INLAND STEEL COMPANY )
) Grievance No. 7-F-45
and ) Docket No. IH 376-367-9/29/58
) Arbitration No. 330
UNITED STEELWORKERS OF AMERICA, )
Local Union No. 1010 ) Opinion and Award

Appearances:

For the Union:

Cecil Clifton, International Representative
Fred Gardner, Chairman, Grievance Committee
Joseph Wolanin, Secretary, Grievance Committee

For the Company:

L. E. Davidson, Assistant Superintendent, Labor Relations
M. S. Riffle, Divisional Superintendent, Labor Relations
M. G. Jacobson, Supervisor, Industrial Relations

Billet Hookers, who occupy the bottom job in the two-job Billet Dock Scarfing Sequence in No. 2 Blooming Mill Department perform necessary hooking and related services for the movement and processing of slabs, blooms and billets at the No. 2 Blooming Mill Conditioning dock. The regular crew of five Hookers per turn was reduced to three Hookers per turn in the week beginning June 15, 1958. The grievants, in consequence of this crew reduction, were assigned to the Labor Pool. They ask that they be reassigned as Hookers and that they receive the pay they lost as a result of the demotion. Violation is alleged of Article VI, Section 8, Article VII, Section 4 and Article XIV, Section 5.

Article VI, Section 8 (Paragraph 127) provides, in pertinent part, that

> "In the exercise of its rights to determine the size and duties of its crews, it shall be Company policy to schedule forces adequate for the performance of the work to be done. * * *"

The Company's decision to reduce the crew, according to its presentation, followed a work load study, some of the conclusions of which were set forth in its statement given at the hearing. Although the Union vigorously criticized the methods employed in that study and challenged the results, it appears that it did not ask for an opportunity to scrutinize the study prior to the hearing or in the grievance steps. This was explained by the Union

when it stated that although it objected to and opposed the use of work load studies generally (and this one in particular) its "basic argument" was that, absent a change in equipment or working procedures, employees were protected from crew reductions by Article XIV, Section 5 (the Local Conditions and Practices clause) and that the Company had no right or power to proceed as it did under the Plant Management Clause in Article IV, Section 1.

Under the circumstances, the references here to the work load study and the Company justifications for the crew reduction will be brief.

In time, the study covered two months and represented observations equivalent to about eleven different turns. It was explained by the Industrial Engineer assigned that full turn studies appeared to be undesirable because there were long periods during the day when there was nothing to time or when the Hookers were not at their work stations. It was computed that "hooking, unhooking and marking identification" took 1.311 minutes per piece scarfed and that miscellaneous related work (walking, climbing, removing chains, magnet et cetera, loading and positioning blocks and placing rails for layout of slabs) took .192 minutes per piece. To the sum of these two figures was added .301 minutes for rest and personal allowance (20% of work time) resulting in a total of allowed time of 1.804 minutes per piece scarfed. The average work load per turn was then computed by multiplying the total allowed minutes per piece (1.804) by the average pieces per turn (127, computed over a six months period) and dividing this result by a figure reached by multiplying the scheduled minutes per day (480) by the number of Hookers per turn. The average work load figure resulting from this computation for five Hookers was 9.5%. Computed for three, instead of five Hookers, the work load was 15.9%.

The considerable amount of questioning at the hearing revealed no serious infirmities or deficiencies in the methods pursued in this work load study which would justify its rejection. I find that it was sound in conception and well designed to reflect a statistical work load evaluation of the work of the Hooker crew.

In the light of this study and the absence of any material and persuasive evidence to the contrary it cannot be found that the Company violated its policy, guaranteed in the Agreement,

> "to schedule forces adequate for the performance of the work to be done."

Stated affirmatively, it is found that the crew of three Hookers is adequate for the work to be done. This finding is supported, also, by the personal observation and inspection of the undersigned at the work place on the afternoon shift. It is appreciated that a relatively short inspection is hardly adequate, by itself, to furnish the basis for a finding; but there was nothing observed during the course of inspection to suggest that under a three man

crew system the Hookers may be driven "beyond normal or reasonable endurance" or that an "undue burden" has been placed on the men. (See Arbitration Nos. 168, 183, 315).

We now come to what the Union denominates its "basic argument". It states that if there occur substantial equipment changes or modifications in working procedures, where appropriate, it does not object to the reduction of the traditional sizes of crews. It asserts, however, that where such changes have not occurred, (as in this case) Article XIV, Section 5 (Paragraph 262) stands as a shield and protection against action by the Company proceeding under the Plant Management Clause.

Paragraph 262 reads 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 question presented requires a balancing of Paragraph 127 with 262. In Paragraph 127 it is stated to be the "Company policy to schedule forces adequate for the performance of the work to be done". In Arbitration No. 168 the Permanent Arbitrator said that it is "the right and function of Management to determine the size of the work force or crew, but this right is subject to challenge by the Union through the grievance procedure.* * *" It is urged that a five-man crew of Hookers is a local condition or practice. The problem is whether it is a local condition or practice "consistent with this Agreement" within the protection afforded by Paragraph 262.

In Arbitration 238 the Permanent Arbitrator commented at some length on the significance of "consistency" as referred to in Paragraph 262. In that case the question was whether the Company could depart from an histroic volunteer method of filling vacancies in the Machine Shop in favor of a normal scheduling procedure, exercising its rights under Article IV. He observed that just as Article IV, Section 1 reserves broad managerial powers to the Company, "except as limited by the provisions of this Agreement", Article XIV, Section 5 protects employees against deprivation of local conditions and practices more beneficial to them than the terms and conditions of the Agreement, but only to the extent that the conditions and practices are "consistent" with such terms and conditions. He then held that, although in principle the Company could depart from the volunteering system, they might do so only when the facts justify the conclusion that observance of the condition is <u>inconsistent</u> with the carefully spelled out rights of the Company to schedule an adequate working force.

Arbitration 238 and what was said there furnishes a sound guide for all cases in which Paragraph 262 is lifted as a shield against Company action. What have we here? Is there "consistency" between the "practice" of scheduling five man crews and the announced scheduling policy of the Company in Paragraph 127? Are they compatible, harmonious, and congruent? Or do they contradict?

First, it will be observed that both the claimed practice or condition, as well as the provision said by the Company to be inconsistent with it, have to do with the scheduling of employees. "The basic purpose of Article VI", (in which Paragraph 262 appears) said the Permanent Arbitrator in Arbitration 238, "is to enable the Company adequately and fully to man whatever operations it deems necessary, and as to what operations are necessary, it alone is the judge."

Second, Paragraph 262, by reference to "Company policy" does not confer upon the Company the unlimited and unrestricted right to determine what forces are "adequate". As observed above, and in Arbitration 168, the Union may challenge the Company's judgment by showing it was "unreasonable, dictated by caprice, or that the complement of the crew as set by Management imposes an undue burden on the men * * *." The Agreement gives explicit assurance to the Union (which it might enforce through the grievance procedure) that the Company's "policy", as described, will be the Company's course of conduct. In other words, the Company, in Paragraph 127 is given both a power and a duty. Its power is to determine what forces are "adequate" (i.e., equal to the requirements of the circumstances); its duty is to exercise that power reasonably and subject to review.

I am satisfied that a Union claim, not based upon the unreasonableness of a Company decision as to what is an adequate crew size, but, rather on the sheer force of Paragraph 262 to protect practices or conditions, presents a situation in which the claim is inconsistent with the meaning, purpose and effect of Paragraph 127. Such a claim goes beyond assuring employees of the benefit of conditions or practices "more beneficial to the employees than the terms and conditions of this Agreement". It nullifies entirely the power of the Company reasonably (and subject to review thereof) to determine what crew size is "adequate". It would substitute for a specific provision of the Agreement dealing with the subject of who is to determine crew size and how it is to be determined a rule of broad and general application that any crew size that was observed in the past shall not be reduced because it is less beneficial to the employees. These two rules cannot coexist in harmony. They defeat each other. They are inconsistent. If crew sizes are frozen the Company cannot act in pursuance of the policy of scheduling forces "adequate" for the performance of the work to be done.

The Union has submitted for consideration a number of arbitration awards involving other basic steel companies in which crew size reduction was prohibited. These awards have been read and carefully considered. There are several comments which appear to be appropriate with reference to these awards.

First, the Company asserts that

> "No other major steel company's labor agreements contain a similar provision specifically retaining to Management the right to determine crew size."

I take this to mean that no collective bargaining agreement with a basic steel company has a clause such as Paragraph 127. Although I have not researched the matter thoroughly, a careful study of the Agreement of the Steelworkers' Union with United States Steel Corporation supports the Company's assertion. That Agreement contains no provision like Paragraph 127 which empowers the employer to determine the adequacy of a force and places an obligation upon it to exercise that power subject to review. The only provisions applicable to the subject of crew size are Section 3, which is the general Management Clause, and Section 2B which deals with Local Working Conditions. This is a significant fact. It means that there exists no specific provision in that agreement relating to crew size against which the alleged local condition is to be measured.

Further, analysis of Section 2B of the United States Steel Agreement discloses that the local conditions clause, unlike Inland's, does not contain the concept of consistency expressed in Paragraph 262 and discussed at some length in Arbitration 238. In other respects, which need not be detailed here, moreover, the United States Steel Corporation provision on local conditions contains different language and expresses itself to a different effect than Paragraph 262.

Under the circumstances, without expressing any view as to the soundness of the basic steel awards which have been cited, I am constrained to regard them as inapplicable to the considerations upon which the instant case must turn.

Finally, I find no violation of Article VII, Section 4. The grievants maintain their sequential rights even if they are not regularly scheduled in the sequence for sequential work.

AWARD

The grievance is denied.

Approved:

Peter Seitz,
Assistant Permanent Arbitrator

David L. Cole,
Permanent Arbitrator
Dated: July 21, 1959