In the Matter of Arbitration Between:

INLAND STEEL COMPANY
-and-
UNITED STEELWORKERS OF AMERICA,
AFL-CIO, Local Union No. 1010

ARBITRATION AWARD NO. 534

Grievance Nos. 5-G-64
and 5-G-66.

Appeal Nos. 766 and 767

PETER M. KELLIHER
Impartial Arbitrator

APPEARANCES:

For the Company:

Mr. W. A. Dillon, Assistant Superintendent, Labor Relations Department
Mr. R. Ayres, Assistant Superintendent, Labor Relations Department
Mr. L. Trilli, Assistant Superintendent, No. 2 Open Hearth Department
Mr. M. Dotlich, General Pit Foreman, No. 2 Open Hearth Department
Mr. Leroy R. Mitchell, Divisional Supervisor, Labor Relations Department

For the Union:

Mr. Cecil Clifton, International Representative
Mr. John Shebesh, Griever
Mr. S. Ballard, Assistant Griever
Mr. Al Garza, Chairman, Grievance Committee

STATEMENT

Pursuant to proper notice a hearing was held in GARY, INDIANA, on February 19, 1963.

THE ISSUE

Grievance No. 5-G-64 reads:

"Aggrieved, J. Sonero, #21550, is contesting the procedure followed on March 26, "B" turn on the 8 to 4 turn. There was an absentee on the scheduled platform man. Instead of filling the vacancy in the schedule in accordance withthe provisions of Article VII, the Company modified the work.

The relief sought reads:

"To pay the aggrieved, J. Sonero, #21550, the difference of pay from labor to pit hooker."

Grievance No. 5-G-66 reads:

> "Aggrieved, J. Mangual, #7510, is contesting the procedure followed on March 26, "B" turn on the 8 to 4 turn. There was an absentee on the scheduled platform man. Instead of filling the vacancy in the schedule in accordance with the provisions of Article VII, the Company modified the work."

The relief sought reads:

> "To pay the aggrieved, J. Mangual, #7510, the difference of pay from pit hooker to platform man."

DISCUSSION AND DECISION

Both grievances here raise the same issue:--Was the Company's action in modifying the work proper under the language of Article VI, Section 8. This provision reads:

> "Section 8. 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. When a force has been scheduled and a scheduled employee is absent from a scheduled turn for any reason, the Company shall fill such a vacancy in the schedule in accordance with the provisions of Article VII, and if the schedule cannot be so filled, the Company shall call out a replacement or hold over another employee, unless the work to be accomplished by or assigned to the short crew can be modified so that it will be within the capacity of such short crew."

The very first clause in this section recognizes that the Company has the right to determine "the size and duties of its crews". These concepts of "size and duties" are necessarily related. If the duties are increased, the size of the crew must be increased so that there is an adequate force. If the duties of the crews are decreased, then the Company may properly reduce the size of the crew under the circumstances here existing and described in the two grievances quoted above. In this case an adequate force had been scheduled and it subsequently developed that a scheduled employee was absent. The Company was then required to make a determination as to how it would handle the matter of the "size and duties" of this crew. If the Company decided to "fill such a vacancy", then it was required to follow the designated procedure under Article VII. If the schedule could not be filled in

that manner the Company was required to follow certain specified alternative procedures. These procedures relating to the Company's efforts to "fill such a vacancy in the schedule" were all predicated upon the Company's decision not to modify the work. The clause "unless the work to be accomplished by or assigned to the short crew can be modified so that it will be within the capacity of such short crew" is a condition precedent to any method of filling "the vacancy in the schedule". Simply because the phrase "unless the work to be accomplished" etc., is the last clause as the paragraph is read does not mean that it is the "last alternative". All of the possible methods of filling the vacancy in the schedule are conditioned upon this clause.

In Arbitration Award No. 516, this Arbitrator made the following statement:

> "Under the language of Article VI, Section 8, the Company determined that it would not modify the work, but instead elected to fill the vacancy in the schedule in accordance with the provisions of Article VII."

As a matter of the reasonable intention of the Parties there is certainly no purpose in the Company's following out various procedures to fill a vacancy in a schedule if it intends to reduce the size of the crew by a modification of the work. In this particular case the grievances recognize that the work was modified and the Union here makes no claim that the crew was not adequate.

In Arbitration No. 245 Arbitrator Cole stated:

> "When an employee has been scheduled as part of a force, if he is absent the Company is directed by Article VI, Section 8 to fill the vacancy in a designated matter 'unless the work...can be modified so that it will be within the capacity of the short crew.' The Company states that this is precisely what it did during the week of March 17th by having less of the preparatory kind of work done. It was able to do this because it is well ahead on such work, and it was not necessary to assign or direct any Second Class Machinists to do Pupaza's First Class Machinist work. As a matter of fact, two Second Class Machinists originally filed grievances alleging that during Pupaza's absence they performed his work and requesting First Class Machinist pay for doing such work but after discussion with Management representatives these grievances were withdrawn or not processed to completion."

The Union's brief in Arbitration No. 514 does indicate a full awareness of the meaning of Arbitration Award No. 245 and other related

awards. The Union was there asking that the Arbitrator review Article VI, Section 8, "once more as to its proper meaning and application". The Union had notice of the Arbitrator's interpretation of the pertinent language and his denial of the Grievance in Arbitration No. 245. In Award No. 514 Arbitrator Cole states:

> "'Modified' is a very broad term, and a series of arbitration awards have recognized its normal meaning. Several collective bargaining agreements have been negotiated since this series of awards began to be issued and the contract provision has remained unchanged, from which it must be assumed that with its meaning thus interpreted it is understood and accepted by the parties.
>
> There is no point in restating the reasoning set forth in this series of awards. The parties are quite familiar with them. Reference need merely be made to their numbers: 152, 168, 183, 245, 315, 330, 382, 450, and 477."

It is significant that he expressly reaffirmed Arbitration No. 245.

The language that is set forth in Article VI, Section 8, has appeared in Collective Bargaining Agreements since 1947. The above-quoted awards were made under several Contracts. This must now be considered a settled interpretation.

AWARD

The grievances are denied.

Peter M. Kelliher

Dated at Chicago, Illinois

this 10 day of April 1963.