



MARITIME LEGISLATION AMENDMENT BILL 2005
Second Reading
2 March 2006

[Ms GRIERSON](#) (Newcastle) (12.05 p.m.)—I rise to speak on the [Maritime Legislation Amendment Bill 2005](#) and support Labor's second reading amendment as moved by the member for Oxley, which condemns the Howard government for:

(a) failing to uphold Australia's national interest by adopting anti-Australian shipping policies that favour foreign vessels and crew despite the risk to national security, Australian jobs and the natural environment;

(b) failing to ensure adequate security in relation to the shipping of dangerous goods and hazardous material, including explosives precursors such as ammonium nitrate; and

(c) failing to ensure ships comply with the requirement to provide details of crew and cargo forty-eight hours before arrival.

This bill makes disparate amendments to four separate pieces of maritime legislation. Amendments to the first piece of legislation, the Lighthouses Act 1911, provide for the maintenance of maritime navigational aids and put in place higher penalties for damaging aids or failing to report such damage. Labor generally welcomes these amendments. The bulk of the amendments contained within the bill, however, relate to the Navigation Act 1912, which is the principal Commonwealth act relating to shipping movement and safety, crewing matters, wrecks and salvage. Among other things, the amendments revise pilotage provisions to provide for compulsory pilotage in areas specified and set out in the regulations; revise the provisions relating to the reporting of ship movements; revise provisions relating to alcohol and other drugs and allow for the taking of mouth swabs to test for alcohol and other drugs; provide immunity for civil claims for pilots and pilotage providers; remove the requirement for six months notice before the minister can cancel a continuing voyage permit; and increase penalties for major offences that pose a threat to life or the environment.

The bill also amends the Protection of the Sea (Prevention of Pollution from Ships) Act. That act implements the International Convention for the Prevention of Pollution from Ships, known as MARPOL. The bill amends the act to require Australian chemical tankers to prepare and carry a noxious liquid substance plan and to provide that security paid by the owner or

master in the event of a pollution breach must cover the maximum amount of penalty that may be payable by all members of the crew. It also seeks to clarify that documents that may be served on a ship's agent include documents that may be served on the owner, the master or any member of the crew.

The fourth act that this bill amends is the Shipping Registration Act. This act facilitates the registration of ships in Australia—dear, we wish that would happen. It grants ships Australian nationality and provides for the registration of mortgages over ships. The bill before us amends the act to provide that mortgages can be removed from the register at the request of the mortgagee. It allows the minister to delegate his or her powers under the act to a staff member of the Australian Maritime Safety Authority and provides for access to the Australian Register of Ships via electronic means. It sounds very complex. Having navigated these disparate amendments across four separate acts, the Australian people could be forgiven for feeling just a little at sea.

There is certainly very little sense of a common theme to these amendments, other than their focus on increasing penalties in a bid to represent a more appropriate deterrent and/or punishment. We have to wonder just what the government has been doing for 10 years.

The bulk of the bill is, however, devoted to updating various aspects of the Navigation Act. It is this act and these amendments that I wish to focus on. Curiously, the amendments appear to be unrelated to recommendations made by the government's own review of the Navigation Act in 2000. Indeed, this review is not mentioned in either the explanatory memorandum or the second reading speech. Again, you have to ask: what was the point of the government's Navigation Act review in the first place? Regrettably, the Australian people are long used to this government commissioning reviews and inquiries that appear to go nowhere and unfortunately achieve very little.

After 10 long years, this Howard government still has no policy to support Australian shipping, let alone support maritime workers and crews that visit in these ships. Instead, we have a government that remains hell-bent on issuing single and continuous voyage permits to foreign ships, many of which are flag of convenience vessels that use substandard vessels and engage cheap foreign labour. I always take the opportunity to praise a former member from my region, the Hon. Peter Morris, who did so much to reveal the ships of shame and continues to be a champion for better maritime activity and regulation.

In talking about these flag of convenience vessels, I see that there are staff from departments here and I urge them to go and visit a ship that has a foreign crew and that perhaps has been flagged in some way as a ship of concern. Having done so, I can only tell you that, looking in the eyes of Burmese crew, all I could see was fear. It is not a nice experience. You know they are being exploited. Just sit with a Greek master who speaks no English

until suddenly you say something and he breaks into English and speaks to you. You know that honesty is not extended. I do recommend that all members of the coalition take an opportunity to visit some of the ships that ply our waters.

It is also worth noting the decision made last Friday by the ILO, the International Labour Organisation, to adopt a new maritime convention, best known as the 'seafarers bill of rights', which will protect the world's 1.2 million seafarers employed in the global shipping industry. It requires a response from this government. Significantly, the seafarers bill of rights has the tripartite support of unions, governments and shipowners, and I congratulate Paddy Crumlin, the MUA National Secretary and vice-chairperson of the workers group maritime session at the ILO, on the central role he played in this landmark decision. I look forward to the Australian government ratifying this convention as soon as possible and applying it in full. This is the least we can do to help stop the terrible exploitation to which ships' crews are too often subjected.

Let us also look at this government's track record when it comes to using foreign ships to transport goods around Australian ports. The latest Australian maritime transport compendium, commissioned by the Australian Shipowners Association, lays open the Howard government's complete lack of support for an Australian shipping industry, as it maps the rapidly growing use of foreign ships to move goods between our ports. It reveals that since the 1991-92 year the number of permits issued to foreign ships has grown by over 325 per cent. In 2003-04, which is the last full year subject to the report, foreign vessels were permitted to carry 27.5 per cent of the Australian interstate and intrastate sea freight trade, up from eight per cent when Labor last held office.

Significantly, foreign seafarers are not subject, as has been pointed out in this debate, to the same rules as Australian seafarers serving on Australian ships. Not only are they denied Australian pay and working conditions and the protections that they bring but also they are not subject to the same security regime as Australian seafarers. As a person who has now been involved in two aviation security inquiries, I see an absolute lack of the same commitment to maritime security by the Howard government. I can think of no greater threat to our national security than this lax administration of foreign ships in the Australian coastal trade. Despite the government's fanfare surrounding the soon to be implemented maritime security identification card regime, this regime imposes no additional requirements on foreign seafarers. Indeed, truck drivers delivering goods to our ports will be subject to much more stringent background and identity checking than foreign seafarers. So much for, 'We'll control who comes to this country.'

The extent to which the Howard government has mismanaged coastal shipping permits was finally revealed in a report last year in the *Australian* newspaper. This report detailed the findings of an internal audit conducted by

KPMG for the Department of Transport and Regional Services, DOTARS. Not surprisingly, the *Australian* was forced to use freedom of information laws to obtain a copy of that internal audit, which the Howard government had steadfastly refused to release. This compliance review of coastal shipping permits was completed in October 2004. It delivered a damning assessment of the government's performance, finding that the administration of coastal shipping licences and permits for foreign vessels was a complete mess. The audit revealed that one in six coastal shipping permits is granted without a signed application form, so the government runs a high risk of issuing permits based on bogus or unauthorised applications. This audit also revealed that inadequate financial controls mean that the government may be unaware of fraud, errors or other irregularities related to the licence and permit applications and that poor record keeping means that data relating to one in five approved licences and permit applications is either 'absent or incomplete'.

Even more damning, however, is the fact that DOTARS was found to have breached the navigational coastal trade regulations and ministerial guidelines on the regulation of coastal shipping by failing to establish if a licensed ship is available before issuing a permit. The current Navigation Act provides that the minister for transport may issue a single voyage permit or continuous voyage permit to an unlicensed vessel to engage in trade between Australian ports. However, a permit may only be issued if there is no licensed ship available or the service provided by the licensed ships is inadequate and the minister is satisfied that it is in the public interest to do so. Our successive ministers have been very easily satisfied.

But a massive 325 per cent increase in the number of permits issued to foreign ships under this government's watch is ample evidence of the ongoing failure of successive ministers to ensure compliance with the act and its regulations. At the same time that the Howard government have presided over a rapidly dwindling Australian coastal trade fleet, they have continued to prop up foreign shipping interests by allowing substandard vessels, crewed with cheap foreign labour, to have seemingly unfettered access to trade between Australian ports. The ability to move from port to port without the inconvenience of having to lodge a signed permit form must seem like a gift from the maritime gods to unscrupulous operators—and there are many of them. That these ships traverse our ports while sometimes carrying dangerous goods, including explosives, seems not to worry the government too much either.

As the member for Newcastle, I am fortunate to have one of Australia's busiest and most efficient ports in my electorate. Last financial year, trade through the Port of Newcastle set a new record, with 83.5 million tonnes of cargo worth more than \$7 billion. So we do take our maritime trade very seriously. The biggest trade item, of course, was coal, which accounted for 93 per cent of the total trade throughput—a figure that maintains Newcastle's position as the world's leading coal export port.

But coal is not the only commodity that passes through the Port of Newcastle. Last September, an Antiguan-registered and Ukrainian- and Bulgarian-crewed vessel—it gets complicated, doesn't it?—called *Pancardo* loaded 3,000 tonnes of ammonium nitrate, a potential explosive, in Newcastle, bound for Gladstone, after being granted a single voyage permit to trade on the Australian coast.

Ammonium nitrate is widely used in agriculture and in mining, but of course it is also used by terrorists. When mixed with fuel oil, used to power ships, it can create a bomb big enough to take out a port city like the city of Newcastle. Ammonium nitrate was used in the 1993 bombing of the World Trade Centre and in attacks on US embassies in Africa in the 1990s. In 2004, more than 11,000 tonnes of ammonium nitrate were carried on the Australian coastline by foreign ships operating under permits with foreign crews. And the amount of ammonium nitrate imported into Australia in the last five years has tripled.

I must also point out that a crane broke in the incident at Newcastle, which I have mentioned. It was a very worrying incident. The equipment on the ship was faulty, possibly from poor maintenance and neglect. The dropping of a load like that into a ship—which, obviously, can have fuel oil lying around—was potentially of great concern to the people of Newcastle.

It is now increasingly apparent that Australian authorities have no way of checking the bona fides of these foreign crews. Labor argues that the carriage of high-consequence dangerous goods like ammonium nitrate by foreign ships must stop now if Australia is serious about minimising the threat of terrorism. It is clear to everyone—except, it seems, the Howard government—that the safest way to transport high-consequence dangerous goods around Australia is on Australian ships crewed by Australian men and women, subject to appropriate and rigorous security screening. It is bad enough that the government have facilitated an explosion in the number of continuous voyage permits issued for foreign ships, but it is even worse that they leave Australia vulnerable because they are unable or unwilling to regulate coastal trade according to the rules.

Significantly, multinational companies like BHP Billiton are light years ahead of the Howard government in terms of understanding those risks and the long-term costs associated with the increased use of unlicensed foreign ships trading along our coastline. At a meeting with BHP Billiton in Melbourne recently, they stated that they refuse to use flag of convenience vessels to ply their trade along the West Australian coast. As far as BHP are concerned, it is just not worth the risk. The Australian government should take note.

In the absence of leadership from the Australian government, port users and operators have got on with the business of ensuring security in Australian ports. The port of Newcastle is growing rapidly. With several new infrastructure projects coming on line, this growth will continue.

On top of record coal exports and trade through the port, the port has recently gained national recognition for its whole-of-port approach to the implementation of its maritime security plan. Last November Newcastle port was named the inaugural winner of the innovation in security category at the 2005 Australian shipping and transport awards.

This achievement deserves special mention as it reflects the collaborative approach taken by port users—an approach that unfortunately we see very infrequently with the government. That collaborative approach in the port of Newcastle includes the Maritime Union of Australia, to ensure the ongoing security of our port under the leadership of the Newcastle Port Corporation.

We talked about pilotage. I must acknowledge Adsteam and its recent invitation. I was able to sponsor a new tug in the harbour of Newcastle. I am feeling very maternal about that tug now. I look forward to its long career.

In Newcastle we have a well established and effective port users group as well as a seafarers welfare committee that meets regularly. As a member of these organisations, the port corporation knows the benefits of collaboration across the industry. It understands that the success of any security plan depends on the goodwill and attitudes of all people associated with the industry. The establishment of any risk culture or security culture does, of course, involve people. Certainly all port users and operators need to be involved.

Contrary to the Howard government's approach to doing business on the waterfront—it has always seemed to adopt divide and rule tactics, complete with accessories such as balaclavas and Rottweilers—the collaborative approach taken by the Newcastle Port Corporation has proven to be highly effective. It is indicative of the way we do maritime business in Newcastle. The approach continues to serve us well, and it is especially pleasing to see it being recognised on the national stage.

Effective collaboration between all port users and operators meant that recently, when the port of Newcastle was temporarily obstructed as a result of a protest by Greenpeace activists, the port corporation, in conjunction with the police, was able to act swiftly and fairly to maintain port operations. This was something of a test run for maritime security in our port. To everyone's credit, no-one was hurt, the matter was resolved quickly, and the port was able to maintain operations throughout the whole period.

Labor has often outlined the things that this government should do to secure our maritime borders. The first concerns the enforcement of crew and manifest advance warning. The government has a 48-hour rule in place which means that Australian ports should be notified of a ship's manifest and crew 48 hours prior to the vessel docking, but it does not adequately enforce even this rule, and identification remains a great issue.

Some of the amendments will support crews and workers in the maritime industry. That is terribly important. I would like to acknowledge that in the last six months in Newcastle there have been three deaths of some amazing maritime leaders from the union movement—John Brennan, Bill Bodenham and Tom Potter. I was able to attend two of the funerals. The funeral of John Brennan, who was originally the leader of the Seamens Union and subsequently a veteran of the MUA, was a history lesson in maritime security. It certainly showed that, without that sort of commitment, conditions for crews and others who work in the maritime industry would never have improved. I pay tribute to the people who have improved the conditions for all Australian maritime workers and who have always been committed to improving the conditions for crews of foreign vessels.

In the last term of parliament, I assisted a Pacific island crew who had not been paid their entitlements over periods of years. They got another payment out of that little bit of pressure, but they still did not get full payment. I think that to date they still have not got full payment.

I again say that it is time the Australian government showed leadership in this area—not just a bit of bandaiding in terms of legislation but a real commitment to the ILO convention and improvement of our maritime security and our maritime industry in a way that brings some dignity and pride to this nation.