

Bettler Hen SHIPBUILDING CO.

September 13, 1918.

My dear Mr. Howe:

The request of the attorneys for the Black Rock works of the Bethlehem Ship Building Corporation which you have forwarded to us is noted. Clearly the Bethlehem Ship Building Corporation has proceeded to violate the state labor law of New York and has determined in its own judgment that the exigency of the war situation demands an "apparent violation." They now ask for a statement from the Navy Department directing them to employ women irrespective of age on their night shift, with the expectation of using this statement to release the company from the proceedings instituted by the New York State Industrial Commission.

It is our judgment that the company should be informed that the federal government expects plants working on its contracts to do this work in full compliance with state labor laws, and that the Navy Department is unwilling to assist this company in evading its responsibility for violation of the state labor law.

Very truly yours,

Mary Van Kleeck, Director,  
Woman in Industry Service.

Mr. L. M. Howe,  
Office of the Assistant Secretary,  
Navy Department,  
Washington, D. C.

*Bethlehem Ship Bldg. Corporation*

NAVY DEPARTMENT,  
ASSISTANT SECRETARY'S OFFICE,  
WASHINGTON.

9th September 1918.

My dear Miss Van Kleeck:

Will you look this over and at the earliest possible moment send me a memorandum as to what course you think Mr. Daniels should take. You know he is very much opposed to women working at night.

Very sincerely yours,

*Louis V. Howe*

Assistant to the  
Assistant Secretary of the Navy.

Miss Mary Van Kleeck,  
War Labor Policies Board,  
Washington, D. C.

(Incls)

COPY

Dudley, Stowe & Sawyer  
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Buffalo

September 6, 1918.

Navy Department,  
Hon. Franklin D. Roosevelt,  
Assistant Secretary,  
Washington, D. C.

Dear Sir:-

Mr. Germain, General Manager of the Black Rock Works of the Bethlehem Shipbuilding Corporation, Ltd., has referred to us two proceedings instituted against his Company by the State of New York before a Justice of the Peace to recover penalties for the alleged violation of Sections 77 and 93-B of the Labor Law of the State of New York, the first of which prohibits the working of female minors under the age of twenty-one years after nine o'clock in the evening, and the latter prohibits the working of women, irrespective of age, after ten o'clock in the evening.

This plant of the Bethlehem Shipbuilding Company is engaged exclusive in the manufacture of turbines to be installed on certain torpedo boat destroyers which the Shipbuilding Company contracted on the 6th day of December, 1917, to furnish to your Department. Your Department or the Federal Government owns the land, buildings and equipment, the plant being operated in fact by the Shipbuilding Company as your agent.

In view of the great scarcity of men, it has been necessary that females be employed to perform work of various character. It is necessary in order to produce the turbines as required by your Department to work night and day. Women have thus been employed in this plant on the night shift in apparent violation of the provisions above quoted of the Labor Law. It would appear that the attitude of the State Industrial Commission which has charge of the enforcement of the provisions of the Labor Law is ill advised, as the exigency of the war situation demands the production of the turbines at the earliest possible date, and undoubtedly abnormal means will have to be taken to meet an abnormal situation.

Under these circumstances we would ask that your Department request the New York State Industrial Commission to withdraw such proceedings and to refrain from further prosecution under the statute. If the Industrial Commission does not accede to your request, we will have to defend these proceedings. So far as we can determine there is but one possible defense. We find that the land acquired by your Department was not ceded by the State to the Federal Government. The State, therefore still retains jurisdiction. However, under the decision in Fort Leavenworth Railroad Company against Lowe, 114 U.S. 525, it is stated in substance that even where the United States acquires land within the limits of a state other than by purchase with her consent, the Federal Government will hold the lands subject to the qualification that if forts, arsenals or other public buildings are erected on such land for the uses of the Government, such buildings, with their appurtenances, as instrumentalities for the execution of its powers, will be free from any interference and jurisdiction of the state as would destroy or impair their effective uses for the purposes designed. This seems to have been accepted as the law by our Court of Appeals, as indicated in its decision in Barrett vs Palmer, 135, N. Y. 339.

To bring our client within the terms of this decision it will be necessary that it have written instructions from your Department directing it to work women, irrespective of age, on its night shift, on the ground that to do so is essential to the effective operation of the plant, and further that we have your written approval of the past action of the Company in that respect.

If it is not permitted that females work at night and after the prescribed hours, we are informed that the production of turbines as provided for by your contract will be seriously interfered with. If you or your Department have any other means to suggest to obtain the results desired, we will be very glad to have you communicate with us immediately.

These proceedings are returnable on the 17th inst., and we will have to submit all our proof at that time. Will you therefore, kindly give this matter early attention, so that we may have your directions in writing in our possession several days before that date if you are unable to obtain a discontinuance of the pending proceedings.

Yours very truly,

FDLS/ML

Franklin D.L. Stowe