

LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME V

FIRST SPECIAL SESSION

July 11, 1991 to July 18, 1991 Index

FIRST CONFIRMATION SESSION

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SECOND SPECIAL SESSION

December 18, 1991 to January 7, 1992 Index

SECOND REGULAR SESSION

House of Representatives January 8, 1992 to March 9, 1992

ONE HUNDRED AND FIFTEENTH MAINE LEGISLATURE SECOND REGULAR SESSION 7th Legislative Day Thursday, January 23, 1992

The House met according to adjournment and was called to order by the Speaker.

Prayer by Representative Beverly Daggett of Augusta.

The Journal of Tuesday, January 21, 1992, was read and approved.

SENATE PAPERS

Bill "An Act Regarding Workers' Compensation Rate Proceedings and Rate Hearings" (S.P. 857) (L.D. 2181)

Came from the Senate, referred to the Committee on Banking and Insurance and Ordered Printed.

Was referred to the Committee on Banking and Insurance in concurrence.

Bill "An Act to Facilitate Municipal Landfill Closure" (EMERGENCY) (S.P. 860) (L.D. 2184)

Came from the Senate, referred to the Committee on Energy and Natural Resources and Ordered Printed.

Was referred to the Committee on Energy and Natural Resources in concurrence.

Bill "An Act to Amend the Laws Concerning Adoption Assistance" (S.P. 856) (L.D. 2180)

Came from the Senate, referred to the Committee on Human Resources and Ordered Printed.

Was referred to the Committee on Human Resources in concurrence.

Bill "An Act to Clarify Adult Protective and Guardianship Responsibilities" (S.P. 859) (L.D. 2183)

Came from the Senate, referred to the Committee on Judiciary and Ordered Printed.

Was referred to the Committee on Judiciary in concurrence.

Unanimous Ought Not To Pass

Report of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill "An Act to Amend the Maine Traveler Information Services Laws" (S.P. 369) (L.D. 994)

Report of the Committee on **Business Legislation** reporting **"Ought Not to Pass"** on Bill "An Act to Benefit Consumers by Clarifying Directory Advertising for Osteopathic and Allopathic Physicians" (S.P. 799) (L.D. 1998)

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 in concurrence.

COMMUNICATIONS

The following Communication: (S.P. 854)

115TH MAINE LEGISLATURE

January 16, 1992

Senator R. Donald Twitchell Rep. Robert J. Tardy Chairpersons Joint Standing Committee on Agriculture 115th Legislature Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has withdrawn his nomination of Charles F. Davis of Gouldsboro for reappointment to the Maine Milk Commission.

Pursuant to Title 7, MRSA Section 2952, this nomination is currently pending before the Joint Standing Committee on Agriculture.

Sincerely,

S/Charles P. Pray President of the Senate

S/John L. Martin Speaker of the House

Came from the Senate, Read and Referred to the Committee on Agriculture.

Was Read and Referred to the Committee on Agriculture in concurrence.

The following Communication: (S.P. 855)

115TH MAINE LEGISLATURE

January 16, 1992

Senator R. Donald Twitchell Rep. Robert J. Tardy Chairpersons Joint Standing Committee on Agriculture 115th Legislature Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Charles F. Davis of Gouldsboro for reappointment to the Maine Milk Commission. Pursuant to Title 7, MRSA Section 2952, this nomination will require review by the Joint Standing Committee on Agriculture and confirmation by the Senate.

Sincerely,

S/Charles P. Pray President of the Senate

S/John L. Martin Speaker of the House

Came from the Senate, Read and Referred to the Committee on Agriculture.

Was Read and Referred to the Committee on Agriculture in concurrence.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

The following Bills were received and, upon the recommendation of the Committee on Reference of Bills, were referred to the following Committees, Ordered Printed and Sent up for Concurrence:

Aging, Retirement and Veterans

Bill "An Act to Authorize the Construction of Two Veterans' Homes in Eastern and Western Maine" (EMERGENCY) (H.P. 1553) (L.D. 2191) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsored by Senator VOSE of Washington, Representative ERWIN of Rumford and Senator BALDACCI of Penobscot) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Bill "An Act Related to Ordinary Death Benefits under the Maine State Retirement System as It Affects Terminally Ill Members" (H.P. 1554) (L.D. 2192) (Presented by Representative SIMONDS of Cape Elizabeth) (Cosponsored by Senator McCORMICK of Kennebec and Representative HEINO of Boothbay) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed. Sent up for Concurrence.

<u>Agriculture</u>

Bill "An Act to Establish a Controlled Medication Program in the Harness Racing Industry" (H.P. 1548) (L.D. 2186) (Presented by Representative PARENT of Benton) (Cosponsored by Representative SPEAR of Nobleboro) (Submitted by the Department of Agriculture, Food and Rural Resources pursuant to Joint Rule 24.)

Bill "An Act to Permit Pari-mutuel Pools" (H.P. 1549) (L.D. 2187) (Presented by Representative TARDY of Palmyra) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.) Bill "An Act to Strengthen the Maine Weights and Measures Law" (H.P. 1558) (L.D. 2196) (Presented by Representative PINES of Limestone) (Cosponsored by Representative SPEAR of Nobleboro) (Submitted by the Department of Agriculture, Food and Rural Resources pursuant to Joint Rule 24.)

Ordered Printed. Sent up for Concurrence.

Appropriations and Financial Affairs

Bill "An Act to Create the Maine Budget and Economic Stabilization Fund" (H.P. 1564) (L.D. 2202) (Presented by Representative CASHMAN of Old Town) (Cosponsored by Speaker MARTIN of Eagle Lake, President PRAY of Penobscot and Senator CAHILL of Sagadahoc) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed. Sent up for Concurrence.

Banking and Insurance

Bill "An Act to Ensure Complete Recovery for Injuries to Children" (H.P. 1551) (L.D. 2189) (Presented by Representative MARSANO of Belfast) (Cosponsored by Senator CONLEY of Cumberland, Representative LEMKE of Westbrook and Representative CARLETON of Wells) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Bill "An Act to Revise the Basis for Semiannual Assessment on Financial Institutions" (H.P. 1557) (L.D. 2195) (Presented by Representative HASTINGS of Fryeburg) (Cosponsored by Senator BRANNIGAN of Cumberland, Senator THERIAULT of Aroostook and Representative GARLAND of Bangor) (Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.)

Bill "An Act to Improve Disclosures of Automated Teller Machine Transactions" (H.P. 1559) (L.D. 2197) (Presented by Representative CARLETON of Wells) (Cosponsored by Representative MITCHELL of Vassalboro and Senator KANY of Kennebec) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Bill "An Act to Amend the Laws Concerning Continuity of Health Insurance" (H.P. 1565) (L.D. 2203) (Presented by Representative CARLETON of Wells) (Cosponsored by Representative HASTINGS of Fryeburg, Senator THERIAULT of Aroostook and Senator BRAWN of Knox) (Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.)

Ordered Printed. Sent up for Concurrence.

Business Legislation

Bill "An Act to Regulate Home Repair by Transient Contractors" (H.P. 1566) (L.D. 2204) (Presented by Representative SHELTRA of Biddeford) (Cosponsored by Representative VIGUE of Winslow, Senator BERUBE of Androscoggin and Representative LORD of Waterboro) (Submitted by the Department of the Attorney General pursuant to Joint Rule 24.)

Ordered Printed. Sent up for Concurrence.

Energy and Natural Resources

Bill "An Act to Discourage Illegal Dumping of Waste" (H.P. 1560) (L.D. 2198) (Presented by Representative CLARK of Brunswick) (Cosponsored by Senator TITCOMB of Cumberland, Representative HOGLUND of Portland and Representative MARSH of West Gardiner) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Bill "An Act to Strengthen Compliance with Land Use Laws in the Unorganized Territories" (H.P. 1563) (L.D. 2201) (Presented by Representative MARSH of West Gardiner) (Cosponsored by Senator HOLLOWAY of Lincoln and Representative JACQUES of Waterville) (Submitted by the Department of Conservation pursuant to Joint Rule 24.)

Ordered Printed. Sent up for Concurrence.

Fisheries and Wildlife

Bill "An Act to Institute a Pheasant Stamp Program for Cumberland and York Counties" (H.P. 1555) (L.D. 2193) (Presented by Representative LARRIVEE of Gorham) (Cosponsored by Representative POULIOT of Lewiston and Representative LAWRENCE of Kittery) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed. Sent up for Concurrence.

Housing and Economic Development

Bill "An Act to Correct an Omission from the Recodification of Title 30" (EMERGENCY) (H.P. 1568) (L.D. 2210) (Presented by Representative MELENDY of Rockland) (Cosponsored by Senator MATTHEWS of Kennebec, Representative LEBOWITZ of Bangor and Representative STEVENS of Bangor) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed. Sent up for Concurrence.

Judiciary

Bill "An Act to Define Conflict of Interest for Probate Judges" (H.P. 1552) (L.D. 2190) (Presented by Representative PARADIS of Augusta) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Bill "An Act to Clarify the Law Regarding the Power of Sale Foreclosure Laws" (H.P. 1556) (L.D. 2194) (Presented by Representative PARADIS of Augusta) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Bill "An Act Concerning Juvenile Offenders" (H.P. 1567) (L.D. 2209) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsored by Representative ANTHONY of South Portland, Senator BUSTIN of Kennebec and Representative MELENDY of Rockland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed. Sent up for Concurrence.

Marine Resources

Bill "An Act to Prevent the Poaching of Aquaculture Products" (EMERGENCY) (H.P. 1562) (L.D. 2200) (Presented by Representative SKOGLUND of St. George) (Cosponsored by Senator VOSE of Washington, Representative LOOK of Jonesboro and Representative TOWNSEND of Eastport) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed. Sent up for Concurrence.

State and Local Government

Bill "An Act to Extend the Reporting Date of the Commission to Study State Permitting and Reporting Requirements" (EMERGENCY) (H.P. 1550) (L.D. 2188) (Presented by Representative KILKELLY of Wiscasset) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Bill "An Act to Clarify Responsibility for Workers' Compensation Coverage for Town Forest Fire Wardens and Laborers Hired for Forest Fire-fighting Activities" (EMERGENCY) (H.P. 1561) (L.D. 2199) (Presented by Representative BAILEY of Township 27) (Cosponsored by Representative STEVENS of Bangor) (Submitted by the Department of Conservation pursuant to Joint Rule 24.)

Bill "An Act to Amend the State's Unclaimed Property Act" (H.P. 1569) (L.D. 2211) (Presented by Representative GWADOSKY of Fairfield) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed. Sent up for Concurrence.

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Transportation

Bill "An Act to Amend the Laws Governing the State Claims Commission" (H.P. 1570) (L.D. 2212) (Presented by Representative HEPBURN of Skowhegan) (Cosponsored by Representative MURPHY of Berwick, Representative FARNUM of South Berwick and Representative REED of Dexter) (Submitted by the Department of Finance pursuant to Joint Rule 24.)

Ordered Printed. Sent up for Concurrence.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative NUTTING from the Committee on Agriculture on Bill "An Act Amending the Potato Branding Laws" (H.P. 73) (L.D. 101) reporting "Ought Not to Pass"

Representative JOSEPH from the Committee on Banking and Insurance on Bill "An Act to Establish a Consumer Advocate for Insurance" (H.P. 596) (L.D. 847) reporting "Ought Not to Pass"

Representative JOSEPH from the Committee on Banking and Insurance on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Limit the Expenditure of the Funds of a Public Mutual Insurance Company Created by the State to Provide Workers' Compensation Insurance to Employers in this State (H.P. 1378) (L.D. 1966) reporting "Ought Not to Pass"

Representative JACQUES from the Committee on Energy and Natural Resources on Bill "An Act to Amend the Fire Permit Laws" (H.P. 1460) (L.D. 2072) reporting "Ought Not to Pass"

Representative JACQUES from the Committee on Energy and Natural Resources on Bill "An Act Exempting Zoning Changes Related to the Implementation of an Approved Growth Management Plan and Shoreland Zoning from Certain Notice Requirements" (EMERGENCY) (H.P. 1474) (L.D. 2086) reporting "Ought Not to Pass"

Representative McKEEN from the Committee on Labor on Bill "An Act to Extend the Jurisdiction of the Maine Labor Relations Board to Public Employees Who Have Been Employed Less Than 6 Months" (H.P. 852) (L.D. 1218) reporting **"Ought Not to Pass"**

Representative RAND from the Committee on Labor on Bill "An Act to Protect the Integrity and Enforceability of Collective Bargaining Agreements" (H.P. 957) (L.D. 1384) reporting "Ought Not to Pass"

Representative ST. ONGE from the Committee on Labor on Bill "An Act to Protect the Health and Safety of Public Employees" (H.P. 1180) (L.D. 1723) reporting "Ought Not to Pass"

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

Unanimous Leave to Withdraw

Representative JACQUES from the Committee on Energy and Natural Resources on Bill "An Act to Promote the Beneficial Use of Industrial Residuals" (H.P. 1468) (L.D. 2080) reporting "Leave to Withdraw"

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

Divided Report

Majority Report of the Committee on **Banking and** Insurance reporting "Ought Not to Pass" on Bill "An Act to Include Smokers in Rehabilitation Treatment Insurance Coverage" (H.P. 362) (L.D. 516)

Signed:

Senators:	KANY of Kennebec BRAWN of Knox
Representatives:	MITCHELL of Vassalboro ERWIN of Rumford JOSEPH of Waterville GARLAND of Bangor CARLETON of Wells HASTINGS of Fryeburg PINEAU of Jay RAND of Portland TRACY of Rome

Minority Report of the same Committee reporting "Ought to Pass" on same Bill.

Signed:

Representative: KETOVER of Portland

Reports were read.

On motion of Representative Mitchell of Vassalboro, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

CONSENT CALENDAR

First Day

In accordance with House Rule 49, the following item appeared on the Consent Calendar for the First Day:

(H.P. 1319) (L.D. 1909) Bill "An Act to Regulate Certain Warranty Practices for Repairs to Watercraft" Committee on **Business Legislation** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-866)

H-45

There being no objections, the above item was ordered to appear on the Consent Calendar of Tuesday, January 28, 1992, under the listing of Second Day.

CONSENT CALENDAR

Second Day

In accordance with House Rule 49, the following item appeared on the Consent Calendar for the Second Day:

(H.P. 977) (L.D. 1420) Bill "An Act to Establish a Special Housing Allowance for the Aid to Families with Dependent Children Program" (EMERGENCY) (C. "A" H-864)

No objections having been noted at the end of the Second Legislative Day, the House Paper was Passed to be Engrossed as Amended and sent up for concurrence.

ORDERS OF THE DAY

The following items appearing on Supplement No. 1 were taken up out of order by unanimous consent:

SENATE PAPERS

The following Joint Order: (S.P. 865)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, January 28, 1992, at four o'clock in the afternoon.

Came from the Senate, read and passed.

Was read and passed in concurrence.

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment on Tuesday, January 21, 1992 have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

The Chair laid before the House the first item of Unfinished Business:

JOINT ORDER (S.P. 841) Relative to Establishing a Joint Select Committee on Governmental Restructuring. - In Senate, Read and Passed. TABLED - January 14, 1992 by Representative GWADOSKY of Fairfield.

PENDING - Passage in concurrence.

On motion of Representative Mayo of Thomaston, retabled pending passage in concurrence and specially assigned for Tuesday, January 28, 1992. The Chair laid before the House the second item of Unfinished Business:

JOINT RESOLUTION (H.P. 1404) MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO AMEND THE UNITED STATES CONSTITUTION TO REQUIRE THE FEDERAL GOVERNMENT TO FUND ANY MANDATE IMPOSED ON THE SEVERAL STATES OR THEIR POLITICAL SUBDIVISIONS TABLED - January 16, 1992 by Representative GWADOSKY of Fairfield. PENDING - Adoption.

Subsequently, Representative Gwadosky of Fairfield withdrew H.P. 1404.

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

The following items appearing on Supplement No. 1 were taken up out of order by unanimous consent:

Bill "An Act to Provide Consumer Information for Purchasers of Insurance" (S.P. 869) (L.D. 2216)

Came from the Senate, referred to the Committee on **Banking and Insurance** and Ordered Printed.

Was referred to the Committee on Banking and Insurance in concurrence.

Bill "An Act to Exempt Novelty Beverage Containers from the Deposit Laws" (S.P. 867) (L.D. 2214)

Came from the Senate, referred to the Committee on **Business Legislation** and Ordered Printed.

Was referred to the Committee on **Business** Legislation in concurrence.

Bill "An Act to Protect Students Appointed to Special Select Committees" (S.P. 862) (L.D. 2206)

Came from the Senate, referred to the Committee on Education and Ordered Printed.

Was referred to the Committee on **Education** in concurrence.

The following items appearing on Supplement No. 2 were taken up out of order by unanimous consent:

SENATE PAPERS

Bill "An Act to Amend Child Labor Laws" (S.P. 866) (L.D. 2213)

Came from the Senate, referred to the Committee on Labor and Ordered Printed.

H-46

Was referred to the Committee on Labor in concurrence.

Bill "An Act Regarding Retail Liquor Sales" (S.P. 863) (L.D. 2207)

Came from the Senate, referred to the Committee on Legal Affairs and Ordered Printed.

Was referred to the Committee on Legal Affairs in concurrence.

Bill "An Act to Repeal the Laws Governing State Investments in Companies Doing Business in South Africa" (S.P. 868) (L.D. 2215)

Came from the Senate, referred to the Committee on **State and Local Government** and Ordered Printed.

Was referred to the Committee on State and Local Government in concurrence.

The following items appearing on Supplement No. 3 were taken up out of order by unanimous consent:

SENATE PAPERS

Bill "An Act Concerning Transfer of Real Estate between Family Members" (S.P. 861) (L.D. 2205)

Bill "An Act to Amend the Laws Related to Property Tax Abatements" (S.P. 864) (L.D. 2208)

Came from the Senate, referred to the Committee on Taxation and Ordered Printed.

Were referred to the Committee on Taxation in concurrence.

Bill "An Act to Amend the Mars Hill Utility District" (S.P. 870) (L.D. 2217)

Came from the Senate, referred to the Committee on Utilities and Ordered Printed.

Was referred to the Committee on Utilities in concurrence.

Refer to the Committee on Utilities

Report of the Committee on Appropriations and Financial Affairs on Bill "An Act to Ensure Adequate Resources for Energy Assistance Programs for Low-income Households" (EMERGENCY) (S.P. 319) (L.D. 857) reporting that it be referred to the Committee on Utilities.

Came from the Senate with the report read and accepted and the bill referred to the Committee on Utilities.

Report was read and accepted and the bill referred to the Committee on Utilities in concurrence.

The following item appearing on Supplement No. 4 was taken up out of order by unanimous consent:

ENACTOR

Emergency Measure

(Reconsidered)

An Act to Reduce Administrative Costs of State Government and to Clarify Previous Legislative Reductions in State Government Administration (H.P. 1539) (L.D. 2172) (H. "A" H-865)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

motion of Representative Gwadosky of 0n Fairfield, the House reconsidered its action whereby L.D. 2172 was passed to be engrossed.

On motion of the same Representative, the House reconsidered its action whereby House Amendment "A" (H-865) was adopted.

The same Representative offered House Amendment "C" (H-872) to House Amendment "A" (H-865) and moved its adoption.

House Amendment "C" (H-872) to House Amendment

"A" (H-865) was read by the Clerk and adopted. House Amendment "A" (H-865) as amended by House Amendment "C" (H-872) thereto was adopted.

The bill was passed to be engrossed as amended by House Amendment "A" (H-865) as amended by House Amendment "C" (H-872) thereto in non-concurrence and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

(At Ease)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 5 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

Emergency Measure

An Act to Reduce Administrative Costs of State Government and to Clarify Previous Legislative Reductions in State Government Administration (H.P. 1539) (L.D. 2172) (H. "C" H-872 to H. "A" H-865)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb. Representative WHITCOMB: Mr. Speaker, Ladies and Gentlemen of the House: Before we go on to enact this piece of legislation, which I urge you to vote favorably for, I want to praise this House in the cooperative attitude that has been extended in terms of making this amendment one that I think is acceptable to both parties and the other entity that has to sign this.

I appreciate the change that the Representative from Fairfield has made to the amendment that had a different letter earlier and it makes a great deal of sense to now delay this one week and I urge your adoption of the amendment.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 114 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith to the Senate.

On motion of Representative Gwadosky of Fairfield, the House reconsidered its action whereby Report of the Committee on **Appropriations and Financial Affairs** on Bill "An Act to Ensure Adequate Resources for Energy Assistance Programs for Low-income Households" (EMERGENCY) (S.P. 319) (L.D. 857) was referred to the Committee on **Utilities** in concurrence.

On further motion of the same Representative, was referred to the Committee on **Human Resources** in non-concurrence and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

(Off Record Remarks)

On motion of Representative Dore of Auburn, Adjourned at 5:30 p.m. until Tuesday, January 28, 1992, at four o'clock in the afternoon pursuant to Joint Order (S.P. 865).