

Reference K/W.

8th January, 1940.

W. Carter Esq., C.B.E.,
Marine A. Division,
Ministry of Shipping,
Berkeley Square House,
Berkeley Square, W.1.

My dear Carter,

AMERICAN NEUTRALITY ACT.

This question was further considered by the Sub-Committee of representative owners in the light of your letter of the 21st December, ref. M.15739/39 and of recent communications from Agents in America.

You desired information as to the effect of Section 2 of the Act on British shipping. I think a letter from Norton Lilly & Co. of the 11th December will be of interest to you and I therefore enclose a copy. It will be seen that they state that the hardships on British vessels have not yet been alleviated and in fact the continuous change in Governmental requirements have been more exacting. The Sub-Committee confirmed that Section 2 had had a prejudicial effect on their trades to a varying extent dependent upon different factors such as nature and quantity of cargo and the proportion of British Lines to American and neutral Lines in the trades. The position in the U.S.A./South African trade was particularly unsatisfactory, for example, in some recent cases the general cargo carried by a British ship was less than 400 tons out of a total cargo. In fact it might be said that British shipping companies were almost driven out of these trades. In some other trades the Norwegian Lines had taken 50% of the cargo. The Far Eastern Lines were also being prejudiced and in the Indian trade one American Line was doubled its number of sailings to Indian ports to care for the 4/5000 tons of oil and oil products monthly which have for over 40 years past been carried by a British Line which still holds a contract with the shippers for their transport, a contract which is of course interfered with by the Act. In general it may be said that the Section has already operated to the prejudice

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of British shipping companies and in favour of American and neutral companies, and that it is probably that the position for British shipping will still further deteriorate.

It is desired to point out that reduction in British shipping services to and from America will reduce the amount of dollars earned in America, which it is so important for the Treasury to obtain.

The Chamber does not agree with the American State Department's view that the provisions of Section 2 are not discriminatory. It is true that American vessels are excluded from trades in the combat areas but these only form a small proportion of trades between the United States and British Empire countries, and the effect of the Section is to prejudice British shipping companies to the advantage of American and neutral shipping companies in the important trades between the United States and British Empire countries. If the American State Department should point out that the Section merely compensates American shipping for its exclusion from trades in the combat areas, the British Government could reply with some force that such exclusion involves discrimination against this country by depriving it in war time of the services of American shipping on which it had relied in peace time, with the result that this country is suffering in two respects, namely, in discrimination against her own shipping in trades outside the combat areas and in loss of American shipping services in the combat areas.

It is urged that His Majesty's Ambassador should be asked to continue to press on principle with the American State Department the question of discrimination. In this connection reference is made to Mr. Cordell Hull's statement, in letter from the Foreign Office of the 13th November, that he thought he might be able to get the discrimination corrected when Congress meet in January.

The Sub-Committee considered whether an approach should be made to Mr. Kennedy. It will be remembered that Lord Lothian previously/

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previously stated that he would prefer to postpone an expression of opinion on this question until he heard the results of the conversations in New York. The Chamber has not yet received any official information as to the result of these conversations, and will therefore be glad to have Lord Lothian's present opinion in the matter.

The Sub-Committee also considered means of removing or reducing the difficulties in the event of the State Department refusing to amend the Act, or pending such amendment. It was agreed that in the present emergency consignees in British Empire countries should be encouraged, wherever British services are available, to specify shipment by British tonnage or otherwise control the flag of the carrying vessel by developing the practice of making their purchases from the United States on a f.o.b. basis. It is desired to ask that the British Government will endeavour to obtain support of this policy through His Majesty's representatives in this country of the Dominions and of the Colonial Office, Crown Agents for the Colonies, etc. If the cargoes are Government cargoes then the matter is in the hands of the Government concerned. If not, it is suggested that they should endeavour to influence consignees on the above lines. In suggesting to the Dominion and Colonial Governments that they should urge their merchants to put themselves in a position to insist upon shipment in British vessels it would be well to suggest that they make it clear that this is a war emergency measure necessitated by the Neutrality Act so that if and when the American Government, or American interests, learn that this course is being followed they will understand it is not a departure from British navigation policy.

It will be noted from Messrs. Norton Lilly & Co's letter that the form of affidavit has given rise of difficulties owing to varying interpretations of the Act by different Collectors of

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Customs. It is desired to ask that His Majesty's representative should press, as a point of immediate importance, that the forms of affidavit should be unified and should be laid down by Washington and not left to the descretion of local Collectors of Customs.

The Chamber will appreciate it if the Ministry will ask the Foreign Office to instruct His Majesty's representative in America on the above lines.

The Chamber is taking up with the shipowners' New York Committee the following further points which have been raised:-

- (a) that the form of affidavit stating that the goods are not American property at the time of swearing should be dropped and that the previous form of affidavit, which provided that the title would be transferred before the vessel sailed, should be restored. Alternatively, an affidavit could be sworn when the goods have been delivered on the dock as American law compels the shipowner to issue a Received for Shipment Bill of Lading as soon as the goods are delivered on the dock;
- (b) whether the negotiation of a Received for Shipment Bill of Lading through a British or Neutral Bank would constitute sufficient transfer of title to a foreigner; and (c) transfer of documents from an American Bank, where used by the consignee, to a British or Neutral Bank.

Yours sincerely,

(Sgd) H.M. Cleminson.

ENCLOSURE.