

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME VII

SECOND REGULAR SESSION

Senate

March 10, 1992 to March 31, 1992

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HOUSE AND SENATE LEGISLATIVE SENTIMENTS

December 5, 1990 to December 1, 1992

Sagadahoc, Senator Cahill, population fluctuation would not be the determining factor as to how many seats there would be. It would be the House that would make the determination as to whether or not they would want to reduce. Currently, they do not have that option available to them because the Constitution sets them at 151 members. This would provide a flexibility if they would so desire to reduce on their own they could do so. Thank you.

On further motion by same Senator, Senate Amendment "A" (S-702) **ADOPTED**.

Which was **PASSED TO BE ENGROSSED, As Amended in NON-CONCURRENCE**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

The President Pro Tem requested the Assistant Sergeant-at-Arms escort the Senator from Penobscot, Senator PRAY to the Rostrum where he resumed his duties as President.

The Assistant Sergeant-at-Arms escorted the Senator from Penobscot, Senator BOST to his seat on the Floor.

Senate called to Order by the President.

Out of order and under suspension of the Rules, the Senate considered the following:

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on JUDICIARY on Bill "An Act to Ensure Continuing Knowledge of the Identity and Whereabouts of Convicted Sex Offenders"

H.P. 1652 L.D. 2315

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1271)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1271)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-1271) **READ** and **ADOPTED**, in concurrence.

Which was, under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Improve Educational Public Broadcasting Statewide" (Emergency)

S.P. 945 L.D. 2409

Tabled - March 25, 1992, by Senator ESTES of York. Pending - **ADOPTION** of Committee Amendment "A" (S-666)

(In Senate, March 24, 1992, Committee Amendment "A" (S-666) **READ**.)

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Bost.

Senator BOST: Thank you Mr. President. Ladies and Gentlemen of the Senate. It's very seldom that the good Senator from York, Senator Estes, who is a very good friend of mine and I disagree on an issue. I notice he's shaking his head. We've fought a number of very good battles together and I've been

around this legislature long enough to know when I'm engaging in an uphill fight of sort. The issue of public private merger has been lobbied intensely in this legislature by a very expensive, high powered lobbying firm. I'm sure you've all been approached in one form or another over the last two or three weeks. I could only think of the good Senator from Aroostook, Senator Theriault, who likened his position on an issue last session to being engaged in a fight between David and Goliath and I think this situation is quite similar.

I hope members of this body will think very carefully before endorsing this proposed merger of WCBB and MPBN. I believe that this initiative raises more question than answers, among them: Why were the employees of both entities deliberately excluded from discussions about the merger and denied an opportunity, for the most part, to participate in the process? Why are the staff, who are calling me and a number of my colleagues from both WCBB and WPBN, voicing legitimate concerns about the merger afraid to go public for fear of retribution? That's very real and was reiterated to me tonight by a number of people who are involved. Why would the University of Maine system be so enthusiastic about relinquishing one of its greatest assets, a broadcasting system, which reaches into hundreds of thousands of Maine homes? Why would the University promote the dilution of one of its greatest outreach tools? Why would WCBB hire the services of a prestigious firm to lobby this bill full time at great expense? Who's picking up the tab? Why the intense interest in the sudden passage of this bill? Why is this bill being rushed through the process? Why should we be compelled to adhere to an arbitrary time frame set by the management at WCBB? Why does the Chancellor indicate that if this bill doesn't pass that the concept is dead for another five or ten years? What safeguards are in place for existing employees after the first year of operation? And, finally, in my estimation the most important question, Why would we, as a Legislature, approve dissolving a public broadcasting system funded in large part by a general appropriation and send that same appropriation to a private corporation when we don't have sufficient funds available to insure the solvency of some of our most basic programs in State Government? Why should we be earmarking millions of dollars to a private, essentially autonomous entity? What's going on here? I don't know. I've been trying to find out, it's very difficult to get information. You have to ask the right questions in order to get the answers that you want. And that's been a very frustrating exercise. I know that it's been frustrating for the Education Committee because they've been placed in a situation where they've had to deal with a bill of tremendous significance and substance in a very compressed time period. And much of what I think has needed to take place, in terms of discussion and thoughtful deliberation about this proposal, has not taken place simply because of the time element. I know that's been frustrating for a number of people that have been involved in this discussion. As far as I'm concerned these questions need to be resolved before I can vote for this measure. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Estes.

Senator ESTES: Thank you Mr. President. Ladies and Gentlemen of the Senate. I wish that I had had the opportunity to have gone up to the lounge earlier

this evening to flex my muscles and pump me up for this debate but I will try my best to give you some points that I think are important and I know that the good Senator from Penobscot, Senator Bost, does have some serious concerns.

We have literally debated this for hours and hours over the last several days. We have even tried flipping coins and arm wrestling and have come to no agreement on this issue. This is, I think, a very important step that the State Legislature is taking in approving this unification. I think it's an important step that is really going to have significant benefits for the people of Maine, not only in the near future but in the long run. The idea of unifying Maine's two public broadcasting organizations actually rose to serious discussion last spring. It became more of a public issue last October when there was an article in the Maine Sunday Telegram, I believe, and since then there's been considerable press coverage in both the station's program guides which are sent to more than 60,000 Maine households have reported about the plan. The public comments that have been received by both stations have been very favorable. You also may note that there's been many editorial endorsements that have been given by major newspapers. I would like to return to that in just a minute because I have had a little bit of frustration with the way that this was reported.

The idea of the merger has been on the minds of people at both organizations for many years. It is the consensus of management and the boards that oversee these two institutions that unification is inevitable and that it is time to get on with it. The Boards of Trustees of the University of Maine system and WCBB have endorsed the plan and the Colby, Bates and Bowdoin College boards have also approved.

I want to talk just a little bit about the convoluted schedule because it has been very frustrating for the Education Committee. We knew that there was going to be a merger bill coming at some point in time this session and during the month of February there was a title that was before legislative council but unfortunately the legislative council did not act on it until the 2nd of March. They approved it, I believe it was a unanimous vote, and the bill had to go through its final drafting. It was on the 9th of March that the bill was referred to Committee. Because of the deadline for reporting bills out the Committee was facing, we held a very quick public hearing the following day and began extensive work sessions on the bill to get it out on time to meet the 5:00 deadline on the March 13th. Since that time, when a unanimous report came out of the Education Committee, the bill has been downstairs for final drafting and then finally appeared on Monday on the calendar for our consideration. In the meantime I've been a little dismayed with some of the coverage in the press which I think has really confused the situation.

There's been some speculation of what's happened to the bill, why has it dragged on, why has it been hidden from time to time. I have myself called one editor of one of our daily newspapers and another columnist from another paper to set the record straight and I hope that those corrections will be coming shortly in the paper in those respective papers. Also, I do want to bring your attention to information that I did pass out which I think gives you some substantial background. Yesterday I had

distributed to the body a letter to Representative Jim Oliver from the President and General Manager of WCBB answering some outstanding questions that certain members of the committee felt were in need of a fuller response. I've also submitted to you a status report dated March 14 which gives you the history, the goal of the unification, the proposal, the legislation and the legislative process and then what remains to be done over the next several months in order for the unification to take place on July 1.

One of the questions that has been raised is the question of public accountability, by allowing this bill to pass we, the legislature, will neither be giving up accountability of public broadcasting nor losing the value of the existing MPBN assets. The new organization will be required, through the Committee Amendment, to report to the legislature about the transition in the merger in April of '93 and in February a final report in '94 on what the effects of the transition have been. Also the Chancellor of the University and 3 University of Maine system trustees will serve on the new organization's board of trustees along with the Presidents of Bates, Bowdoin and Colby Colleges. The new corporation will depend on tens of thousands of individual contributions for the largest share of its financial support. Thus retaining the public accountability for programming and other activities which has guided both MPBN and WCBB management over the last 30 years. Finally, the new organization will depend on the State for approximately one quarter of its total budget. Public accountability is clearly a cornerstone of this new organization. The University has invested heavily in developing a sophisticated broadcasting network as has Colby, Bates, Bowdoin Educational Telecasting Corporation. The University, under this unification agreement, retains forever its financial interests in the assets of the new organization. There will be no loss of assets under this plan any more than there will be any loss of accountability.

I believe that this is an extremely responsible plan that fully protects the public investment and the public interest that we have made in public television. I would also call your attention to the articles of incorporation which specify what will happen if there is to be a dissolution or termination. The assets that were transferred will return to the University of Maine system and the State and that the appropriations that would be coming from the State would go for the maintenance and expansion of the infrastructure and those assets would also be returned on the event of a termination of the agreement or a dissolution. Finally, you have to keep in mind that the cost of television broadcasting and production are very expensive. By maintaining two entirely separate systems to serve the relatively small population of Maine we are not making the best use of public resources.

Take for example the current pledge week operations that are being broadcast separately from Lewiston and Bangor. One half of the expense of these separate operations is unnecessary. By unifying the stations only one pledge week operation would be needed, remaining resources could be used to produce more programs like Made In Maine or Kiosk or one of the other fine productions about Maine's culture, work places or public affairs. Certainly all viewers would benefit from such a change. I believe that other advantages will be found in the

future as the cost of replacing extremely expensive equipment will be reduced after unification. I believe that long term savings are an important goal in approving this legislation. I urge your support. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator **BALDACCI:** Thank you Mr. President. Ladies and Gentlemen of the Senate. One of the things that concerns me about this merger is the fact that the University, is going to be allowing an asset, a six million dollar asset, to be utilized by a private, non-profit corporation and the State is not receiving any type of a fee for the utilization of that asset. I'd like to know if the State is receiving any fee at all for the utilization of that asset.

The other thing in the letter that Mr. Gardiner has sent to Mr. Oliver, talks about the proposed expenses but it doesn't say anything about the revenues. I would be interested to know if there is any projected revenues from this proposed merger? I get conflicting information in the letter that Mr. Gardiner sent to Mr. Oliver where he says that "because the legislation hasn't taken effect, they haven't worked on any organizational charts" and then further in the letter talks about they've got a membership director, new entities may choose to have a director of membership or renewal director and he talks about particular positions. He has either worked on it or he hasn't worked on it.

I think as a further commitment to the members of this body that you would not have as many people here that are under that particular organization and concerned about what was going to be happening and to be staying here morning, noon, and night to watch what was going on if there was communication from Mr. Gardiner in the organization at WCBB and MPBN. Something that's been talked about for 20 years and then all of a sudden two years ago, or a year ago, they said it was going to be done in a couple of years. All of a sudden they're told that under the gun it's going to happen in six months. Nobody's told them anything, and this shows that there's going to be a lot of problems down the road. Before the ship is leaving the port I think it's very important to make sure that it doesn't have any holes in it, because it would be lucky to get out to sea. In this letter Mr. Gardiner states that they're undergoing a big voluntary contribution effort and they don't want the cloud of no legislation. Mr. Gardiner doesn't seem to realize that the University and MPBN relies 43% on a state appropriation and 29% on voluntary contributions. He doesn't seem to be aware of those facts.

This communication hasn't been both ways, I'm not opposed to a merger, what I am opposed to is not receiving anything for an asset utilization only as the Good Senator from York, Senator Estes, has pointed out that we will make sure we still have that, we're not giving up that asset. We're not receiving any fee for the use of that. To me that's a loss, the other thing is that we're talking about a private non-profit corporation who, under my reading of the statutes and I'm not an attorney and there are many here and they can correct me, but they're not susceptible to the public's right to know. The books are not open. I think that as far as the public's concerned that we should have a few of these things answered before we go any further down this road. Thank you Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Brannigan.

Senator **BRANNIGAN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I am delighted to be the sponsor of this bill. I think that it is a wise move on the part of the state and the University to begin to pool their assets in this endeavor with the very successful operation of WCBB. I don't see it as a loss at all but an enhancement of the money we spend, and enhancement of the assets that we have been able to build up. There will be no fee, this is a merger. The good that will come from this is a much better use of public television and radio.

We certainly are unfortunate we have been unable to support this effort as well as we would like to have, as well as we have in the past. We have had to cut back on MPBN in the same way we've cut back on other parts of State Government. It hurts their program. I believe that this merger is a very valuable way to use our assets. In any merger both parties give. We're giving our assets and future contributions and we are getting a great deal of the strength that MPBN has, that WCBB has, and the trustees will be a solid partner in this merger group. I'm delighted that we're moving in this direction and I hope that the questions that people have are not sufficient to keep them from helping us get on with this important matter. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Estes.

Senator **ESTES:** Thank you Mr. President. I would like to respond to the questions that were asked by the good Senator from Penobscot, Senator Baldacci. The first question was is there going to be any fee transmitted from the corporation for the use of the assets from the University system. The answer is no, there's not going to be any money up front. You have to keep in mind that both corporations are giving up their assets, WCBB and MPBN, to the new corporation which will be called the Maine Public Broadcast Corporation. Both of them in the event of a termination of the agreement or a dissolution would receive back any of the assets that they originally came into the new agreement with.

The other thing that you have to keep in mind is that one of the reasons we do not see this finely structured, in terms of what will take place on July 1, is that the first year is going to be a transition year and we will have set up under this legislation a transition board of directors comprised of the Chancellor as Chair, 3 members of the Board of Trustees of the University of Maine system and the 3 Presidents of Colby, Bowdoin and Bates. There will be the addition of 8 to 12 public members, those public members will actually come from names that are recommended by the subscribers to the new corporation. It will be the transition board that will be setting up the structure and determining what will be happening with the employment and positioning within the new entity.

One of the things that is planned at this time is to run not just one public television station but a second station with additional programming, not duplicate programming, which will mean that employment will stay at a relatively high level. We will need to have people doing duplicative work within the two stations that will be operating in terms of television broadcast. In terms of the amount of money that the corporation will need for operation, it is an estimated budget of approximately

\$8.3 million. 25% of that, excuse me \$8.3 million over a biennium period, 25% of that would come from the State appropriation, the remainder of that would come from voluntary contributions, corporate contributions and there would be federal money for public television that would also be coming in. I do not have the exact breakdown on those figures.

We have seen public and private partnerships in education work successfully in a lot of other areas. Library services is a good example, course offerings between the public University system and the Private Colleges to eliminate duplication, and to make the most effective use of public and private resources. Cooperation between the new corporation and the University of Maine system interactive television system will continue, I think that Maine's Public Broadcasting Corporation can be and will be an outstanding example of how various types of institutions can benefit from new partnership arrangements. I hope those have answered some the questions.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Bost.

Senator BOST: Thank you Mr. President, Men and Women of the Senate. I appreciated listening to the exchange between the good Senator from Penobscot, Senator Baldacci and the Senator from York, Senator Estes, however I would respectfully submit that all of the alleged safeguards that the good Senator from York referenced have been put in place rather hastily over the last few days to make certain that there's some measure at least some measure of accountability are insufficient. What we need as a safeguard ultimately is to put a hold on this freight train that's leaving the station and think it out and put the onus back on WCBB and on MPBN to work out an agreement to flesh out something that's tangible.

To look at a structure that we can analyze, to look at some financial data and as the Senator from Penobscot, Senator Baldacci so appropriately indicated, look at revenue projection, look at things like this that are so important to us in the public domain on virtually every other issue why should this issue be an exception? Why are we rushing this issue through the process? I truly believe that this is a sweetheart deal, this bill represents a sweetheart deal for certain people that are involved in the merger design, not the least of which is an individual by the name of Rob Gardiner. Let's put it all out on the table Ladies and Gentlemen, we're about ready to adjourn Sine Die in a couple of days and this is either going to be cum laude or postponed. Let's put it out on the table, let's call a spade a spade.

I ask you, if we were to create a new department within State Government now, today, if we had the resources and obviously we don't, would we write into the enabling legislation who the commissioner is going to be? I don't think so. That's precisely what we're doing by passing this legislation. There is an heir apparent to the throne at the new entity called Maine Public Broadcasting Corporation, he has the job, it's all ready for him. Now I have no objections to the individual, I don't know him but I object to the process. The Senator from Penobscot, Senator Baldacci, read to you or referenced rather the letter that we've been all waiting for with baited breath from Mr. Gardiner which presumed to answer the questions that were asked of him by a

couple of legislators from the other body. The letter which I had high hopes of answering some of my concerns is riddled with inaccuracies and assumptions.

It indicates on the first page that MPBN staff has been reduced by 15 positions it's been reduced by 22 positions. That's an easy answer to find. I'm surprised that the mistake was made. There is an indication that there will be no headquarters for this new entity, please that's like saying there will be a State Government but there will be no headquarters, there will be no State House. I don't think we're being intellectually honest here ladies and gentlemen. We're talking about the MPBN and CBB investing in a large amount of production time and resources in producing station break materials etc.. The inference here is that this is a sizable chunk of their time at WCBB and if we merge we can better manage our time etc. etc. I'm told at MPBN that they spend approximately one day a week on this. Is that a burden? You ask yourself. One of the most disturbing things that I've come across over the last 24 hours is what I consider to be some of the rather deceptive ways in which this has been introduced to the very people that are going to be asked to carry out this new entity, this new program, this new corporation. Supposedly the framework is not there the organizational chart has not been fleshed out, however, when the question was asked what are you going to do with such positions as the membership director a very clear answer came back in the form of this letter which said we may consider revamping the membership director position. A call was placed last night to the existing membership director at MPBN, she had never heard of this. So I ask myself, as I posed earlier to this body, is it now a case of just asking the right questions. I don't have time to familiarize myself with this issue to the point where I know all the right questions to ask to get the appropriate answers. I don't think that we should be put in a position like that.

Another inaccuracy was that both the stations receive the largest part of their revenues from voluntary contributions, the good Senator from Penobscot appropriately pointed out that this is another inaccuracy. MPBN receives 43% of its operating revenue from general appropriation, 29% from members and 7% from business supporters, I'm not clear on what WCBB garners, but I'm sure they have that information available. Once in a while we get a glimpse at the thought process that goes on beyond the public view, if you will, and I was, I became privy to minutes of a staff meeting at WCBB which I think that in order for you to be better educated on this topic you need to hear. On March 19 a staff meeting was held at the request of management at WCBB at headquarters to discuss an article that appeared in the Bangor Daily News that obviously someone over there felt was unfavorable. Somebody actually questioned the validity of this project. So a major staff meeting was called and the minutes were furnished to a number of members of this body and I will quote from some of the more eloquent conversation that went on in that room, I wish I'd been there. Russ continues, "Rob Gardiner didn't want to put mention of WCBB in the legislation because it will make MPBC a public institution. The legislature wants to have control for the next three years," Russ explained how that control angers him. Now what Mr. Pieter, and again an individual I have not met, I do not know, what it appears to be he is

implying here is that every effort was made to straddle the public/private fence and that while management at WCBB courts the legislature for its blessing AND it's appropriation, the most important part, it wants nothing to do with anything that could place it in the public domain. Open to public scrutiny. But more bluntly, it wants to reorganize privately with public monies. If legislative control angers this gentleman perhaps he and his colleagues should look to the private sector for full funding because I believe the scrutiny of this merger, or as they prefer to refer to it as consolidation, will only intensify with time. It goes on, Russ Pieter continues, "The part that bothers me the most is that this isn't a public organization what is implied is that the state is giving up equipment and giving it to a private company like Dow Chemical, they want to talk about public accountability and that" expletive deleted, I'll replace it with "that really gets my blood boiling." for the purpose of the legislative record.

Now we move from concern about control to anguishing about accountability. MPBN must be accountable for their funds, they have a separate line in the budget as we're all aware, they have a separate line and we should expect no less from this new entity. Russ continues talking about what will happen if this bill doesn't pass, "if it doesn't fly you're looking at two very wounded organizations, we'll be out there trying to raise funds and looking like losers. Not only will we be competitors, we'll have to tell people why this didn't work. You can almost bet this bill will get on the floor but it will be amended. It will be a bill that we don't want." Now let's look at that statement carefully. If the merger doesn't occur there should be no wounded organization, it should be business as usual. Unless, everything has taken place, all the mechanisms are in place, all the movement has taken place and all this is is merely a stamp of approval. If that's been done there may be some wounded organizations, but if we're taking them at their word there should be no wounded organizations.

Maybe there are issues that we aren't aware of, is WCBB financially solvent? I don't know, the question needs to be asked. Has there been commitments made by groups involved in this discussion that they somehow can't back out of? I don't know. The questions need to be asked. Why would there be wounds if this failed passage except for maybe a few egos? Why would they feel like losers when fundraising? I don't understand that. MPBN's corporate and individual contributors will still be there. WCBB's individual and corporate contributors will still be there. Where are they going to go in the interim? Why would failure to approve this merger suddenly make the two stations competitive? And lastly he says "an employee then stated that if this falls apart we'll be in oblivion". Russ states "I have a feeling if it doesn't happen now we'll die for five or ten years, then the legislature will take the heat, there will be lots of layoffs at MPBN because the legislature hasn't budgeted for MPBN next year." Well, I appreciate the political analysis that this gentleman has provided, however, he obviously hasn't spent much time talking with legislators. If he had he would learn that rather than having to wait five or ten years to try again all WCBB and the University of Maine system need to do is formulate a well thought

out plan for implementation, how people would be impacted. Many of these staff have worked for Maine Public Broadcasting Network and WCBB for years, they deserve to know what's going to happen to them. And some sort of meaningful cost analysis, these kinds of things need to take place. And it hasn't been done and it's not the fault of the Education Committee.

They had only three days to hammer this bill out it's the fault of the people that have kept this plan essentially to themselves until it got to this point in the legislative process. I will close with what I believe to be an appropriate analogy, approximately three years ago when I had the good fortune of serving on the Joint Stating Committee on Education with the Senator from York, Senator Estes, we had before us a bill which surfaced very much like the bill we are debating tonight. It was a bill which appeared in the latter days of the legislative session to create a Maine Education Authority, which would funnel student aid services and consolidate virtually every student loan fund available currently to students in the state. But ladies and gentlemen, most of the members of the Education Committee, they couldn't quite put their finger on it but something was wrong with that picture. There was an individual who was prepared to assume the mantle of this new authority and it was preordained, once the authority was in place, received legislative approval, this individual would take the helm. Something wasn't right with the proposal, and fortunately the education committee at that point had more time than it had this time, and looked into the matter and found out that no in fact it wasn't a good deal for the people of this state and provided an alternative to that authority which, in my estimation, would have been a fiscal albatross, and placed instead those functions under the Finance Authority of Maine, where they sit today and I might add, very successfully. I think that situation is analogous to this issue that we are debating here tonight. There's something wrong here, and I simply can't put my finger on it. But I think the questions need to be asked and we need more time. This is simply not the point in which to move.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Estes.

Senator ESTES: Thank you Mr. President, Ladies and Gentlemen of the Senate. There have been again a series of questions and comments that I think need to be reacted to on the record. And I would like to say to the good Senator from Penobscot that I firmly believe that there is not a boogey man in every closet. I know that the process has been the problem with this bill coming before this legislature on this day. I am convinced that it has not been the people who have been involved in the discussions for almost a year now on what they could be and how they could become what they wanted to be.

I will say that I have known Mr. Gardiner, the general manager, for probably three years now and have served with him as a member of the Commission on the Common Core of Learning, and also on the Coalition on Education Excellence. At some of the meetings for the Coalition back in the fall, we talked about the possibility of this legislation coming up in this particular session. I think what is particularly troublesome is the fact that the Committee was put in an awkward situation of having to consider this in such a short period of time. It was difficult getting specific answers to questions.

Some of that I think was due to individual's lack of familiarity with the process, the fact that the process had been sped up to an incredible pace, where the bill was referred on a Monday night and a hearing is held on Tuesday afternoon and the work sessions to hammer the bill out take place over those next several following days.

In instances where concessions had to be made by WCBB, they did so and did so willingly. They supplied us with the papers of incorporation that were filed with the Secretary of State's Office on February 7, they supplied us with the draft copies of the bylaws dated February 4, we were able to resolve some outstanding situations as they pertain to personnel at WCBB and protection of their rights currently covered by collective bargaining agreements. Guaranteed job security, and salary and benefit provisions during the first year of transition. Assurances were also given by MPBC leaders that all other employees would be offered similar guarantees.

In terms of the organization, there were certain aspects of the bylaws pertaining to the composition of the Board of Trustees, and the President of the corporation that were cottified in the committee amendment. I also have mentioned the fact that there will be transition reports coming in both in '93 and in '94. In terms of the letter that is dated March 24, that happens to by yesterday, this was in response to a letter that went out on March 23. And I don't think one day is to much time to turn around on a total of 9 questions, and fairly intricate questions. I guess my problem with the funny feelings that a number of legislators have had about this is that this bill was reported out of committee on the 13th of March, a unanimous report of the committee, not a divided report, there could have been a divided report and then I think the debate here tonight could have been fair game.

I sat up here last week with all of our committee work done with time on my hands, time on my committee members hands, twiddling our thumbs; no one mentioned what about the boogey man, we should talk about this some more. It really wasn't until I arrived here late Monday morning that there were all sorts of stirrings that had gone on. In fact I made mention in caucus today that not only on this bill but on a couple of other bills that came out of the Education Committee, people have had opportunities to talk about problems that they've had with the bills and whether those problems could be fixed or should be fixed and it's almost as if I've been ignored, and I find that rather strange, rather troublesome. I would also like to put on the record, because I know this is a question that has come up, about the public right to know, the good Senator from Penobscot, Senator Bost, talked about financial disclosure and being able to look at their records, those are available, by state and federal law those are available.

Under Maine's Charitable Solicitation Act for non-profit corporations the station and the new corporation must file an annual report of revenues and expenditures, including the types of expenditures. This assures the public a disclosure of how much money is spent on everything, including administration. The station is also required to disclose salaries of all of its top management who earn over \$30,000.00 a year. The FCC requires the station to maintain an extensive public file at the

station which must be available on demand. This file contains information about programming, correspondence from the public, records and information about the station. As the station currently now, and in the future, the new entity will receive money from the corporation for public broadcasting i.e. the Feds, WCBB now files, and the new corporation will have to file, an extensive detailed report containing information on such matters as financing, public access, and equal employment. In addition, the station is required to provide public notice of all trustee meetings which are now open to the public and will continue to be open to the public, that notice is by advertising of the upcoming meeting by on-air notices with the television station. The minutes of these meetings are also available in the public file for public access. So the FCC, the Corporation for public broadcasting, the Maine law, IRS regs, all require extensive disclosure of information. And I believe that that should be satisfactory in terms of people getting whatever it is that they want to know. The last thing that I would say is that we have an interim board of trustees, 7 members, 4 from the University system, 3 from the 3 private colleges. They will be the ones that will be overseeing this merger and setting up the organization. The President of the Corporation is chosen by the Board of Trustees for a one year term and must be reappointed at each annual meeting. At the first annual meeting you will have all board members, public as well as the 7 designated in statute, and they will choose the President who has the responsibility of the operation and management of the corporation's facilities and activities, is responsible for supervising all personnel employed by the corporation and reports directly to the Board. I hope that those answer some of the other concerns that were out there and I urge you again to support this legislation. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Brawn.

Senator BRAMM: Thank you Mr. President. Ladies and Gentlemen of the Senate. I did not plan to rise on this issue but after listening to the tone of some of the debate, I made some notes and feel compelled to speak briefly. I want to commend, publicly here on the floor of the Senate, our good Chairman the Senator from York, Senator Estes who, if I was tired and could do a job like you just did you should be patted on the back. Senator Estes has always been professional and above board in our Committee and as he has stressed and I can't stress it enough, this was a unanimous committee report, unanimous.

I was at that public hearing and I was there all morning, I thought it was very professional, there were many questions asked, they all would be on the record downstairs. I also applaud him this morning for getting this letter and everything on our desks to answer questions. I think there's no doubt that I'm concerned about the tone when I've made such notes as "we waited with baited breath" or "financially solvent" or I mean is this a set up or vendetta or what's going on here? I'm really concerned about this. I want to just make a couple more points that Rob Gardner has always been, I don't know him either, I wouldn't know him if he walked in here, and he might have been one of the men there that morning. I listen to people, I don't put a name with a person, I listened to every person that was

there, but everything in this, if you read it again, is right up front, he's already in here twice said he'd be glad to answer any more questions. They have been right up front as far as I'm concerned. And you know, we have to be patient when we understand this has been a very packed in session. And if you're given a notice that you've got a public hearing the next day and you show up and you're there you can't expect miracles of having everybody to know. I just want to, for the record, say that I feel very comfortable with this merger, I never for one minute felt it was a sweetheart deal of any type. I don't feel a bit uneasy. I urge you to support this and Mr. President I would ask for a roll call.

On motion by Senator **BRAWN** of Knox, supported by A Division of one-fifth of the members present and voting, a Roll Call was order.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Bost.

Senator **BOST:** Thank you Mr. President and men and women of the Senate. I'm pleased to know that I'm so quotable. There are a couple of other issues that I think at least need to be discussed, I know that the members are growing weary of this debate, but we are on the threshold of moving into a new era in public broadcasting and I think these, potentially anyways, I think that these issues need to come to the surface.

One of them is that it is my understanding and I would pose this in the form of a question to my good friend and colleague from York, Senator Estes. If the employees, current employees of MPBN, move from essentially employees of the University of Maine system into the new entity, are they, is the University obligated under contractual agreement to provide them with severance pay? If they are required, how much? Is the severance pay, how much would it be worth, the information that I've been provided is that it would be roughly \$500,000.00. That figure may be wrong, up or down somewhat, but if we could get some clarification on that issue that would be helpful.

Secondly is the issue of cost effectiveness and efficiency. I was told about an instance, not long ago, where a number of engineers from WCBB traveled to the Bangor studios of MPBN to share with them the new plan, the new transmitting plan. And did so less with any inclination toward getting input but more to provide them with the plan and tell them that this is essentially the way it was going to be. The plan as it was described to me, and I will share it with you in laypersons terms because I'm not entirely knowledgable about this, but the plan was to feed the northern Maine area from southern Maine and to feed southern Maine from northern Maine. And the engineers at MPBN were left scratching their heads, they said wouldn't it be more efficient to have northern Maine service northern and central Maine and southern Maine service southern Maine? That was dismissed, that idea was apparently novel.

In a supervisory staff meeting back on October 7 of 1991 at MPBN, present were the director, Ed Winchester and others, it was shared in the staff minutes that Tony Paine of Maine Media was here last week for a meeting with Barb, Mary Lou etc. etc., Mr. Paine's specialty is crisis management, he discussed the importance of disseminating accurate information regarding the consolidation, will be preparing a report etc. He stressed the importance of using the word consolidation which is what is planned, and not

merger because people would get confused and there are perhaps weightier implications of the word merger instead of consolidation. But the most important part of this memo is the fact that it said "the following items were tentatively agreed upon at a meeting of the task force," and among them, "there will be no forced moves for two years," from a point, I'm assuming, from the point of the merger. Now obviously that has been scaled back to one year. What is to prevent that from being scaled back further at some point? I don't know. There are, I understand, adequate protections in the legislative language to make certain that most of this doesn't happen, but the communication that's going on and the credibility of some of the correspondence would lead one to believe that not necessarily everything is on the table. And my final question to the good Senator from York, Senator Estes, if he could be so kind to provide it, has there been any analysis of the impact on membership, whether it be at WCBB level or MPBN or as a combined unit. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Estes.

Senator **ESTES:** Thank you Mr. President. In regards to those multiple questions, I will try to hit on a response for each of them. Pardon me if I do forget, I did take down a few notes here. In terms of the employees and what is being done in regards to severance, those negotiations are currently going on. That is, the MPBN employees who are represented by the Maine Teachers Association and the non-unions are doing their negotiations with management at MPBN, they will be taken care of, I don't know what that figure is, I'm not involved in the collective bargaining at this time. Those employees that maintain employment after July 1, within the new corporation by their choice, are guaranteed employment and the agreed upon salary and benefits for the first year of the corporation. Undoubtedly, they are nervous about this move, anyone would be. If you had an organization that has existed for 30 years, or nearly 30 years, to come July 1 to a situation where there is a consolidation, and I think consolidation is a reasonable word to talk about the first year, because the first year is going to be a transition where the staff of both institutions are going to be getting to know each other and working with each other and planning what the structure is going to be for the future of the new corporation.

It's a nervous time out there for anyone in an employment situation, whether they're employed by State Government or whether they're employed by the University system or one of the private colleges or a private business out there. Everyone's been nervous because of the crisis in our State Government and because of the state of our economy. I do say, with some interest, that I was unaware that there was an MPBN meeting, staff meeting, on October 9 I believe it was with an individual by the name of Mr. Paine, but that seems to me to suggest that there have been some serious ongoing discussions about what if this merger, or consolidation, is allowed to take place by the legislature. In terms of cost effectiveness and efficiency, those are part of the bugs that are going to be worked out over the next year and it will be, undoubtedly, a struggle and there will be, undoubtedly, some false starts and corrective actions that may have to take place. I don't believe we can even expect that this new corporation will be able to

hit the ground running on July 1 or August 1 or September 1, it is going to take time, it is going to take planning and that's, I believe, an essential part of this first year of transition.

In terms of membership support, I do know that from WCBB that the information they have gotten from their subscription membership is very positive to this consolidation, very positive to this consolidation. And it is the belief of individuals who have been working on this, and are supportive of this, is that with expanded potential of the new corporation will be reaching out to almost every corner of the state and providing more extensive programming that membership is very likely to grow over the early years of this corporation. I hope those answer the questions. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator **BALDACCII:** Thank you Mr. President, Mr. President and members of the Senate I'd like to thank the good Senator from York, Senator Estes, for answering questions and to have as much information at his fingertips and to be able to try to respond to some of the concerns that we do have. However, the concerns that I would have, very simply are, people were marching on the streets here in Augusta on Monday because we were asking people to have a cut in their pay, we're struggling to make ends meet financially, we're having a hard time. Is this being done to save money, I haven't heard it yet. The only thing I have heard is that we are possible going to be on the book for \$500,000.00 in severance pay. On top of the appropriation that's already going there.

I have heard people say, this is good, statewide coverage. Would you please tell me, even the good commissioner of Mental Health had the decency to talk about savings that were going to take place. Nobody has mentioned any savings from this merger. Senator from Penobscot, Senator Bost, he asked about some studies that have been done, there are other universities that have merged with private entities in Wisconsin, what happened? Nobody is opposed to this merger, we want it to happen. All we're saying is is it thought out? Are plans and structures established? There obviously is not a good working relationship in any school I've ever gone to if the top doesn't get the bottom involved there won't be anything to work on. It seems like everybody has to be working together. It doesn't seem to be very good teamwork, I mean the evidence is staring you in the face, it's been here all day. There have been no financial studies, there's been no studies on what happens to membership, there's been no studies of other entities, in other parts of the country what's been happening. And in spite of the comments by the good Senator from York, Senator Estes, there are several amendments that are going to be offered in as far as public right to know in regards to this particular matter.

I'm not sure as to the information on charitable solicitation and those laws which the committee on Business Legislation has jurisdiction over but I think that the concern that I have in the review by the people in legal profession is that this private, this private non-profit corporation is not subject to the public right to know laws. They're not subject, but maybe if I want to call the IRS and I want to tell them that I'm the State Senator from Bangor, Senator Baldacci, and I'd like a copy of that corporation's filings, if the right hand knows what

the left hands doing, I may be fortunate. If not I'm going to be somewhere, stuck in some office in IRS land, where ever that happens to be. But as far as any filings with the State of Maine, none of that information is available. There is no salaries over \$30,000.00, there is none of that information available under the charitable solicitation laws. None of that information is available. And I'm not looking, I'm not suggesting that Mr. Gardner's situation at WCBB, being a private non-profit corporation could possibly compare with the United Way and what took place with that private, non-profit corporation. I'm not suggesting that, all I'm suggesting that if there ever was a concern that the public would have the right to that information. Seeing that the public, the public who you were elected to represent, are handing over 6 million dollars in assets for them to use. We're supposed to be satisfied because the Chancellors on the Board and 3 trustees are. But you forget to look down at the bottom where it says 8 to 12 members other than those people will be appointed. Ladies and Gentlemen of the Senate, 8 to 12 vs. 4 looks like an overwhelming majority.

We're handing over two and a half million dollars of state appropriations. I'd just like to know, somebody maybe from the financial and appropriations committees could explain to me what dollar savings are we taking place with this particular merger. All I've heard here tonight is we're going to be on the hook for severance pay. Somebody point out some saving for the State for what we're going through. I'd be very interested to hear it. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Foster.

Senator **FOSTER:** Mr. President, men and women of the Senate. For the many years I've served on the appropriations committee, I've always had to look after Big Bird. And I will tell you the story of Maine public broadcasting and why I'm a co-sponsor of the bill, they have a separate line item in our budget and even the days when we had lots of money they never got their request, their full request, until the very last night, and if there was a little extra money I'd say "let's give it to Big Bird", because we were very enthralled in giving it to every other group in the State of Maine. Our answer was "you can get it with these shows, call in \$25, \$75 etc. etc." and I said to Ed Winchester, why don't you combine and get one public broadcasting system so that we can all have the same dollars going in together. Because we didn't have enough money for Ed to pay for his plumbing his heating, I mean he had a bare boned budget and he is the nicest man going and we really prevailed upon him to look at the big picture for all of Maine.

Why have 2 public radio stations buy one good program? I mean I sit there night after night and listen please call, and in this day when public dollars are fewer and where are the dollars coming from? Canada. Every night the Canadians call in. On that radio station night after night, I mean that's not a credit to the people of the State of Maine when we're getting all those dollars from Canada. And then again with the general dollars getting scarcer, now if you get squeeze feeling in your stomach about there's a big black boogey man out there the big black boogey man to me is that we might not have public dollars or general fund dollars to keep that radio station going. And I believe that the time is

to merge and if we can't rely on some people that know, now I respect your thinking about the employees and I got that very, that's a very strong message you have and I'm concerned and we should be, but I do believe that we first of all have got to look after preserving Maine public broadcasting and by doing the merger we will have one great public radio station for the state of Maine. And I think that's the number one priority. Let's think of that, number one priority is have one good public broadcasting system in the state of Maine. And we will have with this merger. Thank you very much.

Senator **BOST** of Penobscot moved that the Bill and Accompanying Papers be **INDEFINITELY POSTPONED**.

On motion by Senator **ESTES** of York, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **BOST** of Penobscot to **INDEFINITELY POSTPONE** Bill and Accompanying Papers.

A vote of Yes will be in favor of the motion to **INDEFINITELY POSTPONE** Bill and Accompanying Papers.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **BALDACCI**, **BERUBE**, **BOST**, **BUSTIN**, **CONLEY**, **PEARSON**, **THE PRESIDENT** - **CHARLES P. PRAY**

NAYS: Senators **BRANNIGAN**, **BRAWN**, **CAHILL**, **CARPENTER**, **CLARK**, **CLEVELAND**, **COLLINS**, **DUTREMBLE**, **EMERSON**, **ESTES**, **ESTY**, **FOSTER**, **GAUVREAU**, **GILL**, **GOULD**, **HOLLOWAY**, **KANY**, **LUDWIG**, **MATTHEWS**, **MCCORMICK**, **MILLS**, **RICH**, **SUMMERS**, **THERIAULT**, **TITCOMB**, **TWITCHELL**, **VOSE**, **WEBSTER**

ABSENT: Senators None

7 Senators having voted in the affirmative and 28 Senators having voted in the negative, with No Senators being absent, the motion of Senator **BOST** of Penobscot, to **INDEFINITELY POSTPONE** Bill and Accompanying Papers, **FAILED**.

THE PRESIDENT: The pending question before the Senate is **ADOPTION** of Committee Amendment "A" (S-666).

A vote of Yes will be in favor of **ADOPTION** of Committee Amendment "A" (S-666).

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **BERUBE**, **BRANNIGAN**, **BRAWN**, **CAHILL**, **CARPENTER**, **CLARK**, **CLEVELAND**, **COLLINS**, **DUTREMBLE**, **EMERSON**, **ESTES**, **ESTY**, **FOSTER**, **GAUVREAU**, **GILL**, **GOULD**, **HOLLOWAY**, **KANY**, **LUDWIG**, **MATTHEWS**, **MCCORMICK**, **RICH**, **SUMMERS**, **THERIAULT**, **TITCOMB**, **TWITCHELL**, **VOSE**, **WEBSTER**

NAYS: Senators **BALDACCI**, **BOST**, **BUSTIN**, **CONLEY**, **MILLS**, **PEARSON**, **THE PRESIDENT** - **CHARLES P. PRAY**

ABSENT: Senators None

28 Senators having voted in the affirmative and 7 Senators having voted in the negative, with No Senators being absent, Committee Amendment "A" (S-666) **ADOPTED**.

Which was, under suspension of the Rules, **READ A SECOND TIME**.

On motion by Senator **CLARK** of Cumberland, Tabled 1 Legislative Day, pending **PASSAGE TO BE ENGROSSED AS AMENDED**.

Out of order and under suspension of the Rules, the Senate considered the following:

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **TAXATION** on Bill "An Act to Protect Taxpayer Rights by Amending the Taxpayer Bill of Rights and Making More Equitable Tax Penalty and Appeal Provisions"

H.P. 1583 L.D. 2233

Reported that the same **Ought to Pass as Amended** by Committee Amendment "A" (H-1260).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1260)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-1260) **READ** and **ADOPTED**, in concurrence.

Which was, under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act to Restructure the Department of Administrative and Financial Services" (Emergency)

H.P. 1663 L.D. 2340

Reported that the same **Ought to Pass as Amended** by Committee Amendment "A" (H-1267).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1267)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-1267) **READ** and **ADOPTED**, in concurrence.

Which was, under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

Non-Concurrent Matter

"An Act to Authorize Bond Issues for Transportation and Public Infrastructure Capital Improvements and Other Activities Designed to Create and Preserve Jobs for Maine Citizens"

H.P. 1707 L.D. 2388

In Senate, March 9, 1992, **FAILED** ENACTMENT. **RECALLED** from the Legislative Files pursuant to Joint Order H.P. 1762, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "E" (H-1262)** in **NON-CONCURRENCE**.