ALBANY, NEW YORK

March 23, 1993

3:39 p.m.

REGULAR SESSION

SENATOR HUGH T. FARLEY, Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT FARLEY: Senate will come to order. Senators will please find their seats.

Please rise with me for the Pledge of Allegiance to the Flag.

(Whereupon, the Senate joined in the Pledge of Allegiance to the Flag. )

Today in the absence of clergy, we'll bow our heads for a moment of silent prayer.

(Whereupon, there was a moment of silence. )

Secretary will begin by reading the Journal.

THE SECRETARY: In Senate, Monday, March 22. The Senate met pursuant to adjournment. Senator Farley in the chair upon designation of the Temporary President. The Journal of Sunday, March 21, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT FARLEY: Hearing no objection, the Journal will stand approved as

read.

The order of business:

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

We have a report of a standing committee.

Secretary will read it.

THE SECRETARY: Senator Stafford, from the Committee on Finance reports the following nominations:

Member of the State Council on Home Care Services, the Reverend Harold D. Avery, of Syracuse; Audrey Morris Petersen of Jamaica; Vivienne Torres-Suarez of Bayside.

Member of the Administrative Review Board for Professional Medical Conduct, Winston S. Price, M.D., of Brooklyn.

Member of the Palisades Interstate Park Commission, Mary A. Fisk of New York City.

Member of the Taconic State Park,

Recreation and Historic Preservation Commission, William Sloan Greenawalt of Hartsdale.

Member of the Central New York State Park, Recreation and Historic Preservation Commission, Adrienne Kay Mannion of Fayetteville.

Member of the Genesee State Park, Recreation and Historic Preservation Commission, Mary M. Miskell of Geneseo.

Commissioner of the Interstate Sanitation Commission, Donna Birch Gerstle of Staten Island.

ACTING PRESIDENT FARLEY: On the appointments, on the confirmation. All those in favor, aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response. )

Members are confirmed.

Senator Present.

SENATOR PRESENT: Mr. President. I move that we adopt the Resolution Calendar.

ACTING PRESIDENT FARLEY: All in

favor of adopting the Resolution Calendar.

SENATOR GOLD: Hold it, sir. Mr. President.

SENATOR MEGA: Mr. President.

ACTING PRESIDENT FARLEY: Senator Mega.

SENATOR MEGA: On behalf of Senator Farley, I would like to place a sponsor star on Calendar 204, Bill Number 992.

ACTING PRESIDENT FARLEY: Senator Farley's bill is starred.

SENATOR MEGA: Mr. President. Recommit Senate Print Number 3615, Calendar Number 210, to the Finance Committee.

ACTING PRESIDENT FARLEY: Without objection.

SENATOR MEGA: Mr. President. On page 15, I offer the following amendments to Calendar Number 169, Senate Print Number 1257, and ask that said bill retain its place on Third Reading Calendar, on behalf of Senator Goodman.

Thank you.

ACTING PRESIDENT FARLEY: Without

objection.

Senator Gold?

SENATOR GOLD: Yes. Mr. President. With regard to the Resolution Calendar, Number 803, by Senator Maltese, I understand he is agreeable to allow members to co-sponsor it. This is the resolution commemorating the publication of the first issue of the Minority Business Times. And there may be members that want to be on that. That is 803.

And 798, commending Head Coach Brian Mahoney of St. John's College upon the occasion of his designation as the 1992-93 Big East Coach of the Year, I know certainly Senator Stachowski wants to be on that, and there may be some others also.

Other than that, I have no objection to the calendar being adopted.

ACTING PRESIDENT FARLEY: Senator Maltese, what's your pleasure?

SENATOR MALTESE: Mr. President. I would appreciate the record indicating that

had I been present yesterday, Calendar Number 176, I would have voted in the affirmative. I was on Senate business at a hearing at 270 Broadway.

ACTING PRESIDENT FARLEY: The record will so state.

Do you wish to open your two resolutions?

SENATOR MALTESE: Yes, Mr. President.

ACTING PRESIDENT FARLEY: They are open. Approach the desk if you want to be a co-sponsor.

SENATOR COOK: Mr. President.

ACTING PRESIDENT FARLEY: Senator Cook.

SENATOR COOK: I would like to suggest that Senator Gold be a co-sponsor on all of Senator Maltese's resolutions in the future.

SENATOR GOLD: Mr. President. I want to thank Senator Cook for his advice. As usual, I can't take it.

ACTING PRESIDENT FARLEY: All

right. All in favor of adopting the Resolution Calendar, say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response. )

The Resolution Calendar is adopted.

Senator Spano.

SENATOR SPANO: Can I place a sponsor star on a bill, Calendar Number 197, 2746A?

ACTING PRESIDENT FARLEY: 197 is starred at the request of the sponsor.

SENATOR SPANO: Thank you.

ACTING PRESIDENT FARLEY: Senator Present.

SENATOR PRESENT: Mr. President. Would you recognize Senator Hannon, please.

ACTING PRESIDENT FARLEY: Senator Hannon.

SENATOR HANNON: Mr. President. I believe there is a resolution at the desk. I ask that be called up, be read and then a chance

to say a few comments in regard to it.

ACTING PRESIDENT FARLEY: Secretary will read the title of the resolution. Do you want the entire resolution read or just the title?

SENATOR HANNON: The entire resolution, Mr. President.

ACTING PRESIDENT FARLEY: Entire resolution.

THE SECRETARY: Legislative Resolution Number 4666, by Senator Hannon and others, urging the New York State Congressional Delegation to propose a Constitutional Amendment for ratification by the states which would specify that the Congress of the United States shall have the power to prohibit the physical desecration of the American Flag.

Whereas, although the right of free expression is part of the foundation of the United States Constitution, very carefully drawn limits on expression in specific instances have long been recognized as legitimate means of maintaining public safety and decency as well as

orderliness and productive value of public debate.

Certain actions, although arguably related to one person's free expression, nevertheless raise issues concerning public decency, public peace and the rights of expression and sacred values of others.

There are symbols of our national soul such as the Washington Monument, the United States Capitol Building, the Tomb of the Unknown Soldier, the Vietnam Memorial and memorials to our greatest leaders which are the property of every American and are therefore worthy of protection from desecration and dishonor.

The American Flag to this day is a most honorable and worthy banner of a nation which is thankful for its strengths and committed to curing its faults and remains the destination of millions of immigrants attracted by the universal power of the American ideal.

The law as interpreted by the United States Supreme Court no longer accords to the Stars and Stripes that reverence, respect

and dignity befitting the banner of the most noble experiment of a nation-state.

It is only fitting that people everywhere should lend their voices to the forceful call for the restoration to the Stars and Stripes of a proper station under the law of decency; now, therefore, be it

Resolved, that the legislative body respectfully urge the New York State Congressional Delegation to propose an amendment to the United States Constitution for ratification by the states specifying that Congress and the states shall have the power to prohibit the physical desecration of the Flag of the United States; and be it further

Resolved, that copies of this resolution, suitably engrossed, be transmitted to all members of the Congressional Delegation from the state of New York.

ACTING PRESIDENT FARLEY: Senator Hannon on the resolution.

SENATOR HANNON: Yes. A procedural point, first of all. Some people

have inquired if they could become co-sponsors. There is a number of co-sponsors already, but I ask that you might make it available at the desk for anybody else who would like to be co-sponsor.

ACTING PRESIDENT FARLEY: If the members would approach the desk to be a sponsor of this resolution, Senator Hannon will be pleased to let you on it.

Senator Hannon on the resolution.

SENATOR HANNON: Yes. Mr. President. We citizens of the United States are quite fortunate to be afforded the freedoms that are granted to us in our Constitution.

In fact, we're probably among the most fortunate peoples that are here on this world. But we recognize sometimes that there are abuses of those freedoms, and there are times when we have to draw lines which are necessary.

Where it comes to areas of free speech, we have often said there are lines, such as we don't call for fires in crowded theaters.

And when it comes to the issue in regard to the American Flag, I might quote from what Justice Rehnquist said a couple of years ago in the decision that dealt with this issue, when he said that the American Flag is more than a symbol. It's not just another, quote, "idea" or point of view that is competing for recognition in the marketplace of ideals. It's the American Flag that brings all of us together.

So I would think it would be fitting that this Senate once again, as we have done in the past, with respect to our veterans and all our people, take a stand and request that our delegation in Congress introduce and pass a resolution that would amend our U. S. Constitution and make constitutional protections for our flag against its physical desecration.

Thank you, Mr. President.

ACTING PRESIDENT FARLEY: Senator DeFrancisco.

SENATOR DeFRANCISCO: I'm very produced to rise as a co-sponsor of this resolution. And it's particularly appropriate

today that it is going to be voted on when so many members of the state American Legion are present in our chambers.

Three, in particular, I would like to introduce. We have the state Commander, William H. Purcell; we have the Adjutant, Richard M. Pedro; and the Legislative Chairman, John DePersis, here today. And I know that this particular resolution is extremely important to all the members of the American Legion and all veterans groups.

As Senator Hannon has mentioned, there are limits to free speech. And the Supreme Court certainly has a right to interpret the Constitution as they see fit. And we, as legislators, certainly have the right to attempt to amend the Constitution in view of what their decision was.

And I would hope that we would have unanimous support for this resolution so that a Constitutional Amendment can, in fact, happen and that the people in this country who respect and honor this flag will be placed where

they should be, behind that flag, a flag that's not going to be desecrated in the future.

Thank you.

ACTING PRESIDENT FARLEY: Senator Maltese.

SENATOR MALTESE: Mr. President, I rise in support of the resolution put forth by Senator Hannon. I think, as the Senator has indicated, it is indeed fitting that the resolution come before this body in the presence of the officers and members of the American Legion.

I myself am a member of the Garrity Post in Ridgewood Queens, New York.

Mr. President. This issue as an issue has come up so many times not only before this body but before our national Legislature. As I think back as a youth, when Pearl Harbor was attacked, the honor that our nation's flag was held in by so many persons in America, especially the immigrants. I remember being brought up in an immigrant neighborhood and having people cry as they held and clutched the

flag of our country when we heard about the heroism of so many Americans at Pearl Harbor and afterwards.

And as a youth, I remember Colin P. Kelly, Jr. , and his heroism as he lost his life at the beginning of the Second World War, and what this flag has meant to the heros of our country through all the wars, and I especially remember Iwo Jima and what a flag, the raising of a flag meant, not only to the heros of the Pacific but the heros of the Second World War and the people that eventually carried us to victory.

I am saying, Mr. President, that obviously our country needs this amendment. Obviously our country needs this legislation. Because there are those, unfortunately, among us who would tread upon our country and tread upon our country's traditions and tread upon our country's flag.

It brings to mind an original flag, an early flag of our nation that held a snake and the words "Don't tread on me." Mr.

President, I believe that what this amendment says is, "Do not tread on our country's flag. Do not tread on our country's honor."

I rise in favor of this resolution.

ACTING PRESIDENT FARLEY: Senator Leichter.

SENATOR LEICHTER: Mr. President. We've debated this resolution before with similar such measures, and I'm not going to go on at any great length. I'm glad that Senator Maltese had an opportunity to make his very impassioned plea.

But, you know, I heard Senator Maltese say, "We need this." And I wracked my brain and tried to see, "Wait a second. Was the flag in danger of being desecrated? Was there a real problem out there? Was it Americans failed to honor the flag?"

Couple years ago, you had one nut in Texas who burns a flag, and you want to amend the Constitution. I don't understand it. There is no need for this. Of course, you honor the

flag. Of course, it's horrible to desecrate the flag. But every time that we get one nut, one wacko who does something which is offensive, we're going to amend the Constitution? I can't understand it.

And let me also say -- and I want to say and acknowledge also the fact that we hear from the people of the American Legion, and we have great respect for the Legion and particularly for the people who served their country and who are now members of the American Legion, and I appreciate and understand their concern about patriotism.

But patriotism is the way you act, the way you behave, the love of your country, and it's expressed really in your member of your community, your member of your neighborhood, the way you support your government, the way you practice democracy.

Symbols, of course, play a role and are significant, but what is really important is the American way of life, the Constitution, which is wonderful. It is the

best one in this country. And yes, we have a symbol which is an important symbol, the American Flag. But I don't think that you need to express that love that we have for our flag in this sort of a rigid way, and it may be something -- you know, if you can't clean up the environment, Senator Hannon, and if you can't take care of the roads and you can't take care of the high property taxes and you can't provide enough money for your school system and you can't provide enough mental health care and you can't deal with the problems of the state, it may be satisfying to send a resolution to the Congress and to beat the drums of patriotism.

I think maybe we ought to deal with the problems that we have in this state and not tinker in this manner with the Constitution.

So, Mr. President, I'm going to vote against this resolution.

ACTING PRESIDENT FARLEY: Senator Larkin.

SENATOR LARKIN: Mr. President, we're talking about a symbol here of

Americanism. We have today in the galleries and up front here members of the American Legion. Oh, yes, there are legions that have been here and all of our veterans, they fought under that flag. Those other countries that fought side by side with us in some of the far off lands, they too, expressed appreciation. And their concern was that it was a great flag representing a great country.

Take a picture in 1945 at Mount Suribachi, when they raised that flag, that picture was all over the world, every press. And, you know, as our troops went overseas, everybody was very proud to wave that flag. And when the troops came home, they all wanted to be part of that, especially politicians, to show how much they supported that.

But we have to rise above that right now and say to the Congress, "Wake up." We are the greatest country in the world, and that flag out there represents us. And many of us who served in combat and served overseas appreciate it. And the young men and women of

our country who have given their life, made the supreme sacrifice under the auspices of that flag, let's not turn around and say to them, "Your life and that flag doesn't mean anything." That flag means a lot, and I think it's about time we in this chamber stood up and said my flag and my country and thank you to the veterans.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Thank you, Mr. President. Senator Larkin, I couldn't agree with you more when you say that the people in this room should stand up and be thankful for flag and for country, and that's why I wonder at the beginning of every session why so few of us lead by example and come in and salute the flag.

I offered an amendment to the rules of this house which said rather than start our session with the salute to the flag, when we all know very few people are here, that we wait until a more appropriate time like right now and

salute the flag. Let's show the world that we respect our flag.

This morning -- or this afternoon, rather, I had the honor of saluting our flag with Senator Cook and DeFrancisco and Farley and Holland and LaValle, Mega, Present, Sears, Volker and some Democrats. But perhaps, while we're doing this resolution, we ought to pause right now, now that we have more than just the 25 percent of the Republican Party here, and we all ought to now salute our flag, those of us who missed that opportunity, the 75 percent. Why don't we stand up now. Salute the flag. I will do it again. I will do it five times a day. I'm proud of my flag.

But if you want people to love that flag and respect the flag, well, that's what I hope we're teaching society by our example. I hope that's what youngsters are learning in the schools. But you can't force people to respect anything if you don't show the example or if society on a day-to-day basis doesn't give them, in reality, fulfillment of

the dreams that that flag represents.

Senator Leichter pointed out that we go through this debate annually. I guess if somebody wanted to make an argument for a part time Legislature, one thing you could do is take the 75 or 80 percent of things that we do year after year and just the first month play them on videotape and maybe they wouldn't have to have us come in to Albany all the time. We can come and do the 25 percent that's new.

But we have had this before, and one of the arguments I remember we made -- and it was on a day when we were blessed with veterans in Albany visiting us, and we said why don't we honor these veterans by making sure that their children get the scholarships and go to college and that the Office of Veteran Affairs stays open in Washington and in the state and that the hospitals for veterans are there and we take care of these people and show that when they honored our flag and went to battle, we don't forget them. That's how you honor the flag.

You honor your teachers, your parents, your country, by living day by day by those principles not by telling some nut -- as Senator Leichter put it, that if there is one nut running around the country the entire country is going to come down on that one nut and then we're going to go back and forget the veterans and forget their children that they get the scholarships and whatever.

So I don't understand this. I really don't. I don't understand why we have bills that say you must -- if you're going to go to a college and have a commencement, you must do the flag, you must play the National Anthem, you must do this, you must do that. The Legislature must start by saluting the flag, but nobody comes. Nobody comes.

I think there is an overwhelming amount of hypocrisy right in this room in terms of what we preach to the public as opposed to the way we live our lives. You want people to respect that flag, let's start right now. Why doesn't the next Republican stand up, suggest

that we suspend the rules and salute the flag. I will second the motion. We'll go from there. And let's show people what we think before we get into this political nonsense.

ACTING PRESIDENT FARLEY: Senator DeFrancisco.

SENATOR DeFRANCISCO: You know, that was a great exhibition of misdirection. These items are not mutually exclusive. We can provide scholarships for veterans' children. We can provide better hospital care and better long-term care. We can salute the flag seven times a day. But that doesn't mean because we do that we can't change the law of the United States.

And unfortunately, it is not just one nut. It happens to be nine members of a Supreme Court saying the law of the United States of America is such that we may, if we choose to, desecrate the flag.

By passing this resolution and the Congress passing the resolution and the constitutional change taking place, that doesn't

mean that that nut can't still burn the flag. It means that that nut can be punished for it.

And I think we have to show a message, I believe, to our children, and right now we are sending mixed messages to them; namely, we see a program on TV where someone is desecrating the flag, and then we see a requirement or a group of children pledging allegiance every day.

I think it's important. It is more than just a symbol, and it is more than just misdirection. We can do all of these things, and we should do all of these things.

And I would urge each of the Senators to support this resolution.

ACTING PRESIDENT FARLEY: On the resolution. All those in favor aye.

(Response of "Aye.")

Those opposed, nay.

(Response of "Nay." )

The resolution is adopted.

And on behalf of the New York State Senate, Commander, we are delighted to

have you here and the other members of the American Legion, and come back and visit us again.

SENATOR LEICHTER: Mr. President. I just wanted the record to show that I voted in the negative, since the clerk didn't take the actual ayes and nays.

ACTING PRESIDENT FARLEY: The record will show that Senator Leichter is in the negative. Senator Galiber is in the negative, Senator Waldon, Senator Gold, Espada. Ohrenstein is in the negative. Recorded in the Journal.

Senator Present.

SENATOR PRESENT: Mr. President. Will you recognize Senator Sears, please.

ACTING PRESIDENT FARLEY: Senator Sears.

SENATOR SEARS: Yes, Mr. President. At the desk, I have a privileged resolution sponsored by myself and Senator Hoffmann, and I would ask you to read the full resolution. It is not that long. And I would

defer and move its adoption. And I will defer my comments because the resolution speaks for itself.

ACTING PRESIDENT FARLEY: Senator Sears' resolution. Would you please read it, Mr. Secretary.

THE SECRETARY: Legislative Resolution, by Senators Sears and Hoffmann, calling upon the federal Base Reassignment and Closure Commission, United States Secretary of Defense Les Aspin and President Bill Clinton, to reverse the decision to realign Griffiss Air Force Base, Rome, New York.

Whereas, it is the sense of this legislative body to memorialize certain federal officials in an effort to reverse the apparent decision to realign Griffiss Air Force Base located in Rome, New York.

Griffiss Air Force Base has been on the flight line for 51 years, proudly and steadfastly assisting in the defense efforts of the United States of America to keep our nation free and retain its status as leader of the free

world.

Griffiss Air Base stands proudly memorializing the first airman to lose his life in the line of duty in Europe during World War II, Lieutenant Colonel Townsend E. Griffiss of Buffalo, New York.

The proposed realignment would, under the federal government's plan, strip Griffiss Air Force Base of active flying missions and would result in the loss of 3,338 military personnel and 1,191 civilian positions, a total of 4,429 jobs.

Griffiss Air Base currently employs 8,581 men and women and generates a 750 million impact on the region's economy, making it the region's largest employer with a great impact on the economy of the entire Central New York Region.

Realignment of such massive proportions would mean devastation not only to the Rome community but for the entire Central New York region.

Faced with the loss of the 416th

Bomb Wing, the ten B52s it flies, and the 3,613 military and civilian personnel assigned to it; loss of the 509th Air Refueling Squadron, the nineteen KC135 tankers it flies and the 375 uniformed personnel assigned to it, local leaders have gathered together to prevent such massive downsizing.

Those local leaders include elected federal, state, and local officials, business and community leaders and concerned residents and citizens, working together to reverse the plan to realign Griffiss Air Force Base with its resultant devastation upon the community; now, therefore, be it

Resolved, that this legislative body call upon the federal Base Realignment and Closure Commission, U. S. Secretary of Defense Les Aspin and President Bill Clinton to reverse the decision to realign Griffiss Air Force base; and be it further

Resolved, that copies of this resolution, suitably engrossed, be transmitted to the Base Realignment and Closure Commission,

U. S. Secretary of Defense Les Aspin, President Bill Clinton, Governor Mario M. Cuomo, Congressman Sherwood Boehlert; and Brad Johnson, Director of the New York State Office of Federal Affairs.

ACTING PRESIDENT FARLEY: On the resolution. All those in favor, say aye.

(Response of "Aye.")

Those opposed, nay.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT FARLEY: Senator Leichter.

SENATOR LEICHTER: On the resolution.

ACTING PRESIDENT FARLEY: On the resolution?

SENATOR LEICHTER: I would like to explain my vote.

ACTING PRESIDENT FARLEY: Just a moment. The resolution is adopted.

Go ahead.

SENATOR GOLD: Wait a minute.

This is on the resolution.

ACTING PRESIDENT FARLEY: He wants to speak on the resolution. Okay. The resolution is not adopted. We will call it again.

SENATOR LEICHTER: I'm just going to explain my vote. I'm going to vote against this resolution. We all know that the military is going to be cut back for very good reasons, and we don't need the same military as we needed at the height of the Cold War. And obviously, you can't cut back the military without actually cutting some of the bases and some of the men and women and some of the equipment that have been part of the military, and that's going to happen in every state.

Now, I guess we could say, "Well, we think it ought to be done because all of us are against unnecessary government spending, but do it in other states." Well, I guess you could take that position; or if there are some people here who are brilliant military strategists and could say, "Well, I can show you that this base

is the base that ought to remain open," maybe I'll be convinced.

But what I would like to hear as a resolution which I think would be helpful and what I would like to see, maybe, is an amendment to the budget. I am concerned about losing jobs in this state. There are people involved. And to send a resolution, "Please don't close this base," which probably isn't going to do any good anyhow, is not the way to help these people. I would like to see a program of economic conversion. I have put a bill in on it. I would like to see a resolution saying that we have an obligation to the Rome community and to the people who work at this base, and I would like to see a program of retraining. I would like to see a program of help to that community to see that that base is used to create non-military jobs. That's the approach, I think, that we ought to take.

It may make us feel good. It's like the flag resolution, makes maybe good press releases, but I question what it really does.

And I think it is somewhat inconsistent to call for a reduction in the federal budget, to say that the military has got to be cut back, and at the same time when it's a base in your home town, a base in your back yard, you say, well, this base can't be closed.

ACTING PRESIDENT FARLEY: Senator Hoffmann.

SENATOR HOFFMANN: On the resolution. Thank you, Mr. President.

I agree with some of the things that my colleague Senator Leichter said, and I would agree with more of them if, in fact, this was a level playing field and if this was a process in which the so-called peace dividend was being analyzed evenly across the nation and without politics, without favoritism.

That, however, does not appear to be the case, and I rise to correct a few of the misconceptions that perhaps Senator Leichter may have because he is not as familiar with the issue around Griffiss Air Force base as Senator Sears, who has represented that area for many

years, and I are, after I represented it for the last eight years.

Let me just share with my colleague for a moment the simple fact that we are partners with the United States Air Force in a number of missions at Griffiss Air Force Base as a result of their invitation. We rose, as a state, to the call to become partners in a technology transfer experiment by which we, as taxpayers of this state, committed the tens of millions of dollars to photonics and other high tech research that has benefited the military as well as the academic and the scientific community throughout upstate New York, and in fact, the nation, if not the world.

Having followed the suggestions of the Air Force to join shoulder to shoulder with them in entering a new era where military and nonmilitary activities would take place on the same base, we can rightly feel offended now at suddenly finding the rug about to be pulled out from underneath our feet.

This discussion, Senator

Leichter, is not limited to whether or not B52 bombers are no longer necessary in our national defense. And, in fact, the Base Closure Preliminary Report does not even say that B52 bombers are no longer necessary. Under the preliminary plan put forth by the Pentagon, the B52s would not be eliminated. They would be simply moved further into the country to another military base.

So if, in fact, we are now going to become forced to re-examine our contractual relationship with the Air Force, our scientific relationship with the Air Force, and our involvement with that community, we will all have to become military experts in the process. But we will try to do it in such a way that we protect jobs and we recognize the future of our military is a changing system of defense.

We are not trying to protect some archaic form of military patriotism which is solely symbolic, as you might like to believe. This is a very real military and economic urgency. This resolution is well-founded and is

greatly needed.

And I would hope that Senator Leichter and all of the rest of the members of this chamber would join in unanimously endorsing what Senator Sears and I hope the Congress of the United States and the Base Closure Commission and our President will consider in a more earnest way than has been considered by the preliminary Air Force Advisory Panel that put this ridiculous list together.

ACTING PRESIDENT FARLEY: Senator Sears.

SENATOR SEARS: Very briefly on the resolution.

Mr. President. You know, there are some who believe in a strong defense of this country and there are others who don't. Those have you who read the first part of the resolution, it says that Griffiss Air Force Base stands proudly memorializing the first airman to lose his life in the line of duty in Europe during World War II, Colonel Townsend E. Griffiss.

This air base has been on the flight line for fifty-one years, proudly and steadfastly assisting in the defense efforts of the United States of America to keep our nation free and retain its status as leader of the free world. That is my main concern with this resolution.

Jobs cannot -- can in the future always be replaced somehow or other. Our area has come back many, many times in its history and we will again, regardless of what the realignment commission does. But we should have learned the lesson at Pearl harbor. And with certain foreign countries today buying every weapon that they can get their hands on, if you think that is a good idea, to downsize our military throughout this country, then you've got another thought coming.

I, for one, disagree with downsizing our military might. Because, just remember, there can be and might be another Pearl Harbor.

I move the resolution.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: I hadn't planned to speak because I thought Senator Hoffmann and others had covered it; but after that speech, I've got to. I'm going to support the resolution but not because of anything Senator Sears said. I don't want anybody to think that I don't support downsizing the military, but there is a very important concept here.

When I first got into office, I got a call from a postal employee who wanted a promotion in the Post Office Department, and he said he needed a letter from me. And I said, "Wait a minute. I don't know how good you are. I don't know who the other people are. How can I give you a letter?"

He said, "Well, I need the letter because everybody else has a letter from their Senator." And he says, "That's how you level the playing field."

Well, I don't know what's going

to happen in Washington, but I think we have to level the playing field. Have all the legislatures of all these states pass all these resolutions saying, "Close everybody else except us," and then we've got a level playing field. Then the commission and everybody will do what is right, but at least it's a level playing field.

God forbid they took a look and they said, "My God, we've got resolutions from every state for all the places except for Griffiss, so we'll close that one because there is no resolution." Now, we wouldn't want that to happen.

So, Senator, I'm going to vote for it. I think that that leveling of playing field argument by Senator Hoffmann hit me right here, and I'm going to support you on that. But please, in my vote, disassociate me from the remarks that want to continue to arm this country.

ACTING PRESIDENT FARLEY: Senator Connor.

SENATOR CONNOR: Mr. President, my first reaction to this resolution was that I thought I might oppose it. Because, you know, it's fine to say cut back on the military expenditures, reconfigure the military to meet today's threats, not the threats of a decade ago, and then say but not in my back yard.

But I think, as Senator Gold pointed out, it's important that this Legislature go on record as wanting New York treated fairly.

Let me say -- but, again, what Senator Sears said, the base is 51 years old. I had a Navy base in my district that is 151, that's 200 years old, the Brooklyn Navy Yard. How many employees do you have? That had 55,000 civilian employees in one neighborhood in Brooklyn. That got closed 20 or 30 years ago. It wreaked economic havoc on the neighborhood. It wreaked economic havoc on Brooklyn and New York City. We survived.

I had a Navy base in my district until you redrew my district in Stapleton.

Frankly, on that one, I think I might have gotten caught up a number of years ago when they were going to open it in a little bit of home town rah-rah enthusiasm. Because it costs the city tens of millions of dollars to fix up piers, once the problem with nuclear and not nuclear weapons was eliminated. They don't have nuclear weapons there in Stapleton. They based the Surface Action Task Force there. Three years later, they want to close it.

Now, between 200-year-old bases and 3-year-old bases, I can think of a good reason why you'd want to keep a 200-year-old base open and an even better reason why, having spent all this money on a brand new thing three years ago, you might want to keep it open.

Fifty years? Well, I don't know. Maybe it's ready to retire, Senator Sears. The fact is it's not old enough to be historic, and it's not quite young enough to say, "Gee, it's a brand new facility; how can we waste it?" So I don't think that argument goes anywhere, Senator Sears.

The fact is, though, I want to see New York treated on the same footing and as fairly as any other state. But we do have to - I mean it would be foolish. Senator Sears thinks we should be armed and prepared to refight Pearl Harbor. I think the reason there was a Pearl Harbor is because we were armed and prepared in 1941 to fight Manila Bay, and we can't afford to be armed and prepared to fight the last war or three wars ago or 50 years ago.

The United States has to have its military very strong and prepared to meet the challenges of the future not to refight the old wars that are long since gone. So I will support this but not with any sense that I'm against the federal government redoing the military, making it more efficient, saving money yet keeping enough strength there to meet any possible future challenges.

ACTING PRESIDENT FARLEY: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President. On the resolution.

Mr. President, my colleagues. I rise in support of the resolution and compliment its sponsors. Unlike the last speaker, though, I believe that this process is a process that should be scrutinized fully, that the Pentagon has been playing petty Pentagon politics with much of the base closures throughout our recent history, and that's the purpose that the Base Realignment and Closure Commission was formed in the first place, that we want these decisions to be made on the merits on behalf of the taxpayers; and that I am sure that, as the sponsors of this resolution are sure, that Griffiss would rise on its merits.

I represent, Mr. President and my colleagues, a base in the Central Finger Lakes area that is not getting that type of review. I represent the Seneca Army Depot, a depot that employs a thousand civilian employees which, because of the nature of our economy, having that loss would certainly be a devastating loss to our economy.

But the people at the Seneca Army Depot are saying, very simply, that they wish they had the luxury of having that base on the BRCC list. If that Seneca Army Depot was considered under the procedures listed by BRCC, we're confident that the Pentagon would consider -- would continue the operation of that institution. Unfortunately, though, the Pentagon has refused to make these decisions, at least in the case of Seneca on its merits.

Seneca is a depot that has gotten high grades, is a depot that would in effect meet the tests of BRCC. We are as confident as Senator Sears and Senator Hoffmann are that Griffiss will meet the tests of BRCC. I only wish that the Pentagon had placed the Seneca Army Depot on the BRCC list so we could face that same type of review on behalf of our taxpayers.

I support the resolution, Mr. Speaker, and applaud its sponsors.

ACTING PRESIDENT FARLEY: On the resolution. All those in favor say aye.

(Response of "Aye.")

Those opposed nay.

(Response of "Nay." )

The resolution is adopted.

Senator Present.

SENATOR PRESENT: Mr. President. Will you recognize Senator Volker, please.

ACTING PRESIDENT FARLEY: I certainly will.

Senator Volker.

SENATOR VOLKER: Mr. President. Yesterday, we adopted a resolution, Senate 810, commending three winners of the Department of Treasury, United States Savings Bond Division, National Poster Contest awards. The three winners are here today. They were unable to here yesterday, and I would just like to announce their names, and they are up in the gallery to the left.

The first place winner was William R. Tuttle of Hamburg, which happens to be in my district. Second place winner was Brian K. Moore of Rochester, which is Senator

Jones' and Senator Daly's district. And the third place winner, Geren Horsley of Bellport, New York, which is in Senator Trunzo's district.

And I would just like to say we presented them with the resolution today and congratulate them on their achievement and wish them the best of luck in Albany and in the future.

ACTING PRESIDENT FARLEY: It is my understanding they are in the gallery. Is that correct, Senator Volker?

To the awardees and winners, we're proud to have you with us here. Congratulations. We passed a resolution honoring you yesterday. And we wish you well.

(Applause.)

Motions and resolutions.

We have some substitutions. Shall we go forward with those, Senator Present?

SENATOR PRESENT: Yes.

THE SECRETARY: On page 6 of

today's calendar, Senator Marchi moves to discharge the Committee on Environmental Conservation from Assembly Bill Number 3778 and substitute it for the identical Calendar Number 250.

ACTING PRESIDENT FARLEY: Substitution is ordered.

THE SECRETARY: On page 9, Senator Nozzolio moves to discharge the Committee on Elections from Assembly Bill Number 4921 and substitute it for the identical Calendar Number 223.

ACTING PRESIDENT FARLEY: Substitution is ordered.

Senator Present.

SENATOR PRESENT: Recognize Senator Leichter, please.

ACTING PRESIDENT FARLEY: Senator Leichter.

SENATOR LEICHTER: Mr. President. I was unavoidably out of the chamber yesterday when Calendar 176 was voted on in a slow roll call. If I had been here, I would

have voted in the negative.

ACTING PRESIDENT FARLEY: The Journal will so indicate, that if you were here you would have voted in the negative.

Senator Present.

SENATOR PRESENT: Mr. President. May we take up the non-controversial calendar.

ACTING PRESIDENT FARLEY: Secretary will read, non-controversial.

THE SECRETARY: On page 14, Calendar Number 138, by Senator Saland, Senate Bill Number 2363A, an act to amend the Social Services Law and the Public Health Law.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 57.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 177, by Senator Hannon.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay that bill aside.

THE SECRETARY: Calendar Number 202, by Senator Johnson, Senate Bill Number 1704, an act to amend the Education Law.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay that bill aside.

THE SECRETARY: Calendar Number 205, by Senator Libous, Senate Bill Number 1361, an act to amend the Vehicle and Traffic Law, in relation to authorizing senior citizens to renew motor vehicle registrations annually.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 57.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 206, by Senator Skelos, Senate Bill Number 2272, an act to amend the Real Property Tax Law, in relation to real property tax exemption.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 57.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 207, by Senator Skelos, Senate Bill Number 2609, an act to amend Chapter 208 of the Laws of 1992.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 57.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 211, by Senator Holland, Senate Bill Number 86A, an act to amend the Social Services Law, in relation to the Child Assistance Program.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 57.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 213, by Senator Holland, Senate Bill Number

2738, Social Services Law, in relation to amounts for which the state and social services districts are responsible.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 57.

ACTING PRESIDENT FARLEY: That bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President. Let's take the controversial calendar.

ACTING PRESIDENT FARLEY: Controversial calendar.

Secretary will read it.

THE SECRETARY: On page 16, Calendar Number 177, by Senator Hannon, Senate Bill Number 644, an act to amend the Emergency Tenant Protection Act of 1974.

SENATOR GOLD: Explanation.

ACTING PRESIDENT FARLEY: Explanation. Senator Hannon.

SENATOR HANNON: Yes, Mr. President. This bill would amend the laws in regard to conversion for co-ops and condominiums so as to effect the three counties of the state that are under the Emergency Tenant Protection Act. Those are three suburban counties which would be Westchester, Nassau and Rockland.

What the bill would do would be to make a change so that the law in those suburban counties would be the same as it now is for the city of New York. For whatever reason this law now has the effect of rendering virtually as abandoned certain units in converted buildings in those three counties, for the reason that the law essentially guarantees that anybody who is a tenant can remain as a tenant forever.

In contrast to that, in the city of New York, when a tenant is in a building in a non-eviction plan at the time of conversion they

are, quite rightfully, given that protection. They have decided not to buy. It is a non-eviction plan, and they should be, so as long as they pay their rent, able to stay there. In the suburbs, whether they are there at the time of conversion or whether five years down the road after somebody has brought that unit and perhaps they get transferred to another state for a while and decide to rent it, that subsequent tenant could then remain forever, somewhat of an anomaly, and this is what the bill would straighten out.

In so doing, it solves the purpose of helping affordable housing in those areas. Because, at present, those units stand empty. Banks won't lend to buyers who want to purchase those units. Consequently, if somebody has one of those units and gets a job in California -- and frankly, we have lost a lot of jobs in the area so it's happened more than once -- they are going to have to leave that unit empty.

What we are trying to do is move

things along here. It has little to do with a lot of the arguments that have been thrown up by people who would otherwise use this as a smoke screen for the traditional landlord/tenant battles.

And as an illustration of that, from last year's memo in opposition by the New York State Tenant and Neighborhood Coalition, I quote, "Thousands of apartments are sitting vacant in buildings converted to co-ops or condo's in Westchester, Rockland and Nassau." And why, do they say? They say, "Because conversion sponsors won't drop sales prices enough to sell these units in today's weak market, and they refuse to rent them."

Well, that's baloney. The reason they can't sell them is they can't get financing. There's ads in the papers, in the New York Times and the other metropolitan area papers that take the ads in the banks that exclude these types of buildings.

All we're trying to do is let them go back on the market. It would thus

conform the law in the suburbs to what now exists in New York City.

Mr. President. I move the bill.

ACTING PRESIDENT FARLEY: Senator Espada.

SENATOR ESPADA: Yes. This may come as a revelation to some, but I think the protections afforded to New York City vis-a-vis the counties in question, Rockland County, Westchester County, Nassau County, is not the issue here. The issue is whether or not these protections which were clearly articulated that would really look out for tenants and really protect them against the kind of profiteering that really is the genesis of the problem.

We have apartments that were once affordable being converted on a speculative manner for profit. Warehoused units then result, and the fruits of speculation that turn sour are there now to be freed up for whom? For people in need of housing? No, I say not. If, indeed, it were for the people who need quality and affordable housing, we would continue to

keep the protection in full force and, indeed, push these landlords on to rent to people. If there is a shortage of renters or people seeking these kinds of dwellings in these counties, that would come as a great surprise.

But, indeed, a surprise that could be rectified, because I would certainly volunteer many of the homeless and many of the people in my district in need of such to go up to these three counties in search of affordable and quality housing.

So I say that the best way to preserve quality housing is to keep this protection intact, sir.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

SENATOR GOLD: Slow roll call.

ACTING PRESIDENT FARLEY: Slow roll call. Ring the bell. There were five. I saw five stand up.

THE SECRETARY: Senator Babbush,

excused. Senator Bruno.

SENATOR BRUNO: Yes.

THE SECRETARY: Senator Connor.

SENATOR CONNOR: No.

THE SECRETARY: Senator Cook.

SENATOR COOK: Yes.

THE SECRETARY: Senator Daly.

SENATOR DALY: Yes.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: Yes.

THE SECRETARY: Senator Espada.

(There was no response. )

Senator Farley.

SENATOR FARLEY: I vote aye.

THE SECRETARY: Senator Galiber.

SENATOR GALIBER: No.

THE SECRETARY: Senator Gold.

SENATOR GOLD: No.

THE SECRETARY: Senator

Gonzalez.

(There was no response. )

Senator Goodman.

(There was no response. )

Senator Halperin.

(There was no response. )

Senator Hannon.

(There was no response. )

Senator Hoffmann.

(There was no response. )

Senator Holland.

SENATOR HOLLAND: Yes.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Jones.

SENATOR JONES: Yes.

THE SECRETARY: Senator Kuhl.

SENATOR KUHL: Aye.

THE SECRETARY: Senator Lack.

SENATOR LACK: Aye.

THE SECRETARY: Senator Larkin.

(There was no response. )

Senator LaValle.

SENATOR LAVALLE: Aye.
THE SECRETARY: Senator Leichter.
SENATOR LEICHTER: No.
THE SECRETARY: Senator Levy.
SENATOR LEVY: Aye.
THE SECRETARY: Senator Libous.
SENATOR LIBOUS: Aye.
THE SECRETARY: Senator Maltese.
SENATOR MALTESE: Aye.
THE SECRETARY: Senator Marchi.
SENATOR MARCHI: Aye.
THE SECRETARY: Senator Marino.
(Indicating "Aye." )
THE SECRETARY: Aye. Senator Markowitz.
(There was no response. )
Senator Masiello.
(There was no response. )
Senator Mega.
SENATOR MEGA: Yes.
THE SECRETARY: Senator Mendez.
SENATOR MENDEZ: No.
THE SECRETARY: Senator

Montgomery.

(There was no response. )

Senator Nolan.

SENATOR NOLAN: Yes.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Ohrenstein.

(Indicating "Nay." )

THE SECRETARY: No. Senator Onorato.

SENATOR ONORATO: No.

THE SECRETARY: Senator Oppenheimer.

(There was no response. )

Senator Padavan.

SENATOR PADAVAN: No.

THE SECRETARY: Senator Pataki.

(There was no response. )

Senator Paterson.

SENATOR PATERSON: No.

THE SECRETARY: Senator Present.

SENATOR PRESENT: Aye.
THE SECRETARY: Senator Saland.
SENATOR SALAND: Aye.
THE SECRETARY: Senator Santiago.
SENATOR SANTIAGO: No.
THE SECRETARY: Senator Sears.
(There was no response. )
Senator Seward.
SENATOR SEWARD: Yes.
THE SECRETARY: Senator Sheffer.
SENATOR SHEFFER: Yes.
THE SECRETARY: Senator Skelos.
(There was no response. )
Senator Smith.
SENATOR SMITH: No.
THE SECRETARY: Senator Solomon, excused. Senator Spano.
SENATOR SPANO: No.
THE SECRETARY: Senator Stachowski.
SENATOR STACHOWSKI: No.
THE SECRETARY: Senator

Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky.

(There was no response. )

Senator Trunzo.

SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Tully.

SENATOR TULLY: No.

THE SECRETARY: Senator Velella.

SENATOR VELELLA: No.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Waldon.

(There was no response. )

Senator Wright.

SENATOR WRIGHT: Aye.

ACTING PRESIDENT FARLEY: Absentees.

THE SECRETARY: Senator Espada.

SENATOR ESPADA: No.

THE SECRETARY: Senator Gonzalez.

(There was no response. )

Senator Goodman.

(There was no response. )

Senator Halperin.

SENATOR HALPERIN: No.

THE SECRETARY: Senator Hannon.

SENATOR HANNON: Mr. President. I would like to explain my vote.

ACTING PRESIDENT FARLEY: Senator Hannon to explain his vote.

SENATOR HANNON: Senator Espada, I believe, repeated what is basically a myth about this bill in regard to what is happening with these units and whether or not they are being warehoused.

Anybody who is a serious student of the real estate market will never encounter such a result in looking at what has happened like that as a result of this bill. When I look at a report from the Westchester Reporter Dispatch last February, they noted that they had over 3,000 vacant apartments in Westchester because of the effects of this law.

If we were to analyze the cost to

this state of any of its housing programs and did compute how much it would be to come up with 3,000 apartments, we would be near the hundreds of millions. Nobody, not one tenant has ever complained about this proposal.

A negative vote on this bill jeopardizes not only the real estate market but also the entire fabric of how we come up with affordable housing. We can do more by letting the market economy work and by simply allowing tenants the very protections that they have in New York City if we were to let this bill go.

Mr. President, I vote aye.

ACTING PRESIDENT FARLEY: Senator Hannon is in the affirmative.

Continue the roll.

THE SECRETARY: Senator Hoffmann.

SENATOR HOFFMANN: Aye.

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: Yes.

THE SECRETARY: Senator Markowitz.

SENATOR MARKOWITZ: Yes.

THE SECRETARY: Senator Masiello.

SENATOR MASIELLO: No.

THE SECRETARY: Senator Montgomery.

SENATOR MONTGOMERY: No.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: No.

THE SECRETARY: Senator Pataki.

SENATOR PATAKI: Yes.

THE SECRETARY: Senator Sears.

SENATOR SEARS: Yes.

THE SECRETARY: Senator Skelos.

SENATOR SKELOS: Yes.

THE SECRETARY: Senator Stavisky.

(There was no response. )

Senator Waldon.

SENATOR WALDON: No.

ACTING PRESIDENT FARLEY: Results.

THE SECRETARY: Ayes 35, nays

22.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 202, by Senator Johnson, Senate Bill Number 1704.

SENATOR GOLD: Explanation.

ACTING PRESIDENT FARLEY: Explanation, Senator Johnson.

SENATOR JOHNSON: Mr. President. This bill would modify the Education Law to provide that a regulation shall be established requiring the recitation of the Pledge of Allegiance and the performance of the National Anthem at all graduation ceremonies of the State University.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll. )

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: I just wanted to alert the chamber that last year we debated this, and Senators Connor and Galiber and myself and Leichter, Montgomery, Ohrenstein, Solomon and Waldon did vote in the negative.

ACTING PRESIDENT FARLEY: Continue the roll.

THE SECRETARY: Those recorded in the negative on Calendar Number 202 are Senators Connor, Galiber, Gold, Leichter, Montgomery, Ohrenstein, Smith, and Waldon, also Senator Santiago. Ayes 48. Nays 9.

ACTING PRESIDENT FARLEY: The bill is passed.

SENATOR PRESENT: Mr. President, there being no further announcements or motions and there being no further business, I move that we adjourn until tomorrow at 11:30 a.m.

ACTING PRESIDENT FARLEY: The Senate will stand adjourned until tomorrow at

11:00 a.m.

(Whereupon, at 4:50 p.m., Senate adjourned. )