INL-00771
12B.1.a
Inland Steel Award No. 771
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RECOGNITION AND BARGAINING UNIT

SUMMARY: (1) The Company violated the applicable provisions of the 1986 Agreement when it contracted out the rebuilding of vibrating feeders at #4 BOF. This was ordinary maintenance and repair work which bargaining unit employees were capable of performing. The work was not "major reconstruction" or even an integral part of a major reconstruction project and it had never been performed by contractors. A claimed practice of contracting out peak-load work of all kinds could not be given effect. (2) Maintenance work involved in replacing of dummy bar drives in connection with repair of the #1 Slab Caster at #4 BOF was properly contracted out. The work was "major reconstruction of equipment" or, at least, peripheral to such work, involving as it did over 2000 man-hours of work in less than five days. There were no "rights and obligations" of the parties that would bar contracting out and, if the work was regarded as peripheral to major reconstruction, contracting out was more reasonable than for the Company to use its own employees, (3) Contracting out of the work of changing the end trucks on one crane was a violation of the Agreement.

Award No. 771
COMPANY: INLAND STEEL CO.
PLANT: INDIANA HARBOR
DISTRICT: 31
ARBITRATOR: CLARE B. MC DERMOTT
DATE OF DECISION: FEBRUARY 3, 1987
BACKGROUND

These Notifications were the first to be presented and the second to be decided in this bargaining relationship under the new language on contracting-out in the August 1, 1986 Agreement.

On or shortly after September 2, 1986 Notification No. 128 advised the Union that Management was considering contracting out the repairing of crane-way door chain drives and steel plates to pass emission tests and the rebuilding of vibrating feeders at #4 BOF. The Notification said that Inland craft employees (Millwrights) were not available in sufficient numbers to do the work within the time it had to be done. The work was to begin September 8 and end September 12 and allegedly had to be done in timely fashion or a major improvement in production might not occur.

On or shortly after October 2, 1986 Notification No. 334 told the Union that the Company was considering contracting out the maintenance work involved in removal of dummy bar mechanical drives for the repairing and rebuilding of both strands 1 and 2 at #1 Slab Caster of 4 BOF. It was said the work would involve outside millwright occupations and, if not done in timely fashion, production delays might result. The work was expected to begin October 30 and to be finished on November 3, 1986.

Notification No. 442 informed the Union on or shortly after October 23, 1986 that the Company was considering contracting out the new construction or major rebuilding work of replacing drum pinion and gears for all three cranes, the trolley end truck on #3 ladle crane, and the four end trucks on each of #1 and #2 ladle cranes. The Notification said the work required a special hydraulic crane that was not available. If the work were not done in timely fashion, it was said that production delays might occur. It was planned to start on October 31 and end on November 9, 1986, and to require 720 contractor man-hours, distributed among operator, millwright, and ironworker positions.

Regarding Notification 128, Company witness Takacs, Maintenance Section Manager #1 Slab Caster at 4 BOF, explained that during much or all of 1986 a substantial upgrading of both the furnace and the slab caster was in progress, expected to cost about sixty-five million dollars in all, split about one-half at each

facility. That project was to take nine to twelve months. A part of that effort was the rebuilding (rebricking) and modification to the Shop, costing approximately one million dollars. This project included work on the submarine lance, furnace-addition system, transfer cars, ladles, and such. The Company says this was a major project and that rebuilding the vibrating feeders was an integral part of that major reconstruction. A new computer and submarine lance were being installed, and the vibrating feeders would help send additions to separate bins for each furnace. The vibrating-feeder rebuilding could not be postponed and had to be done so that the conveyors could be split during the later furnace relining.

Takacs said this was not one of the ordinary, weekly, eight-hour downturns, but was a scheduled, thirty-turn shutdown for rebuilding. The furnace goes down for rebuilds three or four times a year. During those thirty turns Takacs said it was necessary to do much of the work that could be done only with the furnace down.

The original Notification referred to contracting out of work on crane-way door chain drives, but that is not involved here because the parties agreed as to that task.

There are seventeen vibrating feeders (shakers to conveyors) at the furnace. They help feed the proper mix of flux additions to the furnaces and at the proper rate, for making various grades of steel. They had deteriorated and had to be rebuilt in order to get their capacity back up to specifications. They are critical to successful operation of the furnace. The new arrangement called for a split set-up, with separate conveyors to each furnace. Thus, they had to be done in order to be able to "batch up" one furnace while making additions to the other one. Thus, the vibrating feeders had to be rebuilt and fine-tuned to maximum capacity.

These vibrating feeders have been rebuilt by BOF Mechanics in the past, who would rebuild one at a time over a relatively long period, on a downturn, handling about one per week.

This project required, however, that all seventeen vibrating feeders be rebuilt, adjusted, and fine-tuned within six days, in order to have them finished within the time limits for the major upgrade project.

At the beginning of the overall project earlier in the year, the vibrating-feeder work was not thought of, but in the summer it was realized that they would have to be rebuilt. The purchase order for necessary parts was placed in late August, less than a week before the shutdown began. At about the same time, the order was written, asking for Field Services employees to do this work. Takacs said it was clear that if the vibrating feeders were not done at this time, the whole, major upgrade project would be delayed.

Mechanics from the BOF were not available to do this work since they were fully occupied on the many tasks of the larger project. They did all of the tasks on a thirty-three-chore list of activities done for the major upgrading. Mechanics also were on large volumes of overtime at this period, and none were on layoff then. In addition to the regular complement of Mechanics at 4 BOF, there were about fifty other Mechanics who were about to be laid off. Instead, they were assigned to 4 BOF, and they, too, were fully utilized and on overtime.

Those new Mechanics came to 4 BOF and had to be oriented and trained. Their first day saw four hours of safety orientation and then they were assigned on straight days for two weeks with regular 4 BOF Mechanics and only thereafter were they assigned to all shifts and areas. Takacs said that orientation and safety training system had been in effect for years and had originated following the case of a newly assigned employee who had been burned, apparently because he was not familiar with all the equipment.

Thus, since 4 BOF had insufficient Mechanics for this vibrating-feeder work, Field Services was asked to do it, as Takacs said was the normal practice for his twenty years at the shop.

Field Services determined that it, too, did not have enough Machinists free from other work to handle the vibrating-feeder assignment. Field Services Engineering Section Manager McCampbell said he had fifty-four Machinists and during this period all of them were fully occupied on other work, which the Union concedes. He had four Apprentices, and they were on layoff. He said they were first-level Apprentices and that it had been two years since they had received any training and, therefore, he thought they were not qualified for this work.

McCampbell explained that the consistent practice when Field Services had been called upon to perform work for an operating department but did not have sufficient employees available from other work to do it, was to contract it out. Former Field Services Supervisor Stoddart corroborated that and said that practice had been followed since 1956 and that it was not based on the type of work but on the unavailability of sufficient employees to do it, along with their other work.

Accordingly, this vibrating-feeder rebuild task was assigned to a contractor, The Edward Gray Company. The reason that contractor was picked was that it already had spent months at 4 BOF on other work and, therefore, its personnel knew the area.

McCampbell explained that the contractor used one foreman and six men working one turn per day for four days, so that the whole task was done within 206 man-hours. Apparently, that man-hour count is not necessarily accurate, since it had been made solely for accounting purposes, and the six contractor people spent some of that time on other chores, as well.
Stoddart said that Field Services never was manned so as to be able to handle all peak demands for work, when several projects would have to be done at once.
Takacs said employees were not recalled from layoff to do this work because it was of such short duration, and they could have been trained only for one or two days until the furnace was shut down and then they would have to be laid off again six or seven days later. He said they would not have been familiar with the work. Takacs said also the Department did not have anyone to supervise this work, since all supervisors were otherwise occupied on the major upgrading project and that included hourly supervisors, as well.
Takacs noted also that a factory representative of the supplier of the equipment had been called out and that he had instructed contractor personnel about how to fine-tune the vibrating feeders. Takacs agreed that the factory representative could have advised bargaining unit employees, as he did contractor people.
Takacs contended also that temporarily assigned Mechanics could not have been used on this work because they, too, are assigned for two weeks with a regular Department Mechanic. He said they could not have done the work within this short period for the additional reason that they would not have been familiar with where they would have to go to get necessary parts and that that would require two weeks of teaching, since all parts were not in the same place. Takacs said trips for parts would take employees through operating areas. He agreed the contractor's personnel, too, had to do that, but he said that contractor had done much work in the department already and, therefore, had people who knew the area. He was not aware, however, if the contractor people on the vibrating-feeder work were the same ones who had learned the dangers of the area from having done the earlier upgrading work.
The Union insists the bargaining unit employees were capable of rebuilding vibrating feeders. It stresses Company testimony agreeing that employees had done these rebuilds, at least one at a time. The Union claims this was maintenance and repair work under-B-1-a and not -B-1-b major construction, installation, or reconstruction. It contends there is no consistent practice of contracting out this work, noting that there could not be, since all seventeen vibrating feeders never before were rebuilt at one time and that employees had done them one at a time. Company witness Takacs agreed that contractors never had rebuilt any vibrating feeders before. The Union argues, therefore, that the Company is attempting to rely on the old "reasonable" language of prior agreements without first demonstrating existence of a consistent practice of contracting out such work.
The Union alleges also that contracting out this work violated the craft pay guarantee.
Union witness Tomaszewski, a 4 BOF Mechanic, has worked on repairing vibrating feeders. He scouted the Company argument about temporarily assigned Mechanics not knowing where to go to get parts and the allegedly prohibitive danger of their having to go through operating areas to get them. He said they would have had to learn how to use the elevator to get from the fifth to the second floor for the parts and would have to be careful not to trip over electric cables on the floor. He thought one such trip would be sufficient for gaining that familiarity.
Tomaszewski said that in past years a factory representative had shown him and another Mechanic how to add or subtract weights to and from a motor in fine-tuning a vibrating feeder with a gauge. He says he could have done this work, which is not complicated. He thought perhaps three Department Mechanics knew how to do it, since he had shown some others. He last had worked on vibrating feeders a couple of years ago. He did only those that were bad but had rebuilt all of them over the years, one or two at a time.
Tomaszewski said he had worked as an hourly foreman, the last time being approximately ten years ago, and that he could have supervised this work. He was not asked to do so.
Then 4 BOF Mechanic Kelnhofer had worked on vibrating feeders when he was a Field Forces Machinist six to eight years ago. He rebuilt them and repaired them.
Company witness Takacs was recalled to say that the parts for this vibrating-feeder work were not kept in the usual place referred to by the Union witness. He said they were on the back of a truck. Nuts and bolts and similar ordinary parts were at the No. 1 Storeroom on the first floor.
The Company says the vibrating-feeder rebuilding work was an integral part of the major reconstruction project and, therefore, was not just maintenance and repair work, within -B-1-a. The Union replied that Notification 128 referred to it as maintenance and repair work. Company witness Oliver said that in discussions with the Union on October 25 and November 3 the Union was told that the Company

considered this as part of the major reconstruction and not just repair and maintenance work. The work was done in September.

The Company argued also that an additional reason for not recalling laid-off employees, over and above the necessity for orientation and assignment for two weeks with a regular Mechanic, a period that would last longer than this six-day work, was that if those employees had been on seniority-pool jobs and had been recalled, they would have been laid off again very soon and thus would be off for four or five additional weeks, according to ordinary operation of the pool, and thus would lose work in the longer run.

Respecting Notification No. 334, Company witness Takacs said that this total shutdown time on 60 furnace ran from October 30 to November 10, and the rotation of bearings on one of the furnaces had to be done then.

The original dummy bar mechanical drives, installed when the Shop started up in the early 1970s, still were in place. There had been such wear in the couplings that the bearings in the drives were being lost. The work had to be done during the thirteen-turn shutdown. The next possible occasion for doing it would have been the next year, which would have been too long a delay since the drives would fail completely before that.

Neither Department Mechanics nor outside contractors ever had done this work before. No one had, for the drives never had been removed before by anybody.

Management says the task called for extensive rigging. The Company says also there were no Mechanics available to do the work, and no supervisors, either for the same reasons as were set out above, in Notification 128. No Mechanics were on layoff.

Since 4 BOF Mechanics were not available to do this, Field Services was asked to handle it. It had no one available to do it either. The Union stipulates that both 4 BOF Mechanics and Field Services Machinists, Riggers, and Central Shop Riggers were fully occupied on other work, except for four or five Machinist Apprentices on layoff. Company witness McCampbell said he was told those Apprentices were in the earlier stages of their Apprenticeship Program and, therefore, were not sufficiently skilled to handle this work.

The contractor ultimately selected to do this work was brought into the plant four or five weeks before the work began in order to study it and to plan how it should be done. The contractor was first in the plant to do that in the first week of October. The final decision to contract out the work was made at the end of September, but another Company statement said that was done on October 6.

McCampbell said that the work required that the drives be disconnected by Mechanics or Machinists, taken out by Riggers, sent to the Shop for repairs and returned, moved back into place by Riggers, and set up and aligned by Mechanics or Machinists. He said there was no exotic Mechanic work and that Field Services Machinists could disconnect the couplings and reset and align them. Takacs agreed that Field Services Machinists could have done the mechanical work and that Field Services or Central Shop Riggers could have done the rigging. The mechanical work involved pulling the drives apart, and Department Mechanics were capable of doing that, if sufficient numbers of them had been available.

The contractor did this work over thirteen turns, with a run-over to the fourteenth, beginning November 3, using approximately twenty people per turn and working three turns per day, and it was finished on November 7.

Management contends this was major rehabilitation of facilities, since it was the first time in over fifteen years that these drives had been rebuilt. The caster cannot operate without them. It says the time limit was very tight. The work was scheduled to be finished in thirteen turns and actually went over to the fourteenth. It says there would have been serious production problems if it had gone even one more turn.

In reply to a Union suggestion that it could have recalled other Mechanics from the street, the Company said there still would have been the safety orientation and necessity to assign them for two weeks with regular Department Mechanics, as in Notification 128, and, in any event, there were no supervisors available.

Company witness Oliver said that the parties were discussing these Notifications prior to November 3 and the Company had not said earlier that this was major reconstruction. The Notification itself called this "maintenance work."

There was a controversy at the hearing about the scope of this Notification. The Union suggested that other work on rollers either was going to be, or had been, done, and it sought to deal with it under this Notification. The Company objected that that work was not covered by this Notification, and the Union ultimately agreed. Later on, the Company stipulated that it would be bound as to that work by the decision made as to this work.

Despite the broader list of tasks that were expressly stated as being considered for contracting out in Notification No. 442, the parties agreed that the only item actually contracted out was the changing of end trucks on just one crane.

Company witness Takacs explained that Management had planned to "rerate" the three ladle cranes, that is, to increase their capacity from 350 to 400 tons, and in doing so, it would have been necessary to replace their main hoist drums, pinions, and end trucks. The Company says that would have cost about one million dollars for all three cranes. It was thus conceived of as a capital project. Since these cranes are essential to operation of the caster--they feed steel to it--the caster had to be down in order that the work could be done. Ordinarily the operating department which wants the work done will ask Field Services to do it if it cannot handle the item itself and, if it be maintenance and repair work and if Field Services then decides it, too, does not have sufficient employees or supervisors to perform the task, it (Field Services) will request that the work be assigned to an outside contractor. Since this work as originally planned was seen by Management as a capital project, however, apparently the Engineering Department originated the contracting-out request. This was the explanation of Company witness McCampbell, but he thereafter agreed that, in the actual event, Engineering did contact him to see if Field Services could do this, and he said it could not because it did not have an adequate number of necessary people and, therefore, that the task would have to be contracted out. McCampbell said all that dealt with the larger scope of the work as originally planned and not with the relatively minor work actually sent out to the contractor.

At any rate, the Company saw the volume of the planned work on all three cranes as a major reconstruction project, which would have required a lot of Field Services Machinist and Rigger work. It decided it did not have sufficient employees or supervisors. Number 4 BOF did not contact Field Services, on the ground that this was to be a capital project.

As it turned out, however, the project was substantially reduced, so that the only work done by the contractor was to change end trucks on one crane. It was planned to be done on day turn, only. Takacs agreed that Mechanics at 4 BOF have changed trucks and drums on cranes, but he thought the sheer volume of the larger project as originally planned would be too much for them to do within the downtime of the caster. The larger project was supposed to be done between October 30 and November 10, although Takacs said at another point that the beginning and ending dates were to be November 3 and 7. Takacs could not say what the cost of labor or new equipment was.

He said that the factors to be considered in deciding whether a task was a major reconstruction effort or simply a maintenance and repair chore were the time estimated for its completion, its volume, the number of people required, and the equipment necessary, and that an item of work could range from one and one-half years and over one-hundred million dollars and still be put in the same category (major project versus nonmajor) as changing end trucks on one crane, over a three-day period.

Takacs agreed that Department Mechanics have done all the work in the changing of end trucks.

There was some uncertainty in the Company evidence on the point, but apparently about October 23 (the Notification was dated October 29) Management decided to reduce the work to be contracted out from drum and pinion and gears and trolley and end trucks on all three ladle cranes to changing only the end trucks on #3 ladle crane. The work was scheduled for November 4, 5, and 6, and apparently was done then by a contractor complement of three employees for four hours on those days. At one point, a Company witness said he had heard that the contractor spent only twelve man-hours on this work, but the other Company testimony of three contractor employees for four hours on each of three days would equal thirty-six contractor man-hours.

That may be explained by an apparent hitch that seems to have developed later. That is, it was said that on the evening of November 6 some additional work was done when it became necessary to change a drum because of cracks found on a new one.

ARGUMENTS

The Company said the Union has the burden of proof here, apparently on the theory that all this work was major reconstruction.

On the merits, the Company urges that this was part of a major reconstruction effort, referring to the overall, major upgrading project of 4 BOF and its caster. It says the Union is unrealistically trying to separate the vibrating-feeder work of Notification No. 128 and the end-truck work of Notification 442 from that whole effort. The Company argues that that Union attempt to atomize this grand project, extending over nine months and costing over sixty million dollars, should not succeed.

Viewing this as "major reconstruction," the Company urges it is necessary under -B-1-b to consider the rights and obligations of the parties existing as of a period beginning with August 1, 1963. It feels certain

the Union could show no Union rights or Company obligations against contracting out as of that time because 4 BOF and the caster did not come into existence until 1966. That argument views such rights and obligations as arising from and tied down to a specific geographical location within a plant.
Management then argues that, even if it were to be concluded that some of these items really were not integral to the larger, upgrading effort but were peripheral, then application of the factors of Subsection C to the facts would show that it was more reasonable to assign them to a contractor.
That is, the Company says that no relevant employees were laid off and, therefore, that there could have been no adverse impact on the bargaining unit under factor 1.
As to factor 3, desirability of recalling employees from layoff, Management says it would not have been desirable to do so for the short time required by these projects, since they would have had a training period lasting longer than the work. Moreover, operation of the seniority-pool provisions allegedly would have meant that they would have been laid off again very soon and then would lose future pool assignments for up to two or three weeks.
As to the availability of qualified employees, active or on layoff, under factor 4, the Company notes the stipulation that no qualified employees were on layoff and that other employees who were not qualified but were on layoff were not trained in the necessary safety areas. It is said that the Union did not identify any who were so trained.
On factor 5, Management stresses that qualified supervision was not available, aside from the one Union witness who had acted as an hourly foreman ten years earlier. It says that would not have been sufficient, in any event.
The duration of these items of work was short, and there were tight time constraints, under factor 7.
In addition, in case any of this should be found to be -B-1-a work, the Company insists it still was proper to contract it out, stressing its testimony to the effect that there was a practice of contracting out peak-load work beyond the level which available bargaining unit employees could handle. In this regard, the Company says the words "such work" in -B-1-a mean work of varying kinds in different patterns of circumstances at peak demands.
Replying to the Union suggestion of violation of a craft guarantee of pay, Management says that Expedited Arbitration is limited expressly by Subsection G to "...any dispute arising under this Section...," meaning only Section 3 of Article 2 of the 1986 Agreement and, therefore, that a craft pay guarantee of Appendix D could not be applied to these disputes. The Union agrees that these "disputes" are limited to those arising under this Section 3 of Article 2, but it stresses that "resolution" of them is not so limited and that this kind of allegation is contained expressly within factor 8 of Subsection C.
The Union stresses the significant changes of the new language in the "guiding principle," the reduced categories of work from three to two, and the reversal in the burden of demonstrating a consistent practice of contracting out "such work" within -B-1-a. It insists that now, unless the Company can demonstrate a consistent practice of contracting out "such work," the problem is over and the Union must prevail, without ever getting into the reasonableness factors of -C, unless there be agreement. It argues that the Company position in all these notifications and four other ones (226, 347, 470, and 709 (Inland Award No. 770, January 20, 1987)) would destroy the new language.
Accordingly, the Union urges that it first must be decided whether or not bargaining unit employees are capable of performing the work contracted out. It is agreed here that they are. Then it must be seen whether or not there is a consistent practice, as demonstrated by the Company, of contracting it out. The Union sees no such practice here, in that this very work never had been contracted out before. That applies to the vibrating feeders, the drives on the dummy bars, and the changing of end trucks.
The Union argues that the Company uses the word "practice" to refer to a situation where all employees are fully occupied on other work and not to "such work." It contends that "such work" means the type of work and not the state of busyness of the employees.
The Union says the twelve or thirty-six hours spent in changing the end trucks on one crane cannot be "major reconstruction" in any sensible use of the phrase, nor the 206 hours or less required for vibrating-feeder work. The Union views this Company argument as seeking to draw within the sweep of the large, upgrading project each and every minute chore performed by even one person in the plant during that time. It says the line must be drawn by looking to the purpose and function of the work in question. With many, many cranes in the plant and with approximately 2100 Machinists in Field Services, and with hundreds of Electricians, it is said that what might be a major effort by a plant with only 100 employees cannot be the same as a major effort here. The Union says a major project is an extremely large one. It agrees a blast furnace teardown would be a major project, but it says changing end trucks on one crane is not.

The Union says it did not come prepared to argue about what was the more reasonable course, but it does note that it would have been quite reasonable for Management to use employees recalled from layoff. That would cover a whole department--allegedly No. 3 Open Hearth--of laid-off Mechanics. It says also that the Company well could have secured sufficient supervision by upgrading employees to hourly foremen.
The Union urges, moreover, that the Company under its Management Rights of Article 3 can assign laid-off craftsmen to areas where they are needed, surely for one week.
The Union expresses shock at the Company's citing Inland Award No. 340 (1961), dealing with a 1958 dispute, which it says arose prior to introduction of the local working condition clause in this bargaining relationship, which allegedly did not come until 1965.

FINDINGS

Management sought to introduce two relatively recent decisions on this new contracting-out language from other bargaining relationships, one under the LTV agreement and one under the Bethlehem agreement. The Union objected, relying on the language of -G-4, saying that decisions under this Expedited Procedure shall not be cited as precedent by either party in any future contracting-out disputes. The arbitrator received the decisions in evidence but stated tentatively that, since the new Agreement prohibited citing of expedited decisions, even from within this bargaining relationship, it appeared rather clear that such decisions could not be cited from other bargaining relationships. That tentative ruling is confirmed here.
The parties quite sensibly presented these problems together, but the situations are sufficiently different that they must be analyzed and decided separately.
Possibly relevant provisions of the 1986 Agreement were quoted in full in Inland Award No. 770 (January 20, 1987), and they need not be repeated here. Moreover, much of the basic teaching of that new language was discussed there and will not be restated here except as necessary to emphasize certain points.

Notification No. 128

The Company argued at the hearing that the vibrating-feeder work was an integral part of the major reconstruction project, that is, the overall upgrading of the shop.
It is not easy to see, however, how mechanical work requiring no more than six persons and 206 hours over four days, and probably many fewer hours if an accurate count were had limited to this very work, reasonably could be thought of as major reconstruction. It is true that it was done during a major reconstruction project, but not everything done in the plant or department in 1986 became for that reason alone a major reconstruction project or even an integral part of one. This seems especially clear in light of the fact that the Company's Notification here called this "maintenance work" and did not say that it was a major reconstruction project or an integral part of one. That the statement of "maintenance work" in the Notification very probably was not just an offhand accident of expression is shown by the fact that Notification 442 did refer to its work as "...new construction or major rebuild work...," showing that when the Company wanted to characterize other work as major, it did so expressly.
Accordingly, realistic appraisal of this work shows it to be ordinary maintenance and repair work in the plant which all evidence agrees bargaining unit employees are capable of performing. With the work in that posture, the two tests arise. That is, it may not be contracted out unless the Company demonstrates that there was a "consistent practice" of contracting out "such work" and it demonstrates also that it was more reasonable to contract it out than to have it done by its own employees.
On the practice element, there could be no consistent practice of contracting out this work. It never had been done by contractors. Work of this identical kind always had been done by employees, but only on one vibrating feeder at a time. No one ever had done all seventeen at once.
That is the Company position. It says it did demonstrate a "consistent practice" of contracting out peak-load work and it says this was of that quantity.
It is important, however, to put this work into realistic perspective. No matter what the bulk of the work was that was mentioned in the Notification of September 2, the only task involved at this stage of the dispute is the work on seventeen vibrating feeders. If it be accurate, as Company evidence suggests, that that task took a contractor foreman and six men, working one turn per day for four days it would have required 192 hours or 224, if the foreman's time be counted. Furthermore, neither of those Company estimates appear totally reliable, since other Company evidence casts substantial doubt on them, in light of its admission that those totals were solely accounting calculations and included also contractor people doing other work, as well. Thus, some figure substantially lower probably should be accepted as the more accurate total of contractor hours spent on this work, and 192 might be the better assessment, or even a little more, if the foreman's time be included.

With no more evidence than is in this record on the alleged intimacy of the connection between this minor task and the overall upgrading project, it could not be concluded that this was an integral part of the major project. Hence, it was an important but surely minor maintenance and repair task, taking less than twelve hours on each of the seventeen vibrating feeders. Thus, maintenance and repair work that employees were capable of performing and never had been done by anyone else and which could have been done by six of them in four days, hardly justifies Management's including it in its claim of a "consistent practice" of contracting out peak-load work.

For the reasons discussed in greater detail in Inland Award No. 770 (January 20, 1987), the evidence does not demonstrate existence of a "consistent practice" of contracting out "such work." It is thus unnecessary to review the reasonableness factors of Subsection C.

Consequently, since this work was contracted out in violation of the Agreement, the grievance challenging it will be sustained, and the appropriate employees, if they can be reasonably identified, shall be made whole for earnings and other benefits lost by reason of the improper contracting out.

Notification No. 334

This work of replacing dummy bar drives is much closer to major work of the overall upgrading project, since it was work on the slab caster, itself. The Company's Notification did say, however, that this was "maintenance work," and its testimony at the hearing agreed that in discussion of it with the Union prior to November 3, it had not urged that it was major reconstruction.

But here the objective circumstances of the work must override the Company's choice and timing of formal language in talking about it. It was work on equipment that makes the caster operate, not only operate well, but operate at all. That seems sufficient to qualify this as major reconstruction of equipment and productive facilities or, at least, as peripheral to such work. That becomes even more clear when the major nature of this work is realized. It required twenty people per turn, in addition to supervision, for thirteen plus consecutive turns. It thus expended over 2000 man-hours in less than five days. That is enough to justify the Company's categorizing it as major reconstruction or at least as peripheral work, under -B-1-b.

Accordingly, under either of the tests of -B-1-b, the grievance must be denied as to this project. There is no evidence to support a conclusion that there were any rights or obligations of the parties applicable to this work as of the beginning of the period commencing August 1, 1963 that would bar this contracting out. And, should this be treated as peripheral to major reconstruction, the clear balance of the relevant factors on reasonableness of -C shows that it was more reasonable to contract it out than for the Company to use its own employees. There really is nothing even to suggest that the decision to contract out this work was made to avoid the craft-pay guarantee of Appendix D. A very general Union allegation is not sufficient on that factor.

Notification No. 442

Despite the rather extensive appearance of all the work listed in this Notification, which the Company did characterize from the beginning as "new construction or major rebuild work," all that was changed drastically by the Company's later decision to reduce it and to contract out only the changing of end trucks on just one crane. Accordingly, what was announced originally as an impressive bulk of work (replacement of drum, pinion and gears for all three ladle cranes, replacement of trolley end trucks on one crane, and four end trucks on the other two cranes), shrank in actuality to changing end trucks on one crane.

It seems clear enough also that many of the Company's positions were developed on the basis of the original supposition as to the larger scope of the work to be contracted out. The intensity of those Company positions appears to have been frozen on the basis of that original assumption, as well, and to have lasted even after it became clear that only a minor part of that actually was to be done by a contractor. The contractor had three employees working on that task for four hours on three different days, for either twelve or thirty-six hours, in all, depending upon which Company version be accepted.

The evidence shows agreement that Department Mechanics have done all work on changing end trucks in the past.

Accordingly, this was -B-1-a work and many of the deep and broad doctrinal positions taken by the parties on the basis of the larger scope of the work stated as being contracted out in the original Notification evaporated in the light of the actual event of having the contractor do only the end trucks on one crane. That must be the factual basis for decision here, and there surely is no "consistent practice" of contracting out "such work." It thus becomes unnecessary to deal with the "reasonableness" factors of -C. Hence, that part of the grievance challenging the contracting out of that work will be sustained, and those employees who lost earnings and other benefits by reason of the improper contracting out will be made whole, if they can be reasonably identified.

AWARD

That part of the grievance challenging Notification No. 334 is denied.

The grievance is sustained, as stated in paragraphs 81 and 88 of the accompanying Opinion, as to Notification Nos. 128 and 442.