

Inland Steel Company,  
Indiana Harbor Works  
and  
United Steelworkers, CIO  
Local 1010

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Arbitration No. #131  
Grievance No. 17-D-73

Hearing: July 28, 1955

Transcript of Hearing Received:  
August 2, 1955

Company Post Hearing Brief Received:  
August 18, 1955

Union Post Hearing Brief Received:  
None Submitted

AWARD: September 11, 1955

CHARLES B. GORDY

ARBITRATOR

## THE PROBLEM

The letter of stipulation addressed to the Arbitrator under date of June 8, 1955, and signed by Mr. Lieberum for the company, and by Mr. Clifton for the union, states the subject of this Grievance in the following terms:

"The question to be decided by the Arbitrator is whether or not the Company was in violation of Article V, Section 5 of the July 30, 1952 Collective Bargaining Agreement when it denied Grievance 17-D-73 filed September 28, 1953. The Company contends that the Wage Incentive Plan 78-1624-1, Revision 1, installed March 1, 1954 (effective April 27, 1953) on the No. 7 Counting Machine in the Tin Plate Department does provide the opportunity to earn equitable incentive earnings in accordance with the provisions of Article V, Section 5 of the July 30, 1952 Collective Bargaining Agreement.

"Article XIV, Section 4 of the July 1, 1954 Collective Bargaining Agreement states:

"Pending Grievances. All grievances which were filed under the terms of the 1952 Agreement between the parties, as amended and supplemented, and which are now in the process of adjustment will be considered under the grievance procedure set forth in this Agreement and settled in accordance with the applicable provisions of the said 1952 Agreement, as amended and supplemented, in effect at the time the cause of the grievance occurred."

## The Union Position

The Union appeals from the Company's third step answer to grievance 17-D-73 made April 12, 1954, and raises the following issues:

1. Did the company have the right under Article V, Section 5 - to discontinue incentive plan 78-1624 and replace it with plan 78-1624-1? (Tr 6)
2. If the Arbitrator should rule that the Company had the right to discontinue and to replace as noted in (1), then does incentive plan 78-1624-1, revision 1, provide equitable earnings in accordance with the provisions of Article V, Section 5 of the July 30, 1952 Agreement between the parties?

The Union believes that its facts and arguments establish that "...the company had no contractual right to discontinue Incentive Plan 78-1624 and institute Incentive Plan 78-1624-1 and Incentive Plan 78-1624-1, Revision 1" and requests the Arbitrator to so find. The Union believes that, should the Arbitrator rule that the Company did have the right to institute these changes in wage plans, its facts and arguments prove that "the present incentive plan" does not meet the criteria of equity established in the agreement. Therefore, the Union requests the Arbitrator "to adjust Incentive Plan 78-1624-1, Revision 1 to meet the criteria of Article V, Section 5" (Tr 31).

## The Company Position

The company states that the issue of change raised by the Union is not pertinent to this grievance; and that the issue to be decided "is whether or not Wage Incentive Plan File Number 78-1624-1, Revision 1, provides equitable incentive earnings under the provision of Section 5 of Article V of the Collective Bargaining Agreement.

(Tr 49) To substantiate this position, the Company Attorney calls attention to the letter of stipulation quoted above and signed by the International Representative of the Union (Tr 6).

The Company claims wage plan 78-1624-1, Revision 1, "was developed and installed in accordance with ... the Agreement and that this plan fulfills the requirements of those provisions and particularly ... it provides equitable incentive earnings in relation to previous job requirements and previous incentive earnings. ... it contends that the rate in question is equitable in relation to the previous rate and is based on an attainable production level." (Tr 51, 52)

### THE FACTS

<u>The Exhibits</u>	<u>Company</u>	<u>Union</u>
Copy of grievance 17-D-73 filed 9-28-53		1
Answers to 17-D-73		
2nd step, 2-27-54		1A
3rd step, 4-12-54		1B
Grievance 17-C-106 filed 11-2-51		2
Wage plan 78-1624	B	3
Wage plan 78-1624-1	D	4
Wage plan 78-1624-1, revision 1	F	5
Margin of total earnings over base rate by occupation		6
No. 7 counting machine exhibits: equipment changes	M	7
Observed and standard times Check studies	G	8
Layout diagram	A	
Development of standards	C	
Check Study, 10-6-53	H	
Turns exceeding 50,000 sheets	I	
Base and Incentive history	J	
Earnings per hour	K & M	
78-1624		
78-1624-1		
78-1624-1, revision 1		
Average production per turn per month	L	
Delay analysis	O	
7-13-55		
Letter to Grievance Committeeman re 78-1624-1, dated 4-28-53	E	
Wage plan 78-1706, 6-12-53 assorting machines	N	

In addition to the above noted exhibits, the transcript of the hearing covered 162 typed pages. The company filed a post hearing letter of three pages calling the attention of the Arbitrator to pages 32-67 of the post hearing brief submitted in connection with grievance 16-C-238, and requested that the arguments herein contained be incorporated into the instant record. The Union did not submit a post hearing brief.

**Chronological record,  
Grievance 17-D-73**

This grievance concerns the pay plan, with revisions, devised to compensate operators of the #7 counting machine in the tin mill. The operation index 78-1624 is known as reckoning: it consists of counting tinned sheets or black plates of various sizes and gages; and collecting them so as to prepare the order for shipping. One operator is required on each turn. Hand reckoning is still performed on some sizes: and, prior to and since the installation of the #7 counting machine, assorting machines have been used in the counting operation. When the latter machines are used exclusively as counting units, two of them have a productive capacity approximately equal to the #7 machine, and one operator runs two of them. The sheets are inspected individually at benches adjacent to the counting machine, and are placed on wooden flats by the inspectors in numbers according to the size of the customer's order. These "lifts" are moved to the receiving roller conveyor of the counting machine by fork lift trucks.

Grievance 17-D-73 came into being through the following sequence of events:

1. Prior to July 24, 1951, the #7 counting machine operator was paid an hourly rate; but on this date wage incentive plan 78-1624 was installed. (Tr 7,54)
2. 30 days after wage plan 78-1624 was made effective, or about August, 1951, some changes were made in the operating mechanism of the #7 machine (Tr 7,65)
3. Grievance 17-C-106 was filed November 2, 1951 alleging that wage incentive plan 78-1624 did not provide an equitable rate for size changes; and that sheets longer than 32" and weights under 80 pounds should pay 5% more than is paid for other sizes and weights. Objection was also raised as to the bonus base for this operation as compared to that for the assorting machines. (Tr 7, union Ex. 2)
4. Early in November, 1951, operating supervision decided to experiment with increased speeds on the #7 machine. The resulting increase in counting speed and decrease in handling time was due to electrification of the feeding hoist and the addition of a new vacuum pump feeding system (Tr 66).
5. On January 21, 22, 1952, the revised wage plan 78-1624-1 covering changes noted in point 4 was presented to the Union (Tr 67, Company Ex. D).
6. Plan 78-1624-1 was rejected by the Union (Tr 10, 69).
7. Rather than install the revised plan 78-1624-1 without agreement, operating supervision decided to discontinue use of the #7 machine and transfer the operation to the assorting machines. This transfer was made January 28, 1952 (Tr 10, 69).
8. On February 5, 1952, step one answer to grievance 17-C-106 was made by foreman Schriener. This answer stated that transfer of the counting operation to the assorting machines rendered any further processing of the grievance unnecessary. (Tr 10, Union Ex. 2).
9. On November 14, 1952, the Company states (Tr 69) that the former counting machine operators asked that the decision to shut down the #7 machine be reviewed; and that wage plan 78-1624-1, presented January 21, 1951, be installed (Tr 70).

The Union version differs substantially at this point: it states that after the #7 machine was closed down on January 28, 1952, no further action by either party was taken until February 10, 1953; on this date the Company requested a meeting with the Union to discuss putting the #7 machine back into operation (Tr 11).

10. On February 10, 1953, wage plan 78-1624-1 was presented to the Union (Tr 70). The Union states that this was the same plan presented January 21, 1951 and rejected by the Union (Tr 11).
11. On April 24, 1953, the International Representative of the Union agreed that wage plan 78-1624-1 could be installed (Tr 15); but this agreement did not, however, include Union acceptance of the plan as one conforming to the applicable provisions of the agreement (Tr 70).
12. Plan 78-1624-1 was installed effective April 27, 1953.
13. Grievance 17-D-73 was filed on September 28, 1953 (Tr 15, 73, Union Ex. 1).
14. Subsequent action on Grievance 17-D-73
  - a) Check time studies were conducted during September and October 1953 (Tr 73)
  - b) The second step answer was made to grievance 17-D-73 on February 26, 1954, (Tr 15, 75). This answer consisted of the presentation of wage incentive plan 78-1624-1, revision 1, to be retroactive to and based upon the rates in effect on April 27, 1953 (Tr 15, 75).
  - c) Wage plan 78-1624-1, revision 1 was installed March 1, 1954 retroactive to April 27, 1953. This agreement to install, however, did not include Union acceptance as conforming to applicable provisions of the agreement (Tr 15, 81).
  - d) Operators on counting machine #7 have been paid average earnings since the installation of wage plan 78-1624-1 on April 24, 1953 (Tr 15). These average earnings, according to the agreement, must be not less than those received under the incentive plan in effect during the three months immediately preceding installation of the new incentive. These earnings for November and December 1951, and January 1952, the three months prior to installation since #7 was down from January 28, 1952 to April 27, 1953 amounted to a guarantee of \$1.495 plus an incentive base of \$.755, or a total of \$2.25 per hour (Tr 66). Subsequent general increases in wages (Company Ex J) have brought this interim earnings guarantee to \$2.695 per hour, as of July 1955 (Company Ex K).

Comparison of the three  
wage plans in issue

The three wage plans in issue are designated by number as follows:

- 78-1624
- 78-1624-1
- 78-1624-1, revision 1.

They may be compared on the basis of common provisions; and varying provisions.

Varying provisions: These varying provisions may best be described by the following table, and the comments which follow it:

	<u>Base rate</u>	<u>Incentive rate</u>	<u>Sheets at standard</u>	<u>Rate* 1000 sheets</u>	<u>Size change</u>	<u>5% for weight and size</u>	<u>Effective date</u>
78-1624	1.625	.755	33.600	.283	.088	No	7/24/51
78-1624-1	1.870	1.000	50.500	.194	.165	Yes	4/27/53 Supersedes 78-1624
78-1624-1 Rev 1	2.070	1.200	53.000	.215	.165	Yes	4/27/53 Supersedes 78-1624

\*regular sheets

On the last page of the published description of each of these three wage plans occurs this statement: "The attached rates have been established to apply to existing conditions as outlined in this plan and are subject to revision in the event of any change in method or equipment affecting production." The Arbitrator will have occasion to call attention to this statement later in the Award.

Variation in the base and incentive rates noted in the above table is due to increases made at various times through negotiation between the Union and the Company. These increases are covered in Company Exhibit J, but will be repeated here to complete the record at this point.

	<u>Base rate</u>	<u>Incentive rate</u>
7/24/51 Effective date of plan 78-1624	1.625	.755
4/27/53 Effective date of plan 78-1624-1	1.785	.915
6/12/53 General wage increase	1.870	1.000
7/1/54 " " "	1.920	1.050
7/1/55 " " "	2.070	1.200

Variation in the sheets required at time study standard performance, which varies from 33.600 to 53,000, is due, according to the Company, to successive mechanical improvements made on the #7 counting machine. The rate per 1000 sheets is the variable and incentive portion of the wage plans. It is to be noted, especially, that this portion was increased from a figure of .194 in plan 78-1624-1 to .215 in plan 78-1624-1, revision 1. The size change notation in the above table of comparisons is a constant allowed for each adjustment the operator has to make in the #7 machine as required by a change in the size of sheet fed into it. It is to be noted that the rate was increased from .088 in plan 78-1624 to .165 in both plan 78-1624-1 and in plan 78-1624-1, revision 1. In addition, in the published descriptions of plans 78-1624-1 and 78-1624-1, revision 1, occurs this statement: "add 5% to above rates per 1000 sheets when processing material 75# base weight and under, and material 32 inches in length or over." Wage plan 78-1624, the original plan was grieved on November 2, 1951 by grievance number 17-C-106, in which the Union claimed that size changes did not provide an equitable rate, and that 5%

should be added to the incentive rate for sizes 32 inches or longer and weights 80 and under (Union Ex. 2). In this grievance, also the Union claimed that the incentive base should be increased from .755 to .935, the level used to compensate assorting machine operators. It is to be recalled that in the meeting held January 23, 1952 to discuss grievance 17-C-106, wage plan 78-1624-1 was presented; and embodied in it are the size and weight changes requested by the Union. The Union states (Tr 10) that the Company granted no requests of the grievance; but the record is clearly to the contrary as far as size and weight changes are concerned.

It is necessary here to introduce an explanation of the method of developing the crew rates per 1000 sheets of .283 and .215 in plans 78-1624 and 78-1624-1, revision 1, respectively.

The original time study for 78-1624 (Company Ex. C) found that 15.16 minutes is the expected time required per lift; that the average lift contained 1120 sheets; and the incentive earnings per hour at the time the plan was in operation was \$1.255. The computation of the crew rate of .283/1000 sheets is then as follows:

$$\frac{1120}{1000} = 1.12 \text{ thousand sheets per lift on the average.}$$

$$\frac{15.16}{1.12} = 13.53 \text{ minutes / 1000 sheets.}$$

$$\frac{1.255}{60} = .0209 \text{ incentive earnings per minute}$$

$$13.53 \times .0209 = .283 \text{ the crew, or incentive earnings per 1000 sheets.}$$

A check study, September and October 1953, formed the basis for 78-1624-1, rev. 1. Because of changes made in the equipment, the expected time required per lift is now 9.81 minutes. Since the average incentive earnings during the last three months of the operation of plan 78-1624 amounted to \$1.495 (Tr 80, Company Ex. K), the incentive earnings per hour used was this \$1.495. The computation of the crew rate of .215 / 1000 sheets is then as follows:

$$\frac{1120}{1000} = 1.12 \text{ thousand sheets per lift on the average.}$$

$$\frac{9.81}{1.12} = 8.76 \text{ minutes / 1000 sheets}$$

$$\frac{1.495}{60} = .0249 \text{ incentive earnings per minute}$$

$$8.76 \times .0249 = .218 \text{ the crew or incentive earnings per 1000 sheets.}$$

This .218 is to be compared with .215 on Company exhibit F.

Had the Company followed its normal procedures in rate setting, \$1.358 would have been used in place of the \$1.495, because of the base and incentive rates in effect at that time.

Work loads, incentive opportunity

An item of importance in the comparison of these wage plans, which is not included in the above table, is the incentive opportunity afforded the operator to increase his earnings by increasing the output of the #7 machine. This opportunity arises primarily through the rate established for the counting of 1000 sheets.

In the original time studies (Company Ex. C) taken to establish plan 78-1624, it was computed that the operator had the opportunity to exert incentive effort for 67.5% of the turn (Tr 59).

On September 28, 1953 the instant grievance, 17-D-73 was filed. "Time studies were made in September and October of the #7 counting machine operation. These studies show that the ... operator would have the opportunity to work at an incentive rate of performance for 77.9% of the turn..." (Tr 73).

The increase from 67.5% to 77.9% in the opportunity to exert incentive effort during a turn represents, of course, a substantial change.

Mechanical changes,  
machine capacities

Of vital importance to the award which the Arbitrator must make in this grievance are the mechanical and electrical changes made over a period of time in #7 counting machines; and the subsequent changes in output. In this area, the positions of the Company and the Union are sharply divided; and the Arbitrator has available only the evidence presented in the exhibits and their agreement one with another as a basis for a decision. The exhibits presented by the Company on this subject, and the comments about them from the hearing record will be presented first, to be followed by similar evidence on the part of the Union.

Mechanical and electrical changes: "about 30 days after the effective date of ... 78-1624 (or in August 1951) some changes were made in the operating mechanism of the #7 counting machine ... The changes included the electrification of the feeding hoist and a new vacuum pump for the sheet feeding mechanism. These changes were designed to increase the potential counting speed and decrease the handling time required for feeding sheets into the machine. Early in November (1951) the Tin Mill Operating Supervision decided to experiment with speeds of approximately 165 sheets per minute" (Tr 65, 66). "Observations of the operating performance at speeds of approximately 165 sheets per minute on the #7 counting machine provided an experience which indicated that still higher effective speeds were possible if additional improvements were made. In order to insure the effective speed of 165 sheets per minute it was planned to make additional ... improvements which would include the electrification of the exit hoist, an improved conveyor belt system, and an extension of the exit conveyor" (Tr 66, 67).

However, the changes in the exit end of the machine, and an improved feeding switch, and replacing air equipment with magnets for sheet separation at the feed end were not made at the time plan 78-1624-1 was first presented to the Union January 21, 22, 1952 (Company Ex M). This is substantiated by the following quotation from the hearing record: "The increase in counting speed of the machine and the decrease in the handling time brought about by the electrification of the feeding hoist and the addition of a new vacuum pump feeding system, resulted in the original plan (78-1624) becoming inappropriate . . . . The Company presented a revised incentive plan in January of 1952 which was based on an effective speed of 165 sheets per minute" (Tr 66).



According to the record (Company Ex L, Tr 66), the changes made in the feed end of the #7 machine about August 1951, and the decision of operating supervision (Tr 65) to experiment with speeds of 165 sheets per minute early in November resulted in an increase in the average number of sheets counted per turn. For August, September, and October 1951 this average was 27.501; for November and December, 1951, and January 1952 it was 39.168 (Company Ex. L). Plan 78-1624-1 was rejected by the Union, and use of the #7 machine was discontinued January 28, 1952. The interim earnings guarantee, with subsequent general wage increases, upon which operators of #7 machine are paid are based upon the earnings obtained in November and December 1951, and January 1952. As of July 1955, this guarantee amounts to \$2.695 per hour (Company Ex E and K).

The planned improvements on the exit end of the #7 machine were made "Prior to the reactivation of the counting machine (4/27/53)... These improvements included the electrification of the exit hoist, a split level conveyor belt system, an improved feeding switch, and the extension of the exit end conveyor... The established counting speed /...was increased from 165 to approximately 200 sheets per minute which was and is a maximum rate imposed by the mechanical feeding capacity of the machine" (Tr 71).

Since reactivation of the #7 machine on April 27, 1953 to July 22, 1955, the average number of sheets counted per turn amounts to 36.277 (Company Ex L). It is to be noted that this average of 36.277 is less than the average for three months, of 39.168 obtained just before the #7 machine was deactivated, and when the front end only had been improved. When reactivated, not only was the exit end improved; but the feed end was improved over those made in 1951 (Tr 73).

The Union evidence on changes in the #7 machine consists mainly in statements made by an operator (Tirilis) as a result of cross examination by the International Representative, and certain claimed conflicts in the evidence presented by the Company.

The operator, in response to questions of the International Representative, agrees that: a new vacuum pump was installed, and that it speeded up #7 a little (Tr 33); that the feeding hoist was electrified, but that made for no faster lifting (Tr 34); that the exit hoist was electrified (before), but did not speed it up (Tr 34, 35); that the conveyor at the exit end was extended, but later shortened (Tr 35). In general, the Union claims that just about the same amount of product can be turned out after the changes as before, and that "it all depends on the material" (Tr 35, 36). It is perhaps well to note at this point that the operator has "... control of the speed" (Tr 34) of the #7 machine.

The Union presents some reservations to the changes in the #7 machine as stated by the Company. "... had ... 78-1624 become inappropriate because of changes made in August of 1951, as the Company alleges, their recourse was to have made the change in the rate at that time and not some five months later after their employees, on this machine, had filed a grievance asking for an upward revision of the rate because the earnings were not satisfactory. Nor would the Company have any right at this time to attempt to justify their action in discontinuing ... 78-1624 by citing the changes which were made in March of 1953 and which changes were not made at the time the rate was formulated in 1951 and were not made until after ... 78-1624-1 was installed on March 1, 1953" (Tr 19, 20). The grievance referred to in this quotation is 17-C-106, filed November 2, 1951. "Rate Plan 78-1624-1, which superseded Rate Plan 78-1624, did not provide equitable incentive earnings, even after the changes were made in March of 1953, and the Company so recognized by discontinuing it and installing Rate Plan 78-1624-1, Revision 1" (Tr 20). "... the Company as attempted

to bring into the grievance changes that were made after the rate plan 78-1624-1, Revision 1, was installed" (Tr 37). "... the Company installed the original rate, 78-1624, in July of 1951 and made changes in August of 1952" (Tr 38). "Actually I do not know of any time study being made following March 1st of 1954 when this rate was installed." (Tr 37). "It is the Union's opinion ... that the original changes ... were solely for the purpose of creating a subterfuge, to change the rate ..." (Tr 38).

The passage of time since July 1951, when the original rate 78-1624 was installed, uncertain memory, and failure to keep precise records - universal human traits - probably account for this lack of agreement as to the dates certain changes were made in the #7 machine. Certainly, the Company brief "... it was planned ..." (Tr 67) somewhat confused the issue; for the impression is given that all changes were made prior to presentation of 78-1624-1 to the Union on January 21, 22 of 1952, which, according to the understanding of the Arbitrator, is not the case.

Painstaking cross-checking of the records submitted in this grievance indicates that the change sequence is as follows:

1. Changes in the feed end of the #7 machine were made about 30 days after 78-1624 was installed in July 1951. These changes, with certain experiments by operating supervision in November, 1951, resulted in the construction of 78-1624-1. This plan was rejected by the Union on January 28, 1952.
- = 2. #7 machine was withdrawn from production on January 28, 1952 and remained out of production until April 27, 1953.
3. The statement by the Union "...and made changes in August of 1952" (Tr 38) is clearly in error.
4. Certain changes were made in both ends of the machine (Tr 67), prior to re-activating it on April 27, 1953 (Tr 72).
5. Grievance 17-D-73 was filed September 28, 1953 on plan 78-1624-1. Time studies were conducted in September and October 1953 (Tr 67, Company Ex G, H). These were check studies.
6. Plan 78-1624-1, revision 1 was developed and installed March 1st, 1954 to bring 78-1624-1 earnings "... equal to the guaranteed average total earnings being paid immediately prior to April, 1953 (\$1.495 earnings in the last 90 days before the machine shut down) plus the \$.915 incentive base then in effect..." (Tr 80)
7. According to the understanding of the Arbitrator, the check studies of September and October, 1953 was the first time the full changes noted in point 4 above were factored into the wage plan. When these changes were taken into account, the result was plan 78-1624-1, revision 1 presented as the 2d step answer to the instant grievance, 17-C-73.
8. The intent of the statement by the Union that, to its knowledge, no time studies were made following March 1, 1954 (Tr 37) is not clear to this Arbitrator. Its contribution to the development of the case is equally obscure.

## Productive capacity

The output required at the time study production standard is as follows:

78-1624	33,600 sheets / turn.	Machine capacity	100 sheets / min.*
78-1624-1	50,500 " " " "	200 " "	" "
78-1624-1, rev. 1	53,000 " " " "	200 " "	" "

\*regular material

The evidence, from a somewhat confusing record (Tr 56, 66, 73, 78), is that the effective speed expected by the time study standard is an average (regular and blackplate) of 97 sheets / min. for plan 78-1624, and 165 sheets / min. for the other two.

The Company relies upon the following evidence to indicate that 53,000 sheets can be counted per turn as required by 78-1624-1, revision 1:

1. Operator turned out 53,500 sheets with 4 size changes on October 6, 1953 (Tr 81, 88, Company Ex G, H). This was the turn on which a check study was made.
2. Company Exhibit I shows 14 turns between November 15, 1951 and October 27, 1953 in which operators produced in excess of 50,000 sheets per turn (Tr 90, 91, 92). Although the average, as noted above, was 36,277 per turn between May 1953 and July 1955 (Company Ex. L). It is to be recalled that changes were made in the feed end of the #7 machine about August 1951, and that changes were made in both ends of the machine before it was reactivated April 27, 1953.
3. A green operator obtained 42,000 sheets in one turn "a number of years ago" when the rate was set at 97 sheets per minute under plan 78-1624. (Tr 123).
4. A check of #7 machine was made July 13, 1955 by Murzyn, Industrial Engineer, for a full turn "...at which time I observed speeds of in excess of 185 sheets a minute" (Tr 135). "...I (Federoff, Industrial Engineer) made a recent check, which is July 20th of 1955. ... The expected speed for that particular item on standard is 155 sheets per minute. This was the observed sheet count ... indicating they had met the standard ..." (Tr 132).
5. It is claimed by the Company that operators fail to consistently equal expected output of 53,000 sheets per turn due to:
  - a) Speed of the machine is not adjusted promptly with a change in conditions (Tr 133, 136). Again, the operators can vary the speed as noted before.
  - b) Clerical work can be done while the machine is operating (Tr 122, 139, 141, 147, 155).
  - c) Proper effort is not expended by operators (Tr 122, 131, 148)
  - d) Operators do not plan the work properly (Tr 122, 145, 155).
  - e) Variation in material does not prevent an output of 53,000 (Tr 124).

The Union contends, in answer to the above Company claims on capacity, that a speed of 53,000 sheets per turn cannot be maintained on the #7 machine (Tr 157). It does not deny that 53,000 may be exceeded on some shifts. These claims are based upon the following statements:

1. Some material runs through the machine with less trouble than others (Tr 36, 148, 151).
2. Delays are encountered in obtaining tractor service (Tr 155).
3. Size changes reduce output as the number per shift increases (Tr 155, 156). It is well to note at this point that size changes, perhaps by better planning, have tended to decrease (Tr 107).

Earnings, operators  
on #7 machine

At present, operators of the #7 machine are paid an interim earnings guarantee of \$2.695 per hour (Company Ex. K), which for an 8 hour turn equals \$21.56. If the expected output of 53,000 sheets per turn is calculated according to 78-1624-1, revision 1, sheet 3b - which includes wage increases as of July 1, 1955 - the total earnings with 4 assumed size changes will equal \$21.655

As a part of Exhibit I, the Company includes the incentive earnings calculated on the turns in excess of 50, 000 between November 15, 1951 and October 27, 1953. These incentive earnings are computed by each of the three plans in issue. If the incentive base, \$1.20 now applicable to 78-1624-1, revision 1, and the incentive base of \$.755 applicable to 78-1624 during its use (7/24/51 to 1/28/52) are added it will be found that the total earnings per shift vary by only a few cents; in 7 of the 13 cases 78-1624-1, revision 1 yields a few cents more than 78-1624; and in 6 cases a few cents less. In every case, plan 78-1624-1 yields lower incentive earnings than either of the other two plans. To reiterate, crew rates per 1000 sheets are as follows:

78-1624	.283
78-1624-1	.194
78-1624-1, rev. 1	.215

Earnings data presented by the Union (Ex 6) consists of the margin of total earnings over base rate by occupations in the tin mill. This shows that "the ratio of incentive earnings to base rate for the department as a whole during the second quarter of 1953 was 35.6. During the same period the ratio of incentive earnings to base rate for the assorting and reckoning group, to which counting belongs is 41.6. The assorting machine Feeder Piler has a margin of incentive earnings over base of 52.3 The assorting machine counter has a ratio ... of 38.7" (Tr 22).

Between pages 26 and 28 inclusive of the hearing record, the Union compares earnings computed by the three plans. This is important to the Union position in the case and needs to be considered carefully. "Adding the general wage increases to the total earnings under ... 78-1624, ... would result in total earnings of \$18.44 for 33,600 sheets ... run and with four size changes. Compare this with the total earnings ... for 53,000 (78-1624-1, rev. 1) sheets run and four size changes of \$20.055. This shows additional earnings of only \$1.615 for producing 19,400 more

sheets..." (Tr 28). It should be realized, however, that this comparison is not really legitimate, for it tacitly assumes that the same effort is required in each case. However, the machine characteristics under plan 78-1624-1, rev. 1 are not the same as those when 78-1624 was in operation; for marked changes were made as have been discussed elsewhere in this award. To the satisfaction of the Company industrial engineering department at least, the measure of these changes is reflected in the crew rates per 1000 sheets as quoted above from the pay plans.

The Union further, in its earnings presentation, calls attention to the assorting machine counter with a ratio of incentive earnings over base of 38.7 (Tr 22). This machine can be used for counting exclusively, as is the #7 counting machine, and one operator runs two of these machines. It also calls attention to the tin plate reckoner, a hand operation, with a ratio of incentive earnings over base of 80.7 (Union Ex. 6). The Company (Ex. N, Tr 108) calls attention to the fact that the rates, base and incentive, for the assorting machines, when used as counting machines, is identical "with that of the #7 counting machine;" and that the tin plate reckoner is a heavy hand operation (Tr 107)." "Identical with the #7 machine" refers, of course, to the rates in 78-1624-1, revision 1, the plan in dispute.

#### THE CONTENTION OF THE PARTIES

##### The Union

The Union Contends That:

1. The Company had no contractual right to change plan 78-1624 in January, 1952 in answer to grievance 17-C-106 (Tr 19).
2. Changes made in August 1951, and in March 1953 did not render plan 78-1624 inappropriate (Tr 20).
3. Rate plan 78-1624-1 did not provide equitable incentive earnings to the employees involved even after the changes made in March of 1953, and the Company so recognized by discontinuing it and installing 78-1624-1, revision 1 (Tr 20).
4. The changes in the mechanism of the #7 machine did not permit the operators to turn out more production (Tr 122).
5. The rate of output depends upon the material run through the machine (Tr 36), (122, 147).
6. In the Union's opinion, "the changes made in August, 1951 were solely for the purpose of creating a subterfuge to change the rate agreed upon (78-1624) between the Union and the Company" (Tr 38).
7. The speed of 33,000 sheets per turn (tr 81) required by 78-1624-1, rev. 1 is not maintainable speed (Tr 130, 131, 157).
8. Delays encountered in the operation of the #7 machine are not the fault of the operators (Tr 142, 143).

##### The Company

The Company contends that:

1. The increase in counting speed of the machine and the decrease in handling time brought about by electrification of the feeding hoist and the addition of a new vacuum pump feeding system resulted in the plan 78-1624 becoming inappropriate. A revised incentive plan was presented in January of 1952 based on an effective speed of 165 sheets per minute (Tr 66). This plan was 78-1624-1.
2. Prior to reactivation of the #7 machine (April 27, 1953), changes were made to both the feed and exit ends which increased the counting speed from 165 to 200 sheets per minute (Tr 72).
3. The instant grievance was filed September 28, 1953, and time studies conducted that month and in October show that operators would have the opportunity to work at an incentive rate of performance for 77.9% of the turn, including rest and personal allowance, at the expected production level of 53,000 sheets per turn (Tr 73). These were check studies (Tr 74).
4. Plan 78-1624-1, revision 1 was developed to equal the guarantee paid prior to April, 1953, or for the last 90 days #7 machine was in operation prior to the shut-down on January 28, 1952 (Tr 80).
5. Operators are able to maintain a speed of 53,000 sheets per turn if they expend proper effort and plan their work properly (Tr 81, 88, 90, 91, 120, 121, 122, 132, 135, 157).
6. Plan 78-1624-1, revision 1, meets the test of equitability established in Article V, Section 5 of the contract; and that, since this is a replacement incentive, the proper test of equitability is previous job requirements and previous incentive earnings (Tr 23, 24, post hearing letter of 3/13/55 referring to post hearing brief pp 32-67 submitted in grievance 16-C-288).

#### THE ARBITRATOR'S APPRAISAL OF THE FACTS AND CONTENTIONS

##### Change in the #7 counting machine

The Arbitrator believes the record sufficiently establishes that substantial changes have been made in the #7 counting machine. Changes made in August and September, 1951 (about 30 days after plan 78-1624 was inaugurated July 24, 1951) resulted in a substantial increase in the incentive earnings of the operators: in August, 1951 the incentive earnings per hour were \$1.053; and in December, 1951 they were \$1.561 with no change in the rates of pay during that period. During this period (under 78-1624) a new operator, with no previous contact with the #7 machine, obtained an output of 42,000 sheets in an 8 hour turn (Tr 123). The expected output, by the time study standard at this time, was 33,600 sheets. The average number of sheets counted for the last three months of operation under 78-1624 was 39, 168; since May, 1953, the average is 36,277. Observation of the operation in the shop indicated that the mechanisms claimed by the Company to have been installed were in operation. In fact, the operator admitted (tr 33) that changes were made, but claimed they did not speed up the machine. The operator, also, (tr 41) seems to have participated to some extent in the improvements.

No, the Arbitrator cannot accept the Union's claim (Tr 38) that the changes of 1951 were a subterfuge to adjust the rate: the evidence is against it; and contact with industrial engineering practices in past arbitrations indicates that the Company does not operate in the fashion that this charge indicates. The first sheet of Exhibit K, and Exhibit M are sufficient evidence of these changes.

Grievance 17-C-106 was filed November 2, 1951 requesting: 1) that the allowance for size change be increased from .088 to .160; 2) that a 5% allowance be added for weights 80 pounds and under, and for sizes 32" and longer; and 3) that the bonus base be increased from .755 to .935 to equal that paid on the assorting machines. The Union states (Tr 10) that instead of granting any of the requests of the grievance, the Company asked the Union to agree to a new rate. This meeting was held January 23, 1952, and the "new rate" was 78-1624-1. If this wage plan be examined (Company Ex. D, Union Ex. 4) it will be found that the size change; and the weight and length change requested by the Union in 17-C-106 are included in the new plan: a most satisfactory way of answering a grievance. The Ethiopian in the woodpile is, of course, the change in the crew rate from .283 to .194 due to the changes discussed in the third paragraph above. The bonus base request of .935 is amply covered by the Company (Tr 108, Ex. N) showing that the bonus base is the same when the assorting machines are used exclusively as counting machines.

The problem of change now reverts from evidence to interpretation of the contract, for the Union (Tr 31) requests the Arbitrator to rule that the Company "had no contractual right" to discontinue plan 78-1624. The portion of the contract which governs the Arbitrator in granting or denying this request is Article V, Section 5, paragraph 2. In many Union-Management contracts, specific rules are set up to govern changes in standards as a result of equipment change: for example, times of only those elements affected may be changed. Careful examination of the applicable paragraph in this contract indicates no restrictions on the Company either expressed or implied. It is stated that: "...in cases where an incentive plan in effect has become inappropriate by reason of new or changed conditions resulting from mechanical improvements made by the Company...the Company shall have the right to install new incentives..." By no stretch of the imagination, by no semantic manipulation can this Arbitrator twist this clear statement into an authority to rule that the Company had no contractual right to change 78-1624; and he so rules.

Changes in the #7  
counting machine  
prior to reactivation  
April 27, 1953

As a preliminary to what will be considered here, some reiteration in the nature of a summary is necessary. Grievance 17-C-106 was filed November 2, 1951; January 21, 1952 plan 78-1624-1 was presented to and rejected by the Union; operation of the #7 counting machine was discontinued January 28, 1952; the #7 machine was put back into operation under plan 78-1624-1 April 27, 1953, but subject to grievance; grievance 17-D-73 was filed September 28, 1953; in the second step answer to this grievance, 17-D-73, the Company presented plan 78-1624-1, revision 1 on February 27, 1954; and the latter plan was made retroactive to April 27, 1953. However, neither 78-1624-1 nor 78-1624-1, revision 1 included "...acceptance of the plan as conforming to the applicable provisions of the ... agreement (Tr 81); and, therefore, operators of the #7 machine have been paid an interim earnings guarantee since May 1953. In other words, the operators have never been paid by the computations of the two plans following 78-1524: the Company has merely been conducting

an arithmetic exercise in comparing the earnings under the plans with the interim guarantee (Company Ex. E). with general wage increases, this guarantee reached \$2.695 July 1953. (Company Ex. K)

This Arbitrator considers that the average production per turn following May 1953, the first month after reactivation, which is disclosed in Company exhibit L has no probative value in this case. The reason for this position is simply that the earnings guarantee is at such a high level that the operators have nothing to gain by agreeing to the actual operation of 78-1624-1, revision 1. As noted above under "Earnings of operators on #7 machine," production at standard of 53,000 sheets by this plan will yield 9¢ per shift (21.63-21.56) over that paid by the guarantee. These high guaranteed earnings are the result of the changes made in the feed end of the machine (Company Ex. K), yet plan 78-1624 was not withdrawn during the three months. On the other hand, Company exhibit I indicates that 14 turns between November 11, 1951 and October 27, 1953 resulted in production above 50,000 sheets; and on October 27, 1953 in 60,480, although no size change was involved. A production of 53,505 sheets, with 4 size changes, was obtained October 6, 1953 when check studies forming the basis for 78-1624-1, revision 1 were conducted. Included in the discussion under the heading "Productive capacity" are numerous references to lack of effort, lack of planning, and lack of adjustment of the speed of the machine on the part of the operators. Two instances in this record seem especially noteworthy: on the score of effort, it was admitted that operator did "not wholeheartedly" make an effort to produce the greatest amount of production (Tr 148); and on the score of better planning to reduce idle time, it was admitted that improvement was possible. (Tr 152, 155)

The net result of this situation is that the Company is getting much less output than the machine is capable of producing, and the operators are receiving practically the same earnings (at standard) that they would receive if paid under the plan (now revision 1). Credulity is strained beyond any reasonable bounds to accept at face value the contentions, covered above under the heading "Productive capacity," that output cannot be increased, and that changes made by the company had no effect on output. It is well to remark at this point that an inspection operation immediately precedes this counting operation, which surely insures regularity in the material.

The Arbitrator now wishes to direct attention to the question of change in the #7 machine prior to activation April 27, 1953 in conjunction with the "expected production level" (Tr 81) for plans 78-1624-1 and 78-1624-1, revision 1. Under the heading above "comparison of the three wage plans in issue" it is pointed out that the expected production level of -1 is 50,500 sheets, and 53,000 for -1, revision 1. Under the above heading "Mechanical changes, machine capacities" it was pointed out that certain changes were made in both ends of the machine prior to reactivation April 27, 1953, and that 78-1624-1 was installed (not accepted by the Union however, as has been noted). If 78-1624-1 was installed before the changes were made "before reactivation," as apparently it was (Tr 70), the move seems pointless. Nowhere in the record is there evidence that changes were made to the #7 machine after the period designated as "prior to reactivation."

The effective speed for 78-1624-1 was 165 sheets per minute (Tr 66,100); and 78-1624-1, revision 1 was established on an effective speed of 165 sheets per minute (Tr 78). Since the incentive opportunity was 77.9% in the September and October 1953 time studies, and no further, studies were taken in constructing revision 1, it must



be that the 77.9% incentive opportunity applied also to it. In fact, the Company says that revision 1 was constructed to equal the \$1.495 incentive earnings obtained during the last three months of the operation of 78-1624. The Computations under the heading "work loads, incentive opportunity" confirms this position.

This somewhat lengthy summary is introduced to make it clear that the evidence indicates, to this Arbitrator at least, that the #7 machine can produce at the expected level of 53,000 sheets: the 50,500 sheets applied to front end changes, with an incentive opportunity of 67.5%; and the 53,000 sheets applied to changes in both ends of the machine, with a 77.9% incentive opportunity. The Union, obviously, would prefer the .283 crew rate in place of the .215 crew rate, but seldom are men able to view things objectively under the influence of strong self interests.

Although nothing sinister can be charged against the Company, it does appear that certain moves may be questioned on the basis of the confusion they undoubtedly caused. In the first place, 78-1624-1 was presented to the Union when the #7 machine was reactivated and "installed" before the check studies were made, and before the crew earnings were adjusted to the \$1.495 earnings enjoyed during the last three months of the operation of 78-1624. I do not interpret the record to be that the Company brought into the grievance changes made after 78-1624-1, revision 1 was installed (Tr 37).

Crew earnings  
per 1000 sheets by  
the three plans

Apparently, plan 78-1624 satisfied the Company prior to the changes made in the #7 machine; and the Union, also, after the size and weight changes requested in grievance 17-C-106 were granted in plan 78-1624-1, and continued in revision 1 (the request to increase the bonus base included in this grievance has been considered elsewhere in this award). In fact, the Union (Tr 31) states that the Company had no right to discontinue 78-1624, but the contractual right granted in the contract to adjust incentive plans with a change in equipment renders this claim inadmissible. Furthermore, the .283 crew rate established in 78-1624 is no longer the proper rate in view of the mechanical and electrical changes made in the #7 machine discussed elsewhere in this award.

Under the heading "work loads, incentive opportunity" is explained the method of computing the crew rates of .283 and .215 (.218 according to the Arbitrator's computation). This indicates that both rates are computed on the same basic plans: the first before changes were made; the second after the changes were made, and \$1.495 incentive earnings per hour used in the computation. Under the heading "earnings, operators on #7 machine" it was pointed out that if expected production under 78-1624 and 78-1624-1, revision 1 is used, and the applicable incentive bases, then the earnings under the two plans are as nearly equal as human ingenuity can devise.

The issue

The problem is, of course, that the company does not obtain the output of which the #7 machine is capable, and the operators are paid, under the guarantee, at the same level that they would be paid were 78-1624-1, revision in actual operation.

Grievance 17-C-73 was filed on 78-1624-1, September 28, 1953. The second step answer, February 27, 1954, called attention to the presentation of plan 78-1624-1, revision 1. The third step answer, April 12, 1954, claims that 78-1624-1, revision 1 meets the criteria of Article V, Section 5 of the contract.

The Union claims the Company had no right to discontinue plan 78-1624, and requests the Arbitrator to so find. It further requests the Arbitrator to adjust plan 78-1624-1, revision 1 to meet the criteria of Article V, Section 5.

The letter of stipulation, signed June 8, 1955, concerns plan 78-1624-1, revision 1 as to its conformance with Article V, Section 5.

Summary of the  
Arbitrator's rulings  
to this point.

The rather lengthy analysis devoted to the issues presented in this fourth step consideration of Grievance 17-D-73 was made so that the parties may see by what process of thinking and by what weighing of the evidence the Arbitrator arrived at his decision. Parenthetically, it was made, also, so that the Arbitrator could assure himself that the award is honest and objective.

It may be well to summarize at this point the rulings on the various contentions considered under the major heading above entitled, "The Arbitrator's Appraisal of the Facts and Contentions of the Parties"

1. The Company was justified in discontinuing plan 78-1624.
2. Changes made in the operation of the feed end of the #7 machine were substantial, and warranted a revision in 78-1624.
3. Changes requested in grievance 17-C-106 were granted by inclusion in plan 78-1624-1, revision 1.
4. Changes made in the #7 machine "before reactivation," and the studies of September and October were ample justification for plan 78-1624-1, revision 1.
5. The 53,000 sheets per turn expected under plan 78-1624-1, revision 1 is reasonable.
6. Earnings under 78-1624-1, revision 1, at expected production, is equivalent to those of plan 78-1624; and, also, to the guarantee under which the operators are now paid.

The four criteria of  
equitableness in the contract

Under this heading, the Arbitrator can add little to that stated on pages 17 to 19 in the award made on grievance 16-C-288. However, each of the four points listed in Article V, Section 5, Sub Paragraph 4, will be considered with the objective of integrating the rulings with them. Since the Union states that there is no "like" department, only three criteria need be covered.

1. Equitable incentive earnings in relation to other incentives in the department.

In past grievances between these parties, this Arbitrator has ruled that a departmental average ratio of incentive earnings to base rates cannot be accepted; but that jobs must be compared as to the requirements involved, and the incentive effort afforded. It has been pointed out elsewhere that the crew rate on the assorting machines, when used exclusively as counting machines, is the equivalent of that for the #7 counting machine. It was noted, also, that the tin plate reckoner job was not comparable due to the physical effort required, and the incentive opportunity afforded.

2. Equitable incentive earnings in relation to previous job requirements.

It has been pointed out that the Union's claim that only \$1.615 is paid for 19,400 more sheets is not a legitimate one. This point was discussed under the heading "Earnings, operators on #7 machine." The above rulings indicate the Arbitrator's belief that the changes made renders the requirement of 53,000 sheets per turn a reasonable one as compared with the 33,600 under plan 78-1624.

3. Equitable incentive earnings in relation to previous incentive earnings.

Under the heading "Crew earnings per 1000 sheets by the three plans" it was pointed out that, with the expected production and the proper incentive base rates, the earnings under 78-1624 and 78-1624-1, revision 1 are as nearly equal as ingenuity can devise. Moreover, 78-1624-1, revision 1 earnings, at expected production, are equivalent to the presently guaranteed rate.

#### THE AWARD

When using the Company figures included in Exhibit G, the Arbitrator obtains a crew rate of .218 instead of .215 for plan 78-1624-1, revision 1. When this change is made, the Company may:

1. Discontinue the present guarantee (Company Ex. E).
2. Pay operators on the #7 counting machine by plan 78-1624-1, revision 1.

This Arbitrator considers that the Company is not in violation of Article V, Section 5 when it denied grievance 17-D-73.