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United States Steel Corporation Sheet and Tin Operations Geneva Works and United Steelworkers of America Local Union 2701

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BOARD OF ARBITRATION

Case No. USS-5152-S

March 7, 1966

ARBITRATION AWARD

UNITED STATES STEEL CORPORATION
SHEET AND TIN OPERATIONS
Geneva Works

and

UNITED STEELWORKERS OF AMERICA
Local Union No. 2701

Grievance Nos.

SGe-64-117

SGe-64-118

SGe-64-119

SGE-64-120

Subject: Local Working Condition -
Elimination of Job.

Statement of the Grievance: SGe-64-117 (OH-11-91-64)

"We, the Weighers-Open Hearth, charge that the Company violated the Collective Bargaining Agreement when commencing August 9, 1964. We were scheduled labor rather than to the position of Weigher.

"Since that time, the weighing of the same materials from and to the same established locations and in the same volume has been performed by others.

"We request reinstatement to the position of Weigher and monies lost."

SGe-64-118 (OH-12-92-64)

"We, the Weighers Open Hearth, protest being assigned to the position of Weigher after the Company allegedly terminated our job.

"We request that we be re-assigned permanently since such assignments demonstrate that someone must be in the Scale House during weighing of material to observe, correct, and adjust these scales.

SGe-64-119 (OH-13-93-64)

"We, the Weighers Open Hearth, charge that the duties of inserting new rolls in Open Hearth Scale (duties similar to punching card on old scale) are being assigned to Supervisors and non-authorized personnel.

"We request cessation of this violation and reassignment to these duties."

SGe-64-120 (OH-14-94-64)

"I, David Waid, #41357-Weigher Open Hearth, charge that Management personnel, (Supervisors) have been repeatedly assuming the hourly duties of Weigher.

"I request that this violation cease and that I be reimbursed for monies lost."

These grievances were filed in the Second Step of the grievance procedure August 25, 1964.

Contract Provisions Involved: Sections 2-B and 9-D of the
April 6, 1962 Agreement, as amended June 29, 1963.

Statement of the Award: The grievances are sustained.
The Company shall schedule the Weigher job and
make whole the grievants for loss of earnings
retroactively to the date the job was discontinued.

BACKGROUND

Case No. USS-5152-S

As of August 9, 1964, following modification of the weighing equipment at the Scalehouse at the Geneva Works Open Hearth and Foundry, the Company discontinued assignment of incumbents of the Accounting job of Weigher. In these four grievances the Union protests the Company's action as a violation of Sections 2-B-3 and 9-D of the April 6, 1962 Agreement, amended as of June 29, 1963. It requests that the Weigher job be re-scheduled and that grievants be reimbursed for lost earnings.

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The Primary Function of the Weigher classification (Class 6) is: "To weigh and record materials charged into Open Hearth Furnaces and prepare reports as required." Both the weighing procedure and the reporting requirements were changed after the Weigher job was discontinued. As to weighing, materials for the Open Hearth furnaces are loaded at the Stockhouse into buggies (usually three pans of charging material per buggy) and, prior to the scales equipment change, were weighed by Weighers at the Scalehouse as the buggies passed over the scales track on the way to the Open Hearth (about 500 feet from the Scalehouse). When the engine cleared the scales, the Weigher threw a lever to release the scales beam and set the automatic trip lever with his foot. As each buggy passed over the scales, the rear wheels cocking the trip lever for the next buggy, its weight was printed on a ticket placed in a slot on the scales, a separate ticket for each buggy. The Weigher removed the ticket and inserted another after each buggy cleared the scales.

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As the buggies approached the scales the Weigher recorded on a form the Stock Weigher's Report, the identification number of each buggy and its contents. He also noted on his report whether it was a four-pan buggy, whether a pan was missing and whether the buggies included mixed materials such as rock. After the buggy had cleared the scales, the Weigher entered the weight, adjusting for tare in accordance with whether it was a three- or four-pan buggy, for missing pans and for the mixed materials. According to the Union's testimony, employees who were filling in on the Weigher job were not fast

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enough to enter the weights as the buggies passed over the scales; these employees accumulated the tickets in sequence and recorded the adjusted weights after the last buggy in the string had passed through.

When the weighing was completed, the Weigher deactivated the scales. The Stock Weighers Report was delivered to the Stock Distributor on the charging floor (either by the Weighers or the Conductors with whom they had a "buddy arrangement") the Weighers throwing the scales switches for the Conductors in return. 4

The modification of the weighing equipment - installation of a Fairbanks-Morse Printomatic Scale - eliminates the need for the withdrawal and insertion of a ticket as each buggy is weighed. The weights now are printed on a roll of tape which moves continuously as the buggies pass over the scales. Under the new procedures instituted after the equipment change the recording of the information, performed by the Weigher as the buggies approached the scales, is done at the Stockhouse (where the buggies are loaded) by the incumbent of the newly established job of Stocker Leader. While working with the loading of the buggies, he lists the identification numbers, the contents, etc. on a form, titled Geneva Stockyard Switch list, which upon completion he gives to the Conductor of the string of buggies. At the Scalehouse the Conductor releases the scales beam, presses a button to cycle the machine to the proper position, if necessary, and the weighing begins. When the string clears the scales, the Conductor deactivates the scales, tears off from the roll of tape the list of printed weights and delivers it (together with the Stockyard Switch List) to the Stock Distributor on the charging floor. The latter adjusts the weights and enters them on the Stockyard Switch List, the work formerly done by the Weigher in connection with his Stock Weighers Report. Tare adjustments, however, are not required for the three-pan buggies inasmuch as the new equipment records the net weight for these buggies. 5

The Primary Function of the new job of Stocker Leader, referred to above, is : "To direct and perform stocking work to insure satisfactory loading and delivery of open hearth charging 6

materials and supplies to the charging floor." According to the testimony of Stockyard General Foreman Leaming, the Stocker Leader acts as coordinator for the Stockyard Turn Foreman in relaying changes in the loading sequence to the Stockyard Crew. The job is rated two points higher than the Job Class 4 Stocker job in Factor 7 (Responsibility for Operations) on the basis of the gangleader convention and is accordingly two job classes higher than the latter job. The Stocker unloads the Open Hearth charging materials from railroad cars and loads the materials into the charging pans. One of the crews of three Stockers was promoted to the Stocker Leader job.

The description of the changes in the weighing procedure, presented above, is based essentially on the testimony of grievant Waid, an incumbent of the Weigher job from 1950 until two weeks following the change in question, and who has been scheduled as a Weigher on the occasions that the new equipment has failed to work properly. 7

It is also not disputed that the duties of relaying messages from the Stockyard turn foremen to the Stockyard Crews and Conductors, previously done by the Weigher, is now being done by the Stocker Leader. According to Company Exhibit C (attached to the Step 3 minutes), the tasks of relaying information and instructions to Stockyard and Train Crews (verbal, telephone, etc.) is described as a former Weigher duty which was reassigned to the Stocker Leader. 8

Leaming estimates that a total of less than two hours of weighing time per shift is required on the basis of an average of five strings per shift, an average of 30 to 45 buggies per string and a weighing speed of three buggies per minute. Waid says that at a nine- or ten-furnace level of operations eight or nine strings of charging materials are required per shift; and he estimates that weighing time does not take more than two hours per shift. 9

With respect to other aspects of the changes in weighing procedure the parties are in disagreement. Waid testified that someone has to be present in the Scalehouse to see that the 10

scales are weighing properly, especially in winter when the trip lever may freeze and snow may get into the mechanism; that prior to the change the Weigher took care of these problems; that since the change in equipment the Conductors have been instructed that it is their duty to watch the scales; and that if a Conductor observes that something has gone wrong, he is required to stop the string, back it up and make whatever adjustments are necessary to correct the problem.

The Union also introduced in evidence four affidavits, signed by a total of ten members of Transportation Crews, which read in part that:

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"...Supervision, either in the person of Yardmaster or Stockyard Foremen, have occupied the scale house and have observed and attended the new scale whenever weighing was required."

The affidavits are dated September 28, 1964, approximately two months after the discontinuance of the Weigher job. The Company, describing the affidavits as "not the best evidence," questions their probative value.

Company witness Leaming's testimony is that for a short period after the equipment change either he or Stockyard Turn Foremen were in the Scalehouse in the discharge of their responsibility to observe how a new piece of equipment was working out; and, under cross-examination, that it is "not necessarily true" that someone has to be in the Scalehouse during the weighing procedure in the event something goes wrong with the new equipment. Yardmaster Goad, who is in charge of the crews that weigh the buggies, testified that he has not instructed Conductors to be in the Scalehouse during the weighing; that if a Conductor knows that something is wrong with the scales, "I think the Conductor should, and I think he will, stop"; and that "I would advise him any time he thinks that things are not going to normal procedure to stop and find out and let somebody know."

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The parties' testimony concerning changes in reporting requirements following the installation of the Fairbanks-Morse Printomatic equipment is summarized below. Union witness Waid testified that prior to the change a daily yard check of railroad cars containing Open Hearth charging materials was taken by Weighers on the day shift and on an "as needed" basis on the other two shifts; that on the yard check sheets were listed the car numbers, contents and the track on which they were located; that a yard check could take from 20 minutes to one hour and one-half, depending on the number of cars in the yard; that Weighers entered on the yard check sheets the debits of foreign cars, which they obtained by telephone from the Expeditor; that they released the empty cars, marking the yard check sheets accordingly, and wrote up a car release report; that Weighers then notified the Dispatcher that the empties had been released and on what track they had been placed; that the Company has eliminated some of the written reports; that under the new procedures a car release report is no longer written up; that the Yardmaster now releases and calls in the empty cars, noting them on a standard switch list; and that it is from the latter list, rather than the car release report formerly prepared by Weighers, that the Accounting Department obtains the required information.

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Under cross-examination Waid stated that in the last couple of years a Yardmaster has been regularly assigned to the east side of the yard; that this Supervisor took yard checks from time to time to the extent that he went through the yard and made some notes; that, however, he (Waid) has never known a Yardmaster to take a complete four- or five-page yard check after one was made by a Weigher; that Raw Materials Clerks always made a daily yard check of all Geneva Steel-owned cars, which are located in the west side of the yard; that on the occasions that a Raw Materials Clerk made his yard check before a Weigher did his, he would include in his check any foreign cars that were located among the Geneva Steel-owned cars; and that the Clerk would inform the Weigher that the latter could get the information from his list.

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Company witness Leaming's testimony is that the yard checks made by the Weighers covered only the D yard and were therefore of not too much value; that the daily yard checks

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taken by the Raw Materials Clerk were more comprehensive and included to a large degree the material included in the Weighers' reports; that he and the Stockyard Turn Foreman made yard checks throughout the shift before the equipment change, in the discharge of their Management responsibilities; that thus, the basic information required had always been available through Supervision's yard checks and those of the Raw Materials Clerks. Leaming stated also that there is "certain information we have to know as Management people..." and that a yard check similar to the Weigher's yard check is being made.

With respect to the recording of debits on foreign cars and the release of such cars, Leaming testified that the movement of foreign cars out of the Plant is primarily the responsibility of Management and is accomplished through the In-Plant Expeditor; that the latter makes a list each morning of the demurrage status of all revenue cars within the Plant and notifies the appropriate employees of their location and that they are ready for removal; that he (Leaming) was always checking on this item even before the change in weighing equipment. 16

Finally, Leaming testified that the report sheet totaling scrap, rock ore, etc. handled daily, formerly prepared by the Weigher at the end of the day, has been eliminated; and that this information is now obtained by the Accounting Department from another source (individual heat sheets), which was available prior to the equipment change in question. 17

CONTENTIONS

The Union contends that the duties performed by Weighers ever since the Geneva Works has been operating, are still being performed; that the Company has assigned these duties to other employees in violation of Section 2-B-3; that the only equipment change is the installation of a new head on the scales and a change in the location of the trip lever from the south to the north end of the scales; that the situation here is comparable to the change from a standard to automatic shift on an automobile; that an employee is still necessary to 18

perform the weighing functions; that the Company has not established a causal relationship between the equipment change and discontinuance of the Weigher job; and that therefore the Company has not justified its action under Section 2-B-4.

In support of its 2-B-4 position the Union cites Case USC-852. Relying on the Board's decision in Case T-232, the Union argues also that the Company's action cannot be supported under Section 9-D.

The Company argues that until the installation of the Fairbanks-Morse Printomatic equipment the Primary Function of the Weigher job could be performed only by having an employee present manually operating the Scalehouse equipment, taking and recording the weight of each buggy; that in performing this function the Weigher withdrew and inserted a ticket for each buggy that passed over the scales; that during non-weighing periods the Weigher prepared certain reports and performed other miscellaneous duties, many of which had no relationship to his primary weighing function; and that "The fact critical to these grievances is that the presence of the Weigher was essential for the recording of the weight for each buggy." (Original under-scoring.)

The Company's argument continues: that the installation of the new equipment resulted in drastic changes in the weighing activities and procedures; that the presence of a Weigher or any other employee is no longer required to record the weights of the individual buggies, this information now being recorded automatically as each buggy passes over the scales; that the primary weighing functions of the Weigher having been largely eliminated, the Company reviewed the reports prepared by the Weighers and determined that in most cases the information was no longer needed or was available from other sources; that these reports were eliminated completely, thus leaving only minimal miscellaneous duties; that some of these residual activities were not exclusively Weigher duties but were performed also by other employees, who in some instances had the primary responsibility for their performance; and that Management may properly discontinue duplication of activities for purposes of efficiency.

The Company argues further that other residual duties are being performed by Supervision; that inevitably, there are some situations where non-supervisory activities cannot be divorced completely from the performance of directional duties by Supervision, as in Cases A-803 and N-483; and that here the items complained of by the Union are a part of Supervision's primary responsibility or they are inherent in the performance of Supervision's assigned responsibilities.

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Contractually, the Company contends that the rationale of the Board's decisions in other cases applies here; that the mere fact that particular employees have performed certain duties in the past does not give rise to a local working condition; that there is no requirement under the contract that particular job duties be performed or that the job itself be filled indefinitely; that accordingly, unnecessary functions may be discontinued at the discretion of Management and jobs discontinued or even terminated in appropriate situations without violation of Sections 2-B or 9-D; that indeed, Section 9-D provides specifically not only for changes in job content but also for termination of jobs; that neither were these two Sections intended to prevent realignment or combination of job duties, particularly where they are made for purposes of overall efficiency; that, therefore, the assignment of the residual Weigher duties to other employees in the instant case was both appropriate and proper. In support of these arguments the Company cites Cases CI-257, USC-418, N-279, N-322, G-155, USC-1776, USC-417, -420 and USS-5013-S.

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Finally, with respect to the Union's 2-B-3 claim, the Company argues that it has established a causal relationship between the discontinuance of the Weigher job and the installation of the Fairbanks-Morse Printomatic equipment and the elimination of reports formerly prepared by the Weigher; that it is not necessary to show a precise mathematical relationship between the changed circumstances and the action taken, as the Board held in Cases N-146, USS-4911-S and A-803; that Case USC-852, on which the Union relies, is readily distinguished from the case at hand in that the Company combined two jobs under a reduced volume of operations without a change in equipment or methods of work.

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FINDINGS

Ever since the Geneva Works has operated, the Weigher job has been scheduled in the sequence of operations and functions that bring the charging materials to the Open Hearth furnaces. Working with the Stockyard and Train Crews that load the materials into charging pans and transport them in buggies to the Stock Distributor on the Open Hearth charging floor, the Weigher has recorded and weighed the materials, performed a coordinating function for the Stockyard Turn Foremen in relaying messages to the Stockyard and Train Crews and prepared certain non-weighing reports as required. During these years Management had the choice of establishing one of the three Stocker jobs on each turn as a Stocker Leader job and distributing the weighing and coordinating functions of the Weigher job among the other jobs in the sequence of operations. A Train Crew member, in addition to activating and deactivating the scales and carrying the recorded weights to the Stock Distributor, as the Conductor now does, could also have inserted and removed the weight tickets - a matter of seconds for each buggy that passed over the scales. 25

Thus, in the language of Case N-146, the accepted course of conduct characteristically repeated in response to a given set of underlying circumstances has been the scheduling of the Weigher job whenever the Open Hearth Department operated. It must therefore be found that the Scheduling of the Weigher job as an integral part of the crew engaged in the sequence of operations directed toward charging the Open Hearth furnaces is an established working condition protected by Section 2-B-3. 26

Accordingly, the appropriate contractual consideration is whether the Company had the right under Section 2-B-4 to discontinue the local working condition. As the Board held in USC-852, cited by the Union: 27

"While it is true that Management is entitled to change or eliminate a local working condition of this sort under Section 2-B-4, where the basis for existence of the local working condition is changed or eliminated, the Company must establish that a relevant change in the basis for the existence of the local working condition actually has arisen. Thus, when Management's action under Section 2-B-4 is challenged in the grievance procedure, the Company must 'justify its action.' As noted in Case N-146, this requires demonstration of a reasonable causal relationship between the change in underlying conditions and the action taken to modify the given local working condition...."

The Weigher job description lists the following duties under the working procedure (excluding cleaning the working area):

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"Weighs all material passing over scales such as scrap, cast iron, pig iron, ore, limestone, etc.

"Light weights buggies as required.

"Records on form provided all material weighed.

"Makes out various reports as required, such as unloading and car release reports, etc.

"As directed by Stockyard Foreman performs a variety of miscellaneous tasks required for Stockyard operations such as checking yard, relaying information, issuing instructions, running errands, tending heating furnace, etc.

"Uses telephone to take and relay messages."

The earlier detailed discussion under Background reveals that with the exception of one item, that dealing with the non-weighing reporting requirements of the job, all the Weigher duties are still being performed in essentially the same manner as formerly. The recording of identification numbers of buggies, their contents, whether they contain mixed materials, etc., which the Weigher performed as the buggies approached the scales, is now being done at the Stockhouse by the newly established job of Stocker Leader. The scales are activated and deactivated by the Conductor, who also periodically light weighs strings of buggies to establish or revise tare weights. The Stock Distributor, located on the charging floor, adjusts weights for mixed materials, computes tare weights on four-pan buggies and enters net weights on the form initiated by the Stocker Leader.

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Finally, the coordinating function which the Weigher performed for the Stockyard turn foremen in relaying instructions to the Stockyard and Train Crews is now done by the Stocker Leader. Clearly, contrary to the Company contention, modification of the scales equipment did not result in the "virtual elimination of the weighing function as it was performed prior to the equipment change." Nor, of course, did it affect the coordinating duties of the Weigher job.

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The Company emphasizes the fact that the physical insertion and removal of a weight ticket is no longer required with the installation of the Fairbanks-Morse Printomatic equipment. And it argues that "The fact critical to these grievances is that the presence of the Weigher was essential for the recording of the weight for each buggy." But in light of the above description of the reassignment of the Weigher's duties to three other jobs, including a newly established job, this task, performed by the Weigher incidentally to his identifying, computing and recording of charging materials, can hardly be held to be the "primary function" of his job. Aside from this fact, however, it is necessary for an employee to be present at the Scalehouse to observe that the scales are operating properly, as Yardmaster Goad's testimony reveals. The impact of the

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impression left by the instant record is that this piece of automated equipment, and the weighing operation for which it is used, are not of the type which can be left without an employee in attendance.

The Company is therefore not to the point when, relying on Cases N-146, USS-4911-S and A-803, it argues that it is not necessary to show a precise mathematical relationship between the changed circumstances and the action taken. There is no meaningful relationship at all between the discontinuance of the Weigher job and the elimination of the task of inserting and withdrawing weight tickets. Rather, the evidence would indicate that the new equipment was merely made the occasion for discontinuing the Weigher job.

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In view of the finding that the basic weighing and coordinating functions of the Weigher job are still required, the changes in the non-weighing reporting requirements of the job alone cannot justify the Company claim that the Weigher job is no longer necessary - even if its contention that all such reports have been eliminated is accepted. Actually, it appears that only one or two reports have been completely eliminated. According to General Foreman Leaming's testimony, information reported in the Weigher's yard check is still required by Management and is still being written up albeit in a different form and in less detail. The car release data are now noted on a standard switch list by the Yardmaster. In any event, there is no evidence from the Company, particularly as to the time required for the preparation of these reports, which would support a finding that there exists a reasonable causal relation between the changes in the non-weighing reporting requirements of the Weigher job and its discontinuance.

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AWARD

The grievances are sustained. The Company shall schedule the Weigher job and make whole the grievants for loss of earnings retroactively to the date the job was discontinued.

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Findings and Award recommended
by



Eli Rock, Arbitrator

This is a decision of the Board of Arbitration, recommended in accordance with Section 7-J of the Agreement.



Sylvester Garrett, Chairman