

Corry Jamestown Corporation and Carol L. Baccus.
Case 6-CA-10360

September 22, 1978

DECISION AND ORDER

BY CHAIRMAN FANNING AND MEMBERS PENELLO
AND TRUESDALE

On July 20, 1978, Administrative Law Judge Robert M. Schwarzbart issued the attached Decision in this proceeding. Thereafter, Respondent filed exceptions to the Decision.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions¹ and has decided to affirm the rulings, findings,² and conclusions of the Administrative Law Judge and to adopt his recommended Order.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that the Respondent, Corry Jamestown Corporation, Corry, Pennsylvania, its officers, agents, successors, and assigns, shall take the action set forth in the said recommended Order.

¹ Respondent's request for oral argument is hereby denied, as the record and the exceptions adequately present the issues and the positions of the parties.

² Respondent has excepted to certain credibility findings made by the Administrative Law Judge. It is the Board's established policy not to overrule an Administrative Law Judge's resolutions with respect to credibility unless the clear preponderance of all of the relevant evidence convinces us that the resolutions are incorrect. *Standard Dry Wall Products, Inc.*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (C.A. 3, 1951). We have carefully examined the record and find no basis for reversing his findings.

DECISION

STATEMENT OF THE CASE

ROBERT M. SCHWARZBART, Administrative Law Judge: This case was heard in Erie, Pennsylvania, on October 25 and 26, 1977,¹ based upon charges filed by Carol L. Baccus, an individual,² and a complaint which issued August 30. The complaint alleged that Corry Jamestown Corporation, herein the Respondent, violated Section 8(a)(1) and (3) of the Act by discharging or laying off Baccus on April 22

¹ All dates hereinafter refer to 1977 unless otherwise noted.

² The original and amended charges were filed on June 30 and August 25, respectively.

because she had engaged in union or protected concerted activities. The Respondent, in its answer, denies the substantive allegations of the complaint and the commission of unfair labor practices.

All parties were given full opportunity to participate, to introduce relevant evidence, to examine and cross-examine witnesses, and to file briefs. Briefs, filed by the General Counsel and the Respondent, have been carefully considered.

Upon the entire record of the case and my observation of the witnesses and their demeanor, I make the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

The Respondent, an Iowa corporation, with its principal office located in Corry, Pennsylvania, is engaged in the manufacture and nonretail sale and distribution of metal office furniture.

During the 12-month period immediately preceding the issuance of this complaint, a representative period, the Respondent received goods and materials valued in excess of \$50,000 at its Corry facility directly from points outside the Commonwealth of Pennsylvania. The Respondent admits, and I find, that it is engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

II. THE LABOR ORGANIZATION INVOLVED

Lodge No. 1097, International Association of Machinists and Aerospace Workers, AFL-CIO, herein the Union, is a labor organization within the meaning of Section 2(5) of the Act.

III. THE UNFAIR LABOR PRACTICES

A. *The Facts*

The Respondent and the Union have been parties to a series of collective-bargaining agreements covering the production and maintenance employees employed by the Respondent at its two metal furniture manufacturing plants in Corry, Pennsylvania.³ The current contract, effective from September 3, 1975, to September 1, 1978, provides for a probationary period for new employees of 8 weeks from the time of their employment, during which time such new employees may not be placed on the seniority list and during which the Respondent reserves the right to transfer, suspend, and discharge them without regard to protections afforded under the terms of the contract to employees who have completed their probation.

It is uncontroverted that for the 5 or 6 years which preceded the events described herein, the Union has disputed the Respondent's practice of assigning employees in grade 7⁴ to do their own trucking. Trucking consists of the use by certain production employees of four-wheeled battery or manually powered four-wheeled vehicles called jacks to

³ The employees at the two plants comprise a single unit.

⁴ The Respondent compensates its production employees in approximately 13 pay grades, with employees in the more highly numbered grades receiving the greatest compensation.

move goods they have finished processing away from their machines, either to another production area for additional processing or for inspection. The jacks also are used in the scrap-dumping procedure whereby employees, on concluding their shifts, are expected to empty the receptacles at the bottoms of their machines of scrap metal accumulated during the workday, by trucking such containers to a designated area and there emptying these receptacles. The Union does not question the right of the Respondent to require that employees in grade 8 and above do their own trucking but contends that the job descriptions of those in grade 7 do not include trucking. Although the Respondent has continued to assign trucking to grade 7 employees, the Union has never filed a grievance on this point.⁵

Carol L. Baccus again became employed by the Respondent on February 28, when she began to work in the Respondent's press department on the 3:30 p.m. to midnight shift as a probationary employee,⁶ preparatory to a grade 7 position.

On or about April 20, William A. Mitchell, assistant foreman of the press department on Baccus' shift and her immediate supervisor, called a meeting of the approximately 12 press department employees, including Baccus, assigned to that shift.⁷ Mitchell told the assembled employees that he expected everyone thereafter to do their own trucking, including the grade 7 employees. Mitchell stated that he had noticed that Lawrence Clark⁸ had been doing this work for them, but that it was not part of his job, as Clark had other work to perform. Mitchell then spoke of the need to take certain specified safety precautions, cautioned against obtaining new safety gloves before the ones they had were sufficiently worn out, and announced that he expected the employees to clean up around their machines not just at the end of their shift, but whenever they completed a job. The employees were again reminded that when a job was done they were expected to truck their loads to the next work area for inspection.

Clark testified that earlier that evening he had been asked by Mitchell if he was doing most of the trucking for the

grade 7 employees. When Clark admitted that he had been so doing, Mitchell told him that from then on, grade 7 employees would do their own trucking. Clark testified that in so doing he had been helping approximately five female employees on the night shift, including Baccus, and had been making about 8 to 10 trucking trips per shift. After receiving Mitchell's instructions, as reiterated at the meeting that evening, Clark discontinued trucking for other employees.

Within 1-1/2 hours after the end of the employee meeting called by Mitchell, Baccus stopped Roy Benedict, the night shift supervisor to whom Mitchell reported, while he was passing by and asked if it was in the Union contract that grade 7 employees were to do their own trucking. Benedict replied, "No, but it's in Chuck's book."⁹ When Baccus replied that McFate, naturally, would say that, Benedict told her that that was his answer to her, too. He also stated that he did not like to have employees, particularly probationary employees, questioning his supervisors. Baccus returned to work.

On Friday, April 22, shortly after Baccus started work, Mitchell appeared and announced that he was very sorry but that he was going to have to lay her off. In response to her inquiry, Mitchell told Baccus that she was being laid off because her attitude in general and her attitude with regard to running the jacks was not good. When Baccus protested that she did not have any attitude one way or the other, he repeated that her general attitude was not for the betterment of the Company and that she would have to leave the premises by supper time—8:30 p.m. According to Baccus, Mitchell denied her accusation that he was firing her, stating that he only was laying her off. Baccus related that she gathered her possessions and went to see supervisor McFate, asking McFate what this was all about. McFate invited her into his office and told her that her attitude was no good and that she had to learn to work with management. When Baccus protested that she did work with management, McFate called Mitchell into the office to explain. On joining them, Mitchell again told Baccus that her attitude was no good and that she had tried to find a committeeman. Baccus stated that someone had been lying to him about that.¹⁰ Baccus told the two men to forget the whole thing, that she was going to leave, which she did.

That evening Baccus notified William A. Dean, the union president,¹¹ of her termination on the last day of her probationary period. Dean thereafter arranged for a meeting with Robert W. Sparkes, the Respondent's manager of manufacturing, who had overall responsibility for production and labor relations at the Respondent's two Corry plants.

Accordingly, on the afternoon of May 5, a meeting was held in the Respondent's offices, attended by Sparkes,

⁵ Although the Union's position that trucking not done by grade 7 employees predates the 1975 effective date of the current collective-bargaining agreement and rests upon the content of the job descriptions, that agreement expresses the parties' accord that during the preceding contract negotiations, the rates for all existing job classifications had been reviewed and agreed upon. Accordingly, the Respondent has taken the position that under the terms of the present contract, which, as noted, was negotiated during the pendency of this dispute, it may assign grade 7 employees to perform trucking. This decision is in no way addressed to the merits of this dispute.

⁶ Baccus previously has been employed by the Respondent as a spot welder in the welding department from April to October, 1974, when she was laid off for economic reasons. The report prepared by the Respondent at the time of her 1974 layoff showed that she had been rated as a good employee. Having been laid off for than 6 months, Baccus lost her original seniority, as provided in the contract, and upon her return to the Respondent's employ in early 1977, she began again as a new probationary employee.

⁷ Mitchell had replaced Roy Benedict as assistant foreman on the night shift of March 14, after Mitchell had worked for the Respondent for about 5-1/2 years as production employee. In this time, he had served 2 years as a union committeeman. Committeemen are employee-union representatives who are assigned to each department of six or more employees to give support to employees with grievances or other job-related difficulties, serving as spokesmen and initiating grievances, as applicable. Committeemen report, in their union capacity, to the plant shop steward.

⁸ Clark, a leadman and setup man on Mitchell's shift and a longtime employee, received work assignments from Mitchell and distributed them among the employees. Clark also checked whether the work was being properly performed.

⁹ Benedict's reference was to Charles McFate, supervisor of the machine department, to whom he and Mitchell reported. McFate usually worked in the plant from 7 a.m. to 3:30 p.m.

¹⁰ Mitchell corroborated Baccus' testimony that he had referred to her attempt to find a union committeeman during his meeting with Baccus and McFate. Mitchell testified that right after his April 20 meeting with the employees, he had overheard Baccus ask another employee for the name of the committeeman for the punch press department. The employee had replied that there was none and that she would have to see the committeeman in the brake department. This, as noted, is denied by Baccus.

¹¹ Dean was also a full-time employee of the Respondent.

Dean, Baccus, Benedict, and McFate. Baccus testified that at the start of the meeting Sparkes requested that she tell her story, which she did, repeating her April 22 conversation with Mitchell, as described above, where he informed her that she was being laid off because of her attitude in general and with regard to running the jacks. She told Sparkes that she could not understand why she was being laid off as she had always run the jacks and had never refused to accept or perform any assignment. Baccus also described to Sparkes her conversation later in the evening on April 22 with both McFate and Mitchell, where both men again had accused her of having a bad attitude. She related that Mitchell had repeated his charges concerning her attitude in general and with respect to the jacks and his observation that she had tried to find a committeeman.

In her summary to Sparkes, Baccus also related the details of the April 20 meeting of the press department employees, when Mitchell told the employees, including those in grade 7, that they thereafter would be expected to do their own trucking, and of her question, shortly after the meeting, to Benedict as to whether it was in the contract that grade 7 employees have to do their own trucking. She referred to Benedict's reply that he did not like anyone questioning his supervisors, particularly probationary employees.

Baccus' account was followed by a discussion between Sparkes and Dean as to whether grade 7 employees actually were required to perform trucking.

The meeting ended when Sparkes stated that he would talk to his supervisors and get back to Baccus within a week.¹² About 4 days later, Jack Downey, the Respondent's personnel manager, called Baccus and informed her that the Respondent had determined to adhere to its original decision to terminate her.

Machine department supervisor McFate testified that under the Respondent's procedures new employees are given three evaluations during their probationary period by their immediate supervisors, which are recorded on a special form called an Employee Progress Report. On this report, supervisors are expected to rate employees as "exceptional," "good," "fair," or "poor" in such categories as ability to understand and follow instructions, productivity, quality of work, safety habits and attitudes, dependability, cooperation, attendance and punctuality, and general attitude. The Employee Progress Report on Baccus shows that she was rated twice, on April 4 and 18, by Mitchell. In the first evaluation, Baccus was rated "good" in all categories. In the second rating, Baccus was marked "good" in productivity and quality of work, "exceptional" in safety habits and attitude, dependability, attendance and punctuality, and "fair" in ability to understand and follow instructions, cooperation, and general attitude. No third evaluation was given.

Baccus testified that Mitchell interviewed her only once, on about April 1, in connection with her evaluation, at which time he had expressed general satisfaction with her performance. Baccus also testified that before being notified of her termination, she had never been told that she had a bad attitude in any respect. It also is uncontroverted that

Baccus had never refused to accept or perform any assignment.

Baccus and fellow employee Mary Jeanne Neiswonger explained their reluctance to operate the jacks, particularly those which were electronically powered, by referring to the difficulties which they and other female employees had experienced in learning to maneuver them. Soon after Baccus had begun her employment in the press department, she had had a minor accident with one. While the manual jacks required less skill to operate, they also required more strength on the part of the employee and, therefore, were impractical for the women. However, after Mitchell's directive to the employees on April 20, both Baccus and Neiswonger, who worked near each other, took turns in trucking loads and did their own trucking in connection with scrap dumping.¹³

Mitchell, contrary to Baccus, testified that he also had interviewed her on April 18, in connection with her evaluation, completing the form while talking to her. At that time he had called Baccus' attention to her reluctance to operate the jacks. She told him that she would try but was afraid.

Mitchell explained that he had marked Baccus "fair" on ability to understand and follow instructions with reference to her trucking assignment because Clark, her leadman, had been required to show her more than once how to perform given production procedures.¹⁴ Mitchell also contended that Baccus did not clean the area around her machine with the desired frequency. He retreated from his original testimony that Baccus had a practice of going over his head to question assignments and conceded that the only two times that she had spoken to other supervisors at work were when she had questioned Benedict with respect to the union contract and when she had complained to a supervisor of another department about an employee under his jurisdiction who had been bothering her. It was this last incident upon which Baccus' rating of "fair" in cooperativeness was based, as it was Mitchell's view that as Baccus' supervisor, she should have come to him first with this problem.

Mitchell testified that he had spoken to McFate on two occasions as to whether Baccus should be retained after her probationary period. The first such conversation occurred about 1 week before her discharge, when Mitchell remarked upon Baccus' reluctance to operate the jacks and declared his intention to watch her with the hope that she would improve. He told McFate that she should be terminated only as a last resort.

The second discussion took place on April 22, the day of Baccus' discharge, just before the start of her shift. At that time, Baccus' probationary period was coming to an end and it was necessary to decide whether she should be retained. Mitchell again reported that Baccus was still reluc-

¹³ Baccus testified that she had questioned Benedict on April 20, as described above, for clarification, as she recalled having overheard an employee discussion as to whether grade 7 employees were to do their own trucking in 1974, when she first worked for the Respondent. Although in 1974 Baccus had been in grade 8, she had worked in a different department where trucking was not required.

¹⁴ Mitchell's assessment of Baccus' work is contradicted by Clark, who testified that she was a good production worker, had good work habits, did not require extra instruction, and had been cooperative with him. Clark, as noted, also testified that prior to April 20 he had been doing most of the trucking not only for Baccus, but for the other female employees as well.

¹² Baccus' description of the May 5 meeting is uncontradicted.

tant to do her own trucking and did not clean her work area with sufficient frequency, and noted that it was McFate's decision as to what to do about her. In response to McFate's request for a recommendation, Mitchell replied that Baccus' attitude was unsuitable and that he really did not want her working for the Respondent. McFate testified that he authorized Baccus' discharge essentially upon Mitchell's recommendation, as the latter had informed him that Baccus was continually questioning assignments, and on the report of Benedict, who had described to him the incident of April 20, when Baccus had questioned him on the contract, as described above. McFate related that Benedict's report was a principal factor in the decision to terminate Baccus and that there had been no intervening events between the time that Baccus had so questioned Benedict and the time of her termination. McFate related that he did not review Baccus' Employee Progress Reports before deciding to terminate her but had only a general idea of what they contained. When confronted with Baccus' rating on these progress reports, McFate conceded that her second and last evaluation did not warrant discharge. He also acknowledged that the category of general attitude was the summation of the other categories considered and, when viewed in consideration of the "exceptional" and "good" ratings received in certain other classifications, that Baccus' rating of "fair" in general attitude is inconsistent with the general tenor of the report. McFate noted that the Respondent's rules and regulations, applicable to all employees, provide for a system of progressive discipline proceeding from a written warning on the first offense to discharge on the fourth offense and that as Baccus had never received a written warning, this procedure had not been followed in her case.¹⁵

Mitchell and McFate appeared to be less than forthright, were inconsistent with their testimony, and are not credited. Mitchell was contradicted by the testimony of group leader Clark, a disinterested witness, in areas relating to the quality of Baccus' work, her job habits, and Clark's assertion that he had not found it necessary to give Baccus extra instruction. Mitchell also testified incredibly that he had not observed the 8 to 10 trucking trips that Clark had been making each shift for the various female employees, including Baccus, before April 20. As noted, Mitchell tended to exaggerate the extent to which Baccus questioned assignments and spoke to other supervisors, from which he was obliged to retreat.

McFate, with no knowledge of Baccus' productivity except for the "good" ratings that she had received on her Employee Progress Reports, completed an Employee Termination Report concerning her discharge on April 30, 8 days after the event, in which he downgraded her productivity to "fair." This documentary distortion, together with other instances of evasiveness and inconsistency in McFate's testimony, also adversely affected his credibility. Baccus and Clark and other witnesses called by the General Counsel are therefore credited.

¹⁵ Although the Respondent in its brief argues that progressive discipline was not applicable to probationary employees, McFate testified that the work rules, which set forth this system, were applicable to all employees.

B. Discussion and Concluding Findings

On the foregoing facts, it is found that major reasons for Baccus' discharge by the Respondent were her complaint about the need to do trucking, as reflected in her questioning of Benedict as to whether the Respondent was following the terms of the collective-bargaining agreement in assigning trucking duties to grade 7 employees, and Mitchell's belief that Baccus was looking for a Union committeeman to protest his instruction that grade 7 employees do their own trucking. The General Counsel contends that Baccus' complaint was an attempt to present her understanding of the collective-bargaining agreement and that she was discharged for this reason and the Respondent's fear that if she were permitted to complete the probationary period she would become an active committeeman¹⁶ and grievant.

The Respondent, in turn, contends that Baccus had been terminated for questioning management directives and assignments and that, as a probationary employee, she had not been discriminatorily treated, as she was not entitled to the protections afforded permanent employees under the collective-bargaining agreement.

It is well established that an employee is engaged in protected concerted activity when he complains about or questions possible violations by his employer of the terms of a collective-bargaining contract and that it is a violation of the Act for an employer to penalize an employee for making such complaints or for asserting rights under the contract.¹⁷ Such activity, the Board has held, is merely the implementation and enforcement of the terms of the collective-bargaining agreement and is therefore "but an extension of the concerted activity giving rise to that agreement" which Section 7 of the Act guarantees.¹⁸ The Board has held that the protected right of an employee to press such a complaint does not depend on the merits of his grievance, and the fact that he may have acted alone is not dispositive of the question of whether the conduct is protected activity within the meaning of Section 7.¹⁹ Complaints within the framework of the Union contract affect all employees, and therefore the pressing of such a complaint is concerted protected activity. The Board has long held that the merits of the employee's complaint or whether the employee understood the contract are irrelevant to the issue of whether the employee is engaged in protected concerted activity.²⁰ Moreover, it is well established that this protection extends even to probationary employees who assert rights under the collective-bargaining agreement.²¹ It is

¹⁶ No merit is found to the General Counsel's contention that the Respondent terminated Baccus because of her interest in becoming a Union committeeman. The General Counsel adduced evidence that on about April 13, while on break outside the foreman's office, Baccus had asked other employees who were with her for the name of the committeeman of their department. She was told that the post was then vacant, had been encouraged by employees to put in for the position, but had declined. However, there is no evidence that the foreman was in his office at the time or that he had otherwise overheard this conversation.

¹⁷ *Pollatch Corporation*, 236 NLRB 707 (1978); *ARO, Inc.*, 227 NLRB 243 (1976); *Merlyn Bunney and Clarence Bunney, partners, d/b/a Bunney Bros. Construction Company*, 139 NLRB 1516 (1962); *Interboro Contractors, Inc.*, 157 NLRB 1295 (1966), *enfd.* 388 F.2d 495 (C.A. 2, 1967).

¹⁸ *Bunney Bros.*, *supra* at 1519.

¹⁹ *Interboro Contractors, Inc.*, *supra* at 1298, *fn.* 7.

²⁰ *ARO Inc.*, *supra* at 243.

²¹ *Pollatch Corporation, supra; ARO, Inc., supra.*

necessary for employees to band together and overtly manifest by physical action their discontent before it will be found that their activity is concerted. Even individual protest which redounds to the group's benefit is protected concerted activity.²²

Individual complaints of the sort undertaken by Baccus are similar to grievances, and since they will have an effect on all employees, the Board has taken the position that such conduct is protected by the Act.

Therefore, noting that Baccus' prior work record had been good, that her ratings on her progress reports would not have justified her termination, that such reports were not even reviewed before the decision was made to terminate her, that her leadman considered her to be a good employee, that she had not refused to perform any assigned task, and that her reluctance to operate the jacks was shared by other female employees, I find that Baccus' question to Benedict on April 20 relating to the contract was a critical element in her discharge, as was Mitchell's belief that she was seeking a Union committeeman to help protest his directive concerning trucking.²³ It therefore is concluded that the Respondent violated Section 8(a)(1) and (3) of the Act by terminating Baccus' employment.²⁴

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of the Respondent set forth in section III, above, occurring in connection with the operations of the Respondent described in section I, above, have a close, intimate, and substantial relationship to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow thereof.

V. THE REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, I will recommend that it cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

Having found that the Respondent terminated the employment of Carol L. Baccus and thereafter failed and refused to reemploy her because she engaged in concerted activities protected by the Act, I will recommend that the

²² *Hugh H. Wilson Corporation*, 171 NLRB 1040, 1046 (1968), enf. 414 F.2d 1345 (C.A. 3, 1969).

²³ Although Baccus' denial that she was looking for a committeeman on April 20 to protest Mitchell's instruction is credited, Mitchell's reliance upon a mistaken belief that she was engaged in this protected activity and his reference thereto as a basis for the action taken against Baccus remain unlawful.

²⁴ *N.L.R.B. v. Northern Metal Company*, 440 F.2d 881 (C.A. 3, 1971), denying enforcement of 175 NLRB 896 (1969), and *Snap-On Tools Corporation*, 207 NLRB 238 (1973), cited by the Respondent, do not sustain its position. In *Northern Metal Company*, the Board, in fact, found that the relevant violation had occurred. While this conclusion was not later enforced by the court, I, of course, am bound by the Board's determination. *Snap-On Tools Corporation*, *supra*, is inapposite as it there was found that the alleged discriminatee, also a probationary employee, had been terminated for making a personal complaint affecting only his own interest, based upon his own observation of shop custom. The Board noted that in making this complaint, the employee had "made no reference to any purported right deriving from the collective-bargaining agreement."

Respondent be ordered to offer her immediate reinstatement to her former position or, if it no longer exists, to a substantially equivalent position, without prejudice to her seniority or other rights and privileges, and make her whole for any loss of earnings she may have suffered by reason of the discrimination against her by payment to her of a sum of money equal to the amount she normally would have earned from the date of her termination to the date of reinstatement, less net earnings during said period. Backpay, with interest, shall be computed in the manner described in *F. W. Woolworth Company*,²⁵ and *Florida Steel Corporation*.²⁶ On the basis of the foregoing findings of fact and upon the entire record in this case, I make the following:

CONCLUSIONS OF LAW

1. The Respondent, Corry Jamestown Corporation, is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. Lodge No. 1097, International Association of Machinists and Aerospace Workers, AFL-CIO, is a labor organization within the meaning of Section 2(5) of the Act.

3. By discharging and refusing to reinstate Carol L. Baccus because of her protected union activities in questioning a supervisor concerning the application and enforcement of its contract with the Union, or for seeking the services of a Union committeeman, the Respondent has engaged in unfair labor practices within the meaning of Section 8(a)(3) and (1) of the Act.

4. The aforesaid unfair labor practice is an unfair labor practice affecting commerce within the meaning of Section 2(6) and (7) of the Act.

Upon the foregoing findings of fact and conclusions of law, upon the entire record, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended:

ORDER²⁷

The Respondent, Corry Jamestown Corporation, Corry, Pennsylvania, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Terminating the employment of and refusing to reinstate employees for engaging in protected union activities in questioning supervisors with respect to the application and enforcement of the collective-bargaining agreement with the Union or for seeking the services of their Union representative.

(b) In any other manner interfering with, restraining, or coercing employees in the exercise of rights guaranteed in Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

²⁵ 90 NLRB 289 (1950).

²⁶ 231 NLRB 651 (1977). See, generally, *Isis Plumbing & Heating Co.*, 138 NLRB 716 (1962).

²⁷ In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

(a) Offer Carol L. Baccus immediate and full reinstatement to her former position or, if that job no longer exists, to a substantially equivalent position, without prejudice to her seniority or other rights and privileges, and make her whole, with interest, for any earnings she may have lost.

(b) Preserve and, upon request, make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.

(c) Post at its facilities in Corry, Pennsylvania, copies of the attached notice marked "Appendix."²⁸ Copies of said notice, on forms provided by the Regional Director for Region 6, after being duly signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt thereof and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(d) Notify the Regional Director for Region 6, in writing, within 20 days from the date of this Order, what steps the Respondent has taken to comply herewith.

²⁸ In the event that this Order is enforced by a judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

After a hearing at which all parties presented evidence, it has been found that we have violated the National Labor Relations Act, as amended, in certain respects. To correct and remedy these violations, we have been directed to take certain actions and to post this notice.

WE WILL NOT discharge or refuse to reinstate you for engaging in protected union activities, such as questioning supervisors about the application and enforcement of our collective-bargaining agreement with Lodge No. 1097, International Association of Machinists and Aerospace Workers, AFL-CIO, or for seeking the services of your Union representatives.

WE WILL NOT in any other manner interfere with, restrain, or coerce you in the exercise of rights under Section 7 of the Act.

WE WILL offer Carol L. Baccus immediate and full reinstatement to her former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to her seniority and other rights and privileges, and we will make her whole, with interest, for any earnings lost as a result of her discharge.

CORRY JAMESTOWN CORPORATION