in such a protest have an absolute right to reinstatement. Under the Erie Resistor doctrine, the violation of the employees' right to reinstatement after the close of the January, 1969, work stoppage in itself constitutes an additional unfair labor practice.

As indicated supra, there was a second purpose for the work stoppage in January of 1969. That purpose was to protest "abnormally dangerous conditions" at the Eldon Plant.

Section 502 of the Act provides:

> "...nor shall the quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions for work at the place of employment of such employee or employees be deemed a strike under this Act." (emphasis supplied)

Clearly, the work stoppage in January, 1969, was protected activity under Section 502. Philadelphia Marine Trade Ass'n v. NLRB 330 F.2d 492 (CA 3, 1964), 55 LRRM 2889. Section 502 provides an absolute protection for a stoppage of work protesting "abnormally dangerous conditions". Under the very language of Section 502, such a work stoppage can never be construed to violate a contractual no-strike provision, since Section 502 states that such a work stoppage shall not be deemed "a strike under this Act".

In addition to its protection under Section 502 of the Act, the work stoppage is protected under Section 7 of Act as concerted activity for "mutual aid or protection". NLRB v. Washington Aluminum Company, supra. Thus, the discipline and discharge of employees who participated in this work stoppage constitutes an unfair labor practice under Section 8(a)(1) of the National Labor Relations Act. This was recognized in Washington Aluminum where the Supreme Court reversed the Court of Appeals and held that the employer violated Sec. 8(a)(1) by discharging seven employees who had participated in a concerted work stoppage to protest inadequate winter heating.

Without even referring to Sec. 502, or reaching a finding of "abnormally dangerous conditions", the Supreme Court in Washington Aluminum affirmed the employees' right to protect the cold under Sec. 7 of the Act. The Court emphasized the fact that it was,

> "...(the) policy of the Act to protect the right of workers to act together to better their working conditions."

Section 502 provides additional or special protection for certain of those rights guaranteed by Sec. 7 of the Act. Under Sec. 7 employees have a right "to act together to better their working conditions". However, the Congress has said in Section 502 that where workers "act together to better...working conditions" which are "abnormally dangerous", they are given special protection. In short, the Congress has said in Section 502, that the right of workers to act together in "good faith" to better "abnormally dangerous conditions" cannot be bargained away by their collective bargaining representative. It is a right which is too basic to be bargained away.

This special protection has not only been recognized by the Sixth Circuit Court of Appeals, but has been given fullest application by that Circuit. NLRB v. Knight Morley Co., 251 F.2d 753 (CA 6, 1957) Cert. den. 257 U.S. 927 (1958). The Sixth Circuit said in Knight Morley:

> "Since Section 502 provides that walking out under a good faith belief of abnormally dangerous conditions does not constitute a strike, the no-strike provision was not applicable."

The January, 1969 work stoppage involved here falls directly within the protection of Section 502 of the Act. Clearly, those employees who participated in the walk-out did so under "a good faith belief of abnormally dangerous conditions". The walk-out was not only a protest of specific abnormally dangerous conditions at the Eldon Plant but was in protest of the total cumulative effect of conditions at the Eldon Plant.

Right On!