bargaining Agreement.

"Article XIV, Section 4 of the July 30, 1952 Collective Bargaining Agreement states:

'Pending Grievances. All grievances which were filed under the terms of the 1952 Agreement between the parties, as amended and supplemented, and which are now in the process of adjustment will be considered under the grievance procedure set forth in this Agreement and settled in accordance with the applicable provisions of the said 1952 Agreement, as amended and supplemented, in effect at the time the cause of the grievance occurred."

The Union Position

The union claims that wage incentive plans 77-2427 (Cranes) and 77-0127 (Tracers) do not provide equitable earnings as required by Article V, Section 5 of the Collective Bargaining Agreement.

In support of this claim, the union produces its evidence under each of the four criteria of equitability mentioned under Article V, Section 5, paragraph 4 of the agreement; and requests a comparable incentive rate existing in the department be installed on these occupations (union post brief, p.1.). Each of the four criteria will now be listed, and a summary made of the evidence and the contentions made.

1. Equitable incentive earnings in relation to other incentive earnings in the department. Evidence on this point consists of Ex. No. 4 which is a listing of the ratio of total earnings to base rates in the first quarter of 1951 for jobs in the "temper mill rolling department." The union computes the average margin of incentive earnings over base rate of all jobs at 1.405 as a department average.

The ratio of total earnings to base rates for Tracers is stated to be 1.09 for this period; and 1.20 for Crane operators on 35, 35A and 35B Cranes.

The contention on this point then, is that equitability should be tested or judged by a comparison of the ratio of the job in issue with the average departmental ratio. The union (Tr. 29) uses the term "in relation" instead of the term comparison.

2. Equitable incentive earnings in relation to other incentive earnings in a like department. The union contention is that there is no like department; and that, therefore, this criterion is not applicable.

3. Equitable incentive earnings in relation to previous job requirements. The union contends here that before modernization, a total of 11 cranemen, hookers, and tracers were required to produce 280 tons in 8 hours. Today this work force consists of 7 and 400 tons were produced in 8 hours. Apparently, there is an understatement of the tonnage produced after modernization (Tr. 51)

4. Equitable incentive earnings in relation to previous incentive earnings. The union states that Tracers were not previously on incentive, and that for the three crane operators, previous incentive earnings "were 1.18" under the first criterion noted above, this ratio was stated to be 1.20. Under this point also, the union states that "the company was required under the contract to pay the tracers a minimum incentive of 20 1/2 centsper hour" (Tr. 17).

In summary, "The union requests the Arbitrator to award these occupations (temper mill coil tracers and 35, 35A and 35B crane operators) a ratio of total earnings over base rate of 1.405 which would make these occupations equitable in relation to other incentive earnings in the department" (Tr. 19).

The Company Position

The Company contends that:

1) The operation of cranes 35, 35A and 35B in the Cold Strip Mill servicing the coil and sheet mills constitute a new occupation.

2) The Temper Mill Coil Tracer operation servicing the coil and sheet mills constitutes a new occupation.

3) The work load required of the various cranes in the cold strip mill varies considerably; and that the margin of total earnings over base rate should, and does vary depending upon work load and incentive effort required.

4) The only other occupations in the Cold Strip Mill which are comparable to the Temper Mill Tracers are the tandem mill tracers and the Pickle House Stockers.

5) The Pickle House Stocker carries a heavier work load than Temper Mill Tracers.

6) The contractual test of equitable incentive earnings on new jobs is not previous job requirements and previous incentive earnings, but that the proper test is a comparison with other incentive earnings in the department.

a) With respect to incentive Plan 77-2427 (Cranes), this means the comparison should be made with other cranes in the department in relation to work load or incentive effort required.

b) With respect to incentive Plan 77-0127 (Tracers), this means that the comparison should be made with the Pickle House Stocker in relation to work load and incentive effort required.

7) The proper reference period as to earnings in the case of each of these occupations in question is that existing prior to the time the incentive rates (77-2427 and 77-0127) were installed.

8) Any change in the job content of these occupations in question since the installation of the incentive plans (77-2427 and 77-0127) is a matter not properly before the Arbitrator in this grievance.

9) There was no agreement to pay Temper Mill Tracers 20½ cents per hour over base either before or after the installation of incentive plan 77-0127.

10) The incentive earnings resulting from incentive plans 77-2427 and 77-0127 meet the contractual test under the provisions of section 5, of Article V; and that, therefore, greivance 16-C-288 should be dismissed.

THE FACTS

The Exhibits	Company	Union
New Temper Mill Rolling area after 1948	A	
Time Study Data Cranes 35, 35A, 35B	B	
Recap of studies Temper Mill Tracers	C	
Production and earnings date for Cranes 35, 35A, 35B 1951	D	
Production and earnings data for coil and sheet trancers, 1951	E	
Margin of total earnings over base rate, cold strip mill cranes, First quarter - 1951	F	
Cold Strip Mill, Tracers and Stocker, first quarter - 1951	G	
Cold Strip Mill, Pickle House Stocker, Incentive earnings	H	
Job Classifications for cranes 35, 35A, 35B	I	
Job Classification for Temper Mill Coil Tracer for Nov. 1948, and February 1949	J	
Wage Incentive Plan 77-2427		1
Wage Incentive Plan 77-0127		1-A
Statement of Grievance 16-C-288		
Foreman and step 2 reply		2
Replies of Cold Strip Department superintendent, and superintendent of Labor Relations to grievance 16-C-288		3
Ratio of earnings to evaluated, base rate earnings by occupations Jan. to March 1951		4

The Exhibits	Company	Union
Comparison of previous and present job requirements for 35B Crane ----------		5
Comparison of previous and present job requirements for Tracers ----------		5A

In addition to the above noted exhibits, the transcript of the hearing record covered 154 typed pages. The company filed a post hearing brief covering 68 typed pages, and the post hearing brief filed by the union covered 3 typed pages.

Chronological record,
Grievance 16-C-288

1. In 1948, the company moved four Temper Mills, and added one new mill, to the Temper Mill Bay in the New Cold Mill building, Cranes 35, 35A and 35B were installed concurrently to provide material handling facilities for these mills. Operations began in the New Temper Mill rolling area May 17, 1948.

2. In November, 1948, a job description, and a job classification were prepared for the Temper Mill Coil Tracer occupation in the Cold Strip Mill. Index No. 77-0127-29.

3. Upon completion of the installation of this equipment on May 17, 1948, the company and the union agreed upon a fixed payment of 30 cents per hour in addition to the 1948 base rates for cranemen on cranes 35, 35A and 35B. This fixed payment provided earnings equivalent to the incentive earnings of the most comparable Cold Mill Crane jobs numbers 16, 17, 20 (Tr. 49)

The Union claims that, at the same time, there was an agreement to pay the Temper Mill Tracers a fixed payment of 20½ cents per hour in addition to the base rate for this occupation. This is denied by the company.

4. January 25, 1949, grievance 16-C-112 was filed by the union. According to the foreman's first step reply (Tr. 101) "This grievance requests a new rate for the occupation of Temper Mill Coil Tracer. --- Subject job entails both hooking and stocking duties. --- At the inception of this job a temporary rate --- the hourly earnings of the Tandem Mill Coil Tracer was applied. --- A job description and classification have been made which place the occupation in job class 8. ---" (Tr. 102) This grievance was withdrawn October 2, 1951 (Tr. 102)

5. In February 1949, a job description and a job classification were prepared for crane occupations for cranes 35, 35A and 35B.

6. In February 1949, the occupation of Temper Mill Tracer, Index No. 77-0127-29, was re-evaluated, and raised from job class 6 to job class 8.

7. In December 1949, and January 1950, time studies conducted indicated that the Temper Mill Cranemen would have an opportunity to work at an incentive rate of performance for 67.8 percent of the turn, and the four coil tracers for 30.7 percent of the turn ---(Tr. 51)

8. May 14, 1951 wage incentive plans 77-2427 (Cranes) and 77-0127 (Tracers) were installed, and made retroactive to May 17, 1948.

9. June 21, 1951, grievance 16-C-288 was filed.

10. July 13, 1951, the first step reply was made by the foreman.

11. August 10, 1951 the second step reply was made by the superintendent of the Cold Strip Department.

12. September, 1951 the third and fourth step replies were made by the Superintendent of Labor Relations.

13. November 12, 1954 grievance 16-C-288 was submitted to arbitration.

Terminology, Job Titles

The term used to define the tracer occupation is not consistent throughout the record. The original statement of the grievance 16-C-288 refers to the occupation as "Temper Mill Stockers" (union Ex. 2). The first step answer refers to the occupation as "Tracers (cold mill and sheet mill)." The Second step answer uses the term "Temper Mill Stockers." At the hearing, the Company and the Union agree (Tr. p. 12 and 143) that the terms Tracers and Stockers referred to the same occupation.

Grievance 16-C-112 filed January 25, 1949, in the words of the foreman's first step reply, recognized that the occupation of Temper Mill Coil Tracer" --- entails both hooking and stocking duties and is new ---" (Tr. P. 101) The union statement of the grievance, however, refers to the occupation as Stockers (Tr p. 104). The chronoligical record quoted above indicates that a job description and classification was prepared for this occupation in November 1948 and revised in February 1949, raising the occupation to job class 8; the title used was Temper Mill Coil Tracer.

When the temper mills were located in the old building, 1948, there were Tandem Mill Tracers (Tr 125), and Hookers for cranes 16, 17 and 20. The Hookers "hooked up, but the Cranemen actually did the stocking of the mills" (Tr. 125). The Hooker on the 34 finishing end crane received the 20½ cents in controversy in this case (Tr 126).

In the revised job classification and description of Temper Mill Coil Tracer occupation, Index No. 77-0127-29, it is stated that the tracer "Performs necessary hooking ---," in addition to other duties there described (Co. Ex J, p. 2).

Terminology, Department

Section 5, Paragraph 4 of articel V in the contract contains the terms "---department or like department---." It is important, therefore, to explore the significance of these in this arbitration, for, just as in the case of job titles, there is evident a considerable freedom in terminology.

The Union (Tr. 15) refers to "the temper mill department." Union Exhibit 4 refers to the "cold strip department," with sub title "(for temper mill department)." The company refers to "The Cold Strip Department" (Tr. 26), with divisions

such as annealing, pickling, Temper Mills. The Company (Tr. 26) also calls attention to the designation of "cold strip department" for seniority purposes, and promotional sequences (Tr. 27) within the divisions. Upon cross-examination, however, the union (Tr. 26) apparently insisted that the terms Department and division were interchangeable, and presented no evidence to contradict this company testimony on seniority provisions which clearly differentiates between these terms. Indeed, the union refers to "the temper rolling division of the department" (Tr. 33) in explaining union exhibit 4.

Time Study Data

Company exhibits B and C explained the derivations of incentive plan 77-2427 (Cranes) and 77-0127 (Tracers). The former indicated that the plan was devised to afford 31 cents per hr. as average incentive earnings over all turns, operating and non-operating. The cranemen have the opportunity to work at an incentive rate of performance, for 67.8 percent of the turn. The latter incentive plan was devised to afford 16 cents per hr. as average incentive earnings over all turns, for an incentive opportunity of 30.7 percent of the turn.

This Arbitrator, on p. 13 of the award on Grievance 15-D-28, has ruled on the relevance of Time Study Data, and will not repeat the argument here. The nature of the grievance in that case required a careful analysis of the Time Study data presented. In the mind of this Arbitrator, the current grievance requires no such analysis; and therefore, the record will be allowed to stand as stated in the immediately preceding paragraph.

Work Loads; Incentive Opportunity

The testimony concerning work load on cranes is scattered throughout the hearing record. There is agreement between the company and the union that the point at issue is "---what was done in 1951 and not what was done since then or done now---" (Tr. 133) This testimony covered cranes in the cold strip mill as listed in company exhibit F. The incentive rates on two of these cranes, code No. 77-0326 and 77-0327, are subject to grievance 16-C-289; and should, therefore, play no part in this arbitration.

The burden of the work load argument, presented by the company, is that cranemen in the cold strip mill department have varying opportunities to work at an incentive rate of performance; and that the margin of total earnings over base, reflect these varying opportunities. According to the testimony, incentive work loads on cranes in this department varied from 49 percent to 85 percent. However, no objective time study data was presented, except in the case of cranes 35, 35A and 35B, which are at issue in this arbitration; and statements were sometimes vague, as "---a fairly heavy work load---" (Tr. 89), and"---above average as far as being loaded with work is concerned---" (Tr. 91).

The union questioning of the work load presentation of the company took the form of an inquiry into what happened on the "down turns" (Tr. 120). It developed (Tr. 121) that work "done on the non-operating (down turns) turns is considered at base rate---"

Tracer work loads are, in the contentions of the company, subject to the same conditions as those just noted for the cranes: namely, tracers have the opportunity to work at anincentive rate of performance for 30.7 percent of each

turn on the average. The remainder of the time, 69.3 percent, is compensated for at the base rate (Tr. 52, 68, 69). "The work of the tracers on non-operating turn consists primarily in working with the cranemen in unloading annealing cars and placing the material in storage---, it is ---neither practical nor appropriate to establish an incentive for these turns and it--- is treated as day work operation at base rate." (Tr. 70). These non-operating turns at base rate occur when the temper mills are not in operation (Tr. 69).

Pay Arrangements Prior
to Installation of Incentives.

Cranemen: There was an agreement between the union and the company that, upon completion of the installation of the temper mills in 1948, the pay for cranemen operating cranes 35, 35A, 35B, should be a fixed figure of 30 cents per hour in addition to the base rates for these occupations (Tr. 10, 22). "The 30 cents fixed payment provided earnings equivalent to the incentive earnings of the most comparable cold mill crane jobs (cranemen numbers 16, 17 and 20) who serviced the Temper Mills--- in their original location in the old building.--- These fixed rates then remained in effect until the incentive plan involved in the instant grievance was installed on May 14, 1951, retroactive to May 17, 1948, the date operations began in the new Temper rolling area. "(Tr. 49). The union phraseology does not differ markedly from the company statement just quoted, for "It was agreed that the incentive earnings of No. 16, 17 and 20 cranes would be applied as an average guarantee for No. 35, 35A and 35B cranes until a new incentive was developed" (Tr. 10). There was agreement, also, that this 30 cents was a "flat payment" above base rates, and not an incentive (Tr. 23).

Tracers: The unanimity manifest in the case of the cranemen did not, in the hearing, hold for the Tracers. The union contended that "--- the company was required--- to pay the tracers a minimum incentive of 20 1/2 cents per hour" (Tr. 17). "That was a rate agreed upon--- to have been applied to the hookers, tracers---. As I understand, it was actually applied to some and they are still carrying that rate." (Tr. 18). "I understand--- an agreement for--- an incentive which would have ammounted to about 20 1/2 cents an hour--- for stocker hookers. However--- the stocker hookers--- did not get that and as a result, some months later the grievance man went in to the Superintendent---. ---And I think what happened then, instead of giving them the guarantee they agreed to re-evaluate the job and up it two or three job classes in lieu of the guarantee, and that is when it came about." (Tr. 24, 25). "It is my opinion that since a fixed rate was put in on the crane, and since Stockers, cranemen, were sent to the new mill, and since stockers were sent to the new mill, it is logical to suppose, and I have no evidence to support it--- it is logical to suppose the same treatment was afforded the stocker as was afforded the cranemen who were guaranteed a certain rate." (Tr. 128).

The company denies that there was an agreement to pay 20 1/2 cents per hour to the Temper Mill coil Tracers. In the case of pay for the Cranemen in issue, there was agreement as to comparable occupations for purposes of fixing the pay level in the new cold strip mill." ---the only occupations in the cold strip mill which are comparable to the Temper Mill Tracers are the Tandem Mill Tracers whose duties are substantially the same, and the Pickle House Stockers" (Tr. 78). When the instant grievance arose (1951), the Tandem Mill Tracers were paid an "out-of-line" base rate only. This rate was $1.535 (Co. Ex. G).

When the Temper Mills were in the old building, the Hookers did the hooking"--- but the cranemen actually did the stocking on the mills. There were no Temper Mill Tracers. This was a new occupation." (Tr. 125). In reference to the Temper Mill Coil Tracer in the new building, "--- we viewed that as a new occupation and we didn't quite know what their duties would involve, nor how much money the job was going to entail" (Tr. 92).

In November 1948, a job description and classification for the Temper Mill Coil Tracer was written (Co. Ex J). On January 25, 1949, grievance 16-C-112 was filed on the Temper Mill Tracers which alleged that "The Stockers in the new mill have more work and added responsibilities" (Tr. 104). "Originally the Temper Mill Tracers were paid the out-of-line hourly rate of the Tandem Mill Tracers of $1.39 per hour---. The Temper Mill Coil Tracers job was re-evaluated and "--- raised from job class 6 to job class 8. The on-line evaluated rate of $1.465--- remained in effect until December 1, 1950 when it became $1.625 as the result of a general wage increase in the Steel industry. This rate was paid until May 14, 1951, the date wage incentive plan--- became effective" (Tr. 50). The date of the Tracer job re-evaluation is noted as February, 1949 (Co. Ex j.)

It is to be noted that no mention is made of any agreement to pay 20 1/2 cents to Tracers in grievance 16-C-112, which is fully covered in the Transactions from page 100 to page 105.

Apparently, 20 1/2 cents per hour was paid as a fixed payment to the Hooker on the No. 34 finishing end crane in the new area after 1948, but this did not apply to the Tracer (Tr. 92). This No. 34 crane serviced small units in the finishing end such as square shears, "---And that fellows (hooker) job mainly is to see that this multitude of small units is supplied with steel as required." (Tr. 91).

Earnings, Cranesmen on
35, 35A, 35B Cranes.

Company Ex D shows earnings of these Crane operators from January 8, 1951 to June 25, 1951 when wage incentive plan 77-2427 is applied to production between these dates. This plan was installed May 14, 1951, and the instant grievance was filed June 21, 1951. The table shows that with tons per man hour handled, incentive earnings were as follows:

Tons	Coils	Incentive earnings
37.85	5.3	$ .396
36.45	5.3	$ .393
27.81	4.6	$ .328
27.49	3.9	$ .301

These values are abstracted from the complete table. They indicate variation in earnings with variation in work load. The company intends to show, by this table, that the earnings are in line with the time study computation of $.310 per hour. The union objected to this comparison as immaterial (Tr. 115, 116, 117).

Company exhibit F, on the other hand, shows the incentive earnings and margin of total earnings over base rate for all Cold Strip Mill Cranes for the first quarter of 1951, which is the quarter just prior to the installation of incentive plan 77-2427 on cranes 35, 35A and 35B. Excluding cranes 15 and 15A (subject to grievance 16-C-289), incentive earnings per hour vary from $.491 down to $.167. The incentive earnings (fixed payment-) of the cranes in issue in this grievance is $.300 per hour. It is the purpose of the company presentation to show that variation in the incentive earnings per hour is associated with variation in the work loads and incentive opportunity connected with these cranes. This Arbitrator has commented above under the heading "work loads - incentive opportunity" on the vagueness of terminology used to indicate work loads. Nevertheless the following items are abstracted from Co. Ex. F to test the company contention: -

Crane No.	Base rate	Incentive earnings per hour	Work load	Total earnings	Margin total earnings over base in per cent	Transactions
35	1.715	.300x	67.8	2.015	17.5	
17	1.715	.268	49.0	1.983	15.6	p. 97
23A	1.715	.428	fairly heavy	2.143	25.0	p. 89
Ship.	1.625	.491	80-85	2.116	30.2	p. 83
1 & 2	1.625	.167	quite small	1.792	10.3	p. 83
35A & B	1.670	.300x	67.8	1.970	18.0	
No. 16	1.670	.326	49.0	1.996	19.5	p. 97

x = Fixed

From Co. Ex. D, the earnings of cranemen on cranes 35, 35A and 35B under incentive plan 77-2427 may be obtained from May 14, 1951, the date of installation, to June 21, 1951, the date of this grievance.

Date	Incentive Earnings	Tons per hour	Coils per man hour
May 14-May 27	.328	27.81	4.6
May 28-June 11	.368	33.10	5.1
June 12-June 25	.301	27.49	3.9

Earnings, Tracers

The earnings data for Tracers parallels that for cranemen: Co. Ex. E shows earnings for Tracers from January 8, 1951 to June 25, 1951 when wage incentive plan 77-0127 is applied to production between these dates. This plan was installed May 14, 1951, and the instant grievance was filed June 21, 1951. The following items are abstracted from this exhibit:

Tons	Coils	Incentive earnings
28.92	4.0	$ .179
28.07	4.1	$ .179
27.74	3.8	$ .172
19.56	2.9	$ .127

The company intends to show, by this table, that the earnings are in line with the time study computation of $.160 per hour. Again, the union objected to this comparison as immaterial (Tr. 115, 116, 117).

The company (Tr. 78, 108-9) contends that the only comparable occupations to Temper Mill Tracers are Tandem Mill Tracers and Pickle House Stockers. The union (Tr. 117) contends that "---there is nothing in the contract, and the company has not presented anything to the Arbitrator in this case---that says that equitability is determined by like jobs.--- The company's exhibits F and G does make a comparison with like jobs." Aside from this line of thinking, the union did not contest the company's statement of similarity between Tandem Mill Tracers, Temper Mill Tracers, and Pickle House Stockers; nor that the Pickle House Stocker carries a heavier work load than Temper Mill Tracers"--- because of the congestion and the smaller average coil weight---" (Tr. 109). Some inquiries were initiated in this direction (Tr. 133), but were not pursued to completion.

Company exhibit G shows earnings of Tracers and Stockers in the Cold Strip Mill for the first quarter of 1951, which is the quarter just prior to the installation of incentive plan 77-0127. Temper Mill Tracer earnings are based upon retroactive application of this wage plan over this period. The following is taken from this exhibit:

	Base rate	Incentive earnings per hour	Total hourly earnings	Margin over base
Temper Mill Tracers	1.625	$ .173	1.798	10.6
Pickle House Stockers	1.535	.152	1.687	9.9
Tandem Mill Tracers	1.535		1.535	

From Co. Ex. E, the earnings of Tracers under incentive plan 77-0127 may be obtained from May 14, 1951, the date of installation, to June 21, 1951, the date of this grievance

Date	Incentive earnings	Tons per hour	Coils per hour
May 14 - May 27	$ .145	21.10	3.5
May 28 - June 11	.165	25.00	3.9
June 12 - June 25	.127	19.56	2.9

Combining Co. Ex's E and H indicates that from the period Dec. 25, 1950 to May 13, 1951, Temper Mill Tracers had a higher incentive earnings per hour than Pickle House Stockers. This data of course, covered a period prior to the installation of wage plan 77-0127, but includes the retroactive application of this plan.

The above constitutes the earnings data presented by the company in substantiation of its position respecting cranemen and tracers in grievance 16-C-288. It is now necessary to examine the union earnings data presented by the union.

Union Exhibit No. 4

In this Exhibit the union lists 60 occupations in the "Cold Strip Department," and states the ratio of total earnings to evaluated base rates. In some of these occupations, such as No. 22 Temper Mill, subdivisions, such as roller, catcher, feeder are noted; while in others, such as Mill Crane, only one occupation is noted. In the latter case, it is the craneman on No. 17 crane. These data are for the period January to March 1951, or for the quarter prior to the installation of wage incentive plans 77-2427 and 77-0127 on May 14, 1951. Incidentally, the data included in Ex. No. 4 on crane No. 17 is the same as that recorded in Co. Ex. F on the same crane, although expressed slightly differently. Co. Ex. F is quoted above.

"The average margin of incentive earnings over base rate for all jobs in the cold strip department for this period shows a department average ratio of 1.405 total earnings over base rate. The ratio--- for temper mill tracers--- was 1.09. The ratio--- for No. 35, 35A and 35B cranes--- was 1.20" (Tr. 18).

THE CONTENTIONS OF THE PARTIES

1. Character of occupations (Cranemen and Tracers).

The company contends (Tr. 41) that the crane jobs (35, 35A, 35B) were entirely new occupations; and the union concurs (Tr. 10, 104) by virtue of the fact that, "It was agreed that the incentive earnings of No. 16, No. 17, No. 20 cranes be applied as an average guarantee for No. 35, No. 35A, and No. 35B cranes until a new incentive was applied." Incentive plan 77-2427 was installed May 14, 1951. The same contention from the company standpoint, holds for the tracer occupation. The union agrees (Tr. 10), but claims that an agreement (for 20 1/2 cents) on tracers was not carried out. The Arbitrator, at this point, merely wishes to cite this as indicating that the union also looked upon this as a new job. Incentive plan 77-0127 was installed May 14, 1951.

2. "Like" department in testing equitability.

The company (post brief p. 43) states that there is no question of a like department involved; and the union (Tr. 16) states, "There is no like department in the Inland Steel Company; therefore, this factor is of no consequence here." This elimination, by parallel statements, of one of the four criteria for judging equitability leaves for consideration other incentive earnings in the department, previous job requirements, and previous incentive earnings.

3. Other incentive earnings in the department as a criterion of equitability

The company contends (Tr. 110) that the test for judging new incentives is other incentive earnings in the department. The union cites (Tr. 15) this criterion also, but the application is vastly different from that made by the company.

The union submits exhibit No. 4, and contends that since the ratios of total earnings to base rates for Cranemen and Tracers are less than the department average "The preponderance of evidence shows--- that the company has failed the first factor in establishing an equitable rate for these occupations," (Tr. 16). The union, also, contends that the time study data introduced by the company is irrelevant (Tr. 115, 116).

The company, on the other hand, contends that in applying this test of equitability, the department average is not a proper criterion; but that in its application the following factors must be considered:

a) Work load or incentive effort must be weighed.
b) Time study is a recognized tool for measuring differences in work or incentive effort required.
c) In determining the equity of incentive earnings of occupations not previously on incentives, the proper comparison is with the most like jobs in the department.

The Union (Post Hearing Brief, p. 3) states that this is a reversal of the company's position in a past arbitration case: namely, that the contract does not permit comparison of like jobs (Tr. p. 116, 117). The union further states that the Arbitrator supported this prior position of the company.

4. Previous job requirements as a criterion of equitability.

As to this test of equitability, the union contends (Tr. 16, 17) a smaller work force produces a larger tonnage of steel today than before modernization. "It is clear from the evidence presented that the company has failed the third factor," (Tr. 17). In addition to this comparison of work force statement in its Brief, the union presents Exhibit 5 and 5A. Ex. 5 presents a comparison of previous and present job requirements for 35B Crane; and Ex. 5A makes the same comparison for Tracers. Cross examination during the hearing (Tr. 31, 107) developed the point that present in Ex. 5 referred to 1955, and not to 1951 when the instant greivance was filed June 21.

The union in its Post Hearing Brief, p. 1, reiterates the position on a change in work loads as evidence that previous job requirements have not been met in the establishment of the incentive plans under dispute.

The company (Post Hearing Brief, p. 63) contends that:
a) Previous job requirements are always tied to previous incentive earnings whenever it is mentioned in Article V, Section 5.
b) Such linking together must have been intended to relate to incentive work load or effort required.
c) If the content of the jobs changed with the modernization program, the appropriate remedy is Section 6 of Article V. This section provides for the establishment of appropriate base rates.
d) The jobs may not be the same in 1955 as they were when established, but this is not pertinent in this grievance.

5. Previous incentive earnings as a criterion of equitability.

The union (Tr. 17) states that there were no previous incentive earnings for Tracers. This criterion, therefore, seemingly is not pertinent in this grievance for the Tracer occupation. As to 35, 35A and 35B cranemen, "previous incentive earnings were 1.18" above, under the heading "The union position." It was noted that the figure 1.18 was expressed as 1.20, and is so noted on p. 16 of the transactions. This ratio of total earnings to base, whether 1.18 or 1.20, is obtained by taking into consideration the fixed payment of 30 cents agreed upon after modernization and in effect until wage incentive plan 77-2427 was inaugurated May 14, 1951. This incentive plan was made retroactive back to May 17, 1948 (Tr. 49), which required payment of $.016 per hour.

The company (Post Hearing Brief, p. 64) contends that: "The fact that the 30 cent fixed payment was derived from the earnings of other cranes and was paid as an interim payment until incentive Plan 77-2427 was installed and applied retroactively, does not mean that it represented previous incentive earnings for the purpose of applying the section."

THE ARBITRATOR'S APPRAISAL OF THE FACTS AND CONTENTIONS.

Origin of grievance: 16-C-288.

Perhaps it will be well to explain at the start of this section why a grievance originating June 21, 1951 is being presented to Arbitration in January, 1955. It arose (Tr. 109) at a time when the parties were not following contract time limits. In 1952, or thereabout, the parties agreed to follow contract time limits, but a backlog of cases existed of which 16-C-288 is one. This comment is necessary, for the Arbitrator is under obligation to consider conditions in June 21, 1951, at the time this grievance arose, rather than later conditions, or conditions today. This obligation is by common agreement of the parties (Tr. 31, 107, 133). This rules out of consideration part of union exhibits 5 and 5A.

Past arbitration rulings of this Arbitrator:

Both the Company and the Union confronted this arbitrator with some of the sins committed in his past rulings: the company by direct quotations in its Post Hearing Brief: and the union (Tr. 116, 124) by inference in the hearing, and also on p. 3 of its Post Hearing Brief. Perhaps it will be well, at this point, to devote some attention to these references.

In the first place, consistency and precedent should always weigh upon the conscience of an Arbitrator; but "only a fool refuses to change his mind." It may be noted in passing that even the Supreme Court has been known to reverse itself. In grievance 15-D-28 from which the company quoted, it must be noted that a previous award, No. 72, was presented as an exhibit; and therefore, this arbitrator had the advantage of the complete thinking of that arbitrator. Moreover, both grievances covered the same occupations, and the issue of "like" occupations was present in each case. To abstract a few sentences from the context of an award, or of several awards, may have little probative value.

The union (Tr. 116) insists that the Arbitrator sustained the four criteria as means of determining equitability of rates. Since the contract specifically requires the arbitrator to consider these, the question of sustaining them seems beside the point. The Arbitrator, however, still has the task of deciding how each shall be applied in the individual case; this Arbitrator must do this in the instant case. In the electrical maintenance case (Tr. 124), this Arbitrator pointed out that the fixed payment was an incentive in the sense that there was an addition to the base rate per hour; it was not the intention to maintain that it constituted an incentive in the usual meaning of that term.

If this Arbitrator insists upon freedom to change his mind, resulting perhaps from growth and experience, the same privilege should be allowed the parties in controversy. In this case, 16-C-288, the union requests the Arbitrator to award these occupations (Tr. 19) a ratio of total earnings over base of 1.405, which is explained (Tr. 15) as the department average. In grievance 15-D-28 however, the union stated, p. 12 of the award, "The contract doesn't provide for overall average."

The Issue.

The issues involved in this grievance were presented above under the heading "The contention of the parties," and need not, therefore, be repeated in detail at this point. In brief, the union claims that wage incentive plan 77-2427 (Cranes, and wage incentive plan 77-0127 (Tracers) do not provide equitable incentive earnings as required by Article V, Section 5 of the contract. To correct this alleged inequity, the union requests the Arbitrator to award these occupations (Temper Mill Coil Tracers and 35, 35A, and 35B Crane operators) a ratio of total earnings over base rate of 1.405 which would make these occupations' incentive earnings equitable in relation to other incentive earnings in the department.

The company claims that these two incentive plans meet the test applicable in this case under the provisions of Article V, Section 5; and, therefore, the petition (Grievance) of the union should be denied by the Arbitrator.

Claims not basic to the
Award which must be made.

Department involved: There were, in the hearing, differences between the parties as to the correct designation of the part of the plant involved. These are covered in detail under the heading "Terminology-Department." It seems to this Arbitrator that the Cold Strip Department is clearly the section of the plant involved, which is substantiated by the union Ex. 4 heading and the contents of this same exhibit.

Character of occupations (Cranemen and Tracers): There seems agreement between the parties that the occupations involved in this grievance were new jobs. This evidence leading to this conclusion by the arbitrator is presented above under the first sub heading of the section entitled, "The contention of the parties."

Time study data: The union objected to Co. Ex. B and C, because checking the time study data was impossible, and the use of time study was not provided for in the contract. In grievance 15-D-28, this Arbitrator ruled that the use of time study is authorized by clear implication in the contract under paragraph one of section 5, Article V where the phrase "---when their efforts can readily be measured---," occurs, and so rules in the instant case.

The evidence (Ex. B and C) indicates that the Industrial Engineer developed wage plans 77-2427 and 77-0127 by applying the same principles. The results (31 cents and 16 cents per hour respectively) emerged because the work load or incentive opportunity and the base rates varied.

This Time Study evidence, however, does not invalidate the union position (Tr. 116) that whatever the method of computation followed, the earnings must meet the criteria established in section 5 of Article V of the contract.

The 20½ cent controversy regarding Tracers: The details concerning this disagreement between the parties is covered in detail above under the heading "Pay arrangements prior to installation of incentives." The Arbitrator is not willing to accept "It is logical to suppose" as objective proof. It is to be noted, also, that (Tr. 104) grievance 16-C-112, presented January 25, 1949, made no mention of such an arrangement; and in February, 1949 the occupation of Temper Mill Tracer was re-evaluated, and raised from job class 6 to job class 8. The agreement for a fixed payment of 30 cents for cranemen, with which the union sought to connect a similar arrangement for Tracers, was made May 17, 1949 (Tr. 49).

Terminology, job titles: An inordinate amount of time was consumed in the hearing in an attempt to arrive at a precise statement of the tracer occupation. The details of this controversy are covered above under the heading "Terminology, job titles", and also under the heading "Pay arrangements prior to installation of incentives."

Co. Ex. J. the job classification and description of the Temper Mill Coil Tracer occupation, was first made in November, 1948, and revised in February 1949. The Temper unit in the Cold Strip Mill began operation in May, 1948; thus, the evaluation was made relatively quickly after the new units were started into production. In the original (1948) description no mention is made of hooking; but in the revised description (1949) hooking is specifically stated as one of the duties. It is to be noted that grievance 16-C-112, requesting a new rate for all stockers in the new mill because of added responsibilities (Tr. 104), was filed between the dates of the original and the revised description of the Tracer occupation.

The Hookers on cranes 16, 17, 20 did the hooking, but cranemen did the stocking (Tr. 125). The union did not, to this Arbitrator, present any probative evidence to discredit this position of the company.

Taken together with the above comments on character of occupations, it seems reasonable to conclude that the Temper Mill Tracer occupation is a new job, and that it differed from the hooker occupation on cranes 16, 17, and 20 in June 21, 1951 when this grievance arose.

Claims Basic to the Award
which must be made.

In the above appraisal, this Arbitrator has intended to narrow or to funnel down, the many contentions into the few basic considerations upon which the award must be based. It seems that these may be indicated by the following questions:

1) Is the proper criterion for judging incentives on new jobs the incentive earnings on other jobs in the same department?

2) In comparing incentive earnings in the same department as a criterion of equitability, does the contract rule out like jobs?

3) In comparing incentive earnings in the same department, is any significance to be given to varying work loads, or incentive opportunity?

4) In using other incentive earnings in the department as a criteria, is the departmental average ratio of total earnings over base rate the proper measure of equitability?

The four criteria for judging equitability.

Since the parties agreed (Co. Post Br. p. 43, Tr. 16) that a "like" department is not involved in this grievance, it remains for this Arbitrator to examine the remaining three which paragraph 4 of Section 5 Article V requires that Arbitrators examine in deciding questions of equitability.

1. Equitable incentive earnings in relation to the other incentive earnings in the department.

Prior discussion has established that the cold strip mill is the proper department to consider. The union concurs since Ex. 4 contains a multiplicity of occupations in this department. Prior discussion, also, has established that cranemen on cranes 35, 35A, 35B, and Tracers on the Temper Mills were new jobs during the period May, 1948 to June, 1951, which is the time pertinent to this grievance.

In grievance 15-D-28 page 12, this arbitrator ruled that the Hallden Crews were within the range of the highest and lowest margin earning crews; and that, therefore, equitable incentive earnings were provided. An examination of the earnings data under the heading "Earnings, Cranemen on 35, 35A, 35B Cranes," indicates that the incentive earnings obtained under the operation of wage incentive plan 77-2427 places these occupations with in the highest and the lowest incentive earnings of crane operators; and, if union Ex. 4 be examined, within the range of all occupations there quoted.

Examination of the data under the heading "Earnings, Tracers" indicates that incentive earnings exceeded similar earnings for Pickle House Stockers; and if union exhibit 4 be examined, within the range of the occupations there quoted, although they certainly are at the lower level of the ratios noted. Actual Temper Mill Tracer incentive earnings under plan 77-0127 from May 14 to June 25, 1951 varied above and below Pickle House Stockers for the first quarter of 1951 under the retroactive application of plan 77-0127.

Since the instant jobs are new jobs not previously on incentive, it seems evident that proper comparison for purposes of judging equitability is incentive earnings on other jobs or occupations in the department. At once, the question arises as to what other jobs should be considered. The union would make no restrictions, but use only the ratio of total earnings to base rates; the company insists that "the most like" jobs be used. The contract certainly is not explicit on this point, and, therefore, the Arbitrator must decide. The fact that job classification and job description is recognized quite clearly in the contract, indicates surely that distinction is to be recognized in the pay of jobs depending upon the requirements of the job. Incentive earnings therefore, will vary with the base rate established. On this count alone it seems to theis arbitrator that the most nearly like jobs must be compared in testing equitability.

Incentive earnings vary with base rates. The issue of whether they should vary with work load or incentive opportunity arises. If they were not to so vary, it would mean that the same incentive earnings would be enjoyed irrespective of the effort expended, which is contrary to the theory and practice of incentive application. If the same incentive earnings should be enjoyed in a department irrespective of the effort applied, the union would have difficult problems of administration on its hands.

This Arbitrator considers that the comments thus far under this first test is wholly consistent with the ruling in grievance 15-D-28, for in that ruling the margin of total earnings over base were compared by job classes.

The question now arises as to whether the departmental average, as the union contends, is a proper test of equitability in relation to other incentive earnings in the department. From what has just been said, this arbitrator cannot accept that criterion. In fact, the union argued against any such measure in a previous case in which this arbitrator was involved. If carried to its logical conclusion, this argument would require that all ratios above the departmental average be reduced to the average; a conclusion which the union, of course, would not accept. It may be remarked that for an average tohave significance, a range is involved.

This arbitrator concludes that wage incentive plans 77-2427 and 77-0127 do not violate this test of equitability.

Since the union accepted the fixed payment of 30 cents obtained from the incentive earnings of cranemen on cranes 16, 17, 20 as reasonable for cranes, 35, 35A, and 35B, it seems it tacitly accepted the these of like jobs put forth in this section. Relief from lack of incentive opportunity on down turns seems not within the scope of this grievance.

2. Equitable incentive earnings in relation to previous job requirements.

Since the two occupations involved in this grievance (Cranemen and Tracers) work together, separate consideration is not necessary.

The union states, point 4 under "Contention of the parties," that a greater tonnage is handled today with a smaller work force than before modernization. This contention is repeated on page 1 of its Post hearing brief. Under the heading above "Origin of grievance 16-C-288," the activity today was noted as ruled out of consideration by agreement of the parties.

The union bases its case upon a claim that incentive rates are not equitable, and requests a comparable incentive rate existing in the department be installed on these occupations. If the conditions, work involved, increased so markedly after modernization it seems no mere incentive adjustment would be quite enough. The wage plans involved in this grievance were developed and installed in May, 1951. On January 25, 1949, grievance 16-C-112 was filed. Surely if such an inordinate work requirement increase as cited by the union in support of this test of equitability was present, it would have been mentioned in this grievance. The wageplans, and the job evaluations also were developed after this claimed increase came about, and necessarily must have taken the work load into consideration. It seems that this claim is an over-simplification.

This arbitrator believes that this test of equitability urged by the union can be ruled out on the basis of what has just been said. However, the argument contained in the company Post hearing Brief as to the linking of previous job requirements and previous incentive earnings is persuasive.

This arbitrator concludes that wage incentive plans 77-2427 and 77-0127 do not violate this test equitability.

3. Equitable incentive earnings in relation to previous incentive earnings.

There were no previous incentive earnings on either of the concerned occupations. The union states this unequivically in the case of the Tracer occupation. On cranemen occupation, the fixed 30 cents guarantee per hour (taken by agreement from incentive earnings of cranemen on cranes 16, 17, 20) was not an incentive in the correct sense of the term: it could not vary with performance.

This test, therefore, has no relation to this grievance.

THE AWARD

This arbitrator concludes that the Company is not inviolation of Article V, Section 5 of the Contract when it denied grievance 16-C-288; and, therefore, the request of the union to this Arbitrator is denied.