INLAND STEEL COMPANY	)	
	)	Grievance No. 16-F-5
and	)	Docket No. IH-71-71-11/8/56
	)	Arbitration No. 196
UNITED STEELWORKERS OF AMERICA	)	
Local Union No. 1010	)	Opinion and Award

Appearances:

For the Union:

Cecil Clifton, International Staff Representative
Fred A. Gardner, Chairman, Grievance Committee
Buster Logan, Acting Vice-Chairman, Grievance Committee
John Sargent, Grievance Committeeman

For the Company:

W. L. Ryan, Assistant Superintendent, Labor Relations
William Dillon, Divisional Supervisor, Labor Relations

The grievance filed on September 17, 1956 by Roll Shop Employees (unnamed) contends that

> "* * * Grinding Machines 8 and 9 are preferred jobs, and the oldest men in the Cold Strip Roll Shop Grinding Sequence should be allowed to fill these jobs."

The relief requested on the grievance form is that the Company place the two oldest men in seniority on these two machines.

At the hearing the Union stated that the issue was narrower than previously framed and that it involved, in this case, only the claim of right of senior employees in the occupation to assignment to machines which they preferred to operate when the previous operators "had been advanced to occupations outside of the seniority unit, that is to foremen, supervisory or other exempt jobs." Although the Union here is asking for assignment of senior employees to No. 8 and No. 9 rollgrinding lathes, specifically, it rests its claim upon the broad basis that whenever a senior employee regards any machine in the unit as preferable to the one to which he is assigned, he has a right to demand reassignment to that machine. This claim of right is subject to three limitations as stated by the Union: a) the demand may only be made in the event of a permanent vacancy such as expressed above; and b) "compelling

reason" which the Company may advance for variation from what is alleged to be a local practice; and c) a senior man is privileged to refuse reassignment to what is regarded as preferred equipment if the Company desires to make such assignment, and the assignment may then be claimed by the next senior employee if he wishes it.

The Union's case is based primarily on an asserted local practice protected by Article XIV Section 5 reading as follows:

> "This Agreement shall not be deemed to deprive employees of the benefit of any local conditions or practices consistent with this Agreement which may be in effect at the time it is executed and which are more beneficial to the employees than the terms and conditions of this Agreement."

The record in this case is a rather lengthy one and contains considerable discussion as to the scope and limitations of Article XIV, The facts in this case, however, do not appear to require a discussion of the broad contentions advanced and the arguments presented to dispute them. The record does not contain sufficient evidence of the existence of a local condition or practice protected by Article XIV. In most cases, vacancies occurring on the cold strip grinding machines, described as the preferred machines, were filled by promotion of individuals who were working on hot strip roll grinding machines. This was done without regard to seniority rights such as are claimed here. True, the senior employees conceivably may have elected to forego their rights and decided not to exercise their preferences. But it requires more than the demonstration of a possible negative fact of this character to show a positive right protected by the Agreement.

In one case a senior employee, Henry King (Sequence date 9-1-38) sought to exercise his preference (under the alleged practice) to work on the No. 5 machine in the Cold Mill, but the Company promoted W. Stephen (Sequence date 1-5-49) from the Hot Mill and assigned him to the equipment. No grievance was filed. In another instance A. Hodge was assigned to the No. 9 machine instead of W. Stark, sequentially his senior. Stark's testimony was to the effect that there were special circumstances which explain the assignment of the junior man and, in any event, a promise made to him was not kept. Even assuming that this was the fact, there is a dearth of evidence here to demonstrate a regularly recurring course of action taken when there has been a vacancy on the "preferred machines", anticipated and expected by the employees as a "right" over and above the provisions of the contract, and recognized as such by Management. At most, the evidence shows that occasionally, by no means regularly or consistently, the Company has respected such preferences.

Accordingly, I find that the record does not contain facts upon which the alleged local condition or practice may be based.

AWARD

The grievance is denied.

Peter Seitz,
Assistant Permanent Arbitrator

Approved:

David L. Cole,
Permanent Arbitrator

Dated: September 16, 1957