

end of each calendar year in which their effect became spent.) The Committee fears that many, many more examples exist which have not been classed by the Crown's legal advisers as statutory instruments and of the existence of which the Committee has neither knowledge nor the means of knowledge.

The type of power to which the Committee is referring arises when moneys are voted by Parliament to be disbursed for a stated purpose but all the rules governing that expenditure, the determination of eligible recipients and so on, are left to be made by a subordinate authority. Parliament simply hands a sum of money to a subordinate with authority to spend it for a particular purpose, often vaguely stated, as that authority sees fit. The authority then makes a set of rules, often very elaborate, governing the expenditure of the money and, in effect, defining the purpose and objects of Parliament's bounty. Often the financial basis which gives the legal justification for the use of a Vote in an Appropriation Act is a fiction since the money voted is only one dollar.

The Committee has objected to

... the "filling up" and extension of old Votes, and old enabling powers, under a series of Votes commencing at some point in the intermediate or distant past which are then amplified in scope or altered in some one or more particulars by succeeding Votes. These successive Votes are often expressed "to extend the purpose" of an earlier Vote and the extensions in some instances are but barely related to the particular objects of the original Vote. The combination of the accumulation of extensions and the extreme generality of language in which almost all enabling powers in Votes are expressed renders the task of the Standing Joint Committee so difficult as to negate any effective scrutiny. To the extent that scrutiny is rendered ineffective, Parliament's control of the purse is subverted. The Committee has seen instances of deplorable vagueness and uncertainty as to the true extent of enabling power arising from such constant tinkering. Moreover, the Committee concludes that this practice shows that normal, substantive legislation is necessary to cover the particular subject matter dealt with by the series of Votes."

In its Fourth Report for the First Session of the Thirty-second Parliament (Statutory Instruments No. 10) your committee reported:

"The making of extensive subordinate laws on important matters such as VIA Rail Canada Inc. under Votes in Appropriation Acts also produces laws and policies never debated by Parliament. Your Committee's predecessor called for an end to this practice inimical to parliamentary sovereignty. It should stop and all existing subordinate laws made under Votes should be the subject of review as to merits by the appropriate Parliamentary Standing Committees."

APPENDIX A
June 26, 1980

The Honourable Jean-Luc Pepin,
Minister of Transport,
House of Commons,
Ottawa.

Dear Mr. Pepin:

Re: SOR/77-869, Railway Passenger Services Adjustment Assistance Regulations
SOR/78-286, Railway Passenger Services Contract Regulations
SOR/78-287, Schedule D to the Financial Administration Act, amendment

The Committee has considered your letter of 17th April last to its counsel, Mr. G. C. Eglington. We are instructed to enquire of the progress of the policy review to which you referred. The Committee is anxious to know whether and when a Bill for An Act to provide for VIA Rail Canada Inc. will be introduced.

Yours sincerely,

John M. Godfrey,
Joint Chairman,
Perrin Beatty,
Joint Chairman.

August 19, 1980

The Honourable John M. Godfrey,
The Senate,
Ottawa, Ontario.
K1A 0A4

Dear Senator Godfrey:

I would like to thank you and Mr. Beatty for your letter of June 26, 1980, as joint chairmen of the Standing Joint Committee of the Senate and the House of Commons on Regulations and other Statutory Instruments.

With respect to the possible introduction of a Bill to provide for a VIA Rail Canada Act, a Cabinet Submission which will seek decisions in respect of rail passenger services and of VIA Rail Canada Inc. in particular is now in the advanced stages of interdepartmental consultation.

The scheduling of such deliberations is always subject to possible interruptions; however, I anticipate that a Cabinet Decision on the issues raised in that Submission will be available to us by about the end of September.

Upon receipt of the Cabinet Decision, I shall be in a position to respond directly to your Committee on whether a VIA Rail Canada Act will likely be introduced.

Yours sincerely,

Jean-Luc Pepin

November 6, 1980

The Honourable Jean-Luc Pepin,
Minister of Transport,
House of Commons,
Ottawa, Ontario.