

~~SHRI SITARAM YECHURY: Sir, you must consider his request because for a long time we are working ... (Interruptions)..~~

~~(Followed by 3K/SSS)~~

SSS/3K/4.40

THE ARCHITECTS (AMENDMENT) BILL, 2010

THE MINISTER OF HUMAN RESOURCE DEVELOPMENT (SHRI KAPIL SIBAL): Sir, I beg to move:

That the Bill further to amend the Architects Act, 1972, be taken into consideration.

Sir, as we know that architecture is perhaps one of the important professions in this country and with the possibility of huge investments in the infrastructure sector, we will be needing a lot of quality professional institutions in the field of architecture in the years to come.

[THE VICE-CHAIRMAN (PROF. P. J. KURIEN)in the Chair]

Sir, we have been pained by the fact that the Council of Architecture has been functioning, in the recent past, in a somewhat haphazard manner and I must confess that the Central Government has received a large number of complaints about the Council. I really don't want to go into the history of it but I may just point out one letter written by the distinguished Chief Minister of

Bihar on the 24th of September, 2011, when he wrote to me and he said that I want to bring to your notice the matter of de-recognition of the Bachelor of Architecture degree awarded by NIT, Patna for students admitted for the academic year, 2005-06 and the matter has been pending since 2005-2006 and it has not resolved and the distinguished Chief Minister had to, in fact, write to me. I indicated, of course, that we are taking remedial steps. Sir, I might add that in fact, notices were sent to the Delhi School of Planning and Architecture to de-recognise them and so the distinguished Chief Minister said that since the School of Planning and Architecture, Delhi was also subjected to de-recognition by the Council of Architecture along with NIT, Patna, we need your personal intervention to stop this because the students are on a war footing. Now, this is a very unfortunate state of affairs. But, this was not all. In fact, in the recent past, the Institute of Architects, which as you know is a very distinguished and eminent body has been complaining bitterly about the functioning of the Council of Architecture and very distinguished architects have, in fact, complained about the way that this particular institution has been functioning. In fact, I have here the minutes of a meeting held by a group of experts which was constituted to review the

Architects Act and the functioning of the Council of Architecture dated 14th January, 2009 which consisted of experts like J. R. Bhalla, E. F. N. Ribeiro, Vinay Parelkar, Ranjit Mitra, Harbinder Singh. They were renowned architects and they bitterly complained about the way the Council of Architecture was functioning and one of the complaints that they had was that the President's term had expired in September, 2007 but there was a provision in the Architect's Act that the office bearer shall continue till a new person is appointed and Sir, whenever an attempt was made to do so -- well there were some court proceedings that took place -- the result was that till date he continues to be in office. We have not grievance about that because a person is entitled to be in office but we don't want situations like that to be repeated in the future. We don't a want situation where the statute says that, 'look, if you are elected you will remain in office till such time as the new person is elected.' Then the tendency is to perpetuate your own office.

(Contd. by NBR/3L)

-SSS/NBR-LP/3L/4.45.

SHRI KAPIL SIBAL (CONTD.): So, one of the amendments that we have brought in this amendment Bill is to ensure that once you are elected for a term of office, then the term shall end either at the end of your term or two month after the end of your term whichever is earlier, so that there is no ambiguity and that this self-perpetuation should not take place. I, again, do not want to go into the history, because there are also several other complaints. But, I said this in the context of perpetuation by the Office Bearers of the Council of Architecture of their position. So, that is one of the amendments that we have brought in.

The other one is, there is no provision in this Act like in most legislation in the country of policy directions of the Central Government. Sir, whether it is the DDA Act or other Central Government Act, there is always a provision which says that the authority will be bound by the policy directions of the Government. So, just to ensure that the Council of Architecture continues to act consistently with the policy framework or the policy directions given from time to time, which is in every other statute, we have incorporated a similar provision in this amendment.

The third one was, we found that if this is the state of affairs, there should be some way in which there is a need to put an end to this state of affairs. So, we had proposed that the Central Government should have the power to supersede in a situation like this as we were faced with the present Council of Architecture. When the matter went before the Standing Committee, I am deeply obliged to a very counsel given by the Standing Committee, which suggested to us that there should be no blanked power of supersession and I entirely agree with it. So, as suggested by the Standing Committee, we have set up a mechanism through which, in the event there is a dispute between the Council of Architecture and the Central Government in any way and the Central Government feels that the provisions of the Act are not being complied with, then we have introduced a Clause 10B which says, 'If the Central Government is of the opinion that the Council is not complying with the provisions of this Act or rules made thereunder or there is a *prima facie* case for default of improper action by the Council...' Then, we can appoint, by notification, a Commission of Enquiry which shall consist of the Chairman and two Members. Out of which, the Chairperson and one Member shall be appointed by the Central Government and the other Member by the Council.

And, it is only on the recommendations of the Commission of Enquiry that any action can take place. Sir, no super-session takes place even then. If the Commission of Enquiry, actually, recommends a certain course of action, as corrective measure, then, in that event, the Council of Architecture is requested to follow those directions as enunciated by the Commission of Enquiry in the Resolution of that matter. If the Council still does not follow what the Commission of Enquiry has recommended, only then the power of super-session takes place. But, here also, the maximum period of super-session cannot be more than a year, so that the interests of the Council of Architecture and the interests of the profession are evenly balanced and we can move forward in a constructive manner. Of course, when the Commission of Enquiry sits, it shall have all the powers of a Civil Court under the Code of Civil Procedure which can summon, enforce attendance of persons, it can have documents produced, it can receive evidence on Affidavit and other things. So, there is a full-fledged enquiry before the Commission of Enquiry comes to its conclusions and it is only pursuant to such an enquiry that any directions can be given. And, it is only in the default of those directions that any extreme power of super-session can actually be given effect to and that also

the super-session has been reduced from two to one year. So, the maximum super-session can only be for one year.

There was a provision in the original Act of 1972 by which there would be a technical nominee in the Council of Architecture. As you know, in 1987, we had enacted the AICTE Act. In terms of this, the AICTE has been sending its nominee to the Council of Architecture. Since there is no amendment to the Act, the Council of Architecture refused to accept the nominee of the AICTE.

(CONTD. BY USY "3M")

-NBR-USY/3m/4.50

SHRI KAPIL SIBAL (CONTD.): They said, "We don't recognize you because there is no mention of the AICTE under the Act. Therefore, even though you may have come into the statute and the statute may have come into force in 1947 we will not accept any of your nominee". So, this kind of conflict, which was going on, was hurting the entire community of the architects. Therefore, it was thought necessary to remedy some of these problems that we were confronted with. Therefore, we have made a provision in terms of which the nominee of the All India Council of Architecture, if nominated, will be accepted by the Council of Architecture. So, broadly, these are four amendments. We fix the terms of the

President, of the office bearers and those who are elected. We ensure that there is no supercession, there is no blanket power of supercession. If there is a default, if there is a dispute, it goes to a Commission of Inquiry. And, it is only when the recommendations of the Commission of Inquiry are not accepted there is a possibility of a supercession, but in that event also it can't be more than a year.

I also want to add here the great appreciation that we have for the extremely wise counsel that was given to us by the Members of the Standing Committee, who also indicated to us that we should look at this issue in a futuristic manner because architecture is going to become a very, very important profession in the years to come because our new towns and our new cities, tier-II cities, tier-III cities are yet to be built with the enormous investments. The Prime Minister talks about the trillion dollars in the next five years in infrastructural alone. We will need a lot of very good architects. And, as you know, if we go around the city of Delhi or any other city, we realize how most of the buildings, which are built in the city, has no element of uniformity and the facets are not static at all. And, I think, if you want to live in a clean and beautiful India, we must make sure that architects, who are at the heart of a beautiful

city, get quality education in institutions. And, at least, institutional dissention should be avoided. With these words, Sir, I commend that the Bill be passed.

(Ends)

The question was proposed.

SHRI PIYUSH GOYAL (MAHARASHTRA): Thank you, Mr. Vice-Chairman, Sir. I am grateful to the hon. Minister for giving a brief preamble of why he chose to bring in these amendments. But I am extremely surprised to note from him that he has based this amendment Bill on the recommendations of the Standing Committee and a lot of the provisions have come in from the expert views of the Standing Committee. In fact, when I read the views of the Standing Committee on the Amendment Bill, I was very surprised to note that most of the recommendations of the Standing Committee have been completely ignored by the Government, while proposing the new Amendment Bill that they have brought up before the House today. I will come to each of those specific issues. But, at the outset, I would like to speak a little bit about the broad overview of the mentality of this Government to control all statutory bodies by gradually bringing everybody under bureaucratic control. And, when we talk of

reforms, this Government believes that they are votaries of reform. The only reform that they can think of is the FDI. Instead of bringing reforms in our administrative procedures, in the systems of Government, instead of debureaucratising the system of Government, instead of making the business liberal in the country, this Government is trying to centralize all powers within bureaucratic hands and that is the primary reason by the object to many provisions of this Bill. We believe this Government, through the mechanism of this Bill, is bringing in so many powers that the Council of Architecture will become a redundant body. It will have no powers, whatsoever, to function independently and autonomously and will remain an adjunct of the *babus* in the Government who will decide, "You either do this or...". And, then, the 'or' is what has been provided in this Bill. So, the autonomy of an independent body, set up by an Act of Parliament 35-40 years ago, is being sought to be taken away by this Bill.

(Contd. by 3n – PK)

-USY/PK/3N/4.55

SHRI PIYUSH GOYAL (CONTD.): Sir, the hon. Minister spoke about the Group of Experts. I went into the report of the Group of Experts. I found that the Group of Experts did not give an

opportunity to the Council of Architecture, against whom this report was made, to even present their views before the Group of Experts. So, it is a completely one-sided Group of Experts set up by the Government bureaucrats with the intention of getting a certain report which suits their convenience, and, today, in the garb of that report, this Government is coming out with an Amendment Bill. I would like to know from the hon. Minister: Who nominated the members to this Group of Experts, what was the criteria, whether they gave an opportunity to the affected parties to appear before them and whether they took cognizance of the real facts of the case, before they came out with their recommendations. On two or three issues, I would highlight what the Group of Experts did. Sir, the first thing that the hon. Minister has sought to do in this Bill is to restrict the term of office bearers to three years, whatever is their stipulated term, and they will not continue in office until the new members are elected. On the face of it, it is an absolutely noble objective. Nobody can have an argument on that. I also think that nobody should be allowed to be there for seven years, like the hon. Minister said. So, I also reacted the same way. But when I got into the details, I found that from 2007, when the term of the existing committee members got over,

they have been consistently writing to the Government of India regarding who has the power to appoint the Returning Officers, to conduct the election for the office bearers and to replace them. I have letters with me, Sir, right from 2007, 2008, 2010; the letter in 2010 is addressed to the hon. Minister himself. No response whatsoever, no action was taken on that letter and now they are alleging that they had a vested interest to continue in office. If you don't appoint the Returning Officer, if you don't conduct elections, how are the new members ever going to be elected? Then, you allege that there is a vested interest that they want to continue for seven years. I can place on the Table of the House the letters written to the hon. Minister, the judgements of the court in which it is clearly mentioned that the Government should appoint the Returning Officer and take action, but the Government has failed to take any action. So, now, after having failed to do their duty, they are passing the onus on to the Council of Architecture and alleging that the Council wants to continue in office beyond their term.

Sir, there was a court case that the hon. Minister referred to but did not go into detail. The single Bench decision was that the Government should appoint the Returning Officer. This was based

on the rules under which the Returning Officer is appointed by the Government of India. Thereafter, a Division Bench turned down the decision of the High Court. It went to the Supreme Court. The Supreme Court stayed the order of the Division Bench. So, as things stand today, the regulations that prevail are the ones which say that the Government shall appoint the Returning Officer to conduct the elections. This Government chooses not to appoint the Returning Officers from 2007 and now makes the allegation that they were continuing in office; therefore, we are amending the Act.

Sir, the second clause that they want to amend is the power to supersede. I am grateful that the hon. Minister has acknowledged that unrestricted and unfettered powers to supersede should not be a part of the law. I am glad that at least there is some restriction on the Government to centralise authority. But, Sir, the power to supersede, to be followed up by a Commission of Inquiry, which Commission of Inquiry will have two members of the Central Government is, once again, the same thing. So, if the Government makes up its mind to supersede the body and appoints two people on that body, they can take any decision and come to a conclusion that this body needs to be superseded. Sir, I would urge the hon. Minister to remove this

power to supersede. There are so many professional bodies. Sir, I am a Chartered Accountant. You cannot supersede my Institute of Chartered Accountants of India; you cannot supersede the Institute of Company Secretaries; and, you cannot supersede the Institute of Cost and Works Accountants. Why then the Architects' body should be subject to supersession by the Government? If there are malpractices, if there is action to be taken, there is a due process stipulated in the Act.

(Contd. by 3O/PB)

SHRI PIYUSH GOYAL (CONTD.): There are rules and regulations therefore. I don't see any reason that the power of supersession needs to be taken by the Government, and, if at all there has to be a power of supersession, the Commission should have members, maybe, sitting or retired Judges of the High Court or some such stipulation, to conduct impartial inquiry into the working of the Council rather than have bureaucrats appointed by the Government as members and Chairperson of that Council.

Sir, on the third issue, by way of a subsequent amendment, the hon. Minister has sought to say in Section 6 of the principal Act, 'within a period 15 days from the date of receipt of information from the Returning Officer ...' So, what they are trying to say, Sir, is that the name and address of each member of the Council elected shall be notified by the Central Government within 15 days from the date of receipt of information. That means, the Returning Officer can sit over the information for years together and the Government will not appoint anybody. There will be no notification in the gazette. So, it is again centralizing the power on the Government's hand to decide when to

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announce the result of the election and to appoint the officer. So, I would urge the hon. Minister to amend that to say, 'within 15 days from the declaration of the result.' Why should it wait for the Central Government to receive a letter from the Returning Officer? Once the results are declared after an election, within 15 days, the Government should them or notify them in the gazette. There is no reason for it to wait for intimation by the Returning Officer, and, if at all he has to intimate, there should be a time-limit that he will intimate within two days or three days of the declaration of result or the conduct of the election.

Sir, another issue, as I mentioned earlier, is that the Chairman of the Commission should be a sitting or a retired Judge of the High Court, because, otherwise that Commission will have completely one-sided views. The other issue that they have brought out in the new amendments in 2011 is the amendment by which after the Commission makes recommendation, the Central Government can amend the regulations. Now, I fail to understand how the Central Government can amend a set of regulations which they did not have the power to formulate in the original instance. The power to make regulations is

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with the Council of Architecture. They make the regulations, get the approval of the Central Government, lay them on the Table of the House so that the hon. Members can go through it and approve it or if they have any questions, can raise it; and then they are passed. How can the Central Government choose that they want to overwrite those amendments and amend those regulations? ...(Time-bell)... I think, the Central Government cannot change the regulations. They can, at best, give directions to the Council of Architecture to amend the regulations. ...(Time-bell)...

Sir, now there is one very important point. It doesn't come directly in this Bill, but it is very relevant because the mindset of the Government comes out in that. Sir, this Government has a Department called AICTE. That was formulated to control and regulate technical education in India. That body generally -- I have read the whole Act -- talks about management and technical education. Innocuously, one word in the whole Act, the word 'Architecture' is used only once, whereas, the original Architects Act, 1972 has seven clauses which deal with architectural education and they are duty-bound to regulate the conduct of examinations, the

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qualifications, etc. Everything related to the Architects has to be handled by the Architects Act.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Okay; now wind-up, please because your Party has two more speakers.

SHRI PIYUSH GOEL: Now, if AICTE were to regulate and Architects were to regulate, there will be a problem. So, an MoU was entered into between the AICTE and the Council of Architecture, and very smoothly the process was going on. Suddenly, this Government decided to cancel that MoU and want to take the entire powers of education in the hands of AICTE. This matter, Sir, was referred to the hon. Additional Solicitor General of India and the Attorney General of India. A person as illustrious as Shri Soli Sorabjee has opined that when there are two conflicting Acts, normally, the subsequent Act will prevail.

(Contd. by 3p/SKC)

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SHRI PIYUSH GOYAL (contd.): But when the provisions of the original Act are specific to a particular subject, then that Act would prevail. Now, why does this Government want the AICTE to control such a specialized profession as Architects? They are hardly doing their job well, on the functions that they have been given. There are complaints galore that all of us face day-in-and-day-out from educational institutions. We have an illustrious educationist sitting on our benches here. So, there are problems they face in getting even a small approval from the AICTE, and you want to add even architects there? Tomorrow you would add Chartered Accountants and Cost Accountants! I don't know whether they would have the wherewithal to add lawyers too under the AICTE!

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Please, conclude.

SHRI PIYUSH GOYAL: I think, the architects need to be given due justice. It should be left to the architects to regulate and control their education and the Government should immediately, once again, reinstate that MoU between AICTE and the Council and let the Council conduct the affairs.

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One last point, Sir. The Government is talking about internationalizing architecture. It is a very noble thought. I am a votary of free business and reforms. But, Sir, the problem with this Government, as my leader had mentioned two days back in this House also, is that they are willing to give away everything without taking anything in return from the other countries. Even in the case of architects, we, in India, allow foreign architects to practice here subject to certain qualifications from listed entities. But no other country in the world recognizes architectural education in India and allows Indian architects to practice in that country. So, where is liberalization? Do they just want to hand over a three trillion dollar business to foreign architects? I think the Indian architects deserve better. They are world class. This Government should believe in reciprocity and no rule should be made by which the Indian architects are at a disadvantage due to foreign architects.

(Ends)

SHRI SHANTARAM NAIK (GOA): Sir, I stand here to support The Architects (Amendment) Bill, 2010. There are three-four main objectives of the Bill. The powers presently exercised by the Council

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are to be there until a new Committee is appointed. Secondly, the Bill seeks to give directions of a general nature and also directions to amend regulations. Then, there is the power to supersede. I would also have called certain provisions unwarranted, but the circumstances that have been explained by the hon. Minister fully justify these amendments. It would have been very nice if my learned colleague who had criticized the hon. Minister for bringing in this legislation had advised the Council not to behave in the manner in which they are behaving now, not to neglect their duties and to act against the interest of the Council. If they had not done that, perhaps the Minister would not have brought in these amendments at all. It would have been left as it is. It is because of circumstances that these amendments have been brought in.

Sir, India is famous for its architecture. In fact, India is a country that has shined in the world even in the past across various periods with its architecture. Look at the Taj Mahal, the Buddhist temples, the Qutub Minar, the Konark Temple, various temples in the South, the Chhatrapati Shivaji Terminus in Mumbai; you could mention any number of them. There are a number of architectural wonders in the

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country which show that our architecture was world famous and unique since times immemorial, and not only in recent times. But architects in modern times have a duty to advise the clients and those who propose to build good monuments about the quality of the products that are used.

(contd. at 3q/hk)

HK/3q/5.10

SHRI SHANTARAM NAIK (CONTD.): As regards the material, it should be locally available and environment-friendly. So far as structural safety is concerned, especially in today's seismic atmosphere, building structure has to be earthquake resilient. Therefore, it is the duty of architects of modern times to advise their clients accordingly. If any negligence is found on the part of architects, there should be necessary provisions in the law to hold architects responsible for not giving proper advice to their clients. In recent times, Sir, architects are also going a bit astray. 'Astray' in the sense that people are believing in Vastu Shastra and, therefore, architects are also advising people on Vastu Shastra. So, Vastu Shastra and architecture have got mixed up these days. It doesn't

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matter because Vastu Shastra has also got some scientific basis. But Vastu Shastra is mixed up with superstition. If Vastu Shastra is mixed up with superstitions, then the client will suffer a lot. Therefore, Sir, Vastu Shastra should have some limitation. One day a friend of mine in Goa told me that his kitchen was at a particular place. A Vastu Shastra expert told him to shift the kitchen to another site and until and unless the kitchen is shifted to another site, there will always be quarrel in his family and there will be no peace in his family. He told me that he changed the kitchen's position and then everything was fine. Sir, I have got a neighbour of mine who built an entire big floor. After two years he consulted a Vastu Shastra expert. He told him that he had to fill up this entire floor and he could not stay there and he had to build a house above this. Then the entire floor which was constructed was filled up, and then floors were built above it. This is how it happened. People who got money can afford the luxury of Vastu Shastra and people who don't have money suffer. In modern times, architects have to be advised to use proper software for their designs. Those days have gone when drawings or designs take months. Today software is available. They should give good service

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to their clients by using software so that they can show to their clients what type of house they will be getting and what type of rooms and space utilization will be there. By doing this, the entire house can be seen from inside. This is the modern technology. We must encourage our architects to use this technology. In this connection, there is another subject relating to valuers. For valuers, who value property today, there is no law to regulate them. They are demanding that proper legislation should be enacted to register valuers so that their profession can be regulated like architects, engineers, etc. These valuers do a tremendous job. Now the new Land Acquisition Act is coming under which the valuation will be very important. The new Land Acquisition Act makes social assessment compulsory. If a person does not have a job, give him job; if he does not have a site, give him alternative site. For all such things, proper valuation of land is required.

(Contd. by 3r/GSP)

GSP-HMS-5.15-3R

SHRI SHANTARAM NAIK (CONTD.): Therefore, services of valuers are to be used by the Government. Today for the construction of a

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road, land is acquired. Who values the land? A small officer in the office of Tehsildar values the price of the land, and, he gives you ten, fifteen or twenty rupees for your land which is worth five hundred to hundred thousand of rupees. So, no proper valuation is done and the poor people suffer. Any person who has got a piece of land suffers. Therefore, for proper valuation, services of professional valuers have to be used so that people get benefit. (Interruptions)

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Mr. Pany, please. (Interruptions) How many more minutes do you want?

SHRI SHANTARAM NAIK: Sir, I will take only two minutes but if you allow, I can take more time. (Interruptions)

THE VICE-CHAIRMAN: I want to adjourn the House after you finish your speech.

SHRI SHANTARAM NAIK: I can resume tomorrow. (Interruptions)

THE VICE-CHAIRMAN: No, no. You finish your speech. (Interruptions) You want to take only two minutes more. You say whatever you want to say. (Interruptions) Let him finish. Otherwise,...(Interruptions)...

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SHRI SHANTARAM NAIK: Sir, 'green architecture' is a new subject. A Green Architect will essentially have knowledge about all aspects.
(Interruptions)

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Mr. Javadekar, please.
(Interruptions) Let him finish. (Interruptions)

SHRI SHANTARAM NAIK: Sir, I am saying that the Green Architect will essentially have the knowledge about all aspects like effects on human health, environmental impact... (Interruptions)...

THE VICE-CHAIRMAN: Please. (Interruptions) Don't do this.
(Interruptions)

SHRI SHANTARAM NAIK: ...loss of resources, waste, air/water/indoor pollution, energy/water/material consumption; while designing the building etc. Now, Sir, there is a target put up by the expert bodies that we should have one thousand green buildings by 2012, and, about 10,000 committed building professionals of green buildings. (Interruptions) This is a new subject, which we should accept... (Interruptions) Sir, they are not allowing me to speak. They are interrupting me.

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THE VICE-CHAIRMAN (PROF. P.J. KURIEN): You said only two minutes. (Interruptions) Okay. All right. Take your seat. (Interruptions) See, Mr. Shantaram Naik's speech is not complete. This discussion will continue tomorrow. The House is adjourned to meet tomorrow at 11.00 a.m.

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The House then adjourned at nineteen minutes past five of the clock till eleven of the clock on Thursday, the 15th December, 2011.

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