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Omnibus Bills: Frequently Asked Questions

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Omnibus Bills: Frequently Asked Questions **(Background Paper)**

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OMNIBUS BILLS: FREQUENTLY ASKED QUESTIONS

1 INTRODUCTION

At any given time during a session of Parliament, the expression “the omnibus bill” likely refers to a bill then before Parliament or recently adopted by it. In the spring of 2012, for example, “the omnibus bill” meant Bill C-38, the Jobs, Growth and Long-term Prosperity Act;¹ in 1988, it meant Bill C-130, the Canada–United States Free Trade Agreement Implementation Act;² and in the late 1960s, Bill C-150, the Criminal Law Amendment Act, 1968-69.³

Omnibus bills have been used for decades by governments of various political stripes as a vehicle to propose certain kinds of legislation to Parliament. While their use is well entrenched in Canadian parliamentary practice, it is nonetheless often seen as an exception to the usual legislative process. Whenever omnibus bills are introduced, similar questions arise about their nature, admissibility, appropriateness, and other matters. Yet few, if any, studies have attempted to answer those recurring questions.

The purpose of this paper is to provide answers to some of the most frequently raised questions about omnibus bills.

2 WHAT IS AN OMNIBUS BILL?

The term “omnibus bill” is not expressly defined in the procedural rules of the Senate or the House of Commons. However, the House of Commons *Glossary of Parliamentary Procedure* defines it as: “A bill consisting of a number of related but separate parts that seeks to amend and/or repeal one or several existing Acts and/or to enact one or several new Acts.”⁴

In 1988, the Right Honourable Herb Gray, then Opposition House Leader, stated during a debate that the core element of an omnibus bill is a unifying purpose tying together the multitude of statutes it is to amend:

The essential defence of an omnibus procedure is that the bill in question, although it may seem to create or to amend many disparate statutes, in effect has one basic principle or purpose which ties together all the proposed enactments and thereby renders the bill intelligible for parliamentary purposes.⁵

Successive Speakers of the House of Commons have made these words their own by referring to them with approval in their own rulings.⁶ They have also referred to the “unifying principle,”⁷ “single purpose,”⁸ “unifying thread,”⁹ or “unitary purpose”¹⁰ that tie together the multiple components of omnibus bills. *House of Commons Procedure and Practice* also echoes the definition proposed by Herb Gray.¹¹

The meaning of “omnibus bills” may vary depending on the context. For example, the expression has sometimes been used in reference to legislative proposals enacted under the Miscellaneous Statute Law Amendment Program. Established in 1975, this

program allows the speedy adoption of amendments aimed at correcting anomalies, errors, or inconsistencies, or making changes of an uncontroversial and uncomplicated nature, in various Acts of Parliament. Ten Miscellaneous Statute Law Amendment Acts have been enacted since the beginning of the program, the latest in 2001.¹²

“Omnibus bills” can also refer to bills that may not necessarily be long, but that, if enacted, would have a far-reaching impact on statute law in general. A notable example is the omnibus use of the notwithstanding clause by the Quebec legislature in 1982. Through the passage of *An Act respecting the Constitution Act, 1982*¹³ (a statute of just seven sections), all Quebec statutes were repealed and re-enacted adding the derogation provision contemplated by section 33 of the *Canadian Charter of Rights and Freedoms*, thereby exempting all Quebec statutes from the application of the Charter.¹⁴

3 WHEN WAS THE FIRST OMNIBUS BILL INTRODUCED IN THE CANADIAN PARLIAMENT?

As there is no prescribed definition of the term “omnibus bill,” it is difficult to state with certainty when the first omnibus bill was introduced in Parliament.

House of Commons Procedure and Practice suggests that the practice existed in 1888, when a private bill was introduced with the aim of confirming two separate railway agreements.¹⁵ However, bills of an omnibus nature may have preceded this date. Indeed, as early as 1868, during its very first parliamentary session, the Canadian Parliament enacted *An Act to continue for a limited time the several Acts therein mentioned*,¹⁶ which may well be characterized as the first omnibus bill enacted in post-Confederation Canada. This Act contained a *single purpose* in the continuation of legislation about to expire, while at the same time amending *several statutes* with different subject matters such as bankruptcy, peace at the borders, and banks.

According to Hansard, the omnibus nature of a legislative proposal prompted negative reaction for the first time in 1923. In that year, the Senate rejected a government-proposed omnibus railway bill as being over-broad. Bill 234, *An Act respecting the Construction of the Canadian National Railway Lines*, proposed a large program for the construction of 29 branch lines. During debates, it was suggested that the proposal should, if reintroduced, take the form of separate bills for each line. In the subsequent session, the government followed this suggestion and introduced a series of separate bills.¹⁷

In the House of Commons, the appropriateness of omnibus bills appears to have been first questioned in 1953 when the Minister of National Defence, the Honourable Brooke Claxton, was asked to explain why a particular legislative proposal covered three existing Acts of Parliament. The Minister explained that for the convenience of members of the House of Commons and that of the Armed Forces, amendments to the legislation relating to the Armed Forces had been proposed in a single annual statute in 1950, 1951, 1952, and again in 1953.¹⁸

4 ARE OMNIBUS BILLS PROCEDURALLY ADMISSIBLE?

Nothing in the parliamentary rules, procedure and practice prohibits the introduction of omnibus bills. These bills must, however – like any other legislative proposal – obey the established rules respecting the admissibility and examination of bills.

The first ruling regarding the admissibility of an omnibus bill appears to date to 23 January 1969. Speaker Lucien Lamoureux was required to rule on the admissibility of a motion to instruct a committee to divide a bill into separate parts before the bill had been referred to the appropriate committee. The Speaker ruled this motion out of order as being contrary to precedents and authorities on the basis that such a motion was admissible only once the bill had been referred to committee. As for the omnibus character of the bill, Speaker Lamoureux stated: “It is not for the Chair to determine whether it is proper or appropriate or politic for the government to present this legislation in the form of an omnibus bill.”¹⁹

Two years later, in 1971, Speaker Lamoureux was again called upon to rule on the admissibility of an omnibus bill. Members were objecting to the inclusion in Bill C-207, An Act respecting the organization of the Government of Canada and matters related or incidental thereto,²⁰ of several distinct proposals and principles. Speaker Lamoureux, while sharing the concerns expressed about the omnibus character of the proposal, felt bound by “long established practice” with respect to the introduction of omnibus bills before the Canadian Parliament. He nonetheless suggested that, at some point, the omnibus character of a legislative proposal might render it inadmissible procedurally:

However, where do we stop? Where is the point of no return? ... [W]e might reach the point where we would have only one bill, a bill at the start of the session for the improvement of the quality of life in Canada which would include every single proposed piece of legislation for the session. That would be an omnibus bill with a capital “O” and a capital “B.” But would it be acceptable legislation? There must be a point where we go beyond what is acceptable from a strictly parliamentary standpoint ... where an omnibus bill becomes more than an omnibus bill and is not acceptable from a procedural standpoint.²¹

Since that statement, many points of order have been raised to object to the omnibus character of legislative proposals, alleging, among other things, that the point of no return referred to by Speaker Lamoureux had been reached. Yet, successive Speakers of the House of Commons have consistently found omnibus bills procedurally acceptable: for example, motions to instruct committees to divide bills have been ruled out of order,²² and requests to the Speaker that he or she divide bills have been refused.²³ While the Speakers have often expressed concerns about the use of omnibus bills,²⁴ they have clearly indicated that they were bound by “long established practice” with regard to omnibus bills.²⁵

While the omnibus character of a bill does not, in and of itself, render it inadmissible from a procedural standpoint, omnibus bills are, of course, subject to the procedural requirements of the *Rules of the Senate* and the *Standing Orders of the House of Commons*. For example, an omnibus money bill would have to receive the royal recommendation before its third reading and adoption by the House of Commons.²⁶

An omnibus bill, like any other bill, cannot be introduced “in an imperfect shape.”²⁷ In 1981, Speaker Jeanne Sauvé struck down Part I of Bill C-54, An Act to amend the statute law relating to income tax and to provide other authority for raising funds,²⁸ because its borrowing provisions had not received the appropriate notice under the Standing Orders.²⁹

Political pressure, procedural devices and other pace-slowng tactics may sometimes be used by the Opposition to delay or block the adoption of omnibus bills. In some cases, these actions have resulted in the division of omnibus bills. For example, *House of Commons Procedure and Practice*³⁰ explains that, in 1982, the insistence of the Opposition led the government to agree to the division of Bill C-93, An Act to amend the statute law relating to certain taxes and to provide other authority for the raising of funds.³¹ By unanimous consent, Bill C-93 was withdrawn and the government agreed to introduce two separate legislative proposals in its stead.³²

The political process led to the division of an omnibus bill again in 1982. Unsuccessful with its point of order alleging that the omnibus Bill C-94, the Energy Security Act, should be divided,³³ the Opposition demanded a recorded division on a motion to adjourn. Members were called in by the division bells for the recorded division, but the Opposition Whip refused to walk down the aisle of the Chamber with the Government Whip, which would have been an indication that the vote could then take place. At the time, the Standing Orders provided no time limit on bells, and they rang continuously for more than two weeks.³⁴ When the House resumed sitting, it adopted a government motion dividing the bill into eight separate ones.³⁵

Another notable incident in 2012 delayed the adoption of an omnibus bill. At the report stage of Bill C-38, the Jobs, Growth and Long-term Prosperity Act, the Opposition submitted 871 motions in amendment, and asked for a recorded division for each vote. A 22-hour voting marathon ensued in the House of Commons.³⁶ The bill, however, was adopted without amendment.

5 WHAT ARE SOME FAMOUS EXAMPLES OF OMNIBUS BILLS?

The following is a selective list of omnibus bills that have been introduced in the Canadian Parliament.

- 1968: Bill C-150, the Criminal Law Amendment Act, 1968-69,³⁷ proposed an ambitious social reform package involving various subjects such as abortion, homosexuality, and gun control. In what appears to be the first explicit ruling on omnibus bills, Speaker Lamoureux ruled out of order a motion to instruct a committee to divide the bill while the bill was still before the House at second reading. He also stated: “It is not for the Chair to determine whether it is proper or appropriate or politic for the government to present this legislation in the form of an omnibus bill.”³⁸ The bill was enacted by Parliament in June 1969.³⁹

- 1971: Bill C-207, the Government Organization Act,⁴⁰ proposed important changes to the departmental structure of the government, establishing, for example, the Department of the Environment. In ruling the bill admissible, Speaker Lamoureux cautioned: “There must be a point where we go beyond what is acceptable from a strictly parliamentary standpoint ... where an omnibus bill becomes more than an omnibus bill and is not acceptable from a procedural standpoint.”⁴¹ Bill C-207 was enacted in May 1971.⁴²
- 1982: Bill C-94, the Energy Security Act,⁴³ proposed to enact the National Energy Program that had been announced in the October 1980 Budget. Ruling on a point of order, Speaker Jeanne Sauv  rejected the proposition that the bill should be divided.⁴⁴ The Opposition, in what is known as the “bell-ringing incident,” forced the division bell to ring for more than two weeks, refusing to take part in a vote on a motion to adjourn. Bill C-94 was subsequently divided into eight different bills.
- 1988: Bill C-130, the Canada–United States Free Trade Agreement Implementation Act,⁴⁵ as its title suggests, was aimed at implementing the free trade agreement between the two countries. The Opposition tried to stop the adoption of the bill using various procedural devices, while also arguing its inadmissibility. Speaker John Fraser ruled the bill admissible in a landmark decision rendered on 8 June 1988.⁴⁶ The bill died on the *Order Paper* with the dissolution of the 33rd Parliament, and was at the centre of the 1988 general election debates. Once the government was re-elected, the proposal was reintroduced and finally enacted by Parliament in December 1988.⁴⁷
- 2012: Bill C-38, the Jobs, Growth and Long-term Prosperity Act,⁴⁸ was aimed at implementing the government budgetary policy for 2012. The Opposition objected strongly to its admissibility⁴⁹ and forced a 22-hour voting marathon on numerous amendments at the report stage. The bill was nonetheless enacted by Parliament two months after its introduction.⁵⁰

6 WHAT ARE THE PROS AND CONS OF OMNIBUS BILLS?

Arguments for and against omnibus bills have been put forward over the years.

The omnibus nature of a legislative proposal may be defended on the grounds that its various components reflect a common principle, theme or purpose, or are part of a single administrative initiative. The grouping of the various amendments may then actually enhance Parliament’s study of each component and its interaction with other elements of the bill, and facilitate the examination of the bill. As the volume and complexity of government initiatives have increased over the years, omnibus bills can facilitate the simultaneous consideration of all the interrelated aspects of a particular legislative agenda. Omnibus bills grouping different proposals on the same subject may also help to focus parliamentary debates.

Objections to omnibus bills typically centre on claims that individual parliamentarians are prevented from saying “yea” or “nay” to specific measures contained in the proposal. However, it may also be argued that the legislative process offers various opportunities for parliamentarians to express their views and vote on different measures of each bill, particularly at the report stage in the House of Commons.

Another argument levelled against omnibus bills is that they cannot be referred to the appropriate specialist committee for study. Their size, and their quick adoption, in effect prevent parliamentarians from being able to inform themselves about the relevant issues, and Parliament could lose the opportunity to identify and correct any flaws the bill might contain.

NOTES

1. [Bill C-38, An Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures](#), 1st Session, 41st Parliament.
2. Bill C-130, An Act to implement the Free Trade Agreement between Canada and the United States of America, 2nd Session, 33rd Parliament.
3. Bill C-150, An Act to amend the Criminal Code, the Parole Act, the Penitentiary Act, the Prisons and Reformatories Act and to make certain consequential amendments to the Combines Investigation Act, the Customs Tariff and National Defence Act, 1st Session, 28th Parliament.
4. House of Commons, [Glossary of Parliamentary Procedure](#), 7th ed., June 2011, p. 38.
5. House of Commons, *Debates*, 30 May 1988, p. 15880.
6. See, for example, House of Commons, *Debates*, 8 June 1988, p. 16255; 1 April 1992, p. 9147; and 11 April 1994, p. 2860.
7. House of Commons, *Debates*, 11 April 1994, p. 2859.
8. House of Commons, *Debates*, 8 June 1988, p. 16258.
9. *Ibid.*, p. 16256.
10. House of Commons, *Debates*, 11 April 1994, p. 2861.
11. Audrey O'Brien and Marc Bosc, eds., *House of Commons Procedure and Practice*, 2nd ed., House of Commons, Ottawa, 2009, p. 724: "An omnibus bill has 'one basic principle or purpose which ties together all the proposed enactments and thereby renders the Bill intelligible for parliamentary purposes'" [author's emphasis].
12. [Miscellaneous Statute Law Amendment Act, 2001](#), S.C. 2001, c. 34.
13. *An Act respecting the Constitution Act, 1982*, S.Q. 1982, c. 21.
14. Section 33 of the *Canadian Charter of Rights and Freedoms* allows Canadian legislatures, through the use of the notwithstanding clause in a statute, to derogate from the rights and freedoms protected by its ss. 2 and 7–15.
15. House of Commons (2009), *House of Commons Procedure and Practice*, p. 725.
16. *An Act to continue for a limited time the several Acts therein mentioned*, S.C. 1868, c. 29.
17. Senate, *Debates*, 28 June 1923, pp. 1239–1247; and 29 June 1923, pp. 1280–1301. See Robert A. MacKay, *The Unreformed Senate of Canada*, rev. ed., McClelland and Stewart Ltd., Toronto, 1963, pp. 102–104.

18. House of Commons, *Debates*, 2 April 1953, p. 3551:

The *National Defence Act* was enacted in 1950, and at that time we incorporated in the one bill a great number of provisions from other legislation. We have decided, and the house so far has concurred, that it would meet the convenience of hon. members, as it does very much that of the armed forces, if all amendments to existing legislation relating to the armed forces were contained in a single bill each year. In consequence, the *Canadian Forces Act, 1950*; the *Canadian Forces Act, 1951*; the *Canadian Forces Act, 1952* have been enacted. All of these amended a number of different statutes, and this follows that precedent.
19. House of Commons, *Journals*, 23 January 1969, p. 617.
20. Bill C-207, An Act respecting the organization of the Government of Canada and matters related or incidental thereto, 3rd Session, 28th Parliament.
21. House of Commons, *Journals*, 26 January 1971, pp. 284–285.
22. House of Commons, *Journals*, 23 January 1969, pp. 616–618.
23. House of Commons, *Debates*, 2 March 1982, p. 15532.
24. See, for example, House of Commons, *Debates*, 11 May 1977, p. 5522; and 2 March 1982, p. 15532.
25. House of Commons, *Journals*, 23 January 1969, pp. 616–618; and 26 January 1971, pp. 283–285; House of Commons, *Debates*, 11 May 1977, pp. 5522–5524; 2 March 1982, p. 15532; 20 June 1983, pp. 26537–26538; 8 June 1988, pp. 16252–16258; 1 April 1992, pp. 9147–9149; 11 April 1994, pp. 2859–2860; 20 September 2001, pp. 5328–5329; and 11 June 2012, pp. 9121–9123.
26. [Constitution Act, 1867](#), 30 & 31 Victoria, c. 3 (U.K.), s. 54; *Standing Orders of the House of Commons*, s. 79. The *Glossary of Parliamentary Procedure* (p. 59) defines the royal recommendation as: “A message from the Governor General, required for any vote, resolution, address or bill for the appropriation of public revenue. Only a Minister can obtain such a recommendation.”
27. [Standing Orders of the House of Commons](#), June 2011, s. 68(3).
28. Bill C-54, An Act to amend the statute law relating to income tax and to provide other authority for raising funds, 1st Session, 32nd Parliament.
29. House of Commons, *Debates*, 19 January 1981, p. 6319.
30. O'Brien and Bosc (2009), p. 727.
31. Bill C-93, An Act to amend the statute law relating to certain taxes and to provide other authority for the raising of funds, 1st Session, 32nd Parliament.
32. House of Commons, *Journals*, 7 May 1982, pp. 4806–4807.
33. House of Commons, *Debates*, 2 March 1982, p. 15532.
34. The *Standing Orders of the House of Commons* were subsequently amended to provide time limits on bells calling in members for a recorded division.
35. House of Commons, *Votes and Proceedings*, 22 March 1982, pp. 4626–4628.
36. House of Commons, [Journals](#), 13 June 2012.
37. Bill C-150, An Act to amend the Criminal Code, the Parole Act, the Penitentiary Act, the Prisons and Reformatories Act and to make certain consequential amendments to the Combines Investigation Act, the Customs Tariff and National Defence Act, 1st Session, 28th Parliament. The bill had first been introduced in the House in 1967, as Bill C-195, during the 2nd Session, 27th Parliament.

OMNIBUS BILLS: FREQUENTLY ASKED QUESTIONS

38. House of Commons, *Journals*, 23 January 1969, p. 617.
39. *Criminal Law Amendment Act*, 1968-69, S.C. 1968-69, c. 38.
40. Bill C-207, An Act respecting the organization of the Government of Canada and matters related or incidental thereto, 3rd Session, 28th Parliament.
41. House of Commons, *Journals*, 26 January 1971, pp. 284–285.
42. *Government Organization Act*, S.C. 1971, c. 42.
43. Bill C-94, An Act to amend and enact provisions related to the Petroleum Administration Act, the National Energy Board Act, the Foreign Investment Review Act, the Canada Business Corporations Act, the Petro-Canada Act, the Energy Supplies Emergency Act, 1979 and the Oil Substitution and Conservation Act; to repeal the Energy Supplies Emergency Act; to amend an Act to amend the Petroleum Administration Act and the Energy Supplies Emergency Act; to amend the Adjustment of Accounts Act; and to enact the Petroleum Incentives Program Act, the Canadian Ownership and Control Determination Act, the Energy Monitoring Act and the Motor Vehicle Fuel Consumption Standards Act, 1st Session, 32nd Parliament.
44. House of Commons, *Debates*, 2 March 1982, p. 15532.
45. Bill C-130, An Act to implement the Free Trade Agreement between Canada and the United States of America, 2nd Session, 33rd Parliament.
46. House of Commons, *Debates*, 8 June 1988, pp. 16252–16258.
47. *Canada–United States Free Trade Agreement Implementation Act*, S.C. 1988, c. 65.
48. Bill C-38, An Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures, 1st Session, 41st Parliament.
49. The bill was ruled in order by Speaker Andrew Scheer. See House of Commons, [Debates](#), 11 June 2012, pp. 9121–9123.
50. [Jobs, Growth and Long-term Prosperity Act](#), S.C. 2012, c. 19.