



April 1, 2010

[\(1020\)](#)

Points of Order

Bill C-304--Secure, Adequate, Accessible and Affordable Housing Act  

[Points of Order]



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Mr. Tom Lukiwski (Parliamentary Secretary to the Leader of the Government in the House of Commons, CPC):

Mr. Speaker, I rise on a point of order with respect to the admissibility of an amendment to Bill [C-304](#), An Act to ensure secure, adequate, accessible and affordable housing for Canadians, which was adopted by the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities on December 8, 2009.

On Monday, March 22, 2010, the committee agreed to re-adopt its report on Bill [C-304](#) that was agreed to in the previous session on December 10, 2009. On March 24, 2010, the committee's report on Bill C-304 was tabled in the House.

The amendment appears as clause 3.1 in Bill [C-304](#) which states:

The Government of Quebec may choose to be exempted from the application of this Act and may, if it chooses to do so, receive an unconditional payment equal to the total of the amounts that would otherwise be paid within its territory under this Act.

During the committee's clause-by-clause consideration of Bill C-304, the chair ruled that this amendment was inadmissible on the grounds that it was beyond the scope and principle of the bill agreed to at second reading. The chair stated:

...Bill C-304 provides for the minister responsible for CMHC to consult with the provincial ministers to establish a national housing strategy. This amendment proposes to allow the Province of Quebec to opt out of the national strategy. As House of Commons Procedure and Practice, second edition, states on page 766, "An amendment to a bill that was referred to a committee after second reading is out of order if it is beyond the scope and principle of the bill".

In the opinion of the chair, the introduction of this opt-out provision is contrary to the principle of Bill C-304, and therefore is inadmissible.

Mr. Speaker, Bill [C-304](#) would require the development of a national housing strategy. Clause 3 of the bill would require the responsible minister to consult all provincial and territorial ministers on the development of such a strategy. Amending clause 3 to allow a province to opt out of a national housing strategy is inconsistent with the purpose of the bill and with clause 3 in particular.

There is no suggestion in the bill as adopted at second reading to support the addition of a provincial exemption from the national strategy. Obviously, such a change would fundamentally alter the purpose of the bill.

I regret that opposition members on the committee overturned the chair's ruling and the amendment now appears as clause 3.1 in Bill [C-304](#), as reported to the House.

I would note that the chair's ruling on Bill [C-304](#) is similar to the October 20, 2005 ruling of the chair of the Standing Committee on Official Languages on an amendment to Bill S-3, an act to amend the Official Languages Act. That ruling stated:

I'm informed that amendment BQ-1...is inadmissible. That may be explained by the fact that Bill S-3 reinforces the binding nature of the government's obligations across Canada whereas this amendment is contrary to that spirit. Instead of reinforcing it, it instead provides for different treatment for Quebec.

Mr. Speaker, the amendment to Bill [C-304](#) is beyond the scope and principle of the bill agreed to at second reading. Therefore, clause 3.1 of Bill C-304 should be ruled out of order.



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Mr. Joe Comartin (Windsor—Tecumseh, NDP):

Mr. Speaker, this is the first we have heard that the government's objection would be raised this morning. We are in no position to respond at this time.

I would ask that you hold any decision until we can respond, which will probably be after the break.

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The Speaker:  

That is fine. I will give the hon. member time to come up with a response to the argument advanced by the parliamentary secretary.

April 15, 2010

* * *

Point of Order  

Bill C-304—An Act to ensure adequate, accessible and affordable housing  

[Point of Order]

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Mr. Pierre Paquette (Joliette, BQ):  

Mr. Speaker, I had understood that you were going to consider the question and I rose on my point of order a little too quickly. As you know, in the Bloc Québécois, we are quick off the mark.

As I was saying, on April 1 the Parliamentary Secretary to the Leader of the Government in the House of Commons rose on a point of order to have an amendment moved by the member for Chambly—Borduas to Bill C-304 ruled inadmissible. That bill was introduced by an NDP member with the goal of creating a national housing strategy. In fact, we should call it a Canada-wide housing strategy. Since the Quebec nation has been recognized by this House, there are at least two nations in the Canadian political space, if not more, counting the first nations and the Acadian nation.

The amendment proposed by my colleague would allow the government of Quebec to opt out of the Canada-wide strategy and to receive an unconditional payment equal to the total amount that would have been paid within its territory under that strategy. That is a very familiar principle: the right to withdraw unconditionally and with full compensation.

In his submission, the parliamentary secretary to the minister asserted that the national housing strategy has to be developed in collaboration with all provincial and territorial ministers, and that any amendment to exempt a province would be inconsistent with the purpose of the bill. Obviously, I do not share that view, since there are already many examples of so-called national strategies that are in fact Canada-wide strategies, in which Quebec does not participate, and this is not something new.

In the early 1960s, for example, Quebec had already established its own pension plan. In 1976 and 1977, if I recall correctly, there was an agreement between the Government of Quebec and the federal government concerning the selection of immigrants. There is also a child care program. If that Canada-wide program had been adopted, as proposed by former Prime Minister Paul Martin, then, because Quebec already had its own system, it would be exempt from the other. I also recall, and I think it was in about 1998, that the government of Quebec and the federal government, after 30 years of negotiations, also agreed to exempt training measures so that Quebec could have its own structure with a commission of partners and local employment centres that deliver those services, which had formerly been offered by the Canadian government. Again, there are several examples of so-called national strategies that are in fact Canada-wide, where Quebec has the right to withdraw unconditionally and with full compensation.

In addition, the purpose of Bill C-304 is to establish a housing strategy, and the amendment would allow Quebec to opt out of the strategy in an area that is already under its jurisdiction: housing and social housing. It is therefore particularly understandable why my colleague from Chambly—Borduas introduced that amendment.

We certainly do not want the fact that Quebec is opting out to keep the other provinces, along with the federal government, from implementing a pan-Canadian strategy.

The committee that studied the bill felt that the Bloc's amendment was very much in keeping with the spirit of the legislation. On October 26, 2006, you rendered a decision—we do read your words, Mr. Speaker—on the admissibility of an amendment accepted by a standing committee, and you spoke about the general principles that guide your evaluation of decisions made in committee:

As all hon. members know, the Chair has always been extremely reluctant to be drawn into procedural arguments over committee proceedings since to do so would reopen matters which are properly left to committees themselves to resolve. Perhaps more significantly, such a practice would also undoubtedly tie up the time of the House in reviews of committee decisions defeating the very purpose of committees.

As I mentioned, the amendment presented by my colleague from [Chambly—Borduas](#) was accepted by the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities. Your comments from 2006, Mr. Speaker, were wise and I see no reason, in this case, to stray from these words of wisdom.

I would therefore ask that you consider the amendment presented my colleague from [Chambly—Borduas](#) to be admissible, given that it was accepted by the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities.

  [\(1025\)](#)

[English]

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Ms. Libby Davies (Vancouver East, NDP): 

Mr. Speaker, I would like to address some of the points raised by the [Parliamentary Secretary to the Leader of the Government in the House of Commons](#) relating to an amendment made in the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities to Bill [C-304, An Act to ensure secure, adequate, accessible and affordable housing for Canadians](#).

Mr. Speaker, I will refer to a ruling that you made on January 29, 2008, referring to a committee amendment to the Immigration and Refugee Protection Act then before the House. In that ruling, you said:

In essence, what we are dealing with is the distinction between the principle of the bill and its scope. The principle refers to the purpose or objective of a bill, while the scope refers to its legislative scheme or the mechanisms that will give effect to the principle, purpose or objective of a bill.

In Bill [C-304](#), the parliamentary secretary himself stated in his argument on April 1 that the purpose of this bill was to “require the development of a national housing strategy” by having the minister “consult all provincial and territorial ministers on the development of such a strategy”. He then said that the rules explain that amendments cannot be outside the scope or principle of the bill as passed at second reading, a rule with which we are all familiar.

I would submit that while the parliamentary secretary did give an accurate description of the principle and the scope of this bill, the principle is to develop a strategy and the scope or the mechanism is to do that through consultations. The key to the government's argument seems to prejudge what the results of these consultations will be.

The amendment in question is a permissive, not mandatory, amendment. It would give the minister an ability to achieve the principle of the bill, a national housing strategy, by refining the scope in terms of consultation to include an option that has been in place in other social policy strategies throughout Canadian history. Therefore, I would submit that the amendment does not change the scope or purpose of the bill but rather seeks to clarify it.

I believe that the committee chair's opinion on the principle of this bill may have been well-intentioned but the committee members were also correct when they decided that the amendment to allow the minister an option to respond to consultations, up to and including an opt-out for Quebec, was within the scope of possible consultations that are required to allow the minister to meet the principle of the bill, which is to develop a national housing strategy.

This option provided in the amendment is a reasonable one and one which is as old as Canada, the option to treat different parts of our country as different and unique.

The House recently passed a motion to define Quebec as a nation within our nation. We have the Canada pension plan and the national child benefit, two well-functioning national programs that Quebec has chosen not to participate in but instead to provide similar services. Quebec has opted out of the Canada student loans program since 1964 and recently received its transfer of approximately \$125 million from the federal government in support of student financial assistance programs for the most recent academic year.

To go back further, the Liberal government's 2004 action plan on health exempted Quebec from the criteria and accountability set up for all other provinces and territories while guaranteeing full health transfer payments.

A further example is Canada's Social Union Framework Agreement of 2002, which was a pan-Canadian approach to the reform of Canada's health and social policy systems to which all provinces were signatories

except Quebec. The Canada-Quebec accord on immigration allows Quebec to establish its own immigration requirements, distinct from the rest of Canada.

Governments for years, as former prime minister Paul Martin noted, have recognized "Quebec's unique place within the Federation". It is reasonable that members of Parliament understand that any national strategy must reflect Quebec's right to protect its unique nature through the delivery of certain programs.

  [\(1030\)](#)

The amendment in question today does not alter the nature of the bill but clarifies this right. The government argued that, because an amendment to exclude Quebec from Bill [S-3](#) was inadmissible, this amendment on Bill [C-304](#) should also be inadmissible.

However, these two bills are not comparable. Providing the option for Quebec to opt out of a consultation process as outlined in Bill [C-304](#) does not have the same effect on the act as the exclusion of Quebec does from Bill [S-3](#), which was an act affecting the duties of every federal institution in Canada by enhancing the enforceability of the Government of Canada's obligations and of part 7 of the Official Languages Act.

It is also relevant that the 2005 ruling was not challenged by the majority of the committee members as necessary to the bill, as was the case of the amendment to Bill [C-304](#). The aim of Bill [C-304](#) is to ensure the delivery of the right to adequate housing.

Quebec is in the unique circumstance of having ratified the International Covenant on Economic, Social and Cultural Rights, recognizing the right to adequate housing, and currently meets many of the objectives outlined in Bill [C-304](#).

Therefore, as this House stated when it defined Quebec as a nation within a nation, the principle of this bill being a national housing strategy should naturally reflect Parliament's definition of our nation, which is that it can include an asymmetrical form of federalism without changing the principle of being a united Canada.

Quebec has an existing agreement in place with the federal government giving Quebec jurisdiction over the development and delivery of its housing programs, clarifying that Quebec may participate in the process of establishing a national housing strategy, as was the case before the adoption of the amendment. It will only serve to enhance Quebec's potential willingness to participate in the process set out in Bill [C-304](#).

Therefore in closing, I submit that the amendment made in committee is permissive and not mandatory. It only clarifies in nature an acknowledgement of our understanding of a nation within the scope and consistent with the principle of Bill [C-304](#).

I further submit that this is a rare case when the chair's decision on the scope is misplaced and the members of the committee were correct in allowing this amendment to stand.

Mr. Speaker, I hope you will take this into consideration and support the committee members who agree that this amendment does have its rightful place in Bill [C-304](#).

  [\(1035\)](#)

[Translation]

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The Speaker:  

I would like to thank the hon. member for [Joliette](#) and the hon. member for [Vancouver East](#) for their comments on this point.

[English]

I will certainly consider their remarks when I review the matter and come back to the House with a ruling on this in due course.