On this day, the 20th of May, 1873, a California businessman named Levi Strauss patented the process of putting rivets in blue denim pants for greater strength. He did so with the help of his business partner, Jacob Davis, a tailor from Nevada. From that moment on, Levi's jeans have been a part of daily life in America and around the world.

Initially, the jeans gained popularity for their superior quality and durability, but the invention was destined to become an international phenomenon because of what they came to represent: the spirit of personal freedom and originality.

For more than a century, Levi's jeans have been part of the cultural experience in the United States and overseas. From frontier independence to the fall of the Berlin Wall; from Woodstock to the White House; from the assembly line to casual Friday, blue jeans have been the uniform of individuality allowing the wearer to express his or her essential self.

It's remarkable to think that what was conceived as a garment for California gold miners has evolved into a global icon for independence. But then again, good ideas have a way of making themselves well-known to everyone. The familiarity we all share with blue jeans is proof of that.

On this, the 125th anniversary of the invention of Levi's, please join me in acknowledging the spirit of freedom and limitless possibilities that they symbolize.

H.R. 1872—SATELLITE REFORM LEGISLATION

HON. TOM BLILEY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. BLILEY. Mr. Speaker, two weeks ago the House overwhelmingly approved legislation to procompetitively privatize the intergovernmental satellite organizations—INTELSAT and Inmarsat—that dominate international satellite communications today. This legislation, H.R. 1872, garnered near unanimous support of the House, which demonstrates the bipartisan commitment of this body to enact this form of satellite reform legislation this Congress.

During the debate on the bill, there was considerable discussion on whether the bill could be ruled a ''taking'' of COMSAT's property. The House soundly rejected this notion. Absent from that debate, however, was an important commentary done by Mr. George L. Priest, former member of President Reagan's Commission on Privatization and now the Olin Professor of Law and Economics at Yale Law School. Mr. Priest conducted an analysis of the takings issue regarding H.R. 1872 which he reflected in a lengthy monograph. This monograph was circulated to Members prior to the debate on the bill and a similar version has been subsequently published in the May 11, 1998, issue of Space News in an article entitled ''Breaking Comsat's Hold.'' In summary, Mr. Priest concluded that COMSAT's takings argument ''will not hold legal water.''

I think the House would benefit from Mr. Priest's viewpoint on this important matter and I ask that it, along with a letter from the Washington Legal Foundation and a letter from United States Trade Representative Ambassador Charlene Barshefsky relating to a World Trade Organization issue discussed in the debate, be included in the CONGRESSIONAL RECORD at this point.

[From Space News, May 11, 1998]

BREAKING COMSAT'S HOLD

(By George L. Priest)

In recent weeks, several commentators including Comsat and supporters such as Nancie G. Marzulla in an op-ed piece entitled ''Deregulation or Plain Old Theft,'' Washington Times, April 27, have argued that legislation introducing competition in the international telecommunications satellite industry constitutes a taking under the U.S. Constitution's 5th Amendment, which would require the government to compensate Comsat for all its losses if Congress has the nerve to pass the bill.

In principle, I applaud the defense of private property rights against government intrusion. But Comsat and Ms. Marzulla mistake protection of property rights with the protection of monopoly and confuse the defense of investor expectations with the deregulation of a telecommunications monopoly to expand services and enhance consumer welfare.

Comsat was created by the Satellite Act of 1962, which, like much activist legislation of that era, derived from the view that government-controlled investment buttressed by heavy regulation was superior to private-market initiative in developing industries. Indeed, the Satellite Act took this thinking to the next level: If heavy regulation by the U.S. government was needed for U.S. satellite investment, then heavier, worldwide intergovernmental regulation was needed for international satellite investment.

Thus, the Satellite Act tackled the problem of ''too few satellite communications facilities'' by establishing Comsat as the U.S. participant in an international satellite venture known as Intelsat.

Intelsat, in turn, is owned mostly by government-owned or protected telephone monopolies. In essence, Intelsat controls satellite facilities that possess dominant positions over much of the world to which Comsat has exclusive—which is to say, monopoly—access in the United States.

Comsat and Intelsat, in fact, are among the last vestiges of exclusive governmental monopolies, at least in the United States. They have retained their near-monopoly position despite the general deregulation of industry that began in the late 1970s and 1980s in the United States, not to mention the vast privatization of government enterprise proceeding worldwide.

Intelsat operates the world's largest satellite fleet, comprising 24 satellites in prime geostationary orbital locations. Moreover, Intelsat and Comsat enjoy a host of competitive advantages because of their intergovernmental or quasi-governmental status.

Intelsat is completely immune from U.S. antitrust laws. It has preferential access to new orbital locations, and is exempt from myriad U.S. Federal Communications Commission regulatory requirements that apply to private satellite competitors.

In addition, Intelsat and Comsat have competitive advantages by virtue of Intelsat's ownership structure. Intelsat's owners have a financial stake in denying overseas access to competitors. Each use of a private, international satellite to access a foreign country reduces the financial dividend from satellite services that would otherwise flow to that country's Intelsat signatory. Private U.S. satellite companies, as a consequence, continue to be shut out of many foreign markets.

Within the last decade and a half, most American consumers has received direct and dramatic benefits from the breakup of the AT&T monopoly, a breakup which gave rise to an extraordinary flowering of new telecommunications services. Unleashing competition in the international telecommunications satellite industry holds similar promise.

The neglect of satellite competition, however, appears to have ended. The U.S. House of Representatives May 6 passed legislation sponsored by Rep. THOMAS J. BLILEY (R-Va), chairman of the House Commerce Committee and Rep. EDWARD J. MARKEY (D-Mass.), ranking minority member of the committee, that would require Comsat to compete in the satellite market stripped of its government-conferred privileges and immunities.

Comsat has battled these efforts, claiming that the legislation constitutes a breach of the 1962 Satellite Act contract, an unfair disappointment of reasonable investor expectations and, most dramatically, a compensable taking under the 5th Amendment. In rhetoric, these appear to be good conservative positions: All conservatives believe in protecting investor expectations and compensating victims of breach of contract or of governmental takings. These principles, however, are horribly misapplied with respect to Comsat and Intelsat.

Every monopoly in history has complained about damage from competition.

Indeed, Comsat's complaints could be taken verbatim from the 1602 Case of Monopolies in which the person to whom Queen Elizabeth had granted a monopoly over the sale of playing cards protested when the English Parliament introduced competition.

Standard Oil back in 1911 complained about impairment of contracts and disappointment of expectations when the Justice Department sought to break it up. The courts in 1602 and in 1911 rejected those arguments, establishing and encouraging the competitive economy we enjoy today.

It is not conservative policy to protect the property rights of a monopolist. From Adam Smith to the Chicago School more recently, true conservatives know the benefits of the maximum competitive order, compelling the break-up of monopolies or cartels to engender the most vigorous competition possible.

The Bliley-Markey legislation may not go far enough in this regard.

Although the legislation appropriately encourages the break-up of Intelsat, it does not specify the number of competing entities to result (three or four are a minimum to establish long-term competition), and the deadline it sets for the break-up—January 2002—is unnecessarily protracted.

Once agreement is reached, Intelsat could be broken up within short months, unleashing competitive energies immediately. Nevertheless, the bill's reduction of Comsat's governmental privileges and the opening-up of potential entry are surely important first steps.

The notion that this legislation violates the 5th Amendment will not hold legal water. The 1962 Satellite Act contains a provision that reserves the right of Congress to repeal, alter or amend the act. Even without this provision, this case is far different from the recent decision—loudly invoked by Comsat—in which the Supreme Court held that various savings and loan associations could sue the government for breach of contract when Congress enacted the Federal Institutions Reform, Recovery, Enforcement Act of 1989.

In the savings and loan cases, in order to induce a solvent savings and loan to take over one that had failed, the Federal Home Loan Bank Board promised a favorable accounting treatment that made the acquisition profitable. Congress later renounced the accounting treatment. The Supreme Court

held that, in the earlier contract, the government had expressly assumed the risk of the regulatory change that Congress subsequently enacted.

There is no parallel with respect to international satellites. One cannot construe the 1962 Satellite Act as a governmental assumption of all risks of subsequent regulatory changes with regard to international satellites. This is particularly obvious when Congress incorporates into a law as it did in the Satellite Act a provision reserving the right to repeal, alter or amend the law.

It is an interesting but unanswerable historical question whether the international telecommunications satellite industry would be more advanced and developed today if Congress had kept out of the business in 1962 and allowed the private market to develop on its own. I believe it would, though that is largely beside the point now.

The conservative (as well as liberal) agenda here, as in all other areas of economic life, is for the U.S. government and governments around the world to reduce their regulatory role, especially where that role is to protect an entrenched monopoly.

Congress must withdraw the deadening hand of the 1962 Satellite Act and introduces maximum competition in the international telecommunications satellite industry to the benefit of all consumers.

WASHINGTON LEGAL FOUNDATION,
Washington, DC, May 5, 1998.

Hon. TOM BLILEY,
Chairman, Committee on Commerce, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN BLILEY: This is in response to your letter requesting a clarification of WLF's views regarding the ''Communications Satellite Competition and Privatization Act'' in light of concerns that WLF's views have been mischaracterized.

I want to make it very clear that the Washington Legal Foundation does not in any way oppose your bill or in any manner support amendments to your bill.

WLF does not engage or participate in any lobbying activity whatsoever. In fact, some members of WLF's own Advisory Boards disagree with WLF's legal analysis of the Takings Clause in connection with this legislation.

Unfortunately, when we sent our analysis to the Members who requested it, we did not anticipate that it would be used as the basis for any legislative tactics or strategy which would oppose your satellite reform bill. We take no legislative position whatsoever.

We are grateful for your leadership on free enterprise issues and appreciate the opportunity to clarify this matter with you.

Sincerely,

DANIEL J. POPEO,
General Counsel.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE,
Washington, DC, February 12, 1997.

Mr. FREDERICK A. LANDMAN,
President and Chief Executive Officer, PanAmSat Corporation, Greenwich CT.

DEAR MR. LANDMAN: I am writing in reply to a letter of January 31, 1997, from your legal counsel, regarding the negotiations on basic telecommunications services at the World Trade Organization. The U.S. goal in these negotiations is to strengthen the ability of the U.S. satellite services industry to compete globally, and on a level playing field, with the inter-governmental satellite services organizations and with satellite service providers of other countries.

The United States has taken a number of steps to make certain that our key trade partners provide market access for satellite-based delivery of basic telecom services. Based on a note issued by the chairman of the negotiations in November, 1996, which has become part of the formal record of the proceedings, we have clarified the scheduling approach with regard to satellites. As a result, close to forty countries have made offers that would provide full market access for satellite-based delivery of all scheduled services, on an immediate or phased-in basis.

WTO members that make specific commitments on satellites will be subject to allocating and assigning frequencies in accordance with the principles of most-favored-nation and national treatment, as well as in accordance with the requirement for domestic regulations in the General Agreement on Trade in Services. Almost all of the countries making full satellite commitments have also adopted the reference paper on pro-competitive regulatory commitments. As a result, they will be obligated to provide additional regulatory safeguards with respect to allocation and use of radio frequencies.

A successful agreement on basic telecom services would also obligate those countries which have not made satellite commitments to provide treatment no less favorable to satellite service providers of the United States than the treatment provided to service suppliers of other countries. This would apply, for example, to how WTO members reach decisions regarding new market access arrangements involving service suppliers of other countries.

I share your deep concern regarding the possible distortive impact on competition in the U.S. satellite services market of certain proposals for restructuring INTELSAT. The United States has proposed a restructuring of INTELSAT that would lead to the creation of an independent commercial affiliate, INTELSAT New Corporation (INC). If made independent, the United States believes that the creation of INC will enhance competition and help ensure the continuation States believes that the creation of INC will enhance competition and help ensure the continuation of INTELSAT's mission of global connectivity for core services. As you are aware, however, many INTELSAT members are resisting the idea of independence for INC and we believe that a failure to achieve independence could adversely affect competition in the U.S. satellite services market. In the WTO negotiations we have taken pains to preserve our ability to protect competition in the U.S. market.

Our legal conclusion, for which there is a consensus among participants in the WTO negotiations, is that the ISOs do not derive any benefits from a GBT agreement because of their status as treaty-based organizations. The status of ISOs was discussed in detail in the GBT multilateral sessions. No delegation in the GBT negotiations has contested this conclusion.

We have also concluded that the United States cannot be forced to grant a license to a privatized ISO (should the ISO change its treaty status and incorporate in a country) or to a future privatized affiliate, subsidiary or other form of spin-off from the ISO. Existing U.S. communications and antitrust law, regulation, policy and practice will continue to apply to license applicants if a GBT deal goes into effect. Both Department of Justice and FCC precedent evidence long-standing concerns about competition in the U.S. market and actions to protect that competition. We have made it clear to all our negotiating partners in the WTO that the United States will not grant market access to a future privatized affiliate, subsidiary or other form of spin-off from the ISOs, that would likely lead to anti-competitive results.

It has always been U.S. practice to defend vigorously any challenge in the WTO to allegations that U.S. measures are inconsistent with our WTO obligations. There is no question that we would do the same for any FCC decision to deny or condition a license to access an ISO or a future privatized affiliate, subsidiary or other form of spin-off from the ISO. For your information, Section 102(c) of the Uruguay Round Agreements Act, specifically denies a private right of action in U.S. courts on the basis of a WTO agreement. Therefore, a FCC decision is not subject to judicial review in U.S. courts based upon a WTO agreement, such as the General Agreement on Trade in Services.

The United States is confident that it would win if a U.S. decision went to WTO dispute settlement. If the United States did not prevail, however, we would not allow trade retaliation measures to deter us from protecting the integrity of U.S. competition policy.

I appreciate the support your firms' representatives have expressed for our objectives in the WTO negotiations.

Sincerely,

CHARLENE BARSHEFSKY,
United States Trade Representative—Designate.

CONGRATULATIONS TO THE WINNERS OF THE EXCELLENCE IN BUSINESS AWARDS

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate Kuckenbecker Tractor of Madera, Boys and Girls Clubs of Fresno County, Bank of the Sierra of Porterville, Community Health System of Fresno, Duncan Enterprises of Fresno, Valley Public Television of Fresno, Denham Personnel Services of Fresno, Sherwood Lehman Massucco, Inc., Pearson Reality of Fresno, Gottschalks Inc. of Fresno, and Hall of Fame winner, Marilyn Hamilton of Fresno for being honored by the Fresno Bee with the Excellence in Business Award.

For the third year now, The Fresno Bee is recognizing some of the most respected names in business in the San Joaquin Valley. The businesses selected were chosen because of setting trends and serving customers unlike any other business. The winners were also recognized for success, growth, and setting high ethical and community standards. The judges for this event include Fresno Business people, a retired school principle, a member of the Kings County Board of supervisors and other selected community leaders.

Kuckenbecker Tractor of Madera is a family owned business that started in 1945. Richard Kuckenbecker took the small company that employed six people in Madera in 1961 and expanded it into a two-store operation in both Fresno and Madera that employs 40 people and generates $8 million in revenue.

The boys and Girls Clubs of Fresno County is a charitable organization that has a staff and volunteers who work with thousands of children each year. The organization is instrumental in providing educational, social and cultural reinforcement for children.

in 1977, Bank of the Sierra, Porterville was started with a single branch in Porterville by 17 Tulare County residents. It hosted 11 employees and garnered $1.5 million in assets.