

Investment Companies

(2), according to which the message and recommendation of the Governor General should be printed in the Notice Paper and in *Votes and Proceedings* when any such measure is to be introduced. In other words, there has been compliance to the extent that it was printed in *Routine Proceedings and Orders of the Day* on January 16, and it may well be printed in the original bill. I do not know, because the original bill is in the custody of the Chair and I am not aware of this. It does appear in the copies of the bill which have been circulated. Whether or not it appears in the original bill, I do not know. This may well be where the mistake lies. However, it does not, as it must, appear in *Votes and Proceedings*.

It seems that there is an incurable defect which, it may well be suggested, can be cured because the text of the recommendation did appear in *Routine Proceedings*. But that is not enough. *Votes and Proceedings* is the journal in which this House records officially the proceedings of the House. On a very controversial and contentious measure of this kind, this omission may well be challenged in the courts. There is certainly one particular aspect which requires the recommendation; the one providing for the \$200 million guarantee to which there is a great deal of opposition, certainly from me. However, that deals with the substance of the matter, and we are debating the procedural issue. If this matter is challenged, the courts must go to *Votes and Proceedings* to determine whether there has been compliance and to show that the BNA Act has in fact been complied with.

I submit very simply that at the time the bill was introduced, this did not appear. To show the contrast, let me point out that yesterday we finished dealing with the Expropriation Act bill which was introduced for first reading on November 3, 1969, and in *Votes and Proceedings* No. 8, at page 54 the following notation appears:

Mr. McIlraith for Mr. Turner (Ottawa-Carleton), seconded by Mr. Sharp, by leave of the House, introduced Bill C-136, an act respecting the expropriation of land, which was read the first time and ordered to be printed and ordered for a second reading at the next sitting of the House.

Then follows the text of the message and recommendation of the Governor General which is printed pursuant to Standing Order 62 (2). On examining *Votes and Proceedings* from time to time I note that this new practice, which was established in 1968 under the revised Standing Orders, has been followed throughout this session.

[Mr. Baldwin.]

As I said, it may well be that this bill in its original form—I am not seeking justification but explanation—was introduced last year in the other place and there it was amended very substantially. But this year the government reintroduced it in the House with a number of changes, one of which dealt with what in my submission is a financial measure and therefore requires the addition of a recommendation. The recommendation was obtained, but I have some doubt whether the original bill contained the recommendation. This may well account for the fact that it does not appear in *Votes and Proceedings*.

I make that argument. If Your Honour accepts my recommendation, you might feel unanimous consent might be given to cure the defect, if hon. members are willing to give it, and I do not know that they are. I urge Your Honour to consider that the omission of the recommendation is very dangerous because, as I have indicated, the fact is that this is a constitutional requirement and failure to observe it might strike at the legality of this measure, not only in the House now but in the future. For this reason it seems to me that if Your Honour upholds my view the matter may well have to be reviewed and a decision taken upon it.

Hon. Donald S. Macdonald (President of the Privy Council): Mr. Speaker, the hon. member has raised a point of order of which I had not previous notice, so I have not had the opportunity to consult with the officials of the table and to examine the original bill. Therefore, I cannot speak about the actual documents which are in the possession of the officials of the table and the staff of the House. I wish to make several points in this regard, to the best of my knowledge. The hon. member implied in his remarks that there was an irregularity because there was no recommendation last year but there is one this time.

Mr. Baldwin: I was just explaining how this omission might have happened.

Mr. Macdonald (Rosedale): The recommendation occurs because of the further additions that were made to the bill in the current edition. I suggest that a distinction should be made with respect to the requirements of Standing Order 62 (2) and the suggestion as to constitutionality. I agree that before a bill is introduced involving an expenditure from the Consolidated Revenue Fund, under our constitution the recommendation of the Governor General is required.