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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:

Consideration of legislation—Statements of reasons [2] for introduction and passage of bills in the 2006 spring sittings.

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

Senators—

Allison	Brown, Bob	Murray	Siewert (Teller)
Bartlett	Milne	Nettle	Stott Despoja

NOES, 51

Senators—

Abetz	Ferguson	Ludwig	Ray
Bernardi	Ferris (Teller)	Lundy	Ronaldson
Bishop	Fielding	Marshall	Scullion
Brandis	Fierravanti-Wells	McEwen	Sherry
Brown, Carol	Fifield	McGauran	Stephens
Calvert	Forshaw	McLucas	Sterle
Carr	Hogg	Moore	Troeth
Chapman	Humphries	Nash	Trood
Colbeck	Hurley	O'Brien	Watson
Crossin	Hutchins	Parry	Webber
Eggleston	Johnston	Patterson	Wong
Ellison	Joyce	Payne	Wortley
Faulkner	Kirk	Polley	

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	Forshaw	McEwen	Sherry
Bartlett	Hogg	McLucas	Siewert
Bishop	Hurley	Milne	Stephens
Brown, Bob	Hutchins	Moore	Sterle
Brown, Carol	Kirk	Murray	Stott Despoja
Carr	Ludwig	Nettle	Webber (Teller)
Faulkner	Lundy	O'Brien	Wong
Fielding	Marshall	Polley	Wortley

NOES, 34

Senators—

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

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:

Public Accounts and Audit—Joint Statutory Committee—409th report—
Developments in aviation security since the committee's June 2004 report 400:
Review of aviation security in Australia, dated December 2006.

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:

Intelligence and Security—Joint Statutory Committee—Review of security and
counter terrorism legislation—Report, dated December 2006.

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:

Scrutiny of Bills—Standing Committee—12th report of 2006—Entry, search and seizure provisions in Commonwealth legislation, dated 4 December 2006, Hansard record of proceedings, document presented to the committee and submissions [16].

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:

Inter-Parliamentary Union—115th Assembly, Geneva, 16 to 19 October 2006 and a visit to Portugal, 20 to 25 October 2006—Report of the Australian parliamentary delegation, dated December 2006.

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:

Migration—Joint Standing Committee—Australia-New Zealand committee exchange program—Report of the parliamentary delegation, 27 to 31 August 2006, dated December 2006.

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]*.

Commonwealth Authorities and Companies Act—Notice under paragraphs 45(1)(a) and (c)—Formation and membership of Telstra Sale Company Limited.

Customs Act—

Tariff Concession Orders—

0616186 [F2006L03901]*.

0616284 [F2006L03903]*.

0616373 [F2006L03905]*.

0616375 [F2006L03907]*.

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—

Heard Island and McDonald Islands Fishery Management Plan 2002—2006/2007 HIMIF TAC D5—Total Allowable Catch Determination—2006/2007 Season [F2006L03889]*.

Southern and Eastern Scalefish and Shark Fishery Management Plan 2003—2007 SESSF D2—Southern and Eastern Scalefish and Shark Fishery (non-quota species) Total Allowable Catch (2007 Fishing Year) Determination [F2006L03891]*.

2007 SESSF D3—Southern and Eastern Scalefish and Shark Fishery Overcatch and Undercatch (2007 Fishing Year) Determination [F2006L03898]*.

2007 SESSF TAC D1—Southern and Eastern Scalefish and Shark Fishery (quota species) Total Allowable Catch (2007 Fishing Year) Determination [F2006L03893]*.

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

Parliamentary Entitlements Act—Parliamentary Entitlements Regulations—Advice of decision to pay assistance under Part 3, dated 20 November 2006.

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

Australia-Japan Foundation (Repeal and Transitional Provisions) Act 2006—Schedule 1—1 December 2006 [F2006L03882].*

* 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 Amendments and Transitional Provisions) Act 2006 (Act No. 136, 2006)

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 2006 (Act No. 141, 2006).

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

Senators—

Allison	Brown, Bob	Murray	Siewert (Teller)
Bartlett	Milne	Nettle	

NOES, 46

Senators—

Bernardi	Fierravanti-Wells	Macdonald, Ian	Santoro
Brandis	Fifield	Marshall	Sherry
Calvert	Forshaw	McEwen	Stephens
Chapman	Hogg	McGauran	Sterle
Colbeck	Humphries	McLucas	Troeth
Crossin	Hurley	Minchin	Trood
Eggleston	Hutchins	Moore	Watson
Ellison	Johnston	Parry (Teller)	Webber
Faulkner	Kirk	Patterson	Wong
Ferguson	Lightfoot	Payne	Wortley
Ferris	Ludwig	Polley	
Fielding	Lundy	Ronaldson	

Question negatived.

Main question put.

The Senate divided—

AYES, 34

Senators—

Abetz	Ellison	Kemp	Patterson
Allison	Ferguson	Lightfoot	Payne
Bernardi	Ferris	Macdonald, Ian	Ronaldson
Boswell	Fierravanti-Wells	Macdonald, Sandy	Santoro
Brandis	Fifield	McGauran	Scullion
Calvert	Heffernan	Minchin	Troeth
Chapman	Humphries	Murray	Trood
Colbeck	Johnston	Nash	
Eggleston	Joyce	Parry (Teller)	

NOES, 28

Senators—

Bartlett	Hogg	McEwen (Teller)	Sherry
Brown, Bob	Hurley	McLucas	Siewert
Carr	Hutchins	Milne	Stephens
Crossin	Kirk	Moore	Sterle
Faulkner	Ludwig	Nettle	Webber
Fielding	Lundy	O'Brien	Wong
Forshaw	Marshall	Polley	Wortley

Question agreed to.

Bill read a second time.

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

—————
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