



DEBATES OF THE SENATE

1st SESSION • 42nd PARLIAMENT • VOLUME 150 • NUMBER 98

SENATE MODERNIZATION

Second Report of Special Committee Adopted

Speech by:

The Honourable Diane Bellemare

Thursday, February 16, 2017

THE SENATE

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[Translation]

SENATE MODERNIZATION

SECOND REPORT OF SPECIAL COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Wells, seconded by the Honourable Senator Enverga, for the adoption of the second report (interim), as amended, of the Special Senate Committee on Senate Modernization, entitled *Senate Modernization: Moving Forward (Omnibus Bills)*, presented in the Senate on October 4, 2016.

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): I rise today to continue the thread of the speech I began last week regarding the motion relating to the report on modernization dealing with omnibus bills.

I have done some research, and although my thoughts are not yet entirely in order, I would still like to speak to this matter today because I understand that we need to send this motion on to the Standing Committee on Privileges, Standing Rules and Orders as soon as possible.

As I was saying, the use of omnibus bills in this country dates back almost to Confederation. According to the Library of Parliament, the first omnibus bill was introduced in 1868. As far back as 1923, the practice began eliciting a negative reaction.

• (1530)

As I said last time, omnibus bills raise many questions around the performance of our constitutional duties. The motion before us seeks to adopt the second report of the special committee. This report contains two recommendations. Recommendation No. 9 calls on the Committee on Rules and Procedures to develop a process in the *Rules of the Senate* by which omnibus bills are referred to an appropriate committee to determine whether they ought to be divided into several bills. Recommendation No. 10 states that when the Senate applies this practice, the government and the House of Commons will be informed of such referral and of any determination by a committee to sever an omnibus bill.

A closer look at these recommendations reveals that making such a request to the Rules Committee is not as easy as it seems. I think it will take time to develop a clear process. As I said before, there are no rules governing omnibus bills. According to parliamentary procedure at the other place, an omnibus bill is defined as a bill consisting of a number of related but separate parts which seek to enact one or several new acts or to repeal or amend one or several existing acts.

Many a debate has been held on the subject of omnibus bills and Speakers have ruled on the matter. I invite you to read the debates held in 2014 on a question raised by Senator Moore.

References regarding omnibus bills also exist. One that I believe to be particularly useful concerns the objective sought by the omnibus bill. In 1988, the Right Honourable Herb Gray, then leader of the opposition in the House of Commons, said:

The essential defence of an omnibus procedure is that the Bill in question, although it may seek 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.

The committee should probably take that criterion into account. As other parliamentarians pointed out in subsequent debates, that unifying principle can be quite a broad one, such as the prosperity of Canada's economy. This very broad principle can accommodate many bills that might better have been passed individually, not as part of an omnibus bill. That is why I feel this debate is important.

Since coming to the Senate, I have seen a considerable number of bills passed as part of budget implementation bills. It needn't always be that way. A budget implementation bill can serve to announce public policy intentions. It can combine all amendments of a fiscal or budgetary nature. However, in recent years, some of these bills have had nothing to do with budget implementation. My staff and I have started putting together a list of such bills, but we haven't finished.

Nevertheless, for the benefit of our new senators, I would like to raise a number of points that the Rules Committee ought to examine and that we ought to discuss here. Some of the bills that were passed could have been split. One particular bill that the Finance Committee and the Social Affairs Committee studied comes to mind: Bill C-4, a budget implementation bill introduced in March 2013. Division 5 of Part 3 of the budget included amendments to the Canada Labour Code that had to do with occupational health and safety. The bill proposed a new definition of "danger", eliminated health and safety officers and regional security officers and transferred their duties and responsibilities to the Minister of Labour, and enhanced internal resolution mechanisms for employee complaints of workplace hazards.

It is almost immediately apparent that this bill had little to do with the financial nature of the budget. In particular, there were no prior consultations about this bill. This was noted by the Social Affairs Committee which, in its report, pointed out the lack of consultation on this aspect of the budget implementation bill. I was a member of the committee at the time, and I found it interesting to reread our debates. Senator Eggleton asked a witness a question when union and management representatives appeared before the committee. His question was as follows:

[English]

Thank you very much, gentlemen, for being here and contributing to our deliberation of this provision of the budget.

There was a definition that was worked on for several years and I think was put in place in terms of the word

“danger.” It was back in 2000, and it involved extensive consultations with both employers and employee representatives, but this one I’m not aware of much consultation having gone on.

Could all three of you tell me just how much consultation went on leading to this change in the definition?

[*Translation*]

The employers’ representative, Mr. Farrell, answered as follows:

[*English*]

FETCO was not consulted in advance of the drafting of this legislation.

The union said the same and all the witnesses were not consulted for those changes.

That leads me to put before you criteria that perhaps we should have when we look at bills that look like omnibus bills. How

much was it consulted? Was there any consultation? What was the process followed? I looked at the budget implementation bills and I found some of them and I think in the process we will have to study those. That could be a criteria on which we could base the judgment.

[*Translation*]

Several other budget implementation bills gave rise to tensions, of which the committees made note.

We may see fewer omnibus bills of this nature with the Senate we have today. The Senate is more independent, which will undoubtedly shape its relationship with the other chamber. Recent budget implementation bills gave rise to uneasiness due to the Senate’s bipartisan nature. It was easier to lump together several bills in a budget implementation bill, even though they may have deserved to be studied separately.

I will end my remarks here.
