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MARYLAND'S CONSTITUTIONAL ONE-SUBJECT RULE: NEITHER A DEAD LETTER NOR AN UNDUE RESTRICTION

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Maryland's Constitution contains constraints on the form, style, scope, and content of legislation,[1] unlike the United States Constitu-

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1. The MD. CONST. art. III, § 29, provides:

> The style of all Laws of this State shall be, "Be it enacted by the General Assembly of Maryland:" and all Laws shall be passed by original bill; and every Law enacted by the General Assembly shall embrace but one subject, and that shall be described in its title; and no Law, nor section of Law, shall be revived, or amended by reference to its title, or section only; nor shall any Law be construed by reason of its title, to grant powers, or confer rights which are not expressly contained in the body of the Act; and it shall be the duty of the General Assembly, in amending any article, or section of the Code of Laws of this State, to enact the same, as the said article, or section would read when amended. And whenever the General Assembly shall enact any Public General Law, not amendatory of any section, or article in the said Code, it shall be the duty of the General Assembly to enact the same, in articles and sections, in the same manner, as the Code is arranged, and to provide for the publication of all additions and alterations, which may be made to the said Code.

In addition to Section 29, other sections in Article III contain limits on legislation or legislative activities. For example, Article III, Section 27 addresses where and when bills may originate, imposes a three readings requirement, and allows for a consent calendar. "[A] majority of the whole number of" delegates and senators is required for "final passage." MD. CONST. art. III, § 28. "[U]nless . . . otherwise expressly declared" in an enactment, laws "take effect the first day of June next after the session at which [they are] passed." MD. CONST. art. III, § 31. Furthermore, appropriations are strictly governed by Article III, Sections 31 and 52, and certain "local or special [l]aws" are prohibited by Article III, Section 33. Moreover, specific constitutional provisions define the exercise of the power of eminent domain. *See* MD. CONST. art. III, §§ 40, 40A, 40B, 40C.

tion,[2] but akin to the fundamental laws of many other states.[3] Of the several limits Maryland's Constitution places on legislation, the most often litigated provision is Article III, Section 29, commonly known as the "one-subject rule."[4] The one-subject rule provides: "[E]very Law enacted by the General Assembly shall embrace but one-subject, and that shall be described in its title . . . ."[5] This two-pronged provision, commanding that legislation (1) embrace a single subject, and (2) have a descriptive title, was adopted in the Maryland Constitution of 1851.[6] It has basically remained unchanged over the years.[7]

Like similar provisions in other state constitutions, the one-subject rule was intended to place a check on logrolling,[8] deceptive

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2. The U.S. CONST. art. I, § 7, merely requires that bills "for raising Revenue," originate in the House of Representatives, provides for journalizing enactments, and establishes the procedure for vetoes.
3. In 1868, Thomas Cooley, a justice of the Michigan Supreme Court and a professor of Constitutional Law at the University of Michigan Law School, wrote that Maryland was one of several states to have a provision limiting enactments to one subject articulated in the title of the bill. *See* THOMAS M. COOLEY, A TREATISE ON THE CONSTITUTIONAL LIMITATIONS WHICH REST UPON THE LEGISLATIVE POWER OF THE STATES OF THE AMERICAN UNION 141 n.4 (Da Capo Press 1972). The Court of Appeals of Maryland stated that "[a]s of 1982, 'forty-one state constitutions, provide[d] that an act shall not embrace more than one subject or object.' " Porten Sullivan Corp. v. State, 318 Md. 387, 399, 568 A.2d 1111, 1116 (1990) (quoting 1A NORMAN J. SINGER, SUTHERLAND STATUTORY CONSTRUCTION § 17.01 (4th ed. 1985)).
4. The one-subject rule has "been construed probably more often than any other part of the [Maryland] Constitution." Carl N. Everstine, *Titles of Legislative Acts*, 9 MD. L. REV. 197, 197 (1948).
5. MD. CONST. art. III, § 29.
6. *See* MD. CONST. of 1851 art. III, § 17. Because of the dual mandates of the one-subject rule, it would be more accurate to call it the "single-subject/descriptive-title rule." In keeping with common usage, and for purposes of brevity, this Article refers to the rule as the "one-subject rule."
7. Minor textual changes occurred in the MD. CONST. of 1864 and MD. CONST. of 1867. *See* Everstine, *supra* note 4, at 199.
8. Logrolling is defined in *Safire's Political Dictionary* in the following manner:

> [M]utual aid among politicians, especially legislators who must vote on many items of economic importance in individual states and districts.
>
> H. L. Mencken traces the use of logrolling back to 1820. Hans Sperber and Travis Trittschuh have tracked down derisive newspaper comments of "great log rolling captains" in politics to 1809. . . .
>
> Among settlers in the wilderness, cooperation in handling logs for land clearing and construction was a force overriding any differences among neighbors. So too in politics. "If you will vote for my inter-

enactments, and other legislative chicanery.[9] Three years after the Maryland Constitution of 1851 was adopted, the Court of Appeals of Maryland explained the policy reasons for the one-subject rule in *Davis v. State*.[10] The *Davis* court noted that the one-subject rule was enacted to curtail the practice "of engrafting, upon subjects of great public benefit, . . . for local or selfish purposes, foreign and often pernicious matters."[11] The court explained that, "during the haste and confusion always incident" to the close of legislative sessions, statutes are often passed with provisions that few legislators would have agreed with, or "knew anything of before" the adornments were placed on the legislation.[12] Scholarly analysis discovered an-

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> est," said Congressman B. F. Butler in 1870, "I will vote for yours. That is how these tariffs are log-rolled through."
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> Reformers have inveighed against the practice as assiduously as the practitioners have pursued it. In 1871 the *New York Times* complained of Republicans who established "corrupt alliances with the enemy in the way of log rolling legislation." And in 1967 *Time*, cataloging the problems of the Post Office—then an institution as afflicted by bad politics as any in the country—noted "construction programs pressured on the one side by budget vagaries and on the other by congressional log rolling." . . .
>
> The classic description of the theory of logrolling is attributed to Simon Cameron, Pennsylvania politician who served as Lincoln's first Secretary of War: "You scratch my back and I'll scratch yours."

WILLIAM SAFIRE, SAFIRE'S POLITICAL DICTIONARY 384-85 (1978).

9. *See* COOLEY, *supra* note 3, at 143-44.
10. 7 Md. 151 (1854).
11. *Id.* at 160.
12. *Id.* The *Davis* court explained:

> The object of this constitutional provision is obvious and highly commendable. A practice had crept into our system of legislation, of engrafting, upon subjects of great public benefit and importance, for local or selfish purposes, foreign and often pernicious matters, and rather than endanger the main subject, or for the purpose of securing new strength for it, members were often induced to sanction and actually vote for such provisions, which if they were offered as independent subjects, would never have received their support. In this way the people of our State, have been frequently inflicted with evil and injurious legislation. Besides, foreign matter has often been stealthily incorporated into a law, during the haste and confusion always incident upon the close of the sessions of all legislative bodies, and it has not unfrequently happened, that in this way the statute books have shown the existence of enactments, that few of the members of the legislature knew anything of before. To remedy such and similar evils, was this provision inserted into the constitution, and we think wisely inserted.

other reason for the one-subject rule: to protect the integrity of the governor's veto power.[13] If a bill with disparate subjects is presented to the governor, he cannot veto the engrafted portions and sign into law the main subject.[14] Accordingly, if the Maryland Constitution did not contain the one-subject rule, the governor's veto power would be impacted adversely.

The one-subject rule encompasses two distinct mandates.[15] The first prong of the dual mandates,[16] the single-subject prong, requires that statutes embrace only a single subject.[17] The second prong, the descriptive-title prong, demands that the title of every statute passed by the general assembly describes the subject matter of the statute.[18]

Each prong is distinct in its purpose and must be considered separately. The single-subject prong constrains logrolling and vitalizes the governor's veto power.[19] The descriptive-title prong stifles

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Id. Similarly, in *Parkinson v. State*, 14 Md. 184 (1859), eight years after adoption of the MD. CONST. of 1851, the court of appeals stated:

> It cannot be doubted, that this restriction upon the Legislature, was designed to prevent an evil, which had long prevailed in this State, as it had done elsewhere; which was the practice of blending, in the same law, subjects not connected with each other, and often entirely different. This was not unfrequently resorted to for the purpose of obtaining votes, in support of a measure, which could not have been carried without such a device. And in bills of a multifarious character, not inappropriately called *omnibus* bills, provisions were sometimes smuggled in and passed, in the hurry of business, toward the close of a session, which, if they had been presented singly would have been rejected.

Id. at 193.

13. *See* Robert F. Williams, *State Constitutional Limits on Legislative Procedure: Legislative Compliance and Judicial Enforcement*, 48 U. PITT. L. REV. 797, 809 (1987).
14. The Governor's veto power is found in MD. CONST. art. II, § 17, which follows a sign-or-veto-all design. *Cf.* Clinton v. New York, 118 S. Ct. 2091 (1998). Under the Line Item Veto Act, Congress granted the President the power to veto individual provisions contained in statutes that it passed. *See id.* at 2102. Recently, the Supreme Court held that the Act was unconstitutional because it violated the Presentment Clause. *See id.* at 2108.
15. *See* Crouse v. State, 130 Md. 364, 366, 100 A. 361, 361 (1917).
16. *See* Everstine, *supra* note 4, at 204.
17. *See Crouse*, 130 Md. at 366, 100 A. at 361 (citing MD. CONST. art. III, § 29).
18. In *Crouse*, the court of appeals stated that the one-subject rule "deals with two things: *first*, the subject of the enactment, and, *secondly*, its title. The first must be single, and the second must describe the subject." *Id.* at 366, 100 A. at 361.
19. *See* Porten Sullivan Corp. v. State, 318 Md. 387, 408, 568 A.2d 1111, 1121 (1990).

deceptive enactments.[20] These prongs are dual mandates, and satisfying merely one prong will not insulate a statute from attack under the other.[21] For example, a statute's title may be sufficiently descriptive,[22] yet the described enactments could still raise a single-subject issue.[23]

Nearly a century and a half after the adoption of the Maryland Constitution of 1851, the single-subject prong of the one-subject rule was embraced and re-energized by the Court of Appeals of Maryland in *Porten Sullivan Corp. v. State*.[24] Three years later, the court of appeals reaffirmed its reliance on the one-subject rule in *State v. Prince Georgians for Glendening*.[25] More recently, in *Maryland Classified Employees Ass'n. v. State* (*MCEA*),[26] the court of appeals apparently strayed from its holdings in *Porten Sullivan* and *Prince Georgians*.[27]

This Article reviews recent case law addressing the one-subject rule and commends the Court of Appeals of Maryland's approach in *Porten Sullivan*. Part I outlines the legal development of the one-subject rule.[28] Part II examines the modern reliance on the rule growing out of the *Porten Sullivan* decision, also assessing the effect of *MCEA*.[29] The analysis sections of this Article focus on the single-subject prong of the one-subject rule because recent court decisions have not voided statutes under the descriptive-title prong.[30] In Part III, the potential impacts of *MCEA* are discussed by way of an illustrative analysis of a recently enacted statute that has not been challenged in the courts.[31] Finally, Part IV details the contrasting, unbridled congressional mode of legislating, where legislation replete

20. The most renowned deceptive title case may be *Painter v. Mattfeldt*, 119 Md. 466, 87 A. 413 (1913) (holding a spending act unconstitutional, and thus, void because a cost estimate in the title of the act grossly understated the costs that could arise under the act).
21. *See* Maryland Classified Employees Ass'n v. State, 346 Md. 1, 12, 694 A.2d 937, 942 (1997).
22. "While the title must indicate the subject of the Act, it need not give an abstract of its contents, nor need it mention the means and method by which the general purpose is to be accomplished." Mayor of Baltimore v. Reitz, 50 Md. 574, 579 (1879).
23. *See id.* at 579, 582.
24. 318 Md. 387, 568 A.2d 1111.
25. 329 Md. 68, 617 A.2d 586 (1993).
26. 346 Md. 1, 694 A.2d 937 (1997).
27. *See id.* at 15-16, 694 A.2d at 944.
28. *See infra* notes 33-52 and accompanying text.
29. *See infra* notes 53-168 and accompanying text.
30. *See infra* notes 49-168 and accompanying text.
31. *See infra* notes 169-91 and accompanying text.

with incongruous provisions is regularly enacted, concluding that the congressional process is no model for Maryland.[32]

I. THE BASIC LAW

Legal scholars traced the origins of the one-subject rule to Roman law.[33] In the United States, efforts aimed at inhibiting multifarious or misdescribed enactments became, and have remained, a viable state constitutional restraint.[34] Indeed, even Maryland's rejected effort to modernize the existing Maryland Constitution of 1867 (the "Con Con" of the mid-1960s)[35] retained the one-subject rule. The commentary to the rejected Maryland Constitution of 1967 reemphasized the laudable purposes of the rule,[36] concluding that its

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32. *See infra* notes 192-219 and accompanying text.

33. *See* Millard H. Ruud, *No Law Shall Embrace More Than One Subject*, 42 MINN. L. REV. 389, 389 (1958); Edward S. Corwin, *The "Higher Law" Background of American Constitutional Law*, 42 HARV. L. REV. 149, 160 n.36 (1928).

34. Provisions similar to MD. CONST. art. III, § 29, first appeared in the United States in the ILL. CONST. of 1818. *See* Ruud, *supra* note 33, at 389.

35. In 1967, the 100th anniversary year of Maryland's existing constitution, delegates were elected to what was popularly known as "Con Con." *See* REPORT OF THE CONSTITUTIONAL CONVENTION COMMISSION, IX, XI, XVI (1967) [hereinafter REPORT]. Meeting from September 12, 1967 to December 12, 1967, the convention produced a thoroughly revised proposed constitution. *See id.* at 17, 71-93. At a special election, the voters subsequently rejected the proposed constitution. *See* Porten Sullivan Corp. v. State, 318 Md. 387, 398, 568 A.2d 1111, 1116 (1990). The court of appeals wrote that "[t]he 1967 Constitutional Convention Commission Report sheds . . . light on . . . 'the reasons for requiring,' " in the State constitution, that all statutes enacted contain " 'a single subject [with] a descriptive title.' " *Id.* (quoting REPORT, *supra* note 35, at 141).

36. Commenting on the presentation of a "draft section in substance . . . essentially the same as Article III, Section 29 of the present constitution," the Commission wrote:

> The purposes of the requirement that every law enacted by the General Assembly shall embrace but one subject which must be described in its title have been said to be: "To prevent the Legislature from the enactment of laws surreptitiously; to prevent 'log-rolling' legislation; to give the people general notice of the character of the proposed legislation, so they may not be misled; to give all interested an opportunity to appear before committees of the legislature and to be heard upon the advisability of the proposed legislation; to advise members of the character of the proposed legislation, and to give each an opportunity to intelligently watch the course of the proposed bill; to guard against fraud in legislation, and against false and deceptive titles."
>
> The Commission recognizes that there have been occasions when sound and desirable legislation has been invalidated by the courts be-

"absence . . . might in some instances make it necessary for a legislator to acquiesce in an undesirable bill in order to secure useful and necessary legislation."[37] Thus, the one-subject rule is firmly rooted in Maryland's constitutional history. In addition, this restraint on legislation has been endorsed by modern constitutional revisionists.

When the one-subject rule is violated, however, the statute at issue is not necessarily rendered completely void.[38] Upon judicial review of challenged enactments, courts have severed the main subject from the engrafted provisions.[39]

Maryland's common-law severability doctrine was codified in 1973.[40] The legislative codification adopted the historic judicial practice, whereby Maryland courts have "always . . . held that a law void in part . . . may be good in part."[41] Indeed, in *Davis v. State*,[42] the court of appeals announced a preference for severing the irrelevant matter from the principal subject.[43]

> cause of a technical error in the title, and is also mindful of the fact that the drafting of titles for legislation has, because of this constitutional provision, become a major chore. Nevertheless, the Commission believes that the reasons for requiring a single subject and a descriptive title are still valid and that the requirement is desirable.

REPORT, *supra* note 35, at 141 (quoting Painter v. Mattfeldt, 119 Md. 466, 473-74, 87 A. 413, 416 (1913)).

37. *Id.*

38. *See* Davis v. State, 7 Md. 151, 161 (1854).

39. *See Porten Sullivan*, 318 Md. at 389, 568 A.2d at 1112.

40. Since 1973, the Maryland Code has contained a general severability provision, which provides:

> The provisions of all statutes enacted after July 1, 1973 are severable unless the statute specifically provides that its provisions are not severable. The finding by a court that some provision of a statute is unconstitutional and void does not affect the validity of the remaining portions of that statute, unless the court finds that the remaining valid provisions alone are incomplete and incapable of being executed in accordance with the legislative intent.

MD. ANN. CODE art. 1, § 23 (1996).

41. ALFRED S. NILES, MARYLAND CONSTITUTIONAL LAW 154 (1915).

42. 7 Md. 151.

43. *Id.* at 160-61. The *Davis* court reasoned that a law which is otherwise constitutional, should not be rendered void simply because of the "introduction of a single foreign or irrelevant subject into it. In such a case the irrelevant matter would be rejected as void, while the principal subject of the law would be supported, if properly described in the title." *Id.* When a law contains "a number of discordant and dissimilar subjects, so that no one could be clearly recognized as the controlling or principal one," however, the courts are obligated

Nevertheless, the court of appeals has avoided the need to apply the severability doctrine by expressing reluctance to defeat the will of the legislature.[44] Accordingly, Maryland courts liberally construe statutes and their titles when faced with a litigant challenging the applicable statute under the one-subject rule.[45] This method of construing legislation challenged under the one-subject rule caused scholars to observe that "only a very small proportion of the laws so attacked have been held invalid."[46] Deference to legislative will, despite mandatory constitutional provisions, has received bitter dissenting rebuke.[47] This deference to the legislature might even explain the dearth of recent precedent supporting challenges asserted under the descriptive-title prong of the one-subject rule.

Under the descriptive-title prong of the one-subject rule, enactments have been voided because the title of the statute did not adequately describe its subject or misdescribed it.[48]

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to intervene and void the entire statute. *Id.*

44. *See* State v. Norris, 70 Md. 91, 96, 16 A. 445, 446 (1889).

45. *See* Hardesty v. Taft, 23 Md. 512, 525 (1865).

46. NILES, *supra* note 41, at 154; *see* Everstine, *supra* note 4, at 197-98, 245.

47. *See* County Comm'rs v. Meekins, 50 Md. 28, 46-48 (1878) (Bowie & Alvey, JJ., dissenting). This resounding disapproval came in a test of the single-subject prong of the dual mandates of the one-subject rule. *See id.* at 41-43.

48. Every case challenging an enactment on the grounds that its title is not descriptive of its subject matter is, like all one-subject rule litigation, *sui generis.* Each case relates to a particular title and body of an enactment. On occasion, the court of appeals has ruled that a title misdescribes the legislation at issue and voids the bill. *See, e.g.*, Shipley v. State, 201 Md. 96, 104, 93 A.2d 67, 69-72 (1952); Bell v. Board of County Comm'rs, 195 Md. 21, 27-34, 72 A.2d 146, 149-50 (1950); Quenstedt v. Wilson, 173 Md. 11, 22, 194 A. 354, 359 (1937); Culp v. Comm'rs of Chestertown, 154 Md. 620, 627-32, 141 A. 410, 413-15 (1928); Weber v. Probey, 125 Md. 544, 552-53, 94 A. 162, 165 (1915). The leading case is *Painter v. Mattfeldt*, 119 Md. 466, 87 A. 413 (1913). In *Painter*, the issue was the title of 1912 Md. Laws ch. 345, which related to roads in Baltimore County. *See id.* at 468, 87 A. at 414. The title of the enactment provided for $1.5 million in bonds to pay for improved roads; but that title, the court of appeals found, "diverted public attention from a great and indefinite liability, in excess of one million five hundred thousand dollars, imposed upon the taxpayers of the county. It is a glaringly false, deceptive and misleading title." *Id.* at 479, 87 A. at 418. Because the provision creating liability in excess of the bond amount was "an essential portion of the very substance of the whole scheme of the Act," *id.* at 479-80, 87 A. at 418, the court struck down the entire Act. *See id.* at 480, 87 A. at 418.

On the other hand, in some cases, the court has used more narrow titles to circumscribe the reach of enactments, thus, preserving their constitutionality. *See, e.g.*, Washington Suburban Sanitary Comm'n v. Elgin, 53 Md. App. 452,

However, an effective assault has not been mounted under the descriptive-title prong for three decades.[49] A multitude of courts faced with challenges asserted under the descriptive-title prong have upheld the sufficiency of a title's description.[50]

As professional staff has been added to assist the legislature, title drafting to encompass all elements of a bill has been achieved.[51]

460, 454 A.2d 408, 413 (1983) (citing Barrett v. Clark, 189 Md. 116, 127, 54 A.2d 128, 133 (1947)); *cf.* Board of County Comm'rs v. Colgan, 274 Md. 193, 200-01, 334 A.2d 89, 93-94 (1975).

49. In *Clark's Brooklyn Park, Inc. v. Hranicka*, 246 Md. 178, 227 A.2d 726 (1967), the court of appeals was confronted with an enactment having a title describing the bill as "providing a criminal statute for . . . 'shoplifting,' " which contained a section "providing for the merchants' immunity from civil liability when" they detained suspected shoplifters "on reasonable grounds." *Id.* at 183, 227 A.2d at 728. One of the issues on appeal of the lower court's judgment for slander and false imprisonment was whether the merchant's immunity provision was "unconstitutional because the title of the Act [was] defective and misleading in contravention of Art. III, § 29." *Id.* at 182, 227 A.2d at 728. The court held that the merchant's immunity provision was void, but the criminal provisions were severed and upheld. *See id.* at 185, 227 A.2d at 730. Although the case appears to have been argued and resolved on the issue of whether the title was deceptive, thereby violating the descriptive-title prong of the one-subject rule, there is language in the opinion which may support a conclusion that, in fact, the court of appeals found a single-subject prong violation. In other words, the enactment created criminal penalties for shoplifting and, distinctly, certain civil immunity for a merchant who detained an alleged shoplifter. *See id.*

50. *See, e.g.*, Ogrinz v. James, 309 Md. 381, 398, 524 A.2d 77, 86 (1987); Whiting-Turner Contracting Co. v. Coupard, 304 Md. 340, 361, 499 A.2d 178, 189 (1985) (citing *Painter*, 119 Md. at 473, 87 A. at 416); Equitable Life Assurance Soc'y v. Maryland Comm'n Human Relations, 290 Md. 333, 339-43, 430 A.2d 60, 64-65 (1981); Baltimore Transit Co. v. Metropolitan Transit Auth., 232 Md. 509, 520-22, 194 A.2d 643, 649-50 (1963); Roland Elec. Co. v. Mayor of Baltimore, 210 Md. 396, 403-04, 124 A.2d 783, 787-88 (1956); Heath v. State, 198 Md. 455, 462-63, 85 A.2d 43, 46-47 (1951); Goldsmith v. Mead Johnson & Co., 176 Md. 682, 688-89, 7 A.2d 176-79 (1939); Mylander v. Connor, 172 Md. 329, 334, 191 A. 430, 432 (1937); Browne v. Mayor of Baltimore, 163 Md. 212, 219, 161 A.2d 24, 27 (1932); Redmond v. State, 155 Md. 13, 17, 141 A. 383, 384 (1928); Dahler v. Washington Suburban Sanitary Comm'n, 133 Md. 644, 649-50, 106 A. 10 (1919); Mayor of Baltimore v. Wollman, 123 Md. 310, 314, 91 A.2d 339, 341 (1914).

51. Guidance for staff involved in drafting bills is set forth in MARYLAND STYLE MANUAL FOR STATUTORY LAW (1985), and LEGISLATIVE DRAFTING MANUAL (1989). Each was produced by the General Assembly's Department of Legislative Reference. The *Maryland Style Manual* carefully addressed the titling requirement for bills. The one-subject rule was set out in pertinent part, and, in 1987, two years before the 1989 Session which was the backdrop for *Porten Sul-*

Moreover, there has been a trend toward enactment of comprehensive legislation, enactments dealing with a single broad subject, and the court of appeals has not conceived the one-subject rule to thwart such broad legislative initiatives.[52] Staff, however, does not log roll or try to win votes by misjoinder of subjects. That remains, as recent cases show, a legislative foible.

II. THE RECENT CASES

Since 1989, the Court of Appeals of Maryland has decided three cases in which legislation was challenged on the ground of the one-subject rule.[53] Each case arose out of bills that were passed after legislative maneuvering during the closing days of a legislative session.[54] Many of the provisions at issue before the legislature were controversial, and thus, initially either becalmed because of insuffi-

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livan Corp. v. State, 318 Md. 387, 568 A.2d 1111 (1990), the style guide noted, "Maryland has one of the strictest title requirements of the 50 states . . . ." MARYLAND STYLE MANUAL 21. The manual went on to set forth the basic rudiments for the proper drafting of bill titles:

> With a few exceptions, all titles have 3 general parts: the short title, the purpose paragraph, and the function paragraph(s). . . . The purpose of the short title is to give a general impression of the content of the bill. As a rule, no more than six to eight words need be used. . . . The purpose paragraph is the part of the title that describes in constitutionally acceptable detail what the bill does. This is the part of the title to which the constitutional test is actually applied. The purpose paragraph should contain a summary by categories of the changes proposed to be made in the bill.

Id. at 21-22.

52. In upholding sweeping legislation creating and empowering the State's Human Relations Commission to guard, by the title of the enabling statute, against "discrimination" and against an attack from the insurance industry, the court of appeals opined:

> The cases reflect that the object of the "one subject" requirement is not to thwart the legislature when it seeks to pass comprehensive legislation, *see, e.g., Madison Nat'l Bank v. Newrath*, 261 Md. 321, 338, 275 A.2d 495 (1971) (involving adoption of the Uniform Commercial Code); *Panitz v. Comptroller*, 247 Md. 501, 511, 232 A.2d 891 (1967) (with respect to a Supplemental Appropriations Bill), but merely to thwart the stealthy incorporation of foreign matter into a bill receiving popular support. *Baltimore v. Reitz*, [50 Md. 574, 579 (1879)].

Equitable Life, 290 Md. at 343-44, 430 A.2d at 66.

53. *See* Maryland Classified Employees Ass'n v. State, 346 Md. 1, 694 A.2d 937 (1997); State v. Prince Georgians for Glendening, 329 Md. 68, 617 A.2d 586 (1993); *Porten Sullivan*, 318 Md. 387, 568 A.2d 1111.

54. *See MCEA*, 346 Md. at 12, 694 A.2d at 942; *Prince Georgians*, 329 Md. at 71, 617 A.2d at 587; *Porten Sullivan*, 318 Md. at 395, 568 A.2d at 1114-15.

cient support or were simply rejected.[55] Despite opposition, however, the legislature ultimately enacted statutes that incorporated many of these provisions.[56] Accordingly, each case was resolved after careful judicial review of the legislative amalgamation of controversial matters into a single statute.

From this trilogy of cases, the traditional grounds for the one-subject rule have been restated and reshaped.[57] Each case requires careful review in order to discern the court's adherence to certain long-standing principles. Thorough scrutiny of each court's analysis demonstrates how Maryland courts have articulated guidelines for applying the one-subject rule. Additionally, each case is analyzed in an effort to discern the court's method of applying the guidelines to the particular legislative circumstances at issue.

A. Porten Sullivan Corp. v. State

Porten Sullivan Corp. v. State[58] was the first case in the trilogy and presents the most comprehensive analysis of the one-subject rule. Appellants in *Porten Sullivan* faced a heavy burden because, historically, the one-subject rule was rarely applied by courts to strike down a statute.[59] Nonetheless, in *Porten Sullivan*, judicial reluctance was overcome by what the court of appeals decided was "a textbook example of legislation designed to frustrate" the very purpose of the one-subject rule.[60] Initially, the House passed a bill that contained "two uncomplicated and brief tax measures."[61] Prince

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55. *See MCEA*, 346 Md. at 5-12, 694 A.2d at 938-42; *Prince Georgians*, 329 Md. at 71, 617 A.2d at 587; *Porten Sullivan*, 318 Md. at 389-95, 568 A.2d at 1112-14.
56. *See MCEA*, 346 Md. at 12, 694 A.2d at 942; *Prince Georgians*, 329 Md. at 71, 617 A.2d at 587; *Porten Sullivan*, 318 Md. at 395, 568 A.2d at 1114-15.
57. *See MCEA*, 346 Md. at 12-14, 694 A.2d at 942-43; *Prince Georgians*, 329 Md. at 72-73, 617 A.2d at 587-88; *Porten Sullivan*, 318 Md. at 397-409, 568 A.2d at 1115-22.
58. 318 Md. 387, 568 A.2d 1111 (1990).
59. *See id.* at 402, 568 A.2d at 1118 ("[O]nly twice have we struck down a statute for a 'single subject' violation."). Even this modest claim was later questioned and disparaged. *See MCEA*, 346 Md. at 14 n.3, 694 A.2d at 943 n.3.
60. *Porten Sullivan*, 318 Md. at 408, 568 A.2d at 1121.
61. *Id.* at 389, 568 A.2d at 1112. *Porten Sullivan* involved a challenge to an emergency measure enacted in the waning days of the 1989 Session of the Maryland General Assembly. *See id.* at 395, 568 A.2d at 1114-15. The Maryland Constitution authorizes the General Assembly to declare (in all but a limited category of measures, *e.g.* a law making an appropriation) an enactment "an emergency law" which requires a vote of "three-fifths of all of the members elected to each of the two Houses of the General Assembly." MD. CONST. art. XVI, § 2. Although the Maryland Constitution seems to say that an "emergency law" should be one "necessary for the immediate preservation of the

George's County's government and its House delegation pushed the two tax measures through the House of Delegates.[62] While these House bills were pending in the Senate, events outside the legislature impacted the legislative process.[63] Specifically, the press reported allegations that political donations from developers and their allies were improperly influencing members of Prince George's County's Council in their consideration of zoning applications.[64]

Anti-growth partisans proposed sweeping legislation to their county's senators.[65] The proposals had two main goals: (1) public disclosure of contributions to council members,[66] and (2) mandated disqualification of any member from participating in zoning matters of the contributors.[67] The anti-growth partisans equated the disclosure and disqualification proposals to *ethics* provisions.[68] These ethics

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public health and safety," *id.*, the judiciary has deferred to the legislature, holding that the General Assembly alone has the power to determine when an emergency exists. *See* Gebhart v. Hill, 189 Md. 135, 139, 54 A.2d 315, 317 (1947). When a bill is enacted as an emergency measure, it becomes effective on the date specified in the enactment, regardless of the provision that no law shall take effect before June 1 in the year of enactment. MD. CONST. art. XVI, § 2. Routinely, an emergency law provides that it shall be effective on the date the bill is signed by the governor. *See, e.g.*, 1996 Md. Laws, ch. 2.

62. *Porten Sullivan*, 318 Md. at 393-94, 568 A.2d at 1114. As the court of appeals wrote:

> [The] legislative beginnings [of the enactment, Ch. 244, 1989 Laws of Md.] were modest: HB 889, designed to extend the life of a Prince George's County energy tax, and HB 890, intended to do the same for a special transfer tax in Prince George's County. In the Senate, however, the two uncomplicated and brief tax measures found themselves embodied in a greatly-amended version of HB 890 that also enacted extensive ethical regulations pertaining to the Prince George's County Council. It was only after this metamorphosis that HB 890 became Chapter 244.

Id. at 389, 568 A.2d at 1112.

63. *See id.* at 394, 568 A.2d at 1114.
64. *See id.*
65. *See id.*
66. *See id.*
67. *See id.* Because the tumult over contributions by developers and allies to county councilman occurred late in the session, those seeking to redress the issue were constrained by the provision that "during the last thirty-five calendar days of a . . . session," a bill can only be introduced with approval of "two-thirds" vote. MD. CONST. art. III, § 27.
68. *See Porten Sullivan*, 318 Md. at 395, 568 A.2d at 1114. The *Porten Sullivan* court described the Senate's amendments as "extensive ethical regulations." *Id.* at 389, 568 A.2d at 1112.

provisions were subsequently engrafted, by the Senate, onto House Bill 890.[69] The court of appeals noted:

> What had been essentially a one-page bill concerning "Prince George's County—Transfer Tax" was now transmogrified into lengthy emergency legislation extending to "Prince George's County Council—Ethics and Taxing Authority." In that form, HB 890 passed the Senate on 6 April 1989, after suspension of the rules.
>
> On 8 April, with but two days remaining in the 1989 session, a divided Prince George's County House delegation endorsed the bill. It passed the House on 10 April, the last day of the 1989 session, and thus became Chapter 244.[70]

The ethics provisions were challenged on federal and state constitutional grounds.[71] One challenge was related to the amalgamation of ethics provisions and taxing provisions.[72] That challenge was predicated on the one-subject rule.[73] In resolving the case, the court of appeals addressed only the challenge asserted under the one-subject rule.[74]

The Appellant's challenge was "straightforward,"[75] arguing:

> The "tax" measures have been treated as subjects of separate legislation in the past. The "tax" provisions now contained in Chapter 244 have nothing to do with development control or ethics. They are revenue measures the proceeds of which have been used to fund education, drug programs, and other needs of Prince George's County. The special

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69. *See id.* at 395, 568 A.2d at 1114.
70. *Id.* at 395, 568 A.2d at 1114-15.
71. *See id.* at 395, 568 A.2d at 1115. The court of appeals explained:
> The complaint alleged that Chapter 244 violated the [F]irst [A]mendment to the United States Constitution and Article 40 of the Maryland Declaration of Rights in numerous ways; the equal protection guarantees of the [F]ourteenth [A]mendment and Article 24 of the Maryland Declaration of Rights; Article III, § 29 of the Maryland Constitution; the Home Rule Amendment of Article XI-A of the Maryland Constitution; and the separation of powers required by Article 8 of the Declaration of Rights.

Id.
72. *See id.* Specifically, the complaint alleged that Chapter 244 violated Article III, Section 29 of the Maryland Constitution. *See id.*
73. *See id.*
74. *See id.* at 396, 568 A.2d at 1115.
75. *Id.*

> "ethics" portions of Chapter 244 have nothing to do with taxation or revenue raising. "It is simple sophistry to join, as one subject, ethics and taxing authority."[76]

To the contrary, the State argued "that the single subject here is the management of public affairs in Prince George's County."[77]

The court of appeals reviewed the history of the one-subject rule,[78] the cases construing it,[79] and the construction given to similar provisions by other states.[80] The court noted its traditional deference to legislative action, its liberal construction of the one-subject rule, and the court's rare invocation of the one-subject rule to strike down an enactment.[81] Nevertheless, the court stated: "[T]he 'single-subject' provision is still a part of our Constitution. As such, it is not to be treated as a dead letter, and we believe we must apply it to the statute now before us."[82]

The court of appeals found the ethics provisions of "Chapter 244 distinct from those" provisions relating to taxes.[83] Furthermore, the court ruled that the statute "d[id] not provide broadly for the structure and organization of Prince George's County government,"[84] and was not comprehensive legislation.[85]

The *Porten Sullivan* court recognized that certain general statements from the legislature guided its effort to apply the one-subject rule.[86] In particular, the court of appeals noted the importance of

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76. *Id.* (quoting Brief for Appellant at 46, Porten Sullivan Corp. v. State, 318 Md. 387, 568 A.2d 1111 (1990) (No. 93)).
77. *Id.* at 396, 568 A.2d at 1115.
78. *See id.* at 397-98, 568 A.2d at 1115-16.
79. *See id.* at 399-403, 568 A.2d at 1116-19.
80. *See id.* at 398-403, 568 A.2d at 1116-18.
81. *See id.* at 402, 568 A.2d at 1118.
82. *Id.* at 403, 568 A.2d at 1118.
83. *Id.* at 404, 568 A.2d at 1119.
84. *Id.* at 405, 568 A.2d at 1119-20. In passing, the court of appeals noted that the title to Chapter 244 did not "suggest that the general structure and organization of Prince George's County are" the subject of the enactment. *Id.* at 405, 568 A.2d at 1120; *cf.* Clark's Brooklyn Park, Inc. v. Hranicka, 246 Md. 178, 184-86, 227 A.2d 726, 729-30 (1967) (discussing the law as it applies to the titling of a bill).
85. *See Porten Sullivan*, 318 Md. at 405-06, 568 A.2d at 1120 (citing Madison Nat'l Bank v. Newrath, 261 Md. 321, 275 A.2d 495 (1971)). The *Newrath* court upheld the Uniform Commercial Code against a one-subject rule attack because, despite the extensive nature of the U.C.C., it dealt with only " 'one general subject—commercial transactions—[albeit with] many related aspects.' " *Id.* at 406, 568 A.2d at 1120 (quoting *Newrath*, 261 Md. at 338, 275 A.2d at 504).
86. *See id.* at 402, 568 A.2d at 1118 (quoting Whiting-Turner Contract Co. v.

the following language: "distinct and incongruous"[87] subjects may not be joined, while "connection and interdependence"[88] are akin to "germaneness"[89] and support constitutionality.[90] However, the court understood "the difficulty of defining with precision when a measure contains 'distinct and incongruous subjects.' "[91]

In an effort to provide some guidance, the court suggested that "a measure that begins life as a comprehensive one, and then has additional details inserted may survive a [one-subject rule] attack more readily than an originally narrow bill which becomes a very broad one."[92] Despite this attempt to offer guidance, according to the court of appeals, the "question ordinarily must be answered on a case-by-case basis," giving due regard to the reasons given for the single-subject rule:

> 1. To avoid the necessity for a legislator to acquiesce in a bill he or she opposes in order to secure useful and necessary legislation; to prevent the engrafting of foreign matter on a bill, which foreign matter might not be supported if offered independently.
> 2. To protect, on similar ground, a governor's veto power.[93]

Viewing the 1989 statute as "a textbook example of legislation designed to frustrate these purposes,"[94] the *Porten Sullivan* court held that Chapter 244 failed the single-subject prong of the one-subject rule.[95] Even though the statute violated the single-subject prong of the one-subject rule by "contain[ing] two distinct and incongruous subjects,"[96] the court severed the ethics provision, and

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Coupard, 304 Md. 340, 499 A.2d 178 (1985)).

87. *Id.* at 406, 568 A.2d at 1120.
88. *Id.* at 407, 568 A.2d at 1121.
89. *Id.* (citing BLACK'S LAW DICTIONARY 618 (5th ed. 1979)).
90. *See id.* at 407, 568 A.2d at 1121.
91. *Id.* at 406, 568 A.2d at 1120.
92. *Id.* at 407, 568 A.2d at 1120.
93. *Id.* at 408, 568 A.2d at 1121 (citing Parkinson v. State, 14 Md. 184, 193 (1859); Davis v. State, 7 Md. 151, 160 (1854); REPORT, *supra* note 35, at 141).
94. *Id.* at 408, 568 A.2d at 1121. Although the legislative amalgamation at issue in *Porten Sullivan* occurred in the waning days of the 1989 session of the General Assembly, the court of appeals did not emphasize that fact, despite the venerable concern about the hurry of business (and resulting opportunity for legislative mischief) in the rush to close the session. *See supra* note 12.
95. *See Porten Sullivan*, 318 Md. at 409, 568 A.2d at 1121-22.
96. *Id.* at 409, 568 A.2d at 1121.

thus, preserved the tax provision.[97]

B. State v. Prince Georgians for Glendening

Despite *Porten Sullivan*, in 1992 the legislature repeated its amalgamation efforts by engrafting a revised " 'ethics' bill applicable to local elected officials in Prince George's County" onto a bill aimed at governing planning and zoning matters in Montgomery County.[98] In *State v. Prince Georgians for Glendening*,[99] the court of appeals held that this statute violated the one-subject rule.[100] The court applied *Porten Sullivan* without breaking any new doctrinal ground.

The *Prince Georgian's* court determined that the Montgomery County planning and zoning provisions and the Prince George's County ethics standards were simply " 'distinct and incongruous' and 'distinct and separate.' "[101] The court used the case-by-case approach and dwelled on the legislative trail that the erroneously joined matters followed in the General Assembly.[102] In short, *Prince Georgians* recognized, for doctrinal purposes, the seminal quality of *Porten Sullivan*.[103] Together, these two decisions illustrate that distinct and separate, non-germane matters do not pass muster under the single-subject prong of the one-subject rule.

After *Porten Sullivan* and *Prince Georgians*, the single-subject prong of the one-subject rule was hardly a dead letter. This constitutional mandate, together with the descriptive-title prong, restrained the logrolling and "Christmas tree"[104] legislation that were increasingly becoming the congressional modes of enacting federal legislation over the past two decades.[105] Maryland, unlike Congress, prohibits the blending of unconnected subjects in legislation and the

97. *See id.* at 409-11, 568 A.2d at 1122.

98. State v. Prince Georgians for Glendening, 329 Md. 68, 71, 617 A.2d at 586, 587 (1993).

99. *Id.*

100. *See id.* at 75-76, 617 A.2d at 589 (holding that the zoning provisions and ethics and elections standards in Chapter 643 of the Acts of 1992 were indeed "distinct and incongruous" and therefore violated the one-subject rule).

101. *Id.*

102. *See id.* at 74-75, 617 A.2d at 588-89. The court noted that bills to enact ethics provisions applicable to Prince George's County Council members had been introduced, but not enacted, in both the 1990 and 1991 sessions of the General Assembly. *See id.* at 71, 617 A.2d at 587.

103. *See id.* at 72, 617 A.2d at 587-88.

104. *See infra* note 193 and accompanying text.

105. *See infra* notes 192-219 and accompanying text.

smuggling of incongruous subjects into omnibus bills.[106] It does so in large measure because of the firm, though somewhat vague, command of the one-subject rule. The final case in the trilogy, *Maryland Classified Employees Ass'n v. State*,[107] provided the court of appeals an opportunity to alter what *Porten Sullivan* and *Prince Georgians* had revitalized.

C. Maryland Classified Employees Ass'n v. State

In *Maryland Classified Employees Ass'n v. State*,[108] a pilot program intended to privatize certain child support enforcement services was appended to a welfare reform measure, and challenged on the basis of the one-subject rule.[109] A union and seven of its members sought a declaratory judgment that certain provisions of Chapter 491 of the 1995 Maryland Laws were unconstitutional.[110]

The challenged provisions created a four-year pilot program for privatizing child support enforcement services in Baltimore City and Queen Anne's County.[111] Previously, these county's child support enforcement services were provided by state unionized employees working for the Department of Human Resources.[112] Appellants contended that the merger of provisions aimed at privatizing child support with welfare reform provisions involved true legislative manipulation.[113] Nevertheless, the blended statute withstood constitutional challenge.[114]

The background for the legislative commingling of separate bills was a political debate that continued over several sessions of the General Assembly.[115] In 1994, Governor Schaefer supported legislation "authorizing a comprehensive pilot program of AFDC reform in three subdivisions of the State, but then vetoed the bill be-

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106. *Cf.* Parkinson v. State, 14 Md. 184, 193 (1859) ("And in bills of a multifarious character, not inappropriately called *omnibus* bills, provisions were sometimes smuggled in and passed, in the hurry of business, toward the close of a session, which, if they had been presented singly would have been rejected.").
107. 346 Md. 1, 694 A.2d 937 (1997).
108. *Id.*
109. *See id.* at 3, 694 A.2d at 938.
110. *See id.*
111. *See id.*
112. *See id.*
113. *See id.* at 4-5, 694 A.2d at 938 ("Particularly egregious, in [Appellants] view, was the manner in which the consolidation was accomplished."). *See id.* at 5-12, 694 A.2d at 938-42, for details of the legislative history.
114. *See id.* at 20-21, 694 A.2d at 946.
115. *See id.* at 3-4, 694 A.2d at 938.

cause of certain amendments added by the Legislature."[116] After Governor Schaefer left office, nineteen bills were introduced in the 1995 session dealing with public assistance programs, including four similar to the 1994 bill that Governor Schaefer had vetoed.[117] Further, thirty-one bills proposed in 1995 dealt "with child or spousal support."[118] The constitutional challenge at issue in *MCEA* arose from events that occurred during the waning moments of the 1995 session, when House Bill 1177, after its defeat in the Senate, was engrafted onto Senate Bill 754.[119]

Senate Bill 754 was introduced to establish a pilot program for welfare reform.[120] The pilot program was primarily designed to create supervised job search activities and to allow counties to terminate AFDC payments if either the work requirement was not met or excused.[121] On the Senate floor, Senate Bill 754 was amended to allow for the suspension of one's driver's license where a driver fails to make child support payments.[122] Senate Bill 754 made its way through the Senate while House Bill 1177 moved through the House.[123]

House Bill 1177, as introduced, called for a privatization pilot program for child support enforcement.[124] The House passed the

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116. *Id.* Governor Schaefer's veto message may be found at 1994 Md. Laws 3865. *See id.*

117. *See id.*

118. *Id.*

119. *See id.* at 12, 694 A.2d at 942. The House approved the engraftment of House Bill 1177 onto Senate Bill 754 "[O]n the evening of . . . the final day for legislative action . . . ." *Id.* Thereafter, Senate Bill 754, as amended, "was returned to the Senate for concurrence." *Id.* The Senate concurred at 10:50 p.m., seventy minutes before the General Assembly adjourned *sine die*. *See id.*

120. *See id.* at 5, 694 A.2d at 938-39 (noting that Senate Bill 754 was initially intended to establish pilot programs in three subdivisions: Baltimore City, Anne Arundel County, and Prince George's County).

121. *See id.* at 6, 694 A.2d at 939.

122. *See id.* at 7, 694 A.2d at 940. The driver's license suspension provision was not directly at issue in *MCEA*. Still, one wonders what rationalization could be proffered to support suspending a driver's license to enforce something as unrelated as welfare reform and child support. While suspending a driver's licenses might be *germane* to enforcement in general, it surely would not be immune from constitutional doubt given the reasons behind the one-subject rule. *Cf. supra* text accompanying notes 8-14.

123. *See MCEA*, 346 Md. at 7, 694 A.2d at 940.

124. *See id.* Initially, House Bill 1177 was intended to create programs in Baltimore City and in two unspecified counties to be selected by the Department of Human Resources. *See id.* The Department was to adopt regulations requiring

bill after it was amended to include a driver's license suspension sanction.[125] The Senate, however, ultimately[126] defeated House Bill 1177.[127]

On the same day that House Bill 1177 failed in the Senate, Senate Bill 754 began to move in the House.[128] A number of amendments were adopted, including "the [same] child support enforcement 'privatization' provisions that had been included in House Bill 1177."[129] After these amendments were adopted, the House passed Senate Bill 754, and returned the bill to the Senate for concurrence.[130] At 10:50 p.m. on the last night of the 1995 session, the Senate concurred in the House amendments.[131] Thereafter, the bill was signed into law by Governor Glendening.[132]

The resurrection of the provision privatizing child support enforcement from the defeated rubble of House Bill 1177, via enactment of Senate Bill 754, was particularly galling to the bill's opponents, primarily the state's unionized employees.[133] Their challenge

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the transfer of all aspects of child support enforcement to one or more private contractors. *See id.* Before it passed the House, House Bill 1177 was amended to limit the program to Baltimore City and one county. *See id.* at 9, 694 A.2d at 941. As a paean to unionized state employees, House Bill 1177 required private contractors to offer employment to displaced state employees. *See id.*

125. *See id.*

126. During Senate consideration, House Bill 1177 was amended to limit the program to Baltimore City and Queen Anne's County, and allowed any state employee to return to state service with protected benefits and seniority rights. *See id.* at 11, 694 A.2d at 942.

127. *See id.* Two days before the end of the legislative session, the Senate defeated House Bill 1177 by a 24-23 vote. *See id.*

128. *See id.*

129. *Id.* at 12, 694 A.2d at 942.

130. *See id.*

131. *See id.*

132. *See id.* The bill became Chapter 491 of the 1995 Laws of Maryland. *See id.* In accordance with the new statute's command, "the Board of Public Works approved a contract transferring the child support enforcement functions in the two subdivisions to Lockheed Martin IMS." *Id.* at 12 n.2, 694 A.2d at 942 n.2.

133. A news report on *MCEA* appeared in *The Daily Record. See* Bradey A. Kukuk, *Union Bid to Overturn Privatization of Support Enforcement Rejected,* DAILY REC., June 10, 1997, at 17A-18A. That report, in part, read:

> In 1995, the Senate failed by one vote to pass HB 1177, a bill that would allow a private company to perform child support collection services in Baltimore City and Queen Anne's County.
>
> State workers lobbied hard against the bill . . . and defeated it by a single vote. But, in the closing moments of the session, legislators

to the enactment of Senate Bill 754, however, was rejected by the court of appeals.[134] After reviewing *Porten Sullivan*, and considering evidence[135] of "[t]he nexus between child support enforcement and weaning people off of AFDC,"[136] the *MCEA* court concluded that the one-subject rule was not violated.[137] The court reasoned that there was "not just a close connection, but a true interdependence, between effective child support enforcement and the goal of significantly reducing the number of people relying on AFDC."[138] Therefore, a "pilot program of 'privatizing' child support enforcement in Baltimore City and Queen Anne's County" was said to be a *legitimate* part of the statute's goal.[139]

Beyond its basic holding, *MCEA* is important for the following reasons: (1) its search for evidence of congruity or germaneness beyond the Maryland legislative history,[140] (2) the irrelevance of the defeat of House Bill 1177,[141] and (3) its handling of the precedent set by *Porten Sullivan*.[142]

1. Evidence Used

A notable feature of *MCEA* was the court's use of congressional and other federal declarations to find "[t]he nexus between child

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> added virtually the entire text of HB 1177 onto the Welfare Reform Act, SB 754.
>
> [MCEA's attorney] said senators faced a catch-22. If the 24 senators who voted against the privatization bill tried to remain consistent and vote against it again, they would be on record as opposing welfare reform. That's the situation the single subject rule was designed to prevent, he said.

Id. at 18A.

134. *See MCEA*, 346 Md. at 20-21, 694 A.2d at 946.
135. *See id.* at 17-21, 694 A.2d at 945-46.
136. *Id.* at 18, 694 A.2d at 945.
137. *See id.* at 20-21, 694 A.2d at 946.
138. *Id.*
139. *Id.* at 21, 694 A.2d at 946. In effect, the court of appeals found that a privatized pilot program was just a means to administer welfare reform, and that privatized enforcement was not a distinct subject. *See id.* Regardless, two years after privatization, no great improvement had been accomplished. *See* Robert E. Pierre, *Baltimore's Test of Privatization Comes up Short*, WASH. POST, January 25, 1998, at B1.
140. *See MCEA*, 346 Md. at 18-20, 694 A.2d at 945-46.
141. Aside from stating that House Bill 1177 was defeated, the court did not discuss how, or whether, its defeat impacted the court's one-subject rule analysis. *See id.* at 11, 694 A.2d at 942. One could conclude, therefore, that its defeat was irrelevant to *MCEA*'s one-subject rule analysis.
142. *See id.* at 12-16, 694 A.2d at 942-44.

support enforcement and weaning people off AFDC."[143] Various congressional reports and enactments, as well as testimony from congressional hearings were used to demonstrate the true interdependence between effective child support enforcement and reduction of AFDC dependency.[144] This evidence, however, was independently gathered by the court, and not presented in either of the parties' briefs filed in the case.[145]

The required nexus between the nature of welfare and enforcement of child support may have been a peculiarly apt area for guidance from federal actions.[146] State statutes and their respective legislative histories generally do not include extra-territorial evidence.[147] Moreover, the use of congressional commentary to demonstrate the required nexus is no more unusual than where, in *Porten Sullivan*, the court of appeals reviewed a host of out-of-state cases—not cited by the parties—to lend credence to its formulation of the rationale for the one-subject rule.[148]

2. The Irrelevance of the Defeat of House Bill 1177

The legal analysis employed by the *MCEA* court gave no weight to the defeat of House Bill 1177.[149] The *MCEA* court, through its silence, implied that the one-subject rule does not, by its terms, forbid the joinder of a defeated bill's provisions with another separately enacted bill.[150] The court's silence about the defeat of House Bill 1177 emphasized what students of the legislature, or lobbyists, have always known: defeat of a bill does not bring the curtain down on a legislative idea, so long as bills dealing with the same subject remain alive. The one-subject rule forbids an illicit amalgamation of disparate items.[151] However, it does not forbid joinder that can be justified under a convenient umbrella of items which do not cause

143. *Id.* at 18, 694 A.2d at 945.

144. *See id.* at 18-21, 694 A.2d at 945-46.

145. *See id.*

146. Funds for welfare come from the federal coffers. State agencies administer the programs funded under a mix of state and federal provisions.

147. Few areas of the law are as intertwined between state and federal provisions as welfare.

148. *See* Porten Sullivan Corp. v. State, 318 Md. 387, 399-401, 568 A.2d 1111, 1116-17 (1990).

149. *See MCEA*, 346 Md. at 12-20, 694 A.2d at 942-46.

150. The one-subject rule is not the once killed/always dead rule.

151. *See* MD. CONST. art. III, § 29 (1981).

one to choke when the claim of incongruity is made.[152]

3. *Porten Sullivan* After *MCEA*

MCEA recognized *Porten Sullivan* as definitive precedent for interpreting the one-subject rule,[153] but only after emphasizing that the court has afforded the legislature significant leeway.[154] While construing one-subject rule challenges,[155] and even minimizing the number of occasions when the court has used the single-subject prong to strike down legislation,[156] the *MCEA* court seemed to go off on a tangent rather than embrace the *Porten Sullivan* interpreta-

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152. *See MCEA*, 346 Md. at 17 n.5, 694 A.2d at 945 n.5 (explaining that the court's role was to determine whether the legislature's act of joining two subjects was reasonable).

153. The court noted its recent exploration of "the history and purpose of the single subject requirement" in *Porten Sullivan* and *Prince Georgians*, and quoted from *Porten Sullivan* to summarize "the objective of the clause as 'prevent[ing] the combination in one act of several and distinct incongruous subjects.' " *Id.* at 12-13, 694 A.2d at 942-43 (quoting Porten Sullivan Corp. v. State, 318 Md. 387, 402, 568 A.2d 1111, 1118 (1990)).

154. *See id.* at 13, 694 A.2d at 943.

155. *See id.* at 12-14, 694 A.2d at 942-43.

156. *See id.* at 14 n.3, 694 A.2d at 943 n.3. The *MCEA* court asserted that *Curtis v. Mactier*, 115 Md. 386, 80 A. 1066 (1911), was a descriptive-title prong case rather than a case that applied the entire one-subject rule. *See MCEA*, 346 Md. at 14 n.3, 694 A.2d at 943 n.3. Judge Pearce's opinion in *Curtis* does not support such a crimped construction because he wrote:

> The Act under consideration manifestly undertakes to legislate upon two wholly distinct subjects, under a title by which only one of those subjects is described. Even if the title had fully indicated both of the matters proposed to be covered by the Act, the situation would not have been improved, because this would nevertheless have been in obvious violation of section 29 of Article 3 of the State Constitution which provides that 'every law enacted by the General Assembly shall embrace but one subject, and that shall be described by its title.' This constitutional provision has been frequently construed, and there can be no difficulty in its application to the statute here involved. The purpose of the requirement we have quoted from the Constitution has been repeatedly defined. It is intended to accomplish two objects: 'The first is to prevent the combination in one Act of several distinct and incongruous subjects; and the second is that the Legislature and the people of the State may be fairly advised of the real nature of pending legislation.'

Id. at 394, 80 A. at 1069 (citing County Comm'n. v. School Comm'rs Worcester County, 113 Md. 305, 77 A. 605 (1910); Nutwell v. Anne Arundel County, 110 Md. 667, 73 A. 710 (1909); Kafka v. Wilkinson, 99 Md. 238, 57 A. 617 (1904); State v. Norris, 70 Md. 91, 16 A. 445 (1889)).

tive approach.[157]

Initially, the *MCEA* court seemed to have embraced the *Porten Sullivan* approach.[158] However, the *MCEA* court chose to travel a new path with regard to the scope of legislation involved, even though the *Porten Sullivan* court, in the portion approvingly adopted in *MCEA*, had stated:

> [N]otions of connection and interdependence may vary with the scope of the legislation involved. That is, a measure that begins life as a comprehensive one, and then has additional details inserted may survive a [one-subject rule] attack more readily than an originally narrow bill which becomes a very broad one. It is of some significance that the legislation involved in cases like *Clinton*, *Panitz*, *Newrath*, and *Meekins* was comprehensive at its outset; it was not vastly expanded by incongruous amendments.[159]

Rather than considering how the vehicle[160] began its legislative life, however, the *MCEA* court wrote:

> Connection and interdependence can be on either a horizontal or vertical plane. Two matters can be regarded as a single subject, for purposes of [the one-subject rule], either because of a direct connection between them, horizontally, or because they each have a direct connection to a broader common subject to which the Act relates.[161]

Although there was no clear conclusion as to which *plane* connected the matters in House Bill 1177, the court did find *true interdependence* between effective child support enforcement and welfare reform.[162]

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157. *See MCEA*, 346 Md. at 15-16, 694 A.2d at 944.

158. *See id.* at 14, 694 A.2d at 943. Indeed, the *MCEA* court announced:

> As we pointed out in *Porten Sullivan*, proper application of the "single subject" clause requires consideration of how closely connected and interdependent the several matters contained within an Act may be, and "notions of connection and interdependence may vary with the scope of the legislation involved."

Id. (citing *Porten Sullivan*, 318 Md. at 407, 568 A.2d at 1120).

159. *Porten Sullivan*, 318 Md. at 407, 568 A.2d at 1120.

160. The legislative "vehicle" is the main bill onto which the adornment is placed. *See MCEA*, 346 Md. at 15-16, 694 A.2d at 944.

161. *Id.*

162. *See id.* at 20-21, 694 A.2d at 946.

After *MCEA, Porten Sullivan* remains vital. *MCEA* clearly recognized and approved the courts' holdings in *Porten Sullivan* and *Prince Georgians.*[163] A bill with limited purposes could not, consistent with the one-subject rule, carry the weight of an unrelated measure.[164] Nevertheless, the *MCEA* court spoke of having either a "common umbrella" or a "common denominator,"[165] terminology that was absent from the first two decisions in the trilogy.[166] Neither these phrases nor reference to "horizontal or vertical" interconnection are as clear or apt as the *Porten Sullivan* admonition to determine whether the vehicle adorned started as a comprehensive or narrow bill.[167]

The measurably different emphasis placed on the nature of the original bill used in *Porten Sullivan* may be more than an academic distinction. It could be the basis for a different result in a given case. The following Part of this Article illustrates the potential impact of *MCEA* by analyzing a recently enacted statute. The statute analyzed is House Bill 1394, which the Maryland General Assembly enacted in 1996.[168] While this statute has never faced a one-subject rule challenge in the courts, it will serve as a basis to illustrate the potential impact of the *MCEA* court's holding.

III. AN ILLUSTRATIVE ANALYSIS OF HOUSE BILL 1394 (1996)

In 1996, House Bill 1394 was introduced by the Washington County House Delegation as an act "concerning Washington County - Hotel Tax - Civil War Tourism [f]or the purpose of altering the rate of the hotel tax imposed in Washington County."[169] The substance of the introduced bill merely increased the rate of the Washington County hotel tax from 3% to 3.5% for fiscal year 1997, and provided that the additional revenues should be used to promote Civil War tourism in the Washington County area.[170] The bill unani-

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163. *See id.* at 15, 694 A.2d at 943-44.

164. *See id.* at 15, 694 A.2d at 944 ("*Porten Sullivan* and *Prince Georgians* illustrate the kind of circumstances in which the 'single subject' requirement is, in fact, violated.").

165. *Id.*

166. *See supra* notes 58-103 and accompanying text.

167. *See supra* note 92 and accompanying text.

168. *See* 1996 Md. Laws ch. 665.

169. 2 JOURNAL OF PROCEEDINGS OF THE HOUSE OF DELEGATES OF MARYLAND, at 1032 (1996).

170. *See Floor Report of the House Ways and Means Committee* found in the bill file on H.B. 1394, found in the Department of Legislative Reference Library, 90 State Circle, Annapolis.

mously passed in the House on March 22, 1996.[171]

The Senate transmogrified[172] the bill. The title was revised to state that the amended bill was an act concerning "Local Subdivisions-Revenues." The amended bill went beyond the version passed in the House by "authorizing Baltimore City to use certain highway user revenues . . . [and permitting the use] 'by certain local subdivisions' " of certain revenues to promote tourism.[173] The text of the amended bill allowed Baltimore City to use highway user revenues for fiscal year 1997 to finance the costs of convention center marketing and debt service.[174] In addition, the amended bill altered the City Charter's general powers so that the city could impose a hotel and room tax of up to 7.5% for fiscal year 1997.[175]

The Senate version of House Bill 1394 passed the Senate,[176] and the House concurred (95-33) in the Senate version.[177] The result was that a bill relating solely to supporting Civil War Tourism in Washington County transmogrified into a bill to do that and more—fund convention center marketing and debt service.[178] Under the proscription in *Porten Sullivan*,[179] this enactment would

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171. *See* 2 JOURNAL OF PROCEEDINGS OF THE HOUSE at 1855.

172. *Cf.* Porten Sullivan Corp. v. State, 318 Md. 387, 395, 568 A.2d 1111, 1114 (1990).

173. 3 JOURNAL OF PROCEEDINGS OF THE SENATE OF MARYLAND, at 2930 (1996).

174. *See id.* at 2931.

175. *See id.* at 2931-32.

176. *See id.* at 2932.

177. *See* 4 JOURNAL OF PROCEEDINGS OF THE HOUSE OF DELEGATES OF MARYLAND, at 3056 (1996).

178. The bill as amended and enacted is found at 1996 Md. Laws ch. 665. On its face, the numerous amendments are obvious. The legislative file in the Department of Legislative Reference Library contains both the "Floor Report" by the House Ways and Means Committee and the "Concurrence Report" after the Senate action. Read together, the transformation is apparent. The Floor Report to the unadorned bill characterized it as a local Washington County bill which increased the Washington County Hotel Tax and required expenditures for the promotion of Civil War Tourism in Washington County. *See* 2 JOURNAL OF PROCEEDINGS OF THE HOUSE OF DELEGATES OF MARYLAND, at 1032 (1996). On the other hand, the Concurrence Report refers to the previously stated purpose and describes the Senate amendments as, permitting Baltimore City to use up to $5 million of its Highway User Revenues in FY 97 for Convention Center Marketing and prohibiting the City from increasing its hotel tax rate above 7.5%. *See* 4 JOURNAL OF PROCEEDINGS OF THE SENATE OF MARYLAND, at 3056 (1996).

179. *See supra* note 92 and accompanying text.

appear void as far as the adornments for Baltimore City were concerned.

House Bill 1394 did not begin life as a *comprehensive* bill. It had a distinct, limited purpose—the promotion of Civil War tourism in Washington County.[180] As amended, it appears painfully similar to the statutory provision voided in *Prince Georgians.*[181] How congruous or germane is support for Civil War tourism in Washington County with debt service and marketing for a Convention Center in Baltimore City? Thus, applying *Porten Sullivan* and *Prince Georgians,* one would conclude that the relationship is too attenuated.

On the other hand, the later decided *MCEA,* with its distinction between horizontal and vertical interconnection,[182] and with the statute's amended title rubric of tourism, might offer a rationale for approval.[183] However, *MCEA* dealt with a vehicle that started its legislative life as a comprehensive measure, not as an originally narrow bill.[184] Notably, the *Porten Sullivan* discussion that was avoided in *MCEA,* seems vitally important, particularly to those watching the legislative session. A legislator, a lobbyist, or citizens in favor of or against aid to the Baltimore City Convention Center would have had no realistic need to be concerned about a Washington County local bill aimed at Civil War Tourism. The joinder of these two subjects, aid to the Convention Center with a Western Maryland local bill,[185] was joinder of the non-germane. Regardless, Chapter 665 of the 1996 Laws of Maryland has never been challenged in the courts.[186]

This example illustrates that Maryland legislators will continue to find vehicles to attach unrelated adornments. These amalgams will be the exception, rather than the regular mode of legislating in

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180. *See supra* notes 169-70 and accompanying text.

181. *See generally* State v. Prince Georgians for Glendening, 329 Md. 68, 71, 617 A.2d 586, 587 (1993).

182. *See* Maryland Classified Employees Ass'n v. State, 346 Md. 1, 15-16, 694 A.2d 937, 944 (1997).

183. Can a Washington County hotel tax for use for Civil War Tourism be vertically connected through tourism to Baltimore City's use of its highway revenues and its hotel tax for marketing of, and debt service on, the Convention Center located in Baltimore?

184. *Compare* Porten Sullivan Corp. v. State, 318 Md. 387, 407, 568 A.2d 1111, 1120 (1990), *with supra* notes 120-21 and accompanying text.

185. *See supra* notes 169-78 and accompanying text.

186. When no attack is mounted, the one-subject rule does not become a dead letter; rather, it seems to become an unused letter. *See generally Porten Sullivan,* 318 Md. 387, 568 A.2d 1111.

Maryland because the one-subject rule chastens and circumscribes the vast bulk of state enactments.[187] Nonetheless, it is relevant to question how freely these exceptions will persist if constitutional challenges are mounted in the courts.

While *MCEA* recognized *Porten Sullivan* as the interpretative precedent,[188] *MCEA* is surely a step, perhaps a leap, away from the vitality infused in the one-subject rule by *Porten Sullivan*. *MCEA* clearly applies a liberal interpretive approach, giving deference to legislative action.[189] The *MCEA* court announced:

> That liberal approach is intended to accommodate a significant range and degree of political compromise that necessarily attends the legislative process in a healthy, robust democracy. It has sufficient fluidity to accommodate, as well, the fact that many of the issues facing the General Assembly today are far more complex than those coming before it in earlier times and that the legislation needed to address the problems underlying those issues often must be multifaceted.[190]

The need for multifaceted legislation has been the excuse for congressional enactments that join apparently disparate subjects.[191] Thus, the language employed by the *MCEA* court raises the question: Will *MCEA* lead Maryland's legislature to embrace the pattern of lawmaking that has become prevalent in Congress?

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187. The one-subject rule surely is known to staff. *See supra* note 51.

188. *See supra* note 153 and accompanying text.

189. *See* Maryland Classified Employees Ass'n v. State, 346 Md. 1, 13-14, 694 A.2d 937, 943 (1997).

190. *Id.* The court's footnote to this passage illuminated the point further:

> The marked growth in the size, scope, and complexity of State government itself, along with the new areas over which it has asserted regulatory jurisdiction, are matters of common knowledge subject to judicial notice. Simplistic and single-focused approaches are not always possible, and indeed may well be wholly inappropriate, when dealing with some of the health, environmental, economic, and social problems facing modern society.

Id.

191. A clear recent joinder of disparate subjects occurred when Congress passed, in 1997, Pub. L. No. 104-208, which joined immigration reform enactments and other non-spending substantive matters with an appropriations bill. *See* Omnibus Consolidated Appropriations Act of 1997, Pub. L. No. 104-208, 110 Stat. 3009 (1996).

IV. AN UNBRIDLED CONGRESS

Congress has no constitutionally imposed one-subject constraint. Consequently, federal enactments can include disparate subjects in one legislative vehicle, as recently evidenced by the passage of an omnibus appropriations bill that included a provision on *immigration reform.*[192] Christmas Tree bills—uncontroversial or essential measures on which "ornaments" consisting of a host of unrelated, disparate items—are a frequent congressional method of legislating.[193]

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192. In 1997, the Congress passed 110 Stat. 3009 (1997), described as "An Act making omnibus consolidated appropriations for the fiscal year ending September 30, 1997, and for other purposes." *Id.* The *other purposes* included the following: (1) a 178 page adornment "Division C-Illegal Immigration Reform and Immigrant Responsibility Act of 1996," 110 Stat. 3009-546 to 3009-724; (2) the "Small Business Programs Improvement Act," 110 Stat. 3009-724; (3) a "Gun Ban for Individuals Convicted of a Misdemeanor Crime of Domestic Violence," 110 stat. 3009-371; and (4) a declaration of legislative policy regarding 18 U.S.C. § 922(q) (1996), 110 Stat. 3009-369 to 3009-371 (1996), an apparent attempt to affect *United States v. Lopez,* 514 U.S. 549, 115 S.Ct. 1624 (1995), which had declared that § 922 (a) exceeded Congress's commerce clause authority. *Id.* The President's Signing Statement for Pub. L. No. 104-208 recognized the adorned scope of the appropriations act:

> This, bill, however, does more than fund major portions of the Government for the next fiscal year. It also includes landmark immigration reform legislation that builds on our progress of the last 3 years. It strengthens the rule of law by cracking down on illegal immigration at the border, in the workplace, and in the criminal justice system— without punishing those living in the United States legally.

Omnibus Consolidation Appropriations Act, Statement by President of U.S., Pub. L. No. 104-208, 1996 U.S.C.C.A.N. (110 Stat. 3009) 3388, 3391. The signing statement even recognized the Congressional methods of adorning legislation when the President complained that an adornment he sought had not been added:

> I am disappointed that one of my priorities— a ban on physician "gag rules"— was not included. Several States have passed similar legislation to ensure that doctors have the freedom to inform their patients of the full range of medical treatment options, and I am disappointed that the Congress was not able to reach agreement on this measure.

Id. at 3392.

193. The Balanced Budget Act of 1997, Pub. L. No. 105-33, was described by the President in his Signing Statement as "a balanced package of spending provisions that includes targeted program cuts while it invests in America's future." President's Statement on Signing the Balanced Budget Act of 1997, 33 WKLY. COMP. PRES. DOC. 1190 (Aug. 11, 1997). The Act, however, contained numerous non-spending adornments: (1) "a sentencing commission . . . charged

A particularly expansive example occurred with the enactment of the Anti-Drug Abuse Act of 1988.[194] The Anti-Drug Abuse Act of 1988 was a drug fighting bill, impervious to challenge. The act was altered to include such incongruous measures as follows: child pornography and obscenity legislation,[195] reform of the U.S. Marshals service,[196] truck and bus safety regulatory reform,[197] and putative repeal of *McNally v. United States*,[198] which had circumscribed mail fraud prosecutions.[199]

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with developing a Truth-in-Sentencing system"; (2) a Department of Justice initiative to deal with "a number of Establishment Clause constitutional concerns with respect to" health care services under Medicare and Medicaid; (3) an authorization to the Department "of Health and Human Services to develop a legislative proposal for establishing a case-mix adjusted prospective payment system for payment of long-term care hospitals under the Medicare program"; and (4) broaden authorization to the Federal Communications Commission "to auction the right to use the radio and television spectrum." Balanced Budget Act of 1997, Pub. L. No. 105-33, 101 Stat. 251, 671-71, 677-72 (1997).

194. Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, 102 Stat. 4181 (1988). The Act contained 364 pages but its legislative history had neither a Senate nor House Report. *See id.* at 5937. It had ten *titles*, some of which were unrelated to drug enforcement.

195. This statute, 102 Stat. 4485 (1988), was enacted as part of the Anti-Drug Abuse Act as the "subtitle [to] be cited as the 'Child Protection and Obscenity Enforcement Act of 1988.' " *Id.*

196. Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, 3 U.S.C.C.A.N. (102 Stat. 4512-17).

197. *Id.* at 4527-35 (1988). This section was enacted as part of the Anti-Drug Abuse Act as the "subtitle" to be "cited as the 'Truck and Bus Safety and Regulatory Reform Act of 1988.' " *Id.*

198. 483 U.S. 350 (1987).

199. *See* Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, 102 Stat. 4181, 4508 (1988). The background for this amendment and a critique of the congressional process is found in Geraldine Szott Moohr, *The Federal Interest in Criminal Law*, 47 SYRACUSE L. REV. 1127 (1997). There, the author writes:

> In 1987, the Supreme Court brought intangible rights prosecutions to an unexpected halt by deciding, in *McNally v. United States*, that the mail fraud statute was limited to the protection of property rights and did not protect intangible rights such as honest services. . . . [T]he Court invited Congress to "speak more clearly than it has" if it intended the statute to reach intangible rights.
>
> Congress promptly responded to the Court's challenge to "speak more clearly" and reinstated the intangible rights doctrine by amending the mail fraud statute.

Id. at 1166-67. Although the author noted the prompt legislative response, she documented the limited legislative history, the adornment on an election year Christmas Tree Bill, and the judicial recognition of the inadequacy of the

Another typical example of a Christmas Tree bill is the Violent Crime Control and Law Enforcement Act of 1994.[200] This act was a 355 page statute that contained a host of miscellaneous adornments far removed from violent crime, and included as follows: (1) a clarifying amendment regarding the scope of prohibition against gambling on ships in international waters;[201] (2) enactment of the "Recreational Hunting Safety Act" with provisions barring "obstruction of a lawful hunt" and providing civil penalties therefor;[202] and (3) "Other Provisions"[203] dealing with, *inter alia*, "labels on products,"[204] "non-dischargeability of payment of restitution order[s],"[205] new Federal Rules of Evidence making "evidence of similar crimes [admissible] in sex offense cases,"[206] the "definition of livestock,"[207] and disclosure of wiretap information to impede a criminal investigation.[208]

In the absence of any one-subject constraint, Congress engaged in one of its spectacles of joinder of the incongruous in temporal juxtaposition to *MCEA*—they happened at the same time. The congressional spectacle involved the Disaster Relief Act of 1997, a bill needed to authorize federal funds to help the flood ravaged upper Mid-west, as well as other areas devastated by tornadoes and other natural calamities.[209] When presented for final congressional ap-

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Congressional process, writing:

> The legislative history of the amendment is limited to a single pre-passage statement by Representative Conyers indicating that the provision was intended to restore the intangible rights doctrine. *See* 134 CONG. REC. H11108-01 (daily ed. Oct. 21, 1988) (explaining that amendment "restores the mail fraud provision to where [it] was before the *McNally* decision" so that, if passed, "it is no longer necessary to determine whether or not the scheme . . . involved money or property"); *see also United States v. Brumley*, 79 F.3d 1430, 1436-40 (5th Cir.) (characterizing legislative history of amendment as inadequate), *reh'g en banc granted*, 91 F.3d 676 (5th Cir. 1996).

Id. at 1167-68 n.196.

200. Pub. L. No. 103-322, 108 Stat. 1796 (1994).
201. *See id.* at 2114.
202. *Id.* at 2121-23.
203. *Id.* at 1806, 2123.
204. *Id.* at 2135.
205. *Id.*
206. *Id.* at 2135-37.
207. *Id.* at 2128.
208. *See id.* at 2123.
209. *See* Veto of H.R. 1469-1997 Emergency Supplemental Appropriations Act for Recovery from Natural Disasters, and for Overseas Peacekeeping Efforts In-

proval, emergency appropriations for "recovery from natural disasters" and "overseas peacekeeping efforts" were tied to the establishment of a "National Commission on the Cost of Higher Education"[210] and a "State option to issue food stamps to legal immigrants."[211] More notable, however, were the engraftments dealing with controversial subjects, such as a ban on sampling during the year 2000 decennial census,[212] and preventing government shutdowns upon failure to enact funding for the upcoming fiscal year.[213] These controversial adornments were the major reason given for a presidential veto on June 9, 1997.[214] Coincidentally, this was the day *MCEA* was decided.[215] A few days after the veto, Congress passed a disaster relief bill with fewer adornments. This congressional legislative process demonstrates all too well the mélange that can arise when legislation is unconstrained by the one-subject rule.

The absence of anything akin to the one-subject rule allows Congress to join incongruous items together at the convenience of legislators with clout. Late in the 1997 Session of Congress, a particularly defining example of congressional maneuvering became public. A plan to reimburse persons acquitted of federal crimes was "slipped into a $31 billion spending bill that cover[ed] the Justice Department"[216] by "a one paragraph amendment [that was] 'quietly' put on the appropriations bill."[217] The amendment generated a fierce media debate about the effect of the novel proposal.[218] At least one representative, a former law professor, said, "I take a very dim view of the way this was handled. . . . We shouldn't just ram something like this through without all of the aspects and nuances."[219] This comment reflects existing attitudes that demonstrate why the one-subject rule is clearly justified.

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cluding Those in Bosnia, 6 U.S.C.C.C.A. D22.

210. H.R. CONF. REP. NO. 105-19, at 123 (1997).

211. *Id.* at 124.

212. *See id.*

213. *See* H.R. CONF. REP. NO. 105-19, at 123 (1997).

214. *See id.*

215. *See* Maryland Classified Employees Ass'n v. State, 346 Md. 1, 1, 694 A.2d 937, 937 (1997).

216. Angie Cannon & David Hess, *With Plan to Reimburse Federal Acquittals, Who Would Pay the Real Price?*, WASH. POST, October 19, 1997, at A10.

217. *Id.*

218. *See, e.g., id.*; Angie Cannon & David Hess, *A Bid to Make U.S. Pay if Prosecutors Lose*, PHILA. INQUIRER, October 13, 1997, at A1.

219. Cannon & Hess, *supra* note 216, at A10 (quoting David E. Skaggs, a Representative from Colorado and former law professor).

Finding congruity among the disparate items embodied in these illustrative congressional packages is inconceivable. No such mixture would be conceptually acceptable under the one-subject rule. The only connection among these items is their location in a bill that was sure to pass. They have virtually no interdependent purpose except for the need of a vehicle to become law. They have no common denominator. They are surely not horizontally connected, and vertical connection occurs, if at all, only because the bill might be termed an omnibus vehicle designed to clean out the legislative stables.

V. CONCLUSION

The congressional process is no model for Maryland. The congressional process discounts due consideration for separate subjects, fomenting packages that hide, rather than illume matters. It may be fervently hoped that the spectacle of the ongoing Congressional *process* sobers those who would embellish *MCEA*. The congruous standard ought not become a homogenous standard that ignores *Porten Sullivan* and *Prince Georgians*. The one-subject rule should continue to be an impediment to legislative excess in Maryland.