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No. 123—4 December 2006

1 MEETING OF SENATE
The Senate met at 12.30 pm. The President (Senator the Honourable Paul Calvert) took the chair and read prayers.

2 MEDIBANK PRIVATE SALE BILL 2006
Order of the day read for the adjourned debate on the motion of the Minister for Ageing (Senator Santoro)—That this bill be now read a second time.
Debate resumed.
Senator Murray moved the following amendment:
At the end of the motion, add “but the Senate is of the view that prior to the sale, the government of the day be required to prepare and present a discussion paper to the Parliament addressing the (eventual) method of sale of Medibank Private Limited, with particular reference to why that particular method was chosen over alternative methods”.
Debate ensued.
At 2 pm: Debate was interrupted while the Leader of the Australian Democrats (Senator Allison) was speaking.

3 LEADER AND DEPUTY LEADER OF THE OPPOSITION IN THE SENATE—DEATH OF MR DAVID BEAZLEY—STATEMENT BY LEAVE
Senator Evans, by leave, informed the Senate of his election as Leader of the Opposition in the Senate, and the election of Senator Conroy as Deputy Leader.
Senator Evans also informed the Senate of the death, today, of Mr David Beazley, brother of former Leader of the Opposition (Mr Beazley), and extended condolences to Mr Beazley and his family.
Statements by leave: The Minister for Finance and Administration (Senator Minchin), the Leader of the Australian Greens (Senator Bob Brown), the Leader of the Australian Democrats (Senator Allison), the Leader of the Family First Party (Senator Fielding) and the Leader of The Nationals in the Senate (Senator Boswell), by leave, made statements relating to the matter.

4 QUESTIONS
Questions without notice were answered.

5 UNPARLIAMENTARY LANGUAGE—STATEMENT BY PRESIDENT
The President made a statement relating to unparliamentary language and a matter raised by the Leader of the Australian Greens (Senator Bob Brown) on 1 December 2006.
Statement by leave: Senator Bob Brown, by leave, made a statement relating to the matter.

6 FAMILY AND COMMUNITY SERVICES—AGED CARE—ANSWERS TO QUESTIONS
Senator McLucas moved—That the Senate take note of the answers given by the Minister for Ageing (Senator Santoro) to questions without notice asked by Senators McLucas and Webber today relating to aged care.
Debate ensued.
Question put and passed.
7 ENVIRONMENT—NUCLEAR WASTE MANAGEMENT—ANSWER TO QUESTION

The Leader of the Australian Democrats (Senator Allison) moved—That the Senate take note of the answer given by the Minister for Finance and Administration (Senator Minchin) to a question without notice asked by Senator Allison today relating to nuclear waste management.

Question put and passed.

8 PETITIONS

The following 2 petitions, lodged with the Clerk by the President, were received:

From 28 petitioners, requesting that the Senate take action to end the indefinite detention of David Hicks and ensure that he be charged and tried without further delay by an independent tribunal with all the protections of the rule of law that Australian citizens would expect.

From 21 petitioners, requesting that the Senate legislate to create an offence of transmission by mail of child pornography and child abuse material.

9 NOTICES

The Chair of the Finance and Public Administration Committee (Senator Fifield): To move on the next day of sitting—That the time for the presentation of the report of the Finance and Public Administration Committee on the transparency and accountability of Commonwealth public funding and expenditure be extended to 8 February 2007. (general business notice of motion no. 661)

Senators Siewert and Moore: To move on the next day of sitting—That the Senate—

(a) notes:

(i) the important role that the non-sniffable fuel Opal plays in addressing the scourge of petrol sniffing in remote Aboriginal communities, and

(ii) the announcement by the Government in September 2006 of the roll-out of Opal fuel in Alice Springs;

(b) notes, with concern:

(i) that misinformation about negative impacts of Opal fuel on car engines has caused a number of petrol stations to cease selling Opal fuel, and

(ii) the delay in the promised promotional campaign to support Opal fuel in Alice Springs; and

(c) calls on the Federal Government to start to actively promote Opal fuel in Alice Springs immediately. (general business notice of motion no. 662)

Senator Milne: To move on the next day of sitting—That the Senate—

(a) notes that:

(i) in regard to the promise by the Prime Minister (Mr Howard) in the 2004 election to protect 18 700 hectares of old-growth forest in the Styx and Florentine valleys, the Minister representing the Prime Minister, Senator Minchin, stated in the Senate on 30 March 2006 that ‘It is absolutely outrageous to suggest that the Prime Minister has not honoured his promise. He is honouring his promises to the people of Tasmania in full. This was a major commitment to the people of Tasmania to achieve both the protection of vital forests and the protection of jobs...’,
(ii) Senator Minchin’s claims are contradicted by the admission by the Minister for Fisheries, Forestry and Conservation (Senator Abetz), as reported in the *Mercury* on 30 November 2006, that ‘not all the Upper Florentine Valley was protected as pledged during the 2004 election campaign’,

(iii) Senator Minchin’s statement is contradicted by the Government’s own literature about the outcome of the election promises, ‘The Tasmanian Community Forest Agreement: Fact sheet no. 3’ (May 2005), which admits the failure to meet the Prime Minister’s election promise because the protected areas in the Styx and Florentine contain ‘4,730 hectares of old-growth eucalypt against a target of 18,700 hectares’, and

(iv) the Federal Government is funding logging operations in the Styx and Upper Florentine valleys and publicly-funded road construction is planned to continue in the Upper Florentine; and

(b) calls on the Government to immediately protect in full all areas that the Prime Minister promised to protect during the 2004 election. (*general business notice of motion no. 663*)

Senator Nettle: To move on the next day of sitting—That the Senate—

(a) notes that Australian citizen, Mr David Hicks has been detained for 1,822 days; and

(b) calls on the Australian Government to ensure the release of Mr Hicks from Guantanamo Bay. (*general business notice of motion no. 664*)

The Leader of the Australian Democrats (Senator Allison), the Leader of the Australian Greens (Senator Bob Brown) and Senators Bishop and Bartlett: To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to prohibit the use, possession and manufacture of cluster munitions, and for related purposes. *Cluster Munitions (Prohibition) Bill 2006*. (*general business notice of motion no. 665*)

The Minister for Justice and Customs (Senator Ellison): To move on the next day of sitting—That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

- Defence Legislation Amendment Bill 2006
- Royal Commissions Amendment (Records) Bill 2006.

*Documents:* Senator Ellison tabled the following documents:

10 **POSTPONEMENT**

The following item of business was postponed:

- General business notice of motion no. 608 standing in the name of Senator Nettle for today, relating to water resources of the Murray-Darling Basin, postponed till 7 December 2006.
11 **ADMINISTRATION—AUSTRALIAN WHEAT BOARD**

The Leader of the Australian Greens (Senator Bob Brown), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 659—That the Senate—

(a) noting the Cole Commission of Inquiry’s whitewash of the Government’s failure to exercise care and diligence over the Australian Wheat Board;

(b) deploring the damage done to Australia’s international reputation by the Australian Wheat Board scandal; and

(c) expressing deep concern for wheat growers who suffer loss as a result,
calls on the Government, the Prime Minister (Mr Howard) and ministers personally to once again assume responsibility and accountability for the actions of the federal public service and all of its departments.

Question put.

The Senate divided—

**AYES, 8**

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Question negatived.

12 **FOREIGN AFFAIRS—MR DAVID HICKS**

Senator Nettle amended general business notice of motion no. 660 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—that the Senate calls on the Government to immediately bring Mr David Hicks home from Guantanamo Bay.

Question put.
The Senate divided—

AYES, 32

Senators—

Allison
Bartlett
Bishop
Brown, Bob
Brown, Carol
Carr
Faulkner
Fielding
Forshaw
Hogg
Hurley
Hutchins
Kirk
Ludwig
Lundy
Marshall
McEwen
McLacas
Milne
Moore
Murray
Nettle
O’Brien
Polley

Sherry
Siewert
Stephens
Sterle
Stott Despoja
Webber (Teller)
Wong
Wortley

NOES, 34

Senators—

Abetz
Bernardi
Boswell
Brandis
Calvert
Campbell, Ian
Chapman
Colbeck
Coonan
Eggleston
Ellison
Ferguson
Ferris (Teller)
Fifield
Heffernan
Humphries
Johnston
Joyce
Kemp
Lightfoot
Macdonald, Ian
Macdonald, Sandy
McGauran
Nash
Parry
Payne
Ronaldson
Santoro
Scullion
Troeth
Trood
Watson
Wortley

Question negatived.

13 **ECONOMICS—STANDING COMMITTEE—ADDITIONAL INFORMATION—BUDGET ESTIMATES 2006-07**

Senator Ferris, at the request of the Chair of the Economics Committee (Senator Brandis), tabled the following additional information received by the committee:

Economics—Standing Committee—Budget estimates 2006-07 (Supplementary)—Additional information received between 1 November and 28 November 2006—Industry, Tourism and Resources portfolio.

Treasury portfolio.

14 **PUBLIC ACCOUNTS AND AUDIT—JOINT STATUTORY COMMITTEE—409TH REPORT**

Senator Watson, on behalf of the Joint Committee of Public Accounts and Audit, tabled the following report:


Senator Watson, by leave, moved—That the Senate take note of the report.

Question put and passed.

15 **INTELLIGENCE AND SECURITY—JOINT STATUTORY COMMITTEE—REPORT—REVIEW OF SECURITY AND COUNTER TERRORISM LEGISLATION**

Senator Ferris, on behalf of the Parliamentary Joint Committee on Intelligence and Security, tabled the following report:

Senator Ferris, by leave, moved—That the Senate take note of the report.

Debate ensued.

Debate adjourned till the next day of sitting, Senator Bartlett in continuation.

16 **SCRUTINY OF BILLS—STANDING COMMITTEE—12TH REPORT OF 2006**

Senator Kirk, at the request of the Chairman of the Standing Committee for the Scrutiny of Bills (Senator Ray), tabled the following report and documents:


Report ordered to be printed on the motion of Senator Kirk.

Senator Kirk, by leave, moved—That the Senate take note of the report.

Question put and passed.

17 **INTER-PARLIAMENTARY UNION—115TH ASSEMBLY—DOCUMENT**

Senator Marshall, by leave, tabled the following document:


Senator Marshall, by leave, moved—That the Senate take note of the document.

Question put and passed.

18 **MIGRATION—JOINT STANDING COMMITTEE—REPORT—AUSTRALIA-NEW ZEALAND COMMITTEE EXCHANGE PROGRAM**

Senator Kirk, on behalf of the Joint Standing Committee on Migration, tabled the following report:


Senator Kirk, by leave, moved—That the Senate take note of the report.

Question put and passed.

19 **DOCUMENTS**

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]

Civil Aviation Act—Civil Aviation Safety Regulations—Airworthiness Directives—Part 106—AD/PW500/2—Fuel Manifold Leakage [F2006L03879]*.

Customs Act—Tariff Concession Orders—

0616186 [F2006L03901]*.

0616284 [F2006L03903]*.

0616373 [F2006L03905]*.

0616375 [F2006L03907]*.
No. 123—4 December 2006

0616669 [F2006L03863]*.
0616811 [F2006L03908]*.
0616877 [F2006L03909]*.
0616925 [F2006L03910]*.

Tariff Concession Revocation Instrument 104/2006 [F2006L03895]*.

Export Control Act—Export Control (Orders) Regulations—
Export Control (Eggs and Egg Products) Amendment Orders 2006 (No. 1) [F2006L03924]*.
Export Control (Fish and Fish Products) Amendment Orders 2006 (No. 2) [F2006L03927]*.
Export Control (Milk and Milk Products) Amendment Orders 2006 (No. 2) [F2006L03928]*.
Export Control (Plants and Plant Products) Amendment Orders 2006 (No. 2) [F2006L03929]*.

Fisheries Management Act—

National Health Act—Determination HIB 32/2006 [F2006L03858]*.

Governor-General’s Proclamation—Commencement of Provisions of an Act—

* Explanatory statement tabled with legislative instrument.

20 HEALTH INSURANCE—ANTI-COMPETITIVE PRACTICES—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT

The following document was tabled pursuant to the order of the Senate of 25 March 1999, as amended on 18 September 2002:

Australian Competition and Consumer Commission—Report to the Australian Senate on anti-competitive and other practices by health funds and providers in relation to private health insurance for the period 1 July 2005 to 30 June 2006.
21 DEFENCE LEGISLATION AMENDMENT BILL 2006

A message from the House of Representatives was reported transmitting for the
concurrence of the Senate the following bill:

Message no. 450, dated 1 December 2006—A Bill for an Act to amend legislation
relating to defence, and for related purposes.
The Parliamentary Secretary to the Minister for Defence (Senator Sandy Macdonald)
moved—That this bill may proceed without formalities and be now read a first time.
Question put and passed.
Bill read a first time.
Senator Sandy Macdonald moved—that this bill be now read a second time.

Explanatory memorandum: Senator Sandy Macdonald tabled a revised explanatory
memorandum relating to the bill.

Consideration of legislation: Pursuant to order, the debate was adjourned and the
resumption of the debate made an order of the day for the first day in the next period
of sittings.

22 ENVIRONMENT AND HERITAGE LEGISLATION AMENDMENT (ANTARCTIC SEALS
AND OTHER MEASURES) BILL 2006

A message from the House of Representatives was reported agreeing to the following
bill without amendment:

Message no. 449, dated 30 November 2006—Environment and Heritage
Legislation Amendment (Antarctic Seals and Other Measures) Bill 2006.

23 GOVERNOR-GENERAL’S MESSAGE—ASSENT TO LAWS

A message from His Excellency the Governor-General was reported, informing the
Senate that he had assented to the following laws:

30 November 2006—Message No. 46—
Australian Participants in British Nuclear Tests (Treatment) Act 2006 (Act
No. 135, 2006)
Australian Participants in British Nuclear Tests (Treatment) (Consequential
Defence Force (Home Loans Assistance) Amendment Act 2006 (Act No. 137,
2006)
Maritime Legislation Amendment (Prevention of Pollution from Ships) Act
2006 (Act No. 138, 2006)
National Cattle Disease Eradication Account Amendment Act 2006 (Act
No. 139, 2006)
Housing Loans Insurance Corporation (Transfer of Assets and Abolition)
Repeal Act 2006 (Act No. 140, 2006)
Housing Loans Insurance Corporation (Transfer of Pre-transfer Contracts) Act
24 Medibank Private Sale Bill 2006

Order of the day read for the adjourned debate on the motion of the Minister for Ageing (Senator Santoro)—That this bill be now read a second time—and on the amendment moved by Senator Murray (see entry no. 2).

Debate resumed.

Question—that the amendment be agreed to—put and negatived.

The Leader of the Australian Democrats (Senator Allison) moved the following amendment:

At the end of the motion, add “but the Senate is of the view that prior to the sale, the Productivity Commission be required to conduct an inquiry into the private health insurance industry, with specific attention to enabling an efficient, competitive and viable private health insurance industry”.

Question—that the amendment be agreed to—put and negatived.

Senator Nettle moved the following amendment:

At the end of the motion, add “but the Senate is of the view that any funds raised by the sale of Medibank Private should be directed to public health care”.

Question—that the amendment be agreed to—put.

The Senate divided—

AYES, 7

Allison
Bartlett

Brown, Bob
Milne

Murray
Nettle

Siewert (Teller)

NOES, 46

Bernardi
Brandis
Calvert
Chapman
Colbeck
Crossin
Eggleston
Ellison
Faulkner
Ferguson
Ferris
Fielding

Fierravanti-Wells
Fifield
Forshaw
Hogg
Humphries
Hurley
Hutchins
Johnston
Kirk
Lightfoot
Ludwig
Lundy

Macdonald, Ian
Marshall
McEwen
McGauran
McLucas
Minchin
Moore
Parry (Teller)
Patterson
Payne
Polley
Ronaldson

Santoro
Sherry
Stephens
Sterle
Troeth
Troom
Watson
Webber
Wong
Wortley

Question negatived.

Main question put.
The Senate divided—

**AYES, 34**

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**NOES, 28**

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Question agreed to.

Bill read a second time.

The Senate resolved itself into committee for the consideration of the bill.

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**In the committee**

Bill taken as a whole by leave.

Senator Murray moved the following amendment:

Page 3 (after line 9), after clause 4, insert:

**5 Repeal**

(1) If the designated sale day has not occurred on or before 1 January 2012, then this Act is repealed on 1 January 2012.

(2) If this Act is repealed in accordance with subsection (1), then each Act that is specified in a Schedule to this Act will be taken not to have been amended by the items in that Schedule at all.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

Senator Murray moved the following amendment:

Schedule 2, page 10 (line 11), at the end of paragraph (2)(a), add “with existing members of Medibank Private having the right of first refusal for that transfer”.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

Senator Murray moved the following amendment:

Schedule 2, page 10 (line 19), at the end of subitem (3), add “which must provide as the first method of sale the sale of Medibank Private to its existing members”.

Question—That the amendment be agreed to—put and negatived.
Senator Murray moved the following amendment:

Schedule 2, page 10 (after line 24), after subitem (5), insert:

(5A) Without limiting the generality of this Part or the operation of subitem (6), a Medibank Private sale scheme may involve:

(a) mutualisation of Medibank Private; or
(b) private float of equity in Medibank Private; or
(c) private placement of equity in Medibank Private; or
(d) any other method the Commonwealth considers appropriate.

Question—That the amendment be agreed to—put and negatived.

Senator Murray moved the following amendment:

Schedule 2, page 51 (after line 4), at the end of the Schedule, add:

63 Hypothecation of revenue

(1) A fund, to be called the Medibank Sale Health Fund, is established.
(2) The net proceeds of any sale which takes place under this Schedule must be placed in the Medibank Sale Health Fund.
(3) Funds in the Medibank Sale Health Fund may only be appropriated for the purpose of advancing health in Australia.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

Senator Nettle moved the following amendments together by leave:

Schedule 1, page 6 (after line 13), at the end of the Schedule, add:

Private Health Insurance Incentives Act 1998

8 The whole of the Act

Repeal the Act.

Schedule 1, page 6 (after line 13), at the end of the Schedule, add:

Taxation Laws Amendment (Private Health Insurance) Act 1998

9 The whole of the Act

Repeal the Act.

Debate ensued.

At 9.50 pm: The Acting Deputy President (Senator Crossin) resumed the chair and the Temporary Chair of Committees reported progress.

25 ADJOURNMENT

The Acting Deputy President (Senator Crossin) proposed the question—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 10.28 pm till Tuesday, 5 December 2006 at 12.30 pm.
26 ATTENDANCE
Present, all senators except Senators Adams*, Barnett*, George Campbell*, Conroy* and Mason* (* on leave).

HARRY EVANS
Clerk of the Senate