

**MAKING THE
B*****DS
HONEST**

**Democrats'
accountability
package**

The Democrats are Australia's original and first accountability party. Since we first won the balance of power in the Senate in 1981, we have pledged to keep the b***ds honest and made the Senate into a genuine House of Review.**

If the federal government of the day had its way in the Senate, then what former Auditor-General John Taylor described as the 'most effective brake on executive power' would be stopped.

There would not be an independent Electoral Commission and public disclosure of donations to political parties.

They would have let government departments intrude on the privacy of citizens with the Australia Card and weak privacy rules.

They would have gutted Freedom of Information legislation and restricted public access to information about what the government is doing.

They would have reduced the powers and funding for the Auditor-General, a vital link in the financial accountability of government.

The Democrats in the Senate have ensured that none of these things came to pass. For two decades, the Democrats in the Senate have kept the government and its bureaucrats accountable and on its toes.

But more is needed. Public trust in politicians, the political and the electoral process and in the bureaucracy has fallen to an all time low.

Under the Howard Government, standards of ministerial conduct have fallen to an all time low. Revelations of systemic rotting in the Labor Party, on top of its cavalier approach to accountability issues when in government, makes accountability reform all the more important.

Keeping the b***ds honest is no longer enough. We need a political commitment to make them honest first. Liberal and Labor have shown too much contempt for the public and need to be reigned in.**

This package is the Democrats' first major policy statement for 2001. It confirms the Democrats' commitment to cleaning up Australian politics and governance, building on 20 years of ground breaking work to improve government accountability.

This 12-point plan sets out our priorities for improving the accountability of political parties, politicians, bureaucrats, appointments and corporations.

One day every three years, the Australian electorate gets to hold the government to account. For the 1095 days in between, that role falls to the Democrats in the Senate.

*Meg Lees
Leader of the Australian Democrats*

**MAKING THE
B*****DS
HONEST**

**Democrats'
accountability
package**

**MAKING THE
B*****DS
HONEST**

**Democrats'
accountability
package**

Contents

1	Making political parties more accountable	3
	- Improving the accountability of political parties by requiring greater internal democracy within political parties	
	- Improving the disclosure of political donations to political parties	
	- Reforming 'how to vote' cards and preferences	4
2	Making bureaucrats more accountable	5
	- Overhauling Federal Freedom of Information Laws	
	- Preventing 'secret' government contracts and 'secret' business deals	
3	Making politicians more accountable	6
	- Reforming politicians' entitlements, starting with an overhaul of the parliamentary superannuation scheme, overseas tours and electorate allowances	
	- Establishing a Parliamentary Commissioner of Standards to enforce a Ministerial Code of Conduct	7
	- Requiring Ministers to answer questions in Parliament	7
4	Making appointments more accountable	8
	- Requiring merit based appointments and proper short-listing for appointments to Government boards, tribunals and courts	
	- Prohibiting the appointment of political figures to key institutions like the ABC	
5	Making corporations more accountable	10
	- Establishing a Corporate Code of Conduct to require Australian companies operating offshore to abide by Australian human rights, environmental and labour protection standards	
	- Improving the Corporations Law to better protect the rights of minority shareholders and the Mums and Dads	
	Democrats' Parliamentary Record of Keeping the B*****ds Honest	
	Electoral Laws	12
	Access to Information	12
	Financial Accountability	13
	Improving Parliamentary Scrutiny	13
	Improving politicians conduct	14
	Improving accountability of bureaucrats	15
	Improving accountability of corporations	16

1 Making political parties more accountable

**MAKING THE
B*****DS
HONEST**

Improving the accountability of political parties by requiring greater internal democracy within political parties

Political parties are important parts of our democracy. The parties choose the candidates we get to vote for, yet there is little public accountability for the internal processes of political parties. The internal problems of One Nation and the preselection rows of the Labor and Liberal parties highlight this.

The Democrats believe that, as political parties are publicly funded, the public has a right to know the ways in which parties receive and spend their funds. Further, the public influence and purpose of political parties demand that they be open to public scrutiny.

Political integrity starts with the rules under which political parties operate. We propose that the Commonwealth Electoral Act be amended to make public party constitutions, and to require parties to have democratic constitutions that define their members' rights, how candidates are preselected, how office bearers are chosen, and how disputes will be resolved. Preselection processes should also be overseen by the AEC to ensure proper and fair practices are used. Further, the financial accountability of parties to their members should be improved, in much the same way as the Corporations Law governs the accountability of corporations to shareholders.

With this package of reforms, Australian electors will be able to ensure that the candidates presented at election time by parties were democratically chosen and properly reflect the principles and membership of that party.

Improving the disclosure of political donations to political parties

While the holding of democratic elections demands fairness, independence and an equal opportunity to present a political platform, some moneyed people and organisations will always attempt to speak louder and will often succeed as a result. Indeed, political donations make very uneven the much-lauded 'level playing field' that free market forces ought to deliver in the contest for political power. Similarly, while it may be very cynical to think that corruption is a common

**Democrats'
accountability
package**

**MAKING THE
B*****DS
HONEST**

**Democrats'
accountability
package**

motive for political donations, most of the literature on this subject makes claims of quid pro quo and of donations being shrouded in suspicion.

Even though the introduction of public funding for elections in the 1980s was accompanied by disclosure reform, a new financing model is required to put an end to any notion of the corrupting influence of money over policy direction. Despite a range of checks on the major parties and their financial backers that now exist to expose the names of big donors, clear problems of accountability persist. To address this, the Australian Democrats have called for the loopholes in laws governing donations to political parties to be closed, especially those relating to their 'associated entities', trusts, clubs and foundations. Essentially, these 'front' organisations allow the major parties to skirt the intent of the electoral funding disclosure laws thereby masking the true identities of donors.

If serious reform does not take place, a cynical electorate will only continue to lose faith in the electoral process and Australian democracy will be the real loser. Reform needs to enhance democratic accountability to the extent that no particular candidate or political party enjoys significant strategic advantage because of being the recipient of large donations. Closely linked to this is the need for much stronger political party regulation. Fundamentally, the liberty of some must not be allowed at the expense of others, especially when the others appear to be the majority.

Reforming 'how to vote' cards and preferences

Voters are always irritated on election day by the posse of party operatives with 'how to vote' cards. The Democrats believe that such cards are an insult to the intelligence of most voters. We propose that the handing out of 'how to vote' cards should be banned. Instead, parties should be obliged to lodge 'how to vote' advice with the AEC two weeks ahead of the election and these should be placed prominently in the ballot box. This would ensure that all preference decisions are public knowledge well ahead of the election, and voters can choose, without intimidation, whether to accept such advice or not.

The Democrats also believe that preferences for the Senate need to be reformed to reduce reliance on the 'above the line' list voting. We propose giving voters a third option of voting for parties above the line. This would be in addition to numbering all candidates' squares below the line, or opting for the list vote. It would give voters more choice and reduce the power of party backroom deals.

2 Making bureaucrats more accountable

**MAKING THE
B*****DS
HONEST**

Overhauling Federal Freedom of Information Laws

The *Freedom of Information Act* is designed to make government more open and accountable by providing a right of access to information in the possession of government. It is intended to allow the public and the media to determine what the government is doing, how it is doing it and at what cost. Successive governments have put in place various barriers and financial disincentives to discourage FOI applicants.

The Democrats have introduced a comprehensive Private Senator's Bill, the *Freedom of Information (Open Government) Amendment Bill 2000*, to remedy the inadequacies exposed by a number of reports into the current FOI regime. If passed, the Bill will ensure that the culture of secrecy that exists in some government agencies does not prevail over the public's right to access information.

The most important recommendation taken up in this proposed legislation is the creation of an independent FOI Commissioner to audit government agencies' use of the FOI Act, and to take responsibility for training and issuing guidelines on the Act's administration. In addition, the Bill proposes to cease the practice of charging exorbitant fees to discourage applicants, and also to put an end to the unnecessary practice of exempting certain information.

Preventing 'secret' government contracts and 'secret' business deals

The damaging effect of secret government dealings has been seen in several costly financial scandals at a state level, notably WA, Victoria and SA. State and federal governments consistently deny access to information about their dealings to the Parliament and the public, often by hiding behind the shield of 'commercial confidentiality'. Mismanagement and corruption thrive in the absence of external scrutiny.

Last year, the Democrats introduced a motion to require government agencies to provide details of all of their contracts valued at \$100,000 or more. Where the contracts are claimed to be confidential, the motion provided that they would be investigated by the Auditor-General who would report on the reliance on confidentiality provisions to Parliament. If passed, this motion will greatly enhance the transparency of government dealings and will promote greater scrutiny of the government's financial management.

**Democrats'
accountability
package**



3 Making politicians more accountable

Democrats' accountability package

Reforming politicians' entitlements, starting with an overhaul of the parliamentary superannuation scheme, overseas tours and electorate allowances

The Democrats have long called for politicians to be made fully accountable for their entitlements. In recent years, such accountability has been improved. It is likely to be improved further as a result of the performance audit by the Auditor-General now underway at the initiative of the Democrats.

We believe that politicians should not be deciding their own entitlements - these should be decided by an independent remuneration tribunal. For most entitlements, this now happens. But three stand out as in need of reform:

Parliamentary Super Scheme: This scheme is excessively over-generous, with the public subsidy equivalent to around 70% of a politician's pay. We believe that the public subsidy should be at least halved, that benefits should not be accessed until age 55 years, and that access to benefits should not be based on years of parliamentary service, rather they should be on contributions paid. These reforms would make significant savings for the public purse.

Electorate Allowances: The Democrats have long called for parliamentary Electoral Allowances to be accessible only if a member establishes that the Allowance is being used for electoral purposes rather than as a salary supplement. This would be achieved by having the allowance paid into a separate account with its own receipts and accounting, with unspent funds returning to public coffers, and with accounts properly audited to ensure that they are spent on electorate expenses.

Overseas Study Travel: The Democrats do not believe that overseas study should be regarded as an automatic right. Rather, study tours should be approved only where a parliamentarian has lodged an application to our proposed Parliamentary Commissioner of Ethics justifying the journey's relevance and value to their performance as a Parliamentarian, and containing a detailed itinerary. The parliamentarian should also be required to table in Parliament a detailed report of their findings on their return. This would ensure that parliamentarians would be fully accountable for overseas study travel in showing the public policy merit of travel, and would replace the current inadequate oversight by a Government Minister.

Establishing a Parliamentary Commissioner of Standards to enforce a Ministerial Code of Conduct

Public comment and debate consistently reveals a striking level of distrust of Australian politicians. When politicians are widely viewed as dishonest and untrustworthy, the perceived legitimacy of the entire political system is compromised. The Democrats' Charter of Political Honesty Bill seeks to establish a ministerial and parliamentary code of conduct to promote ethics in politics.

If passed, it will be an enduring and powerful commitment to a level of political honesty and accountability that the Australian public deserves and demands. Not only will it provide guidance on how politicians should behave, it will establish binding mechanisms for ensuring that their actions comply with standards of integrity and honesty befitting their public role. Unlike previous codes touted by the Liberal Party, this is not an 'optional honesty' code.

We recognise that there is little point in developing a code of conduct if there is no independent means of assessing compliance with it. Self-regulation of politicians by politicians has been of variable quality in the past. Too often governments seek to defend their own, regardless of evidence, and too often oppositions seek to make political mileage without due regard for the truth of the matter.

The Charter of Political Honesty Bill establishes the Office of Commissioner for Ministerial and Parliamentary Ethics to enforce the code. It is vital that the setting of public standards reflects the values and expectations of the community at large, and that parliamentarians know that, if they transgress those standards, they will be investigated by an independent and impartial officer and then brought to account through proper parliamentary procedures.

Requiring Ministers to answer questions in Parliament

Question Time in Parliament has become a joke, with Ministers refusing to answer questions and instead attacking their opponents. The Democrats propose to reform this by changing the rules to force questions to be answered. When a Minister fails to answer a question, we would propose, if the Senate so resolves, that the Minister and his officials be required to front a Senate Committee to provide a full answer and information on the issue. If a Minister refuses to do so, the Senate should treat such an act as contempt of the Senate and appropriate penalties (e.g. prohibition of 'Dorothy Dixier' questions to the Minister, denial of time to debate their legislation, etc.) should apply.

Question Time would also be improved if the independence of the Speaker (or, in the case of the Senate, the President) was also guaranteed. This must be a long term aim.

**MAKING THE
B*****DS
HONEST**

**Democrats'
accountability
package**



4 Making appointments more accountable

Democrats' accountability package

Requiring merit based appointments and proper short-listing for appointments to Government boards, tribunals and courts

The 'jobs for the boys' system, whereby appointments are used as rewards for party hacks or others who have assisted the government to gain office, is alive and well in Australia. The Australian Democrats are concerned to ensure that appointments to the governing organs of public authorities be based on merit and that the processes by which these appointments are made is transparent, accountable, open and honest.

The Democrats have put up amendments designed to compel Ministers to make appointments on merit on 17 occasions, and every time Labor and the Coalition have combined to block reform. They clearly see such appointments as being the spoils of office. These amendments were based on the recommendations of the 1995 Nolan Committee in the United Kingdom, which reviewed the processes for making public appointments and set out key principles to guide and inform the making of such appointments.

The Democrats have now introduced a bill requiring the establishment of a comprehensive system of checks and balances to finally put an end to 'jobs for the boys'. The Bill requires the development by a parliamentary committee of a code of conduct for appointments on merit, to be administered and enforced by an independent commissioner.

Prohibiting the appointment of political figures to key institutions like the ABC

The Democrats' Private Senator's Bill on the ABC, introduced into the Senate on 24 March 1999, is designed to make the ABC Board fully independent and accountable.

The Bill is designed to give the Parliament, through the establishment of a joint committee on the ABC the power to accept or reject the Minister's recommendations for appointment to the ABC Board.

The ABC Board is empowered under the ABC Act to oversee the management and operations of the ABC independently from the

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B*****DS
HONEST**

government of the day. The ABC is answerable to the Parliament through parliamentary inquiries, Senate Estimates Committees and must submit an annual report. Successive governments, however, have not appreciated the ABC's independence nor have they appreciated the freedom under which the ABC Charter allows the ABC to make and broadcast programs. Governments of both political persuasions have made appointments to the ABC Board on the basis of political persuasion and ideology, not on the basis of protecting national, public broadcasting.

The proposed committee will have 10 members, five from the House of Representatives and five from the Senate. Minor parties will have membership of this committee. The Minister cannot be a member of the Committee. Should the Minister not agree with the recommendations of the committee, s/he must table her/his reasons in Parliament.

The ABC is wholly reliant on its parliamentary appropriation to operate its six radio networks, its national television network and its online service. Part of the government's desire to stack the ABC Board is to have a direct input into the way in which this appropriation is spent. In the recent negotiations for the ABC's triennial funding submission, the Minister suggested to the ABC Board Chair that the ABC enter into an agreement with the Minister in exchange for its funding.

The ABC has historically had a funding arrangement with the Parliament, not a funding agreement with the Minister. The Democrats' Private Senator's Bill also addresses this historically unprecedented attack on the ABC's independence by reviewing the ABC's annual appropriation and making its own recommendations on the level of appropriations for the ABC.

**Democrats'
accountability
package**

**MAKING THE
B*****DS
HONEST**

5 Making corporations more accountable

**Democrats'
accountability
package**

Establishing a Corporate Code of Conduct to require Australian companies operating offshore to abide by Australian human rights, environmental and labour protection standards

The Australian Democrats are very concerned to ensure that companies that are based in Australia conduct themselves in other countries in the same way as they conduct themselves in Australia. That is particularly so with regard to conduct that relates to the environment, human rights and health and safety standards.

For that reason the Democrats have introduced a Private Senator's Bill into the Parliament - the *Corporate Code of Conduct Bill* - which will, in general terms, require that Australian companies operating overseas observe the same standards in those countries as are applied to them in Australia.

Improving the Corporations Law to better protect the rights of minority shareholders and the Mums and Dads

Company directors have extensive powers regarding the management of the company's business and internal organisation, including deciding their own remuneration, appointment of auditors, initiating changes in the corporate constitution and the conduct of shareholder meetings and voting procedures. There are significant deficiencies in this method of controlling companies, and of ensuring full and objective accountability to shareholders.

To improve the independence and accountability of Boards of listed companies, the Democrats propose that companies should have two Boards, a main board elected by shareholders concerned with managerial and operational issues, and a small second board concerned with limited and specific corporate governance issues. To protect minorities, and to maximise accountability, corporate governance boards need to be elected by *shareholders*.

The Democrats also favour the election of members of main boards of directors by a system of proportional representation to ensure minority interests are represented.

**MAKING THE
B*****DS
HONEST**

The Democrats believe that the ASX and ASIC could do a lot more to improve the process of electing directors so that best practice is achieved.

Further we support the right of small shareholders to call general meetings and will oppose government attempts to reduce this important right to call directors to account.

Ultimately, these reforms are about re-establishing corporate democracy and the balance of company governance in favour of shareholders, rather than management.

**Democrats'
accountability
package**

**MAKING THE
B*****DS
HONEST**

**Democrats'
accountability
package**

Democrats' Parliamentary Record of Keeping the B***ds Honest**

The Democrats' accountability work in Parliament clearly illustrates our commitment to openness and transparency in government. Below is a summary of our activities over the past four years, followed by brief outline of some of our major achievements in previous years.

Electoral Laws:

- 1981: The Democrats supported the establishment of a Joint Committee on the Electoral System. Democrats, through this committee, pioneered political donations disclosure laws, simpler voting systems, and public funding of election campaigns. Major improvements to the Electoral Act have resulted.
- 1995: The Democrats amended an electoral bill to require truth in political advertising, but the bill lapsed in the House before the 1996 election.
- 1998: Democrat amendment to require parties receiving donations from trusts or foundations to forfeit the donations unless certain conditions are met is defeated by major parties.
- 1999: Democrat submission to the Joint Committee on Electoral Affairs calls for closer scrutiny of internal affairs of political parties.
- 2000: Democrat Senator Andrew Murray introduces a Private Senator's Bill to overhaul electoral laws to prevent the misuse of government advertising and also require truth in political advertising.

Access to Information:

- 1983: The Senate, led by Liberal Senator Alan Missen and the Democrats' Michael Macklin, passed a series of amendments to strengthen the proposed Freedom of Information Law.
- 1985: The Democrats helped defeat a proposal to substantially increase search, page copying and other administrative fees on the ground that such fees would restrict access to information.

1987: Democrat opposition to the intrusive 'Australia Card' results in a double dissolution election, but proposed law is still dropped.

1988: After years of Democrat lobbying, the Privacy Act was passed with sections put forward by the Democrats during negotiations on the legislation (but without strengthening amendments due to a Coalition backflip).

2000: Democrat Senator Andrew Murray introduces a Private Senator's Bill to remove excessive restrictions on Freedom of Information Laws, based on the 1995 Australian Law Reform Commission and the Administrative Review Council recommendations.

Financial Accountability:

1994: The Democrats won an accountability package following the Ros Kelly 'sports rorts' resignation, which included more powers for the Auditor-General, a Parliamentary Audit Committee, work on a Code of Conduct, and the cutting of ministerial funding discretions.

1994: A Democrats' Senate motion resulted in the Auditor-General investigating a \$100 million cover-up of losses on government building management in Melbourne.

Improving Parliamentary Scrutiny:

1981: Democrats win balance of power in Senate, with the result that Senate Committees are strengthened, the Senate starts compelling the Government to table documents it previously kept secret and legislative review by the Senate became more rigorous.

1984: Democrats amended the National Crime Authority Bill to improve administration, preserve important civil liberties, and enforce accountability through a Joint Parliamentary Committee.

1988: The Democrats received Senate support for procedural changes which require Ministers to respond to Questions on Notice within 30 days or give reasons why they have not done so.

1989: The Democrats persuade the Senate to establish a Selection of Bills Committee, providing more systematic review of Government legislation.

**MAKING THE
B*****DS
HONEST**

**Democrats'
accountability
package**

**MAKING THE
B*****DS
HONEST**

**Democrats'
accountability
package**

- 1991: Democrats establish the Senate Superannuation Committee, preventing 'legislation by press release' in superannuation and opens up superannuation policy and laws to public comment.
- 1993: Democrat proposals to rearrange sitting times and Senate committees proposed and eventually accepted by the Senate, resulting in more time being spent on legislative review and less time on political grandstanding.
- 1994: Democrat propose a Parliamentary Committee to scrutinise treaties. The Coalition eventually adopts a version of the Democrat initiative.
- 1994: Democrats establish an Inquiry into the secretive Foreign Investment Review Board, which recommends major reforms. The government improves processes as a result.
- 1996: Democrats force the Government to admit that ABARE research used to justify its greenhouse policy was partly funded by the coal industry.
- 1998: Democrats oppose placing the Clerks of the Senate and the House of Representatives on limited job tenure, but major parties back the new policy.
- 1999: Senator Bartlett persuades the Senate to impose an unprecedented sanction of an extended question time while Family and Community Services Minister refuses to table a secret government discussion paper on welfare reform.

Improving politicians conduct:

- 1989: A Democrats' motion to establish a permanent Parliamentary Ethics Committee and a Code of Conduct was rejected on the combined vote of Labor and the Coalition.
- 1992: Democrats force the establishment of a judicial inquiry into the conduct of former Minister Graham Richardson over the "Marshall Islands Affair".
- 1995: Following 'sports rorts' affair, government releases draft Code of Conduct, but major parties defeat Democrat move to establish a Parliamentary Ethics Committee.
- 1997: In response to the Colston/Prosser Affairs, the Democrats propose the establishment of a Parliamentary Commissioner of Ethics to enforce tougher Codes of Conduct and Guidelines for all Ministers, Senators and Members, but it was defeated by the major parties.

- 1997: Democrats win support for the tabling of all parliamentarians travel allowances on a regular basis.
- 1997: Democrats initiate a Senate Inquiry into the parliamentary superannuation scheme, but major parties reject proposals to reduce the huge public subsidies.
- 1998, 1999: Democrat initiatives to set up a new working party to look at enforceable codes of conduct for federal parliamentarians defeated by major parties.
- 1998: Democrats commence campaign to ensure that public appointments be based on the general principles of merit, probity, openness and transparency and be subject to independent scrutiny. Amendments have been rejected 17 times by the major parties.
- 2000: Democrat Senator Andrew Murray introduces a Private Senator's Bill to establish a Charter of Political Honesty to be enforced by a Commissioner for Ministerial and Parliamentary Ethics, covering political conduct and ensuring appointments are on merit.
- 2000: Democrats' motion requesting the Auditor-General to review all Parliamentarians' entitlements passes the Senate and is actioned by the Auditor-General.

Improving accountability of bureaucrats:

- 1987: Democrats prevent a \$240 application fee for immigration appeals.
- 1994: The Democrats won new accountability measures for Telecom on network performance standards, country services, privacy and the resolution of small business complaints.
- 1997: Democrat amendments to the Public Services Bill to allow for acts of conscience by public sector employees and safety for whistleblowers defeated by major parties.
- 1997: Democrat amendments to strengthen Auditor-General's control over reporting on commercial-in-confidence dealings in contracts between government and private enterprise defeated by major parties.
- 1999: Democrats oppose the restructuring of the Public Service based on short-term, performance-based contracts as eroding the independence of the Service.

**MAKING THE
B*****DS
HONEST**

**Democrats'
accountability
package**

**MAKING THE
B*****DS
HONEST**

**Democrats'
accountability
package**

1999: Democrats win over 500 amendments to new environmental legislation to toughen up the joint Federal/State regime for environmental approvals and give the Federal Environment Minister stronger powers over areas of national significance.

2000: Democrats pursue use by Ministers of commercial-in-confidence claims and similar assertion of privilege to conceal the government's commercial dealings from public scrutiny and accountability to a Senate Inquiry.

2000: Senate Inquiry chaired by Senator Allison slams the proposed online deal between ABC and Telstra.

Improving accountability of corporations:

1986: Democrats get agreement to reform of the Trade Practices Act to protect small business against big business and improve consumer protection.

1989: The Privacy Act is extended to private sector credit and banking, with the Government finally acceding to long standing Democrat demands.

1989: Democrats' move to establish a Senate Inquiry into banking practices is rejected, but the government establishes a House Committee which wins some consumer reforms.

1990: Government persuaded to drop its plan to abolish the Broadcasting Tribunal and instead moves to strengthen its powers.

1991: Democrats win support for a Senate Inquiry into the take-overs test in the Trade Practices Act, which results in changes to prevent takeovers, which substantially lessen competition.

1996: Democrats propose extending the Privacy Act fully to the private sector with a proper Code of Conduct. Government later agrees to a variant of this.

1999: The Democrats amend the new Corporation Law to improve minority shareholder rights and corporate environmental reporting.

2000: Senator Bourne's *Corporate Code of Conduct bill* referred to a Senate Inquiry.