INLAND STEEL COMPANY )
) Grievance No. 11-F-3
- and - ) Docket No. IH-170-165-5/6/57
) Arbitration No. 225
UNITED STEELWORKERS OF AMERICA )
Local Union No. 1010 ) Opinion and Award

Appearances:

For the Company:

H. Thullen, Attorney
W. Price, Attorney
A. Dillon, Assistant Superintendent, Labor Relations Department
J. Herlihy, Superintendent, Industrial Engineering Department
J. Higgins, Assistant Superintendent, 100" Plate Mill Department
C. Mowlar, Assistant Superintendent, Industrial Engineering Department

For the Union:

Cecil Clifton, International Representative
F. Gardner, Chairman, Wage Rate & Incentive Review Committee
J. Wolanin, Acting Chairman, Grievance Committee
J. Sowa, Grievance Committeeman

The crew of the #5 End Shear located at the exit end of the 100" plate mill (four split shear laborers, four shear scrap men, one scrap man and burner and one split shear laborer and grinder) complain that an incentive plan should have been installed "because their efforts can readily be measured in relation to the overall productivity of the department." The relief sought is the development and the installation of an incentive plan for their jobs.

Normally the No. 5 End Shear processes only plate in excess of 5/8" and not greater than 1 1/2" in thickness which issues from the 100" plate mill. Some recutting of plate less than 5/8" in thickness is occasionally done. The shear is usually operated on only two turns, but the 100" mill normally operates on three turns turning out plate with a diversity of thickness measurements. When the plate from

the mill is not fed directly into the shear, it is piled for informal storage and is craned into position for processing by the shear.

The grievants pull or push the plates to the Shearman and the Shearman Helper and remove the plates after shearing, manually remove scrap from behind or the side of the shear, shear scrap to smaller sizes, burn scrap too heavy for shearing and grind out surface defects. This work is assigned and apportioned among them in accordance with their respective ocupational responsibilities. The Shearman and the Shearman Helper are compensated under the terms of an incentive plan, the basic determinant of which is the overall production of the 100" Mill. The grievants seek extension of this plan to their own performance.

The provisions of the Agreement applicable to the issue are those in Article V, Section 5, the most important of which are contained in Marginal Paragraph 52 which states:

> "Section 5. Incentive Plans. Wherever practicable, it will be the policy of the Company to apply some form of incentive to the earnings of the employees when their efforts can readily be measured in relation to the overall productivity of the department or a subdivision thereof, or on the basis of individual or group performance. In this connection, the Union recognizes that the Company shall have the right to install incentive rates in addition to existing hourly rates wherever practicable in the opinion of the Company. It is also recognized that the Company shall have the right to install new incentives to cover (a) new jobs, or (b) jobs which are presently covered by incentives but for which the incentive has been reduced so as to become inappropriate under and by reason of the provisions of the Wage Rate Inequity Agreement of June 30, 1947."

The Union argues that the grievants are obliged to work at the incentive pace set by the Shearman and the Shearman Helper; that the performance of the grievants "can readily be measured using accepted industrial engineering methods and procedures"; and that it is not enough for the Company to base its refusal to formulate and install an incentive plan on its mere contention that it has the sole right to determine when to do so.

Briefly stated, the Company's position is that the Company's determination that it is not practicable to install an incentive plan "is not subject to review in the absence of a showing that such determination was arbitrary and capric-

ious"; and that its refusal to install such a plan on the facts of this case was not arbitrary and capricious and that it was not practicable to do so.

It appears to me that there would be little profit in exploring the merits and the breadth of the Company's jurisdictional argument expounded in considerable detail in its pre-hearing statement and at the hearing because the Company concedes that its determination on "practicability" is in fact properly before the Permanent Arbitrator for review on the question of whether it was arbitrary or capricious. Thus, the jurisdictional argument, for the purpose of this case, becomes merged in that which relates to the merits.

a) The existing incentive plan.

The Shearman and the Shearman Helper are covered by an incentive plan that was installed in the early 1920's before the institution of an industrial engineering department at Inland. That plan provides incentive wages measured by the total production of the 100" mill. The Union regards exclusion of the grievants from the operation of that plan as unfavorable, discriminatory treatment against them.

The Company considers the plan as unsound as applied to the Shearman and his Helper. It asserts that if it were faced, today, with the problem of initiating an incentive plan for the Shearman and his Helper it would refuse on the ground that it was not "practicable" to do so within the meaning of Marginal Paragraph 52; but that long standing practice and the provisions of Article V Section 4 protect the unsound incentive plan enjoyed by the Shearman and his Helper which the Company would prefer to discontinue.

There is merit in the Company's argument that the coverage of the Shearman and his Helper, by itself, is not enough to justify coverage of the grievants in the face of a showing of "impracticability". The question whether the grievants are entitled to an incentive plan must be determined, not by whether others are so entitled but whether the decision of the Company that it is not practicable to cover these grievants is reasonable and sound. Basically, the question is not whether others working on the shear get incentive wages (for historical or other reasons) but whether these grievants put forth efforts that "can readily be measured in relation to the overall productivity of the department or a subdivision thereof, or on the basis of individual or group performance". (Marginal Paragraph 52). If the answer is in the negative, there will be differential treatment of the grievants on the one hand and the Shearman and his Helper on the other; but this does not mean that there is discrimination which is unfair or contrary to the contemplation of the parties as expressed in the Agreement.

The evidence on the question of what proportion of the production of the 100" Mill the shear in question processes is in some conflict; but the best informed testimony indicates that only 35 per cent to 38 or 40 per cent of the mill's production is directed to the shear. The Company claims, and there is substantial evidence to support it, that the work on the shear is not paced or determined by the tonnage of the mill (which is the determinant of the incentive plan covering the Shearman and his Helper) but, rather, by the number of cuts which must be made on each piece of plate. The activity of the Shearman, his Helper and of the grievants is not related to the production or tonnage of the mill, and incentive pace on their part would not increase that production or tonnage. There are turns when the mill is down and the shear is operating;and, conversely, there are periods when the shear is down and the mill is operating. The shear frequently is fed from piled storage of plates previously processed by the mill.

Under these circumstances there appears to be no compelling or persuasive reason for the automatic extension of the incentive plan covering the Shearman and his Helper to the other members of the crew on the No. 5 Shear. The reasons which operate to leave the plan undisturbed insofar as the Shearman and his Helper are concerned do not also operate to demonstrate that it is, in fact, practicable to extend that plan to other members of the crew.

b) The practicability of the installation of an incentive plan.

The Company asserts that it is not practicable to install an incentive plan applicable to the grievants in which wages for incentive pace are measured by the tonnage production of the mill. In addition to the facts set forth above it contends that the grievants, as a group, presently operate with a considerable amount of "forced" idle time not subject to their control. Here again the evidence is in conflict as to the amount of idle time, and I do not base my decision on the observations and convictions of two Company witnesses that the idle time of the crew of grievants amount to 50 per cent of the turn. Ascertainment of the precise percentage of non-idle hours of individual grievants and of the grievants as a group is not critical to a decision here. It does appear, however, that delays in crane availability and service, delays due to cutting tests, the loading of trucks, taking burners off the rolling line,waiting for the Shearman and his Helper and other circumstances not within the control of the grievants result in a considerable and substantial amount of forced idle time. Under these circumstances it is difficult to understand how the holding out of an incentive rate could result in performance by the grievants at incentive pace. The Company contends that an incentive plan based on total mill

tonnage (or on any other base) will not yield increased production because of the idle time factor and the additional circumstance that the activity of the grievants necessarily depends on the pace set by the Shearman and his Helper who, in turn are unsoundly compensated, not in relation to their own production but the overall production of the mill.

On the whole record I find that the Company's decision that it is not practicable to install an incentive plan for these grievants is not arbitrary and unreasonable, but has a rational foundation. This is not to say that there is no possible basis on which such a plan might be devised -- but such a basis, if one exists, is not disclosed by the presentation of the parties on the record.

One other matter which arose at the hearing requires mentioning. The Union objected to the introduction of the evidence offered by the Company bearing on the detailed reasons why the formulation and installation of a plan for these grievants was not practicable. When this evidence was accepted, because in the first and in the third step answers the Company had stated that it was not practicable to install a plan for these grievants, the Union stated that no data had been exchanged at the grievance steps to demonstrate that there were sound reasons for the Company decision and that the discussion at the grievance meetings concerned itself almost entirely with the question of whether the Company decision was reviewable.

At the risk of painful repetition, I feel it necessary to observe that the grievance and arbitration procedure, the effective operation of which is so important to both parties, requires more than a formal exchange of positions at the grievance steps. Effective grievance handling necessarily implies full and frank discussion and consideration of all the relevant facts and arguments. Only then will the parties be in a position to evaluate their respective contentions and thereby minimize the number of cases going to arbitration.

AWARD

The grievance is denied.

Approved:

Peter Seitz,
Assistant Permanent Arbitrator

David L. Cole,
Permanent Arbitrator

Dated: December 27, 1957