of the aisle to give the gift of tax fairness by supporting our efforts to eliminate the marriage penalty tax.

SCHOOL CHOICE

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, we have been having a debate here on the floor of the Congress about school choice and particularly here in the Washington district.

Jonathan Rauch writes on this issue in the last November 10 edition of the New Republic. He says he has always found it odd that the liberals have handed the issue to the Republicans rather than grabbing it for themselves. He writes, ''It's hard to get excited about improving rich suburban schools. However, for poor children, trapped, the case is moral rather than merely educational. These kids attend schools which cannot protect them, much less teach them. To require poor people to go to dangerous, dysfunctional schools that better-off people fled and would never tolerate for their own children, all the while intoning pieties about 'saving' public education, is worse than unsound public policy. It is repugnant public policy.''

Mr. Speaker, we agree.

RECOGNIZING PUBLIC SERVICE BY WASHINGTON STATE BROADCASTERS

(Mr. NETHERCUTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NETHERCUTT. Mr. Speaker, I rise today to call attention to the outstanding public service work being done by broadcasters across America and especially in my district in eastern Washington.

The Washington State Association of Broadcasters recently completed a survey of its membership and the results were extremely encouraging about the level and types of public service rendered on a daily basis by radio and TV stations in my State.

I want to particularly praise the fine work done by stations in my district, the fifth of Washington. KXLY-TV created a school attendance award that helped decrease truancy in Spokane middle schools. KHQ-TV spent hundreds of thousands of dollars for the ''Success by Six'' program that is helping children throughout Spokane middle schools learn to read by the time they are 6 years old. KREM-TV recently raised more than $166,000 for programs benefiting women and children, such as the YWCA Transitional School for Homeless Children. And KAYU-TV is teaching kids lessons about fire safety with PSAs throughout their children's programming.

There are many more examples of this kind of public service provided on a daily basis by local broadcasters in Washington State and across the Nation. We should thank these outstanding broadcasters who truly share the spirit of outstanding public service.

REFUSAL TO GRANT IMMUNITY TO FOUR KEY WITNESSES

(Mr. BOB SCHAFFER of Colorado asked and was given permission to address the House for 1 minute.)

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, what can Congress do to break a stone wall? Many of the key witnesses in congressional investigations have either fled the country or taken the fifth amendment. Others have hidden behind phony claims of executive privilege.

And if that is not enough, now we have Democrats on the House Government Reform and Oversight Committee who refuse to grant immunity to four key witnesses; even their own Justice Department consents to the granting of immunity to those four key witnesses.

What is Congress to do? Well, Congress can go to the courts and, thus, delay investigations for many more months, while listening to the White House and other defenders of this sleaze and obstruction to cry with indignation that the investigation is taking too long.

Mr. Speaker, why is this story not being told? Why cannot everyone, Democrats and Republicans alike, agree that no one is above the law and that the American people have a right to truthful answers?

Mr. Speaker, no amount of stonewalling should stand between the truth and the American people any longer.

CLARIFICATION TO APPOINTMENT OF ADDITIONAL CONFEREES ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998

The SPEAKER pro tempore (Mr. SHIMKUS). Without objection, the Chair announces that the Speaker's appointment of additional conferees today from the Committee on Ways and Means were solely for consideration of title XI of the House bill and title VI of the Senate amendments and modifications committed to conference on the bill (H.R. 2400) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

COMMUNICATIONS SATELLITE COMPETITION AND PRIVATIZATION ACT OF 1998

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 419, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 419

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1872) to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Commerce now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. No amendment to the committee amendment in the nature of a substitute shall be in order unless printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Printed amendments shall be considered as read. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California (Mr. DREIER) is recognized for 1 hour.

(Mr. DREIER asked for and was given permission to revise and extend his remarks and to include extraneous material).

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my very good friend, the gentleman from South Boston, MA (Mr. MOAKLEY), pending which, I yield myself such time as I may consume.

Mr. Speaker, this modified open rule provides for consideration of H.R. 1817, the Communications Satellite Competition and Privatization Act of 1998. The rule provides for 1 hour of general debate equally divided between and controlled by the chairman and ranking minority member of the Committee on Commerce.

The rule makes in order as an original bill for the purpose of amendment

the amendment in the nature of a substitute recommended by the Committee on Commerce now printed in the bill, which shall be considered as read.

The rule further provides for consideration of only those amendments that have been preprinted in the CONGRESSIONAL RECORD. The rule also allows the Chairman of the Committee of the Whole to postpone votes during consideration of the bill and reduce voting time to 5 minutes on a postponed question if the vote follows a 15-minute vote. And finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, the United States is the leader of the international information-based economy. My home State of California is home to many industries that create and exploit the core technologies of the information economy, including telecommunications and satellite producers.

The goal of this legislation is to bring satellite communications into a new era of competition. We get there by encouraging an international cartel of largely government-run national telecommunications monopolies to undergo a process of competitive privatization. The winners will be the consumers of international telecommunications services, who will enjoy lower prices, better services, and technological innovation.

Without question, there are very legitimate areas of debate regarding the best means of moving to a private, free market in international satellite communications. Because of the complex nature of the international satellite cartel, this is a modified open rule that does not block any germane amendment from being considered by the full House as long as the amendment has been preprinted in the RECORD.

Mr. Speaker, this rule is deserving of bipartisan support, as is the bill. I look forward to the House working its will on the amendments submitted that have been printed in the RECORD, with the hope that the final product is something that can be signed into law so that we more fully enjoy the fruits of our information-based economy.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

I thank my colleague, my dear friend the gentleman from California (Mr. DREIER), my chairman in waiting, for yielding me the customary half-hour. It might be a longer wait than he anticipates.

Mr. Speaker, I rise in support of this open rule, although I do not understand the need for the preprinting requirement. There were only two recorded votes in committee. There is nothing in the bill that could not be handled in a totally open rule.

Today's rule will make in order the Communications Satellite Competition and Privatization Act, which will end the COMSAT monopoly.

In 1962, Mr. Speaker, President Kennedy established an international satellite system which gave rise to two huge satellite cooperatives, INTELSAT and Inmarsat.

Since these cooperatives are so big and so powerful, they completely had the entire market on satellite programs. Right now, any communications committee that wants to use the INTELSAT or the Inmarsat to transit into or out of the United States has to buy access through the COMSAT Corporation.

This bill will open competition in the international communications satellite system by encouraging INTELSAT and Inmarsat to privatize. It would help level the playing field and allow competing satellite companies to get into the business. Since the United States is such a leader in satellite technology, this privatization should be very good news for us.

COMSAT can continue to provide any service it wishes. It will just have to be subject to competition from other private-sector companies. So people who depend upon international communications, especially for international calls, the Internet, cellular phones, and video, can expect to see lower prices and much more choice in services.

So I urge my colleagues to support this rule.

□ 1045

Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. MARKEY), the ranking minority member on the Subcommittee on Telecommunications, Trade, and Consumer Protection, the person who has all the questions and all the answers.

Mr. MARKEY. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. MOAKLEY) for yielding me this time, and I thank everyone who has participated in this enormously important debate.

As has been pointed out by the gentleman from Massachusetts, back in 1962, largely in response to the challenge from the Soviet Union with the launch of Sputnik and the paranoia which overtook the West, the United States not only began a process of putting a man on the Moon and developing intercontinental ballistic missiles at a pace that had not yet been matched in our country, but it also helped to organize something which would create an international satellite consortium using government-based entities to launch these satellites, because there was no private sector capacity within the West in order to accomplish these goals.

This consortium, INTELSAT, later matched by another group called Inmarsat for satellite-based maritime communications, became the basis for, the foundation for, international satellite competition. It served us very well, as did most monopolies, in electricity, in local telephone, in long distance telephone, in cable in the initial stages of these industries. But over time it became clear that private sector competition in each one of these industries was possible. In each case, of course, the incumbent monopolist argued that it would be a takings, it would be illegal to take away this monopoly which had been granted by the government. But the reality was that the government had made a decision initially in order to grant to one entity the ability to be the first into the field, in order to establish it, but always retain the right to be able to break up the monopoly when private sector competition arrived.

Today we are going to debate the last frontier of monopolies, this one in outer space, this one where INTELSAT and Inmarsat, with its American signatory, COMSAT, seeks to retain its monopoly access to this satellite communication internationally. What our legislation does is break it up. It says to COMSAT, it says to INTELSAT, it says to Inmarsat, ''You must privatize. You must move to the private sector. You must give access to every other private sector company to that which you have.'' That is the objective of this legislation.

The gentleman from Virginia (Mr. BLILEY), the chairman of the full committee, has been the leader on this issue, driving it as an important final stage of our efforts to have privatized this international telecommunications industry.

Now, these two entities, INTELSAT and Inmarsat, two international orbiting cartels, are not going to simply wake up one day and say, ''Fine, take back our monopoly,'' because we have been waiting for the last 20 years for them to do that. It is not going to happen. They are not going to shed themselves of their privileged access to international frequency spectrum. They are not going to voluntarily give up their immunity from antitrust law. They are not going to compete against American-based satellite companies on an even ground, simply because we ask them to do so politely.

This legislation and the rule which accompanies it is a fair set of recommendations for the debate, and then for the substantive decision-making here on the floor. I hope that the Members today understand how historic this debate is. It really will help to revolutionize the way we communicate on this planet.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DREIER. Mr. Speaker, I rise in strong support of this very fair and balanced modified open rule and urge my colleagues to join in supporting it and to support the legislation that will follow.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to House Resolution 419 and rule XXIII, the Chair declares the House in the Committee of

the Whole House on the State of the Union for the consideration of the bill, H.R. 1872.

The Chair designates the gentleman from Kansas (Mr. SNOWBARGER) as Chairman of the Committee of the Whole, and requests the gentleman from Illinois (Mr. LAHOOD) to assume the chair temporarily.

□ 1050

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1872) to amend the Communications Satellite Act of 1962 to promote competition and privatization of satellite communications, and for other purposes, with Mr. LAHOOD (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Virginia (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia (Mr. BLILEY).

Mr. BLILEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 1872, the Communications Satellite Competition and Privatization Act of 1998. Today I ask that all Members support this bill and oppose all amendments.

Let us ask a question, if we had it all to do over again, would we want to use the model of the United Nations for supplying international communications? Would we trust an important part of the information age to intergovernmental organizations? Or instead would we rely on the free market? If the last three decades have taught us anything, Mr. Chairman, it is the failure of central planning and the inefficiency of government-run industry. If we have learned anything, it is that we should trust the marketplace.

The international satellite communications market is dominated by INTELSAT for fixed services like voice and video, and Inmarsat for mobile services like maritime and aeronautical. These intergovernmental organizations want to use their market power to expand into advanced services that the private sector is chomping at the bit to provide, like Internet access, direct broadcast services and hand-held phones. These intergovernmental organizations, or IGOs, are run by a combination of the world's governments and owned by a consortium of national telecommunications monopolies. By government monopolies, for government monopolies, of government monopolies. Their supporters call them a cooperative. Where I come from, that is called a cartel. Either way, it is high time for them to be privatized.

On that there is little disagreement. But more than just privatized, they must be privatized in a pro-competitive manner, in a manner that fosters competition. A privatized monopoly is still a monopoly nonetheless, and in a manner that relies on the marketplace, not on governments. In the current structure, the owners of the IGOs are the foreign telecom monopolists that often control licensing decisions and almost always control market access. Thus they have the ability and the incentive to keep U.S. satellite competitors from coming into their countries and competing against INTELSAT and Inmarsat. If we remove these distorting incentives, our communications satellite and aerospace industries, the most competitive in the world, will have a fair shot at breaking into foreign markets. But if we are to bring technology of modern telecommunications to all parts of the globe, if we are to make international telecommunications truly affordable, then we have to muster the courage to privatize the cartels and force them to compete on a level playing field, putting our faith in the private sector and the free market.

The gentleman from Massachusetts (Mr. MARKEY) and I have introduced this legislation to do just that. It encourages privatization of the IGOs in a way that fosters competition rather than snuffing it out. It provides for privatization of INTELSAT by 2002 and Inmarsat by 2001, more than enough time for these organizations to privatize. More importantly, it requires privatization in a way that fosters competition. If they do not privatize in a pro-competitive manner, the bill limits these organizations' access to American markets for non-core services. Moreover, if they do not make progress towards privatization, they cannot provide under new contracts highly advanced services better left to the private sector.

The only effective way to get the IGOs to move is to use access to the U.S. market as leverage. The IGOs are immune and privileged treaty-based organizations. You cannot sue them, you cannot tax them nor can you regulate them. We have to use the only lever that we have, market access. The bill's mechanisms are akin to telling the Japanese that they cannot bring in all the cars they want unless they allow imports of American products. COMSAT, the U.S. signatory, and IGO reseller, is like the Isuzu dealer in Bethesda. The Isuzu dealer is a U.S. company but they are selling a foreign product. Here COMSAT is selling a foreign, intergovernmental product. By the way, our bill expressly permits COMSAT to sell any service it chooses if it does so over a system independent from the IGOs. Only where they choose to use the IGO facilities and if the IGOs do not progress toward a pro-competitive privatization would market access be threatened. The threatened restriction is on IGO services, so it could apply to any distributor of IGO services whether that is COMSAT or a new competitor after COMSAT's monopoly is eliminated.

Our legislation will eliminate COMSAT's monopoly by permitting competition for access to the IGOs. Such competition is called direct access. According to the FCC, COMSAT's average margin in reselling INTELSAT service is an amazing 68 percent. Not bad if you can get it, but very bad if you happen to be a consumer. Every cent of COMSAT's high prices comes from the pockets of American consumers. But COMSAT has used its position as the monopoly provider of IGO services to force users to sign long-term take-or-pay contracts so they will not be able to take advantage of the competition direct access will permit. Thus the bill provides what is called ''fresh look,'' which allows consumers to have a one-time chance to renegotiate monopoly take-or-pay contracts.

During the committee process, we defeated an amendment that would have eliminated using access to the U.S. market as a lever. We defeated an amendment to eliminate the potential restrictions on expansion if progress is not made toward privatization. We defeated an amendment to strike out fresh look. We accepted amendments which went a long way toward meeting concerns some Members and COMSAT had raised, and made other changes to accommodate their concerns. And the bill passed by voice vote.

The bill has been endorsed by every private satellite services company from GE to Motorola, TRW to Boeing, Teledesic to PanAmSat. It has also been endorsed by major users of the systems, AT&T, MCI and Sprint, maritime users and a variety of ethnic groups because of consumer cost savings that will come with the bill. Over 40 endorsements and counting. The U.S. signatory to the IGOs, COMSAT, of course, opposes it and they will oppose any effort at reform. It ends their monopoly and would force the IGOs to give up their special advantages when they privatize. A level playing field is not welcome when you have been the government-backed monopolist. They will use every tactic they can to trip up reform. We will have amendments that may sound reasonable, but in effect remove any incentives for the IGOs to privatize. I urge Members to ignore the rhetoric and oppose all amendments.

H.R. 1872 is, in the words of one industry coalition, a moderate and balanced approach. Consumers and taxpayers will benefit from the lower prices it will bring, and businesses and their employees will benefit from the new markets it will open.

Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I yield my time to the gentleman from Michigan (Mr. DINGELL), and I ask unanimous consent that he be permitted to control that time.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. DINGELL. Mr. Chairman, I yield myself 6½ minutes.

□ 1100

Mr. Chairman, I want to express affection and respect for my good friend, the chairman of the committee, the gentleman from Virginia (Mr. BLILEY) and I also want to express the same good feelings towards my friend from Massachusetts (Mr. MARKEY). They are fine Members, and the fact we have a difference here does in no way diminish my respect or affection for either of these fine gentleman.

The simple fact of the matter, however, is this is a bad piece of legislation. It is unfair, it subjects the taxpayers of the United States to large liability under the Tucker Act, and I am talking about billions of dollars. This Congress has learned before that this is a risk, but it appears that we have to relearn the unfortunate lessons that we learned when we wrote the legislation on Conrail and when we did away with the unfortunate New York Central Railroad, and the bankruptcy and the reorganization by statute. We subjected the taxpayers to about $6½ billion in liabilities because we interfered with the contracts, we interfered with the business, and we interfered with the goodwill and the going value of the corporation, and it cost the taxpayers dearly. This is not a mistake which we should repeat today.

Mr. Chairman, H.R. 1872 has laudable goals. Unfortunately this legislation is going to fail. It is anticompetitive, it is anticonsumer and, worse, it is unconstitutional. The bill would impose draconian measures which would limit not only INTELSAT or Inmarsat, but it would also limit their U.S. customers. The bill unilaterally dictates complete privatization by legislative edict. If it were that simple, these treaty organizations could have long since been privatized.

I would point out these are treaty organizations. The United States cannot unilaterally impose its will on better than 141 sovereign nations who are party to these treaties. The bill disregards the cold hard fact that the United States has but one vote in the governance of INTELSAT and Inmarsat. Congress cannot change that unfortunate international reality.

It should be clear to anyone that this approach has no chance of success. If any foreign country wants to scuttle privatization efforts, this train will be immediately derailed and vital American interests will suffer.

The interesting thing is that foreign countries cannot only hurt Inmarsat and INTELSAT in this process, but, very frankly, they can hurt American corporations and American competitiveness and American business going well beyond these two entities.

I for one cannot support a bill that holds American interests hostage to the whims of 141 countries and that makes American carriers, innocent of wrongdoing, who have been held to be nondominant carriers just recently by the FCC, be at the mercy of foreign competitors.

When service restrictions contained in this bill kick in, hundreds of millions of dollars in American investments in satellite equipment will be made obsolete overnight.

If this were not bad enough, COMSAT, which is a private corporation publicly traded on the U.S. stock markets, will be ruined financially. Congress made a policy decision to fund these international satellite systems by putting private capital at risk instead of taxpayers' money, and when those private taxpayers' moneys and those stockholders' moneys are lost, the Federal Government will have a liability under the Tucker Act.

It should be noted that the United States Government encouraged and in many instances required COMSAT to invest in these systems in exchange for the responsibility and the opportunity to earn a reasonable return. That would be taken away from COMSAT.

And the practical result of this is again liability on the part of American taxpayers because of an unconstitutional action and an unconstitutional taking by this Congress of property belonging to private American citizens, which subjects this government immediately to redress under the Tucker Act.

For the government to breach this bargain, obliterating the value of this investment, then serious constitutional concerns are raised under the takings clause of the fifth amendment. The report can tell my colleagues until the committee is blue in the face that this is not going to be the fact, but be assured that it will be, and my colleagues are playing fast and loose with the taxpayers' money if they vote for this legislation. This provision alone will subject American taxpayers to claims for damages running to billions of dollars.

It should also be noted that this claim will fail. There is no reason to believe this, given the clear Supreme Court's precedents on these matters. And I would note that American users, as well as Inmarsat and INTELSAT, will suffer and will face the severe adverse impact that will flow from an unwise, unconstitutional, and unnecessary governmental action.

In any event, this Congress should not be willing to throw away billions of taxpayers' dollars on a litigation strategy that at best is no more than a crap shoot.

In sum, H.R. 1872 is a bad bill. It is in desperate need of radical surgery. It contains more constitutional law problems than a first year law school exam.

I urge my colleagues to join in defeating what is here, an ill-conceived budget-breaking bill that is going to waste taxpayers' moneys without any benefit to the taxpayers or to the country; and it will subject, I reiterate, our constituents to claims for billions of dollars in damages, with no hope or expectation of gain for the country, for competitiveness, or anything else.

Mr. Chairman, I urge the rejection of the bill, and I urge the adoption of the amendment which will shortly be offered by my good friend from Louisiana (Mr. TAUZIN).

Mr. Chairman, I reserve the balance of my time.

Mr. BLILEY. Mr. Chairman, I yield 4 minutes to the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Chairman, let me first tell my colleagues that there is good news and bad news today. The good news is that this bill in this form will never see the light of day; it will not get through this Congress. It will not see the light of day in the Senate and should not in its current form. The bad news is the same; that this bill could fail, it could not become law because of its current form.

What I am rising today to ask this House to consider are amendments to this bill to put it in the shape so that it can become good law, the Senate and the other body can in fact take it up, and we might accomplish the goals of this legislation.

Let me first commend the gentleman from Virginia (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) for the goals of this legislation. It is indeed on target. It is designed to privatize these treaty organizations and encourage that process as rapidly as possible.

Unfortunately, the bill is weighed down with several provisions which, as the gentleman from Michigan (Mr. DINGELL) pointed out, are clearly takings under the fifth amendment of the United States Constitution and which clearly will subject the Federal Government to the possibility of huge settlements and huge lawsuits against this government for taking private property without compensation.

Later on in this debate, the gentlewoman from Maryland (Mrs. MORELLA) and I will be offering amendments to deal with those sections of the bill. If those amendments are adopted, this bill will be put into shape, and then it should become law, and maybe it will have a chance on the other side. If those amendments fail, then I predict this bill will never see the light of day and will never become law in this Congress, and that is a shame. I should hope we have the good sense to pass those two amendments.

In the course of this debate, I will point out to my colleagues that in this bill is a provision that abrogates private contracts. In this bill Congress will be changing private contracts and allowing people to get out of contracts they signed. In the course of this debate, I will show my colleagues that one of the competitors to COMSAT took this issue to court and lost; lost in Federal district court and in their request to have these contracts abrogated. And now in this bill we are being asked as a Congress to change that

Federal court decision and to permit the abrogation of those long-term contracts.

Just on April 24, our FCC ruled that those COMSAT contracts were not monopolistic contracts, were entitled to the respect of law, and yet this bill will permit those contracts to be abrogated. By congressional action it will say that customers who signed the contract can get out of it when they want to, when the time comes in just a couple of years for them to do so.

In short, we will be presenting to our colleagues in this debate today several ways in which this bill can be improved so that it can go forward and hopefully become law. Without those changes, this bill will amount to congressional authorization of taking of private property from an American private corporation, will damage the facility of that corporation to provide service to American customers, and will in fact deny those American customers the right to use that American corporation in the facilitation of services for their customer base.

In short, this bill as it is currently written is going down, if not here, somewhere in this process.

Today we will have an opportunity to fix it in two very important aspects: to remove those private takings of private property without compensation, to protect the American taxpayer from these lawsuits and to protect the customers of a private American company from abrogation of their contract rights.

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Chairman, I am pleased to rise in support of H.R. 1872, legislation which will bring about the privatization of INTELSAT and Inmarsat.

When Neil Armstrong took the first steps on the surface of the Moon in 1969, the world was able to watch each step because of a successful Cold War collaboration known as INTELSAT. It was a network of three satellites at the time, just enough to provide global coverage of the Moon landing. It is now a network of 24 satellites offering voice, data, and video services around the world. Combined with Inmarsat's eight satellites, these ventures should be viewed as two of the most important successful international cooperation efforts ever undertaken.

The United States demonstrated great leadership when it helped create INTELSAT. I think we must demonstrate our leadership once again in making the changes necessary to fit our times by privatizing INTELSAT and Inmarsat. There is agreement on the goal of privatization, but how we get there is the key question. During subcommittee and full committee consideration of the bill, sponsors sought to address many of the concerns raised.

I commend the gentleman from Virginia (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) on their efforts to bring us closer to a consensus. I realize some still have reservations about the bill, but it is important to recognize that compromises and concessions have been made.

Concerns were raised about service restrictions on COMSAT. Those provisions were moderated. Concerns were raised about so-called fresh-look provisions. Those provisions were moderated. At some point, we need to ask whether those seeking further compromise are asking for changes to improve the bill or to kill it.

In closing, I want to bring to the attention of my colleagues my concerns with INTELSAT's current plan to spin off a private entity. Ever since the Subcommittee on Telecommunications, Trade, and Consumer Protection of the Committee on Commerce held a hearing on competition in the satellite industry over a year and a half ago, I have consistently raised concerns that any privatized spinoffs from INTELSAT or Inmarsat must be pro-competitive. The process of privatization we are supporting today is undermined if the privatized entity is created with unfair competitive advantages.

I look forward to moving this bill today, and I ask my colleagues to keep in mind whether those that are opposed are doing it to kill the bill or really to improve it.

With that, Mr. Chairman, I urge my colleagues to support H.R. 1872.

☐ 1115

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. GILLMOR).

Mr. GILLMOR. Mr. Chairman, I thank the Chairman for yielding, and I rise in support of H.R. 1872. This bipartisan bill, of which I am a cosponsor, is intended to bring competition to the intergovernmental satellite organizations, INTELSAT and Inmarsat. It will also remove COMSAT's monopoly over access to these organizations.

Fundamentally, this bill is a major policy decision that commercial satellite services should be provided by the private sector worldwide and not by the government. The government consortia may have been needed to run an international satellite system in the 1960s, but after almost 40 years, things change. We need to update our laws and our regulations to reflect the current marketplace.

In addition, increasing the competitive nature of the international satellite marketplace is very important to ensure that private American satellite companies can compete on a level playing field. And today, the playing field is tilted toward INTELSAT and Inmarsat. These organizations are owned by monopoly providers of telecommunications services worldwide. Working in cartel fashion, they have tried to keep competition from developing.

There are two other important provisions in this bill providing for ''direct access'' and ''fresh look,'' and I presume my time has expired.

Mr. DINGELL. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Chairman, I thank the gentleman from Michigan (Mr. DINGELL) for yielding me this time, and for his leadership on this issue.

Mr. Chairman, I rise today in strong opposition to H.R. 1872, and also in strong support of the Tauzin and the Morella amendments which are to come. This legislation, should it pass without these amendments, will set back 3 decades of American leadership in international satellite communications and reverse the trend toward increasing competition in the satellite industry.

The legislation before us today establishes unrealistic timetables and conditions for the privatization of INTELSAT and Inmarsat, prohibits any organization from being used to provide critical noncore satellite services to customers in the United States if the bill's rigid privatization deadlines are not met, and that is just not right.

Now, this legislation has laudable goals, and I appreciate its intent. Unfortunately, its approach is somewhat bludgeon-like, and the sponsors have taken a somewhat misguided and punitive approach, an approach that is so unfair that it has been denounced in publications as ideologically diverse as the Washington Times and the Boston Globe.

They would have us believe that COMSAT is a monopoly. They would have us believe that COMSAT is in fact the Microsoft of the satellite industry.

COMSAT is a United States company that is going to be punished by this bill. It is a publicly traded, U.S. company. It is not true that it is a monopoly. In fact, there are currently more than 20 competitors for COMSAT with more than $14 billion in investments and $40 billion in stock. If this is not competition, I do not know what is.

If we look a little further, in 1988 COMSAT controlled 70 percent of the market. That is not true today; they only control 21 percent. In fact, on April 28 of this year, the FCC declared that COMSAT is nondominant in most of its market. This effectively eliminates arguments that we will hear that we are trying to get rid of some terrible monopoly. The monopoly does not exist.

What we have is a United States company that is going to be severely punished as a result of this legislation.

COMSAT has represented the United States' interests in international satellite communications for 30 years. The company has played a leading role in moving toward privatization. The plans that are adopted currently by INTELSAT reflect the involvement of COMSAT.

Since its inception, COMSAT has never wavered from its mandate to provide satellite communications to some of the most remote parts of the world. It has done outstanding work. But now,

they are faced with an unprecedented legislative attack that will put this U.S. company out of business, this company that hires over 1,000 American citizens.

What does this bill do? It imposes some very un-American things on an American company. It imposes service restrictions on the new satellite communications service that COMSAT could offer to its customers. This would include high-speed data services, Internet access services, and land mobile communication; basically, taking the heart out of COMSAT's business. But even worse, it would abrogate contracts; that is, existing contracts could be set aside under the terms of this legislation to the detriment of COMSAT, all supposedly to promote privatization. In fact, this approach would undercut active efforts that are going on today to move toward privatization by imposing these unrealistic timetables.

Mr. Chairman, I think we do need to take a stand for privatization, but we need to be careful where we stand. We should not punish U.S. companies, we should not punish U.S. employees for actions by international organizations that they cannot control. We need to take a look at amendments that could help this bill, amendments we will hear about from the gentleman from Louisiana (Mr. TAUZIN) and from my colleague, the gentlewoman from Montgomery County, Maryland (Mrs. MORELLA). I think if we add these amendments, we can improve this bill. But as it stands, this bill is an unconstitutional taking from a U.S. company. It is punitive, it is unfair, and I hope this House will reject it.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. STEARNS), a member of the committee.

Mr. STEARNS. Mr. Chairman, I rise in support of H.R. 1872.

I do not think there is anybody in this House that disagrees that we have to deregulate, and I am glad that the former speaker indicated he also agrees that we need to deregulate. So the goal of this legislation is to privatize INTELSAT and Inmarsat satellite systems, of which COMSAT is the U.S. representative; and even COMSAT itself agrees that we need to deregulate.

I am glad to point out that I have worked hard to ensure that the results will be INTELSAT and Inmarsat and their spin-offs will be healthy, private companies able to compete in the competitive satellite marketplace. Working with the chairman of the committee, the gentleman from Virginia (Mr. BLILEY), we were able to improve the bill in the committee process to make it more equitable and measure up to the approach of privatizing systems.

The original text of the bill inserted a retroactive date of May 12, 1997 in certain sections of the bill and, in effect, would have hurt COMSAT from making use of the significant investments in replacement satellites and in satellites for new orbital slots which they made since May 12, 1997. We were able to compromise and used the date of our Committee on Commerce markup of March 25, 1998 as the date of cutoff for replacement satellites in orbital slots. This change will allow COMSAT, as a U.S. representative to the INTELSAT and Inmarsat system, the use of hundreds of millions of dollars in investment. I bring that to the attention of my colleagues who are not in favor of this bill, because that amendment moved forward to give more equitableness to the COMSAT deregulation portion here.

Mr. Chairman, I am also sympathetic to the comments of the gentleman from Louisiana (Mr. TAUZIN), and I welcome the debate on this about the ''fresh look'' provisions in the bill and the debate in which we will be talking about what will be raised in the amendments. I think we need to look at all of the problems and make this the best bill possible to ensure that the potential financial liability to the U.S. taxpayer is resolved.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida (Mr. DEUTSCH).

Mr. DEUTSCH. Mr. Chairman, I rise in support of this legislation. I am going to focus on two issues that several of my colleagues have raised. The first is whether or not there is an existing monopoly in satellite telecommunications internationally. The facts are, contrary to what the gentleman from Maryland (Mr. WYNN) has mentioned, I guess it is in the eyes of the beholder how we look at it, but let me talk specifically about facts.

If one is in the United States of America and he wants to make a phone call or receive video from a location overseas that is serviced through a satellite system, the only way to do it, the only way, is through COMSAT. That is a statutory monopoly that this Congress had granted and has granted and is the existing law. That is a fact; there is a statutory monopoly in terms of communications through the INTELSAT system.

There are alternative ways, but in some locations there are not. In fact, if one wants to call Africa or Asia, or if one wants to send video from Iran back to America, there is just no other alternative. So that is the first issue. There is a statutory monopoly.

Let me also respond, we are going to have several amendments on this, but I think it is going to be the heart of a lot of the debate that is going to take place this morning, the issue of whether we are abrogating contracts and what that means. Since there is an existing monopoly, that monopoly had the power to have contracts, essentially forced contracts, monopoly contractual terms on a variety of consumers throughout the United States of America. And just as has been done previously in telecommunications issues, specifically regarding when AT&T broke up in terms of long-distance service, in a monopoly situation which did exist and does exist today, when we are breaking up the monopoly, which is appropriate in terms of service and price for our economy and every citizen of the United States, we have to view how those contracts were established, and those contracts were established in a monopoly situation. So it is clearly appropriate for us to make that change which is not precedent-making, which we have done previously on several occasions in telecommunications in addressing monopoly situations.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Chairman, I rise today to commend the gentleman from Virginia (Mr. BLILEY), the chairman of the committee, and the gentleman from Massachusetts (Mr. MARKEY) for the fine work that they have done on this bill, and to urge my colleagues to support H.R. 1872.

This base bill aims to eliminate the last statutory monopoly in the U.S. telecommunications market by subjecting COMSAT to competition and taking steps to privatize INTELSAT and Inmarsat. Monopolies and organizations like international consortia may have made sense back in the 1960s when Congress first passed the Satellite Act, but they do not make sense today.

Having said that, I do think we need to examine thoroughly the Tauzin and Morella amendment. But the world has changed dramatically in the years since Congress enacted the Satellite Act. Technology and the economy have evolved to the point that it is possible for private companies to do what once we thought only governments could do.

So I rise in support of this bill.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas (Mr. GREEN).

(Mr. GREEN asked and was given permission to revise and extend his remarks.)

Mr. GREEN. Mr. Chairman, I would like to thank my good friend from Michigan, our ranking member (Mr. DINGELL) for allowing me to speak for 2 minutes.

I rise in support of H.R. 1872, the Communications Satellite Competition and Privatization Act. In committee several modifications were indicated to accommodate the concerns that I had, as well as other Members, and we believe that we have addressed the legitimate issues, and I urge my colleagues to support the bill.

I want to thank the gentleman from Virginia, (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) for addressing the issues of the maritime concerns. Mr. Chairman, I would like to ask unanimous consent to place into the RECORD a letter to the Chairman of the committee, the gentleman from Virginia (Mr. BLILEY) from the Chamber of Shipping of America in support of the bill, in support of

the changes that were made, both in the committee and in the chairman's mark.

H.R. 1872 will start the privatization of both INTELSAT and Inmarsat. These global satellite network systems help provide services such as telephoning long distance and maritime safety services. The maritime industry plays an important role in my district, particularly because of the Port of Houston.

During committee consideration, concerns were expressed about the impact of this privatization effort on maritime safety services. I am particularly concerned with the Global Maritime Distress and Safety Service which is provided by COMSAT using the Inmarsat satellite system. Currently, the GMDSS that is connected to a ship's communication systems allows a vessel to reach maritime rescue services at the push of a button. The modifications made in committee and supported by the letter that I will put into the RECORD will take positive steps to maintain and assist and improve the GMDSS.

These modifications ensure that maritime safety devices and services will always be available to our shipping industry. For example, a provision was added which clarifies that the United States will not oppose the registration of orbital locations for Inmarsat replacement satellites.

H.R. 1872 also requires the FCC to consider equipment cost and design change and design life of maritime communications equipment when making a licensing decision. This provision, added, makes sure that the maritime industry's investments in communications equipment are not rendered useless or become too costly because of competition. This bill will help increase marketplace choice, and again, I urge passage of this bill. Mr. Chairman, at this time I include for the RECORD the letter previously referred to.

CHAMBER OF SHIPPING OF AMERICA,
Washington, DC, April 29, 1998.

Hon. THOMAS J. BLILEY,
Chairman, House Commerce Committee, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN BLILEY: The purpose of this letter is to express our appreciation for your willingness to respond to our concerns outlined in our letter of February 26, 1998, with regard to the Communications Satellite Competition and Privatization Act, H.R. 1872.

As we indicated previously, our members are the end users of these systems and, as such, generally support the concept of privatization since, if properly done, will ultimately result in better service at a lower cost to the end user.

As you recall, our concerns related to continuity of service of the GMDSS and commercial maritime functions, as well as the need to mitigate substantial investments in new equipment by users who have recently made expenditures for equipment which interfaces with existing systems.

On review of the substitute bill and amendments as reported out of your Committee, we are pleased to find provisions that address our concerns, specifically as follows:

Section 601(b)(3), Clarification: Competitive Safeguards relating to the existence of non-core services at competitive rates, terms, or conditions.

Section 624 (2) and (7) relating to preservation, maintenance and improvement of the GMDSS.

Section 681(a) (11) and (21), Definitions relating to non-core services and GMDSS.

We understand these considerations to be several of many which the FCC will consider in future action. We urge you to include in the record language that reemphasizes these issues which are so critical to the continued safety of mariners worldwide and the continued reliability of the U.S. maritime industry.

Mr. Chairman, we know this has been a challenging issue for all involved and we truly appreciate your leadership in assuring the concerns of the maritime industry are adequately addressed. We look forward to continued work with you and your Committee in the future.

Sincerely,

KATHY J. METCALF,
Director, Maritime Affairs.

Mr. OXLEY. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Chairman, I want to commend the gentleman from Virginia (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) for authoring this legislation.

Two years ago we passed historic legislation that has put us well down the road towards bringing telecommunications competition to all markets within the United States. With H.R. 1872, we take another major step towards reaching the same objective in the provision of international satellite services.

As we take this step, I want to draw attention to one of the bill's most important features, a provision called ''fresh look.'' ''Fresh look'' is a tool that is intended to accelerate the transition from monopoly to competition by giving purchasers of service a window of opportunity to renegotiate long-term contracts entered into under the assumption that the seller was and would continue to be the sole provider of service. It is a tool that has been used by the Federal Communications Commission in several proceedings. It has also been used by State public utility commissions in California, Colorado, Michigan and Ohio.

□ 1130

While the ''fresh look'' tool should not be abused, it is useful when employed, as it would be under this bill, to ensure that consumers are ready to realize near-term benefits from the opening of the market to competition.

Mr. Chairman, I support the bill and most particularly the open ''fresh look'' provisions.

The CHAIRMAN pro tempore (Mr. LAHOOD). The Chair would advise both sides they each have 13 minutes remaining.

Mr. DINGELL. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I thank the gentleman from Michigan (Mr. DINGELL) very much for yielding me this time.

Mr. Chairman, in 1945, a visionary, Arthur C. Clarke, began this international space odyssey in writing an article which pointed out that by the positioning of satellites at a point over the Earth's equator, it would be possible to create an international telecommunications satellite-driven system for all the entire world.

Now, this vision of Arthur C. Clarke was one that only really began to be implemented in 1962 with the creation of INTELSAT, a government-driven organization, necessarily because of the need for the missiles to shoot the satellites up and the government contracts to construct the satellites.

However, as the years have gone by, it has become clear that private sector companies as well can compete in this marketplace, and there have been dozens of companies, many of them successful, which have begun the process of entering these marketplaces. And so now the test for American and international policymakers is to match the vision of Arthur C. Clarke with the philosophy of Adam Smith. That is roofless, Darwinian capitalism. We must ensure that we have made a full injection into this international satellite cartel of the reality that they are competing for business with other companies.

Now, America has the lead in this field. We are number one, looking over our shoulders at number two and number three. The major obstacle to us leaping out into an almost insurmountable lead is this international cartel; government-granted, government-sanctioned, and 30 years old. It is time for us to end this cartel and allow these American-based satellite companies to get out and into international markets.

Now, why is this important? It is because as this Congress has voted for NAFTA, for GATT, for the WTO, we are essentially saying as a country that we are going to allow our low-end jobs to go to Third World countries. That is what we are saying. But in turn what we are saying, quite self-confidently, is that we believe that we can capture the lion's share of the high-end jobs, the technology-based jobs, the jobs that relate to the high education in our country.

We cannot allow an international cartel to continue to wall out American companies from the marketplaces of this planet because that is where our great high-tech education-based opportunities lie.

Otherwise, we have the worst of all worlds. Our low-end jobs go as Third World countries produce these manual labor products, but we do not gain access to the markets in these countries around the world where we can market our high-end products.

This bill telescopes the time frame that it will take for America to have its companies gain access to every single country in the world with the satellite-based services, and in every one

of the service areas. That is why we bring this bill to the floor today.

And it is not to put COMSAT out of business. COMSAT will remain in business. It will remain competitive. It will remain with the capacity to enter into any one of these markets, but only at the point at which it is privatized, only at the point at which COMSAT, with INTELSAT, has given up its monopoly.

Mr. Chairman, I again thank the gentleman from Michigan (Mr. DINGELL) for the time that he has yielded to me, and I hope that this legislation passes.

Mr. OXLEY. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I thank the gentleman from Ohio (Mr. OXLEY) for yielding me this time. I appreciate the time and effort to discuss something that I find myself in agreement with.

And I congratulate the gentleman from Virginia (Chairman BLILEY) on his good works in this, and it is a pleasure for me to follow the gentleman from Massachusetts (Mr. MARKEY), my friend. It is not often that we agree, and it is great to hear the gentleman have discussions about Adam Smith.

Mr. Chairman, it is a pleasure to ask all of my colleagues to support H.R. 1872, a long overdue piece of legislation. The law we seek to amend here today is about as outdated as rotary dial telephones, and as obsolete as rabbit ears on a television set.

When the Satellite Act was written, a government-run consortium made sense. Today it simply does not. Private companies across the globe can now offer competitive, high-quality international satellite service, but only if we empower them to do so by passing this legislation, H.R. 1872, and eliminating the competitive advantages enjoyed by INTELSAT and Inmarsat.

A recent study prepared by the Satellite Users Coalition documented that passage of H.R. 1872 would produce cost savings reaching as high as $2.9 billion for the American consumers over the next 10 years. Additionally, this study went on to say and calculated that through the expected competition brought about by meaningful reform, consumers around the world could expect savings of $6.9 billion over that same period.

The most important consumer benefit, though, Mr. Chairman, however may not be the savings but rather the wealth of new innovation that competition will invariably bring to the satellite industry. More than 30 years ago, governments around the world had the best intentions when they took a risk and created an international satellite system. Back then, the goal was to push technology forward and expand the reach of the communication industry. Today it is clear that INTELSAT and Inmarsat have served their purpose.

Therefore, I urge my friends and colleagues to support H.R. 1872 and help us bring real competition to the market for satellite communications as soon as possible.

Mr. OXLEY. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, I rise in support of H.R. 1872 and commend the gentleman from Virginia (Chairman BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) for their strong leadership in bringing this issue to the floor.

There can be no doubt that the time has come for privatizing and restructuring the intergovernmental satellite organizations. While there may be some differences of opinion on the components as we move forward, there is certainly unanimity about the fact that privatization and increased competition in satellite communications are best for the marketplace and best for the consumer.

To illustrate this point, it is worth noting that a significant development has occurred since the Committee on Commerce acted on the bill. The international government organization INTELSAT, consisting of 142 member countries, agreed on March 30 of this year to move toward privatization by creating a private company separate from INTELSAT to compete in the commercial satellite marketplace. The member countries of INTELSAT, after a lengthy negotiation process heavily influenced by the United States, came to a unanimous agreement to voluntary spin off assets and create a new competitive entity.

While some may question whether this privatization effort is sufficiently procompetitive, it strongly demonstrates the recognition around the globe of the need to privatize and enhance competition in the international satellite market.

Mr. Chairman, I also believe that it clearly demonstrates the extent to which the leadership of the gentleman from Virginia (Mr. BLILEY) has garnered the attention of the industry and the markets, and for that the courage and leadership shown by the gentleman from Massachusetts (Mr. MARKEY) and the gentleman from Virginia (Mr. BLILEY) are to be commended.

Mr. Chairman, I encourage all Members to support this legislation.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. FORBES).

Mr. FORBES. Mr. Chairman, I thank the gentleman from Virginia for yielding me this time.

Mr. Chairman, I rise today in support of H.R. 1872, a much-needed measure which will provide improved and cost-effective international communications by allowing dozens of private sector companies to compete in the marketplace.

As we look to the global marketplace and we can think about the many people who have come to contribute to the greatness of this land, we know that there is a great need out there for many Americans, American consumers, to take advantage of lower cost in international communications. This measure provides for that in a different time in a different place. This measure is now greatly needed to replace the government-sponsored corporation that had a lock on this marketplace.

This is about real people needing to communicate in a cost-effective manner. Not about multinational corporations, real people who believe that this measure is long overdue: The Polish American Congress, the Hispanic Council on International Relations, the National Association of Latino and Appointed Elected Officials, the Armenian National Committee of America, the Cuban American Council, the National Council of La Raza and the Puerto Rican Legal Defense and Education Fund. These are real people who want to take advantage of lower cost communications and I urge adoption of the Bliley-Markey bill.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut (Mr. SHAYS).

(Mr. SHAYS asked and was given permission to revise and extend his remarks.)

Mr. SHAYS. Mr. Chairman, I thank the gentleman from Virginia (Mr. BLILEY) for this time, and also commend the gentleman from Massachusetts (Mr. MARKEY) for their bill and rise in strong support.

Mr. Chairman, I believe in real competition and meaningful choice, and this bill offers that.

Today the House will be considering important legislation designed to bring satellite communications technology into the modern age. I would like to commend the Chairman of the Commerce Committee, Mr. BLILEY, and his original cosponsor, Mr. MARKEY, for introducing H.R. 1872, the bill to privatize the intergovernmental satellite organizations. It has been endorsed by every private satellite services company and the major users of satellite services.

Two intergovernmental organizations dominate international satellite communications. They are called INTELSAT and Inmarsat. They are owned by a cartel like structure of all the world's state telephone companies. The same companies that control access to national markets, and thus keep out American companies that want to compete with these organizations.

H.R. 1872 privatizes the intergovernmental satellite organizations, and even more, does so in a pro-competitive manner. Now, they will never privatize pro-competitively on their own—they like either the status quo or a privatized monopoly. That is why the bill uses access to the U.S. market for advanced services as a lever to make sure they are privatized pro-competitively.

Comsat has a monopoly over sales of intergovernmental organization services in the U.S.—over 90 other countries permit competition for access to these organizations, and this bill brings us into line with the rest of the world. It also allows customers to renegotiate long-term ''take or pay'' contracts they were forced to sign by the COMSAT monopoly. Of course the monopoly wants to keep them locked in so consumers do not get the benefits of competition. But the bill, through the

very important "fresh look" provision allows customers to get the benefits of competition. I urge members to vote for the bill and oppose amendments designed to eliminate fresh look or the bills market access leverage.

Supporters of the status quo will try to divert the issue with rhetoric about takings or punishment of the monopoly, but these arguments are just a smokescreen for protecting the incumbent. Support H.R. 1872 today—reform is long overdue. Customers need lower prices, and new, American, competitors need access to foreign markets.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. DAVIS).

(Mr. DAVIS of Virginia asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Virginia. Mr. Chairman, we are dealing with a structure today that is a dinosaur and H.R. 1872 remedies that. Thirty-five years is a long time since the original act and in the communications industry it is even a longer time. And since the act was passed originally, technology, the worldwide industry structure have changed dramatically. A monopoly structure might have been required at the time to develop a global network, but today it has become a problem, a dinosaur keeping rates far above the costs and limiting the service and facility innovation that we would otherwise get.

This legislation solves that problem. It opens up the international satellite markets to facilities-based competition, and it properly restricts the activities of the international satellite organizations until this goal is well on its way.

It permits providers other than COMSAT to directly access INTELSAT and Inmarsat so that rates for end users can go down more immediately. It allows customers to take advantage of these lower rates by permitting them to renegotiate contracts agreed upon when only a monopoly existed before.

As for COMSAT and the international organizations, it allows them to move ahead in this new competitive environment so long as they operate in the best interest of a competitive marketplace.

Mr. Chairman, if we want the 21st century to be America's century, we need to continue to restructure our competitive environment so that we can compete and maintain our edge globally and this legislation does that. This opens up tremendous potential for U.S. consumers and industry. I think that it is particularly good for the end users, the consumers around the globe.

And just as we have seen in the domestic telecommunications market, competition brings lower rates, better services, and increased technological innovations.

□ 1145

The very same benefits are going to come from this important bill in the international satellite marketplace. I think it deserves the support of everyone in this Chamber.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Tennessee (Mr. TANNER).

Mr. TANNER. Mr. Chairman, I rise today in support of H.R. 1872, the Communications Satellite and Privatization Act of 1998.

I believe this legislation will speed the transformation of two international satellite governmental bodies into competitive commercial organizations. The bill will bring competition to the international satellite industry and ultimately, in my judgment, lead to lower telephone rates on long distance international calls and improved services.

Long distance companies use satellites to complete many of their calls so the rates they pay for satellite time directly affects the rates consumers pay for international calls. More to the point, our constituents who have family members and friends serving in the military, the foreign service, or simply doing business overseas, will be able to reduce their long distance bills.

When the satellite technology was in its infancy in the early 1960s, it made sense for our government and many partnering governments to get together and boost the satellite industry. Today, though, it makes sense, with so many potential competitors, to open competition within this market in an effort to speed the benefit of lower international phone bills.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi (Mr. PICKERING).

Mr. PICKERING. Mr. Chairman, I rise in support of the effort to bring competition to this very important effort in communications and satellites. In my home State of Mississippi, WorldCom, who would have believed the number one provider of Internet services would come from a rural State like Mississippi? This is what we have been trying to do since the telecommunications bill.

If we look at our efforts since 1994 to bring competition and deregulation in market after market, whether it is agriculture or telecommunications, and this is one more important area where we can make a difference by supporting this very important piece of legislation that will bring more competition, more choice, lower prices, and technology and innovation to the marketplace.

So with great honor, I rise in support of the efforts today of the gentleman from Virginia (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) and look forward to supporting this very important legislation.

Mr. DINGELL. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, this is a most remarkable piece of legislation. It is a wonderful solution. It is a wonderful solution seeking most actively for a problem. As a matter of fact, it is rushing wildly from point to point to find some problem that it can solve.

In the process, it is knocking over the crockery and going to create enormous damage for the people of this country, for American industry, and for American telecommunications industries. It also is going to create enormous problems for the taxpayers of this Nation by subjecting them to enormous liability for an unconstitutional taking under the Tucker Act.

The allegation is made that COMSAT is a monopoly. The simple fact of the matter is that within the last week, on April 24, as a matter of fact, the FCC declared that the COMSAT Corporation is a nondominant telecommunications carrier.

As reported in the Wall Street Journal, FCC has found that COMSAT does not wield market power in 130 countries where it offers telephone services, 54 countries where it transfers occasional use of video, and in all countries where it offers long-term video needs.

COMSAT has better than 20 major competitors. It is the major competitors of COMSAT who are around here whining for relief. Who are these unfortunate, penniless, downtrodden competitors of COMSAT? They are PanAmSat, and this bill has been described as a PanAmSat relief bill by Wall Street.

PanAmSat just merged with Hughes and expects, if we pass this legislation, that they are going to cut a fat hog which will be paid for by the taxpayers, because we are expropriating, by the enactment of this legislation, property which belongs to COMSAT, Loral and AT&T which just merged, poor downtrodden, barefoot telecommunications giants; and Orion and Columbia, plus a wide array of others.

There is no real problem with monopoly here. Indeed, the market share of COMSAT has been declining. Another interesting thought, COMSAT is spinning off now its satellite services in which it invested its shareholders' money. Those are going into competition.

Talk about INTELSAT. INTELSAT is not a monopoly. It has a number of other competitors who are up there providing telecommunications services. This curious piece of legislation, I want to observe, is going to have virtually no consequences in terms of real increase in competition because, first of all, the competition that we are supposed to be trying to enforce is not being imposed on U.S. companies, but rather, we are trying to impose it on other companies in other countries around the world. A most remarkable set of circumstances, to assert the long reach of the arms of the United States Congress, to impose on other countries and on their industries' deregulation, a most curious practice.

But the last thing to which I want my colleagues to devote their attention is the simple fact that under the Tucker Act, the United States Congress is here engaging in an unlawful, unconstitutional, and improper and wrongful taking of assets belonging, not to the government, and not to a

wrongdoer, but simply to a U.S. corporation, COMSAT, and also an interference in the contract rights of companies which are subscribers and purchasers of service from COMSAT.

This action alone will subject the United States to billions of dollars in lawsuits and probably billions of dollars in compensation that we will have to pay, because we have interfered with the contract rights, not just of COMSAT, but in the contract rights of people who do business with COMSAT. We have interfered in a way which diminishes the value of the stock of the stockholders and the assets of COMSAT. Apart from the fact that this is wrong, it is also something which is protected by the Constitution.

Some of my friends have said, well, the Congress reserved to itself the right to amend the statute. We always do that. But we cannot, under the Constitution, reserve to ourselves the right to take the property of an American corporation.

The Congress did this a while back. Not many of my colleagues remember the time that we passed the Penn Central reorganization. But because we took property from Penn Central, the American taxpayers wound up having to pay $6.5 billion.

Penn Central is no longer a railroad. They are a holding company. They are listed on the New York Stock Exchange. They are making fine earnings on the basis of investments that they made with the money by which the Congress mistakenly enriched them because they did an unlawful taking; and under the Tucker Act, they are able to sue.

Let us just look at some of the liabilities that we are absorbing. I asked the staff to inquire to find out what it is that we will be looking at in terms of additional liability for the taxpayers. I remind my colleagues, these are American taxpayers who are going to have to pay.

I would tell my colleagues that over $3 billion is the potential liability for INTELSAT's business. That includes revenue from restriction on additional services, direct access, and ''fresh look,'' $623 million for restriction on replacement satellites carrying noncore services and a number of other items.

In addition to that, there will be over $4 billion in liabilities potential to Inmarsat from business losses there, over $157 million from restriction on additional services, $327 million from the ''fresh look'' provisions of the legislation, and other liabilities that this Congress is assuming on behalf of a bunch of fat cats who, I reiterate, are seeking to cut a fat hog at the expense not just of COMSAT, but at the expense of the American taxpayers.

When, in a few years, my colleagues observe that a lawsuit has been filed, get a hold of our wallet and be prepared to defend what we have done today, because we will have dissipated billions of dollars of the taxpayers' assets, and we will have imposed upon the United States an extortionate, unsatisfactory, and outrageous liability for serious constitutional misbehavior and for improper taking of property belonging to American citizens.

We are not playing games. We are not playing with foreigners. We are beating American citizens for the benefit of just a few fat cats who are doing splendidly and who, in terms of their earnings and their market share, are growing at an extraordinary rate.

Ask yourself, my colleagues, is this the way that this Congress should spend the budget surplus? Do we want to dissipate money because we have done something egregiously stupid today?

Mr. Chairman, I reserve the balance of my time.

Mr. BLILEY. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Virginia (Mr. BLILEY) has 4 minutes remaining, and the gentleman from Michigan (Mr. DINGELL) has 1 minute remaining.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. COX).

Mr. COX of California. Mr. Chairman, I am pleased to rise in support of H.R. 1872, the Communications Satellite Competition and Privatization Act, which will bring a notable and lasting achievement for the current Congress.

I would particularly like to commend the work of the gentleman from Virginia (Mr. BLILEY), the chairman of the Committee on Commerce, whose diligent efforts have made it possible for us to bring this important privatization initiative to the floor. It has significant bipartisan support.

The law that we are amending today, the Satellite Communications Act, was enacted in 1962. That was less than 5 years after the launch of Sputnik. We have to remember that, at that time, it was widely assumed that no private company could ever assume the financial burden of putting a satellite into orbit.

It should not have come as a surprise, therefore, that the 1962 Satellite Communications Act gave COMSAT and INTELSAT, the intergovernmental treaty organization which COMSAT helped create, a virtual monopoly on the world's international satellite business. It remains a profitable monopoly.

We have come a long way since 1962, and the myth that no private company could afford to get in the satellite business has long since been shattered. This is the right bill. I urge support for H.R. 1872. There is no longer any defensible reason for governments to be in the business of providing commercial satellite services.

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Mr. DINGELL. Mr. Chairman, could the Chair tell us how much time is remaining?

The CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) has 1 minute remaining. The gentleman from Virginia (Mr. BLILEY) has 3 minutes remaining and the right to close.

Mr. DINGELL. Mr. Chairman, I yield back the balance of my time on the understanding the gentleman from Virginia is going to close.

I have made such good speeches, I am sure they will benefit the gentleman in his closing remarks.

Mr. BLILEY. Mr. Chairman, I yield myself the balance of my time, and the first thing I would like to do is read a list here of who is supporting this bill:

AMSC, Boeing, Columbia Communications, Constellation Communications, Echostar, Final Analysis, GE Americom, ICG Satellite Services, Iridium LLC, Loral, Leo One USA, MCHI, Motorola, Orbital Communications, Orion Network Systems, PanAmSat, Sky Station International, Stratus Mobile Networks, Teledesic, TRW Space and Electronics Group, World Space Management Corporation.

Satellite users in support of the bill: AT&T, Coalition of Service Industries, General Electric Company/NBC, MCI, Sprint, Telecommunications Industry Association, World Com.

Ethnic groups: Americans For Tax Reform, Republican National Hispanic Assembly, Armenian National Committee of America, ASPIRA, Cuban American National Council, Hispanic Council on International Relations, National Association of Latino Elected and Appointed Officials, National Council of La Raza, Polish American Congress, Puerto Rican Legal Defense Fund.

I would also like to speak about the so-called ''taking.'' This bill does not, does not, result in an unconstitutional taking of COMSAT's property. Our bill does not take COMSAT's property in its contracts. We merely give customers the right to renegotiate. This type of economic regulation is constitutional.

The FCC has used ''fresh look'' four times in the past and no one claimed takings. We are not like the Penn Central Railroad. That was track and other equipment. We do not take any of their equipment.

In 1962, Congress reserved the right to regulate satellites at any time and to change the deal. COMSAT has no reasonable expectation amounting to a property right that the regulatory regime would not be altered. The Supreme Court in 50 years has not ruled on a ''fresh look'' case. Not in 50 years.

The share of the market for international satellite-based public switch network service, voice and facsimile, 90 percent of it, is held by COMSAT and INTELSAT. AT&T, MCI and Sprint, yes, they have cables, but they have to have a contract with COMSAT for redundancy in case the cable gets severed so they do not lose their customers.

I urge all Members to resist amendments and to support the bill as reported by voice vote out of the committee.

Mr. TOWNS. Mr. Chairman, I rise today in support of H.R. 1872, the Communications

Satellite Competition and Privatization Act. This legislation will serve to create a competitive, free enterprise environment in both the domestic and international satellite marketplace.

As our global economy moves towards a more competitive marketplace, H.R. 1872 would also bring lower prices, increase competition, and spur technological innovation. Although I applaud the goals of H.R. 1872, I believe that certain provisions within the bill are misguided and punitive.

Specifically, H.R. 1872 contains restrictions that will limit the services that Comsat can offer using its satellite services. The current language provides that if certain rigid milestones are not met, Comsat would be forced to stop marketing certain services offered. If adopted, this provision would give rise to a ''takings'' claim under the Constitution, and would result in tremendous tax liabilities for consumers. As a supporter of fair and open competition, I cannot condone such punitive measures, and will support the amendment offered by the gentlelady from Maryland, Representative CONNIE MORELLA, which would permit Comsat to continue to use its property and prohibit the FCC from implementing the service restriction in a manner that would result in a government ''takings''.

H.R. 1872 also contains a provision that would severely limit Comsat's ability to engage in binding contractual agreements. Proponents of the measure argue that ''Comsat has 'locked up' the market with long-term contracts'' and, therefore, customers of Comsat should be afforded the opportunity to unilaterally breach their contracts so that they make them a ''fresh look'' at any available competitor in the marketplace. While I agree that every business should be given an opportunity to compete on a level playing field, I also believe that the stability of our global marketplace depends on maintaining fairly bargained contractual agreements. To date, there has not been any evidence to prove any anti-competitive contractual negotiations by any of the satellite companies. The strength of the U.S. economy, and even the world economy, depends on contractual stability. This overarching principle secures my support for the amendment offered by the gentleman from Louisiana, Representative BILLY TAUZIN (R–LA).

Let me be clear. I believe that H.R. 1872 will promote fair and open competition in the global satellite industry. Moreover, I believe H.R. 1872 will create jobs for all of our communities. At the end of the day, the most important question we must ask ourselves is what did we do to benefit the citizens of this great country.

Mr. Chairman, I urge my colleagues to vote Yes on the Morella and Tauzin amendments and Yes on the final passage of H.R. 1872.

Mr. DINGELL. Mr. Chairman, I would like to call my colleagues' attention to the extraordinary discrepancies between the black-letter law of the statutory text and the contents of the Committee Report. If any of my colleagues would like to know why the judiciary pays little attention to the legislative history when attempting to interpret the statutes we write, the Report to accompany this bill provides a magnificent example. The Committee Report on H.R. 1872 is as accurate a reflection of intentions of the Committee when it considered H.R. 1872 as was yesterday's Washington Post, although I think that the Post made better reading.

While this is unfortunate, and will contribute to the decline in the importance of committee reports as legislative history, I am particularly concerned about the way in which the Report treats the Committee's work with respect to proposed Section 641, and in particular those dealing with ''Direct Access.''

During the Telecommunications Subcommittee's consideration of H.R. 1872, I offered an amendment to proposed Section 641 which made significant revisions in the ''Direct Access'' provisions. After I offered and explained my amendment, it was accepted by the Chairman of the Committee and approved without dissent.

The provisions in the Committee Report do not reflect the plain text of my amendment, nor my intentions as its author.

LEGISLATIVE HISTORY OF SECTION 641

Section 641 is entitled ''Direct Access; Treatment of COMSAT at Nondominant Carrier.'' This Section requires the Commission to take those actions that may be necessary to permit providers and users of telecommunications services to obtain direct access to INTELSAT and Inmarsat telecommunication services. Section 641 also requires the Commission to act on Comsat's petition to be treated as a non-dominant carrier, and to eliminate any of its regulations on the availability of direct access to INTELSAT or Inmarsat, or to any successor entities, after a pro-competitive privatization of this intergovernmental treaty organizations (''IGOs'') is achieved consistent with this statute.

Subsection 641(1) addresses direct access to INTELSAT telecommunications service through either purchases of space segment capacity in accordance with subsection 641(1)(A) or through investment in INTELSAT in accordance with subsection 641(1)(B).

Specifically, Subsection 641(1)(A) provides that providers or users of telecommunications service may purchase space segment capacity from INTELSAT, as of January 1, 2000, if the Commission determines that (i) INTELSAT has adopted a usage charge mechanism that ensures fair compensation to INTELSAT signatories for support costs that such signatories would not otherwise be able to avoid under a direct access regime (for example, costs for insurance, administrative, and other operations and maintenance expenditures); (ii) the Commission's regulations ensure that no foreign signatory, nor any affiliate of a foreign signatory, is permitted to order space segment directly from INTELSAT in order to provide any service subject to the Commission's jurisdiction; and (iii) the Commission has in place a means to ensure that carriers will be required to pass through to end-users savings that result from the exercise of such authority.

Subsection 641(1)(B) requires that providers or users of telecommunications service may obtain direct access to INTELSAT telecommunications services through investment in INTELSAT as of January 1, 2002, if the Commission finds that such investment will be attained under procedures that assure fair compensation to INTELSAT signatories for the market value of their investments.

Subsection 641(2) addresses direct access to Inmarsat telecommunications services through either purchases of space segment capacity in accordance with subsection 641(2)(A), or through investment in Inmarsat in accordance with subsection 641(2)(B).

Specifically, subsection 641(2)(A) provides that providers or users of telecommunciations service may purchase space segment capacity from Inmarsat, as of January 1, 2000, if the Commission determines that (i) Inmarsat has adopted a usage charge mechanism that ensures fair compensation to Inmarsat signatories for support costs that such signatories would not otherwise be able to avoid under a direct access regime (for example, costs for insurance, administrative, and other operations and maintenance expenditures); (ii) the Commission's regulations ensure that no foreign signatory, nor its affiliate, is permitted to order space segment directly from Inmarsat in order to provide any service subject to the Commission's jurisdiction; and (iii) the Commission has in place a means to ensure that carriers will be required to pass through to end-users savings that result from the exercise of such authority.

Subsection 641(2)(B) requires that providers or users of telecommunications service may obtain direct access to Inmarsat telecommunications services through investment in Inmarsat as of January 1, 2001, if the Commission finds that such investment will be attained under procedures that assure fair compensation to Inmarsat signatories for the market value of their investments.

Subsection 641(3) requires the Commission to act on Comsat's petition to be treated as a non-dominant carrier for the purposes of the Commission's regulations according to the provisions of section 10 of the Communications Act of 1934 (47 U.S.C. §160).

Subsection 641(4) requires the Commission to eliminate any regulation on the availability of direct access to INTELSAT or Inmarsat or to any successor entities after a pro-competitive privatization of those intergovernmental satellite organizations is achieved.

CRITIQUE OF LEGISLATIVE HISTORY

The language contained in the Committee Report is replete with instances in which the report is substantially more punitive to Comsat than the text of the legislation adopted by the Committee. As discussed below, the portion of the Report describing Section 641 is filled with inconsistencies and descriptions of provisions that neither appear in the text nor were discussed by the Committee. Not only are there numerous internal inconsistencies, but when the description in the Report is compared with the actual text of H.R. 1872, the factual misrepresentations become apparent.

The first sentence of this portion of the Report says that: ''New sections 641(1) and 641(2) require the Commission to permit competitors to offer services through direct access to the INTELSAT and Inmarsat systems.'' The legislation requires the Commission to permit providers and users of telecommunications services to obtain telecommunications services directly for INTELSAT and Inmarsat.

The Report also states that if ''the Inmarsat Operating Agreement is terminated, former signatories, including COMSAT for the provision of services in the United States, should not be the exclusive distributors of Inmarsat services.'' The Report continues: ''the U.S. Administration and the Commission should, in the public interest, ensure that any Inmarsat privatization plan includes direct access until full privatization is fully implemented.'' Neither of these provisions are contained in the text of the bill, nor were they discussed when my amendment was accepted.

In its description of sections 641(1)(A)(i) through (iii), the Report again misrepresents the requirements of the statute. First, the Report states that these sections ''describe the circumstances which the Commission should determine are present when the Commission implements direct access through

purchases of space segment capacity from INTELSAT.'' First, the provisions of the bill do not require the Commission to implement direct access. Rather, the bill requires the Commission to ensure that it is possible for carriers and users to obtain direct access. Additionally, this statement suggests that the Commission's analysis will be conducted simultaneously with the occurrence of direct access, when in fact the plain language of the legislative text requires that the Commission determine if the conditions set forth in sections 641(1)(A)(i) through (iii) are met prior to permitting direct access.

The Report's description of the conditions for ensuring direct access is possible is also inaccurate. In particular, sections 641(1)(A)(ii) and (2)(A)(ii) require that no foreign signatory or its affiliate are permitted to provide INTELSAT or Inmarsat services from the United States. The text of the Report incorrectly limits this condition to foreign signatories. Moreover, the Report claims that sections 641(1)(A)(iii) and (2)(A)(iii) require the Commission to ensure that carriers pass savings through to end-users. The statute, however, requires only that the Commission have ''in place a means to ensure'' that carriers will be required to pass savings through to end-users.

The description of sections 641(1)(A)(i) and (2)(A)(i) also diverges from the text of the bill. In particular, the text of H.R. 1872 does not contain the limitations on ''unavoided costs'' that the Report suggests. For example, the Report provides that ''the only costs covered by this section are those unavoidable signatory expenses in excess of all payments to signatories from the IGOs.'' This limitation is not present in the legislative text. Rather, the text of H.R. 1872 only refers to ''support costs that such signatories would not otherwise be able to avoid . . .'' Moreover, the Report states that: ''If such costs are in excess of or not covered by the IUC or by other payments to INTELSAT or Inmarsat, then this section shall be satisfied if INTELSAT or Inmarsat has in place or create a mechanism or other methodology or legal regime which permits (or does not preclude) parties . . . to adopt means to ensure that such unavoidable, excess signatory costs are covered by payments from other direct access providers or otherwise covered or fairly compensated.'' Again, there is no such provision in the statute.

The Report contains a requirement that the Commission implement new subsections 641(1)(a)(ii) and 2(a)(ii) in a manner consistent with U.S. obligations in World Trade Organization (''WTO'') and to consult with Executive Branch agencies in this regard. Again, the text of the statute contains no such provision. Moreover, direct access itself appears to be inconsistent with the United States' Schedule of Specific Commitments agreed to in the WTO Basic Telecom Agreement.

In particular, the U.S. Schedule of Specific Commitments limits, *inter alia,* direct access to INTELSAT and Inmarsat to Comsat, the U.S. Signatory to those IGOs, for the provision of basic telecommunications services. As the Commission noted in implementing the WTO, this Schedule makes no distinction with respect to international service and U.S. domestic services. Rather, it maintains access to INTELSAT and Inmarsat satellites through Comsat for the provision of any service, domestic or international. Thus, any action by the U.S. Government permitting carriers to have direct access to space segment from INTELSAT will conflict with this Schedule of Specific Commitments because it will permit carriers to circumvent Comsat.

In describing subsections 641(1)(A)(iii) and (2)(A)(iii), the Report states that: ''The Committee does not intend for the Commission to implement any form of carrier regulation or reporting requirement that would reinstate or be tantamount to dominant carrier regulation on carriers found to be non-dominant before the Committee's consideration of H.R. 1872 . . . [however] [t]he foregoing sentence does not apply to COMSAT . . .'' This provision penalizes Comsat by name even in those markets where the Commission has determined it is non-dominant. Needless to say, there is no basis for the provision contained in the Committee Report, either in the text of the legislation or in the Committee debate when the provision was adopted.

In its description of subsections 641(1)(A)(iii) and (2)(A)(iii), the Report states that the requirement that the Commission has in place a means to ensure that carriers will be required to pass through to end-users savings that result from the exercise of direct access authority will be met ''if the Commission finds that competition resulting from direct access will result in savings to consumers over what they might pay in the absence of direct access.'' Thus, if one were to rely on the description in the Report one would assume that the Commission has an affirmative obligation to undertake an analysis of whether competition will result in savings to consumers. By contrast, the text of the legislation requires only that the Commission have a means in place to ensure that cost savings are passed on to end users. Once again, the text of the bill contradicts the description of that provision in the Report.

Finally, the Report describes subsection 641(4) as requiring ''the Commission to sunset any regulation providing for direct access to INTELSAT or Inmarsat when these organizations fully privatize . . . ''It is unclear how the Commission would ''sunset'' a regulation. Actually, the statute requires the Commission to ''eliminate'' any regulation on the availability of direct access. Moreover, the Report limits the scope of this provision to INTELSAT and Inmarsat and neglects the fact that ''any successor entities'' of INTELSAT and Inmarsat are included in the statute.

The legislative history contained in this Committee Report constitutes a monument to those who would dismiss committee reports as legitimate expressions of Congressional intent. This legislative history is fraught with factual inconsistencies and would lead even the staunchest defender of statutory construction to cringe. It is a blatant attempt to rewrite a bill through its legislative history. As a member of Congress, I am, quite frankly, offended by this, although I cannot say that I am surprised by it. We should aspire to have as our legacy statutes of major importance that speak to the public in plain and ordinary terms. As an integral part of those statutes, the legislative history should enhance, not attempt to redefine, the fruits of our efforts. As the Supreme Court has held: ''In ascertaining the meaning of a statute, a court cannot, in the manner of Sherlock Holmes, pursue the theory of the dog that did not bark.'' See *Harrison* v. *PPG Industries, Inc.,* 446 U.S. 578, 592, 64 L.Ed. 2d 525, 100 S. Ct. 1889 (1980).

Ms. DELAURO. Mr. Chairman, I rise in support of the Communications Satellite Competition and Privatization Act.

This bill will privatize the two Intergovernmental Satellite Organizations, Intelsat and Inmarsat—opening the international satellite market to the wide range of American firms eager to compete in it. American ideas and ingenuity have made this country great. It is our responsibility, as members of Congress, to encourage these values, not stifle them.

Passage of this bill also will represent a victory for average American consumers. Privatization of this market will save consumers as much as $2.9 billion over the next decade. At a time when American men and women work hard every day to find new ways to make ends meet for their families, it is essential that we help them in their search.

We need a modern satellite market that provides America and the world with high-quality products at affordable prices. We need to continue to encourage the hard work and innovation that has made this nation a world leader. Support the Communications Satellite Competition and Privatization Act.

Mr. WATTS of Oklahoma. Mr. Chairman, I rise in support of H.R. 1872, the Communications Satellite Competition and Privatization Act of 1998. In 1962, the U.S. became part of the international satellite communications organizations. These monopoly organizations are a relic of an earlier time when there were only a few network television stations and rotary phones were the norm. The telecommunications industry changes rapidly each year and we are over a generation away from 1962.

It was not too long ago that cellular phones were cutting edge technology and the Internet was used exclusively by university professors. Now millions of Americans are enjoying these telecommunications services as markets are deregulated in this country. H.R. 1872 continues this trend which will potentially create thousands of new jobs, save U.S. consumers billions of dollars, and create new markets for U.S. businesses.

I commend the work of Commerce Committee Chairman TOM BLILEY and Congressman MARKEY for their work in crafting this important bi-partisan bill.

Mr. ADERHOLT. Mr. Chairman, I rise today in support of H.R. 1872 which would open the international satellite market to full competition and encourage the long-overdue privatization of Intelsat and Inmarsat.

H.R. 1872 is a good bill, and it has been endorsed by a wide variety of concerned citizen groups, including Americans for Tax Reform, which notes that ''this bill will lower the costs of satellite communications to government—money that would otherwise come out of the pockets of hard-working Americans.''

And if saving the American taxpayer money is not in and of itself sufficient reason to vote for H.R. 1872, Americans for Tax Reform also correctly notes that we should be trying to expand the reach of the free market, not letting United Nations-like organizations and state-owned foreign telephone companies keep U.S. firms from gaining access to foreign markets. H.R. 1872 would solve these problems and get the government out of the way so that America's telecommunications and aerospace industries can provide new and innovative services to consumers around the world.

I urge my colleagues to join me in supporting H.R. 1872.

Mr. DAVIS of Florida. Mr. Chairman, as a co-sponsor of this important legislation, I rise today in strong support for H.R. 1872, the Communications Satellite Competition and Privatization Act. In short, this bill will reform our 1960's era satellite telecommunications policy and promote competition in satellite services and technology.

Over thirty-five years ago, when Congress passed the 1962 Communications Satellite

Act, it was believed that only governments could finance and manage a global satellite system. Today, the rapid advances and growth within the telecommunications industry far surpass anything we could have imagined in the early 1960's. Today, there is no longer a need for a privileged international organization to provide satellite communications services in competition with private commercial services. Passage of this legislation will break up the last lawful telecommunications monopoly in the United States and bring greater competition, innovation, and efficiency to the international satellite industry.

This bill embodies the belief that open competitive markets will result in greater benefits to the industry, the economy, and most importantly, the consumers. While over 85 other nations have allowed direct access to INTELSAT and Inmarsat services, the United States market remains monopolized by COMSAT. The result is that U.S. satellite consumers pay inflated prices. A recent study showed that the privatization called for under H.R. 1872 would save consumers $2.9 billion over the next ten years. Furthermore, this legislation will save U.S., taxpayers $700 million by cutting the costs of government communications.

Mr. Chairman, the bill before us today will finally bring satellite communications policy into the modern era. It recognizes that the current system distorts the marketplace and takes reasonable and modest steps to ensure competition bringing lower prices and higher quality services for satellite users. This bill is good for consumers, good for businesses and workers, and good for the United States taxpayer. I urge all of my colleagues to support H.R. 1872.

Mr. HASTERT. Mr. Chairman, we all know satellite technology is moving at light-year speed, and that our manufacturers are the best in the world. However, the 30-year-old law under which they operate needs to be updated for the twenty-first century.

Private companies like Motorola, PanAmSat and Teledesic are planning ventures that would have been unthinkable three decades ago. Consider Motorola for a moment—Its network of more than 60 satellites, known as Iridium, will soon begin providing voice and paging services. Further down the road is its proposal to complete a network of more than 70 satellites, known as Celestri, in order to provide high-speed data and video services worldwide.

Mr. Chairman, I believe the effect of this legislation will be a boon to consumers as they benefit from the increased efficiency and lower costs that competition brings. Although IntelSat and InMarSat have served us well, we all know it's time for these organizations to join other cold war relics on the scrap heap of history.

Mr. LUCAS of Oklahoma. Mr. Chairman, I rise today in support of H.R. 1872, the Communications Satellite Competition and Privatization Act of 1998.

When Congress set up a satellite monopoly with the Satellite Act of 1962, few people could imagine a day when you could warm up dinner in 60 seconds with a microwave or put a plastic card into an automatic teller machine to get money 24 hours a day. And Congress did not think that private industry could afford to put satellites up into space. With that 1960's logic, Congress created a satellite monopoly to ensure the United States would not be left behind.

Clearly, my friends, times have changed since then, and now we have many private businesses that are ready to invest in the satellite industry. In short, the private sector is ready for competition in this industry. But the major roadblock to competition is an outdated Federal law that needs to be brought into the 1990's and bridge us to next Millennium. That's why I'm supporting H.R. 1872, a bill that breaks down decades old barriers to competition by eliminating the bottleneck that has kept satellite rates artificially high. It's time for government to get out of the way and let competition brings its benefits of lower rates and enhanced technology to the satellite industry.

Mr. BLILEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment under the 5-minute rule and is considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 1872

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Communications Satellite Competition and Privatization Act of 1998''.

SEC. 2. PURPOSE.

It is the purpose of this Act to promote a fully competitive global market for satellite communication services for the benefit of consumers and providers of satellite services and equipment by fully privatizing the intergovernmental satellite organizations, INTELSAT and Inmarsat.

SEC. 3. REVISION OF COMMUNICATIONS SATELLITE ACT OF 1962.

The Communications Satellite Act of 1962 (47 U.S.C. 101) is amended by adding at the end the following new title:

''TITLE VI—COMMUNICATIONS COMPETITION AND PRIVATIZATION

''Subtitle A—Actions To Ensure Procompetitive Privatization

''SEC. 601. FEDERAL COMMUNICATIONS COMMISSION LICENSING.

''(a) LICENSING FOR SEPARATED ENTITIES.—

''(1) COMPETITION TEST.—The Commission may not issue a license or construction permit to any separated entity, or renew or permit the assignment or use of any such license or permit, or authorize the use by any entity subject to United States jurisdiction of any space segment owned, leased, or operated by any separated entity, unless the Commission determines that such issuance, renewal, assignment, or use will not harm competition in the telecommunications market of the United States. If the Commission does not make such a determination, it shall deny or revoke authority to use space segment owned, leased, or operated by the separated entity to provide services to, from, or within the United States.

''(2) CRITERIA FOR COMPETITION TEST.—In making the determination required by paragraph (1), the Commission shall use the licensing criteria in sections 621 and 623, and shall not make such a determination unless the Commission determines that the privatization of any separated entity is consistent with such criteria.

''(b) LICENSING FOR INTELSAT, INMARSAT, AND SUCCESSOR ENTITIES.—

''(1) COMPETITION TEST.—The Commission shall substantially limit, deny, or revoke the authority for any entity subject to United States jurisdiction to use space segment owned, leased, or operated by INTELSAT or Inmarsat or any successor entities to provide non-core services to, from, or within the United States, unless the Commission determines—

''(A) after January 1, 2002, in the case of INTELSAT and its successor entities, that INTELSAT and any successor entities have been privatized in a manner that will not harm competition in the telecommunications markets of the United States; or

''(B) after January 1, 2001, in the case of Inmarsat and its successor entities, that Inmarsat and any successor entities have been privatized in a manner that will not harm competition in the telecommunications markets of the United States.

''(2) CRITERIA FOR COMPETITION TEST.—In making the determination required by paragraph (1), the Commission shall use the licensing criteria in sections 621, 622, and 624, and shall not make such a determination unless the Commission determines that such privatization is consistent with such criteria.

''(3) CLARIFICATION: COMPETITIVE SAFEGUARDS.—In making its licensing decisions under this subsection, the Commission shall consider whether users of non-core services provided by INTELSAT or Inmarsat or successor or separated entities are able to obtain non-core services from providers offering services other than through INTELSAT or Inmarsat or successor or separated entities, at competitive rates, terms, or conditions. Such consideration shall also include whether such licensing decisions would require users to replace equipment at substantial costs prior to the termination of its design life. In making its licensing decisions, the Commission shall also consider whether competitive alternatives in individual markets do not exist because they have been foreclosed due to anticompetitive actions undertaken by or resulting from the INTELSAT or Inmarsat systems. Such licensing decisions shall be made in a manner which facilitates achieving the purposes and goals in this title and shall be subject to notice and comment.

''(c) ADDITIONAL CONSIDERATIONS IN DETERMINATIONS.—In making its determinations and licensing decisions under subsections (a) and (b), the Commission shall take into consideration the United States obligations and commitments for satellite services under the Fourth Protocol to the General Agreement on Trade in Services.

''(d) INDEPENDENT FACILITIES COMPETITION.—Nothing in this section shall be construed as precluding COMSAT from investing in or owning satellites or other facilities independent from INTELSAT and Inmarsat, and successor or separated entities, or from providing services through reselling capacity over the facilities of satellite systems independent from INTELSAT and Inmarsat, and successor or separated entities. This subsection shall not be construed as restricting the types of contracts which can be executed or services which may be provided by COMSAT over the independent satellites or facilities described in this subsection.

''SEC. 602. INTELSAT OR INMARSAT ORBITAL LOCATIONS.

''(a) REQUIRED ACTIONS.—Unless, in a proceeding under section 601(b), the Commission determines that INTELSAT or Inmarsat have been privatized in a manner that will not harm competition, then—

''(1) the President shall oppose, and the Commission shall not assist, any registration for new orbital locations for INTELSAT or Inmarsat—

''(A) with respect to INTELSAT, after January 1, 2002, and

''(B) with respect to Inmarsat, after January 1, 2001, and

''(2) the President and Commission shall, consistent with the deadlines in paragraph (1), take all other necessary measures to preclude procurement, registration, development, or use of

new satellites which would provide non-core services.

''(b) EXCEPTION.—

''(1) REPLACEMENT AND PREVIOUSLY CONTRACTED SATELLITES.—Subsection (a) shall not apply to—

''(A) orbital locations for replacement satellites (as described in section 622(2)(B)), and

''(B) orbital locations for satellites that are contracted for as of March 25, 1998, if such satellites do not provide additional services.

''(2) LIMITATION ON EXCEPTION.—Paragraph (1) is available only with respect to satellites designed to provide services solely in the C and Ku, for INTELSAT, and L, for Inmarsat, bands.

''SEC. 603. ADDITIONAL SERVICES AUTHORIZED.

''(a) SERVICES AUTHORIZED DURING CONTINUED PROGRESS.—

''(1) CONTINUED AUTHORIZATION.—The Commission may issue an authorization, license, or permit to, or renew the license or permit of, any provider of services using INTELSAT or Inmarsat space segment, or authorize the use of such space segment, for additional services (including additional applications of existing services) or additional areas of business, subject to the requirements of this section.

''(2) ADDITIONAL SERVICES PERMITTED UNDER NEW CONTRACTS UNLESS PROGRESS FAILS.—If the Commission makes a finding under subsection (b) that conditions required by such subsection have not been attained, the Commission may not, pursuant to paragraph (1), permit such additional services to be provided directly or indirectly under new contracts for the use of INTELSAT or Inmarsat space segment, unless and until the Commission subsequently makes a finding under such subsection that such conditions have been attained.

''(3) PREVENTION OF EVASION.—The Commission shall, by rule, prescribe means reasonably designed to prevent evasions of the limitations contained in paragraph (2) by customers who did not use specific additional services as of the date of the Commission's most recent finding under subsection (b) that the conditions of such subsection have not been obtained.

''(b) REQUIREMENTS FOR ANNUAL FINDINGS.—

''(1) GENERAL REQUIREMENTS.—The findings required under this subsection shall be made, after notice and comment, on or before January 1 of 1999, 2000, 2001, and 2002. The Commission shall find that the conditions required by this subsection have been attained only if the Commission finds that—

''(A) substantial and material progress has been made during the preceding period at a rate and manner that is probable to result in achieving pro-competitive privatizations in accordance with the requirements of this title; and

''(B) neither INTELSAT nor Inmarsat are hindering competitors' or potential competitors' access to the satellite services marketplace.

''(2) FIRST FINDING.—In making the finding required to be made on or before January 1, 1999, the Commission shall not find that the conditions required by this subsection have been attained unless the Commission finds that—

''(A) COMSAT has submitted to the INTELSAT Board of Governors a resolution calling for the pro-competitive privatization of INTELSAT in accordance with the requirements of this title; and

''(B) the United States has submitted such resolution at the first INTELSAT Assembly of Parties meeting that takes place after such date of enactment.

''(3) SECOND FINDING.—In making the finding required to be made on or before January 1, 2000, the Commission shall not find that the conditions required by this subsection have been attained unless the INTELSAT Assembly of Parties has created a working party to consider and make recommendations for the pro-competitive privatization of INTELSAT consistent with such resolution.

''(4) THIRD FINDING.—In making the finding required to be made on or before January 1, 2001, the Commission shall not find that the conditions required by this subsection have been attained unless the INTELSAT Assembly of Parties has approved a recommendation for the pro-competitive privatization of INTELSAT in accordance with the requirements of this title.

''(5) FOURTH FINDING.—In making the finding required to be made on or before January 1, 2002, the Commission shall not find that the conditions required by this subsection have been attained unless the pro-competitive privatization of INTELSAT in accordance with the requirements of this title has been achieved by such date.

''(6) CRITERIA FOR EVALUATION OF HINDERING ACCESS.—The Commission shall not make a determination under paragraph (1)(B) unless the Commission determines that INTELSAT and Inmarsat are not in any way impairing, delaying, or denying access to national markets or orbital locations.

''(c) EXCEPTION FOR SERVICES UNDER EXISTING CONTRACTS IF PROGRESS NOT MADE.—This section shall not preclude INTELSAT or Inmarsat or any signatory thereof from continuing to provide additional services under an agreement with any third party entered into prior to any finding under subsection (b) that the conditions of such subsection have not been attained.

''Subtitle B—Federal Communications Commission Licensing Criteria: Privatization Criteria

''SEC. 621. GENERAL CRITERIA TO ENSURE A PRO-COMPETITIVE PRIVATIZATION OF INTELSAT AND INMARSAT.

''The President and the Commission shall secure a pro-competitive privatization of INTELSAT and Inmarsat that meets the criteria set forth in this section and sections 622 through 624. In securing such privatizations, the following criteria shall be applied as licensing criteria for purposes of subtitle A:

''(1) DATES FOR PRIVATIZATION.—Privatization shall be obtained in accordance with the criteria of this title of—

''(A) INTELSAT as soon as practicable, but no later than January 1, 2002, and

''(B) Inmarsat as soon as practicable, but no later than January 1, 2001.

''(2) INDEPENDENCE.—The successor entities and separated entities of INTELSAT and Inmarsat resulting from the privatization obtained pursuant to paragraph (1) shall—

''(A) be entities that are national corporations; and

''(B) have ownership and management that is independent of—

''(i) any signatories or former signatories that control access to national telecommunications markets; and

''(ii) any intergovernmental organization remaining after the privatization.

''(3) TERMINATION OF PRIVILEGES AND IMMUNITIES.—The preferential treatment of INTELSAT and Inmarsat shall not be extended to any successor entity or separated entity of INTELSAT or Inmarsat. Such preferential treatment includes—

''(A) privileged or immune treatment by national governments;

''(B) privileges or immunities or other competitive advantages of the type accorded INTELSAT and Inmarsat and their signatories through the terms and operation of the INTELSAT Agreement and the associated Headquarters Agreement and the Inmarsat Convention; and

''(C) preferential access to orbital locations, including any access to orbital locations that is not subject to the legal or regulatory processes of a national government that applies due diligence requirements intended to prevent the warehousing of orbital locations.

''(4) PREVENTION OF EXPANSION DURING TRANSITION.—During the transition period prior to full privatization, INTELSAT and Inmarsat shall be precluded from expanding into additional services (including additional applications of existing services) or additional areas of business.

''(5) CONVERSION TO STOCK CORPORATIONS.—Any successor entity or separated entity created out of INTELSAT or Inmarsat shall be a national corporation established through the execution of an initial public offering as follows:

''(A) Any successor entities and separated entities shall be incorporated as private corporations subject to the laws of the nation in which incorporated.

''(B) An initial public offering of securities of any successor entity or separated entity shall be conducted no later than—

''(i) January 1, 2001, for the successor entities of INTELSAT; and

''(ii) January 1, 2000, for the successor entities of Inmarsat.

''(C) The shares of any successor entities and separated entities shall be listed for trading on one or more major stock exchanges with transparent and effective securities regulation.

''(D) A majority of the board of directors of any successor entity or separated entity shall not be subject to selection or appointment by, or otherwise serve as representatives of—

''(i) any signatory or former signatory that controls access to national telecommunications markets; or

''(ii) any intergovernmental organization remaining after the privatization.

''(E) Any transactions or other relationships between or among any successor entity, separated entity, INTELSAT, or Inmarsat shall be conducted on an arm's length basis.

''(6) REGULATORY TREATMENT.—Any successor entity or separated entity shall apply through the appropriate national licensing authorities for international frequency assignments and associated orbital registrations for all satellites.

''(7) COMPETITION POLICIES IN DOMICILIARY COUNTRY.—Any successor entity or separated entity shall be incorporated and headquartered in a nation or nations that—

''(A) have effective laws and regulations that secure competition in telecommunications services;

''(B) are signatories of the World Trade Organization Basic Telecommunications Services Agreement; and

''(C) have a schedule of commitments in such Agreement that includes non-discriminatory market access to their satellite markets.

''(8) RETURN OF UNUSED ORBITAL LOCATIONS.—INTELSAT, Inmarsat, and any successor entities and separated entities shall not be permitted to warehouse any orbital location that—

''(A) as of March 25, 1998, did not contain a satellite that was providing commercial services, or, subsequent to such date, ceased to contain a satellite providing commercial services; or

''(B) as of March 25, 1998, was not designated in INTELSAT or Inmarsat operational plans for satellites for which construction contracts had been executed.

Any such orbital location of INTELSAT or Inmarsat and of any successor entities and separated entities shall be returned to the International Telecommunication Union for reallocation.

''(9) APPRAISAL OF ASSETS.—Before any transfer of assets by INTELSAT or Inmarsat to any successor entity or separated entity, such assets shall be independently audited for purposes of appraisal, at both book and fair market value.

''(10) LIMITATION ON INVESTMENT.—Notwithstanding the provisions of this title, COMSAT shall not be authorized by the Commission to invest in a satellite known as K–TV, unless Congress authorizes such investment.

''SEC. 622. SPECIFIC CRITERIA FOR INTELSAT.

''In securing the privatizations required by section 621, the following additional criteria with respect to INTELSAT privatization shall be applied as licensing criteria for purposes of subtitle A:

''(1) NUMBER OF COMPETITORS.—The number of competitors in the markets served by INTELSAT, including the number of competitors created out of INTELSAT, shall be sufficient to create a fully competitive market.

''(2) PREVENTION OF EXPANSION DURING TRANSITION.—

''(A) IN GENERAL.—Pending privatization in accordance with the criteria in this title, INTELSAT shall not expand by receiving additional orbital locations, placing new satellites in existing locations, or procuring new or additional satellites except as permitted by subparagraph (B), and the United States shall oppose such expansion—

''(i) in INTELSAT, including at the Assembly of Parties,

''(ii) in the International Telecommunication Union,

''(iii) through United States instructions to COMSAT,

''(iv) in the Commission, through declining to facilitate the registration of additional orbital locations or the provision of additional services (including additional applications of existing services) or additional areas of business; and

''(v) in other appropriate fora.

''(B) EXCEPTION FOR CERTAIN REPLACEMENT SATELLITES.—The limitations in subparagraph (A) shall not apply to any replacement satellites if—

''(i) such replacement satellite is used solely to provide public-switched network voice telephony or occasional-use television services, or both;

''(ii) such replacement satellite is procured pursuant to a construction contract that was executed on or before March 25, 1998; and

''(iii) construction of such replacement satellite commences on or before the final date for INTELSAT privatization set forth in section 621(1)(A).

''(3) TECHNICAL COORDINATION AMONG SIGNATORIES.—Technical coordination shall not be used to impair competition or competitors, and coordination under Article XIV(d) of the INTELSAT Agreement shall be eliminated.

''SEC. 623. SPECIFIC CRITERIA FOR INTELSAT SEPARATED ENTITIES.

''In securing the privatizations required by section 621, the following additional criteria with respect to any INTELSAT separated entity shall be applied as licensing criteria for purposes of subtitle A:

''(1) DATE FOR PUBLIC OFFERING.—Within one year after any decision to create any separated entity, a public offering of the securities of such entity shall be conducted.

''(2) PRIVILEGES AND IMMUNITIES.—The privileges and immunities of INTELSAT and its signatories shall be waived with respect to any transactions with any separated entity, and any limitations on private causes of action that would otherwise generally be permitted against any separated entity shall be eliminated.

''(3) INTERLOCKING DIRECTORATES OR EMPLOYEES.—None of the officers, directors, or employees of any separated entity shall be individuals who are officers, directors, or employees of INTELSAT.

''(4) SPECTRUM ASSIGNMENTS.—After the initial transfer which may accompany the creation of a separated entity, the portions of the electromagnetic spectrum assigned as of the date of enactment of this title to INTELSAT shall not be transferred between INTELSAT and any separated entity.

''(5) REAFFILIATION PROHIBITED.—Any merger or ownership or management ties or exclusive arrangements between a privatized INTELSAT or any successor entity and any separated entity shall be prohibited until 15 years after the completion of INTELSAT privatization under this title.

''SEC. 624. SPECIFIC CRITERIA FOR INMARSAT.

''In securing the privatizations required by section 621, the following additional criteria with respect to Inmarsat privatization shall be applied as licensing criteria for purposes of subtitle A:

''(1) MULTIPLE SIGNATORIES AND DIRECT ACCESS.—Multiple signatories and direct access to Inmarsat shall be permitted.

''(2) PREVENTION OF EXPANSION DURING TRANSITION.—Pending privatization in accordance with the criteria in this title, Inmarsat should not expand by receiving additional orbital locations, placing new satellites in existing locations, or procuring new or additional satellites, except for specified replacement satellites for which construction contracts have been executed as of March 25, 1998, and the United States shall oppose such expansion—

''(A) in Inmarsat, including at the Council and Assembly of Parties,

''(B) in the International Telecommunication Union,

''(C) through United States instructions to COMSAT,

''(D) in the Commission, through declining to facilitate the registration of additional orbital locations or the provision of additional services (including additional applications of existing services) or additional areas of business, and

''(E) in other appropriate fora.

This paragraph shall not be construed as limiting the maintenance, assistance or improvement of the GMDSS.

''(3) NUMBER OF COMPETITORS.—The number of competitors in the markets served by Inmarsat, including the number of competitors created out of Inmarsat, shall be sufficient to create a fully competitive market.

''(4) REAFFILIATION PROHIBITED.—Any merger or ownership or management ties or exclusive arrangements between Inmarsat or any successor entity or separated entity and ICO shall be prohibited until 15 years after the completion of Inmarsat privatization under this title.

''(5) INTERLOCKING DIRECTORATES OR EMPLOYEES.—None of the officers, directors, or employees of Inmarsat or any successor entity or separated entity shall be individuals who are officers, directors, or employees of ICO.

''(6) SPECTRUM ASSIGNMENTS.—The portions of the electromagnetic spectrum assigned as of the date of enactment of this title to Inmarsat—

''(A) shall, after January 1, 2006, or the date on which the life of the current generation of Inmarsat satellites ends, whichever is later, be made available for assignment to all systems (including the privatized Inmarsat) on a nondiscriminatory basis and in a manner in which continued availability of the GMDSS is provided; and

''(B) shall not be transferred between Inmarsat and ICO.

''(7) PRESERVATION OF THE GMDSS.—The United States shall seek to preserve space segment capacity of the GMDSS.

''SEC. 625. ENCOURAGING MARKET ACCESS AND PRIVATIZATION.

''(a) NTIA DETERMINATION.—

''(1) DETERMINATION REQUIRED.—Within 180 days after the date of enactment of this section, the Secretary of Commerce shall, through the Assistant Secretary for Communications and Information, transmit to the Commission—

''(A) a list of Member countries of INTELSAT and Inmarsat that are not Members of the World Trade Organization and that impose barriers to market access for private satellite systems; and

''(B) a list of Member countries of INTELSAT and Inmarsat that are not Members of the World Trade Organization and that are not supporting pro-competitive privatization of INTELSAT and Inmarsat.

''(2) CONSULTATION.—The Secretary's determinations under paragraph (1) shall be made in consultation with the Federal Communications Commission, the Secretary of State, and the United States Trade Representative, and shall take into account the totality of a country's actions in all relevant fora, including the Assemblies of Parties of INTELSAT and Inmarsat.

''(b) IMPOSITION OF COST-BASED SETTLEMENT RATE.—Notwithstanding—

''(1) any higher settlement rate that an overseas carrier charges any United States carrier to originate or terminate international message telephone services, and

''(2) any transition period that would otherwise apply,

the Commission may by rule prohibit United States carriers from paying an amount in excess of a cost-based settlement rate to overseas carriers in countries listed by the Commission pursuant to subsection (a).

''(c) SETTLEMENTS POLICY.—The Commission shall, in exercising its authority to establish settlements rates for United States international common carriers, seek to advance United States policy in favor of cost-based settlements in all relevant fora on international telecommunications policy, including in meetings with parties and signatories of INTELSAT and Inmarsat.

''Subtitle C—Deregulation and Other Statutory Changes

''SEC. 641. DIRECT ACCESS; TREATMENT OF COMSAT AS NONDOMINANT CARRIER.

''The Commission shall take such actions as may be necessary—

''(1) to permit providers or users of telecommunications services to obtain direct access to INTELSAT telecommunications services—

''(A) through purchases of space segment capacity from INTELSAT as of January 1, 2000, if the Commission determines that—

''(i) INTELSAT has adopted a usage charge mechanism that ensures fair compensation to INTELSAT signatories for support costs that such signatories would not otherwise be able to avoid under a direct access regime, such as insurance, administrative, and other operations and maintenance expenditures;

''(ii) the Commission's regulations ensure that no foreign signatory, nor any affiliate thereof, shall be permitted to order space segment directly from INTELSAT in order to provide any service subject to the Commission's jurisdiction;

''(iii) the Commission has in place a means to ensure that carriers will be required to pass through to end-users savings that result from the exercise of such authority;

''(B) through investment in INTELSAT as of January 1, 2002, if the Commission determines that such investment will be attained under procedures that assure fair compensation to INTELSAT signatories for the market value of their investments;

''(2) to permit providers or users of telecommunications services to obtain direct access to Inmarsat telecommunications services—

''(A) through purchases of space segment capacity from Inmarsat as of January 1, 2000, if the Commission determines that—

''(i) Inmarsat has adopted a usage charge mechanism that ensures fair compensation to Inmarsat signatories for support costs that such signatories would not otherwise be able to avoid under a direct access regime, such as insurance, administrative, and other operations and maintenance expenditures;

''(ii) the Commission's regulations ensure that no foreign signatory, nor any affiliate thereof, shall be permitted to order space segment directly from Inmarsat in order to provide any service subject to the Commission's jurisdiction;

''(iii) the Commission has in place a means to ensure that carriers will be required to pass through to end-users savings that result from the exercise of such authority; and

''(B) through investment in Inmarsat as of January 1, 2001, if the Commission determines that such investment will be attained under procedures that assure fair compensation to Inmarsat signatories for the market value of their investments;

''(3) to act on COMSAT's petition to be treated as a nondominant carrier for the purposes of the Commission's regulations according to the

provisions of section 10 of the Communications Act of 1934 (47 U.S.C. 160); and

''(4) to eliminate any regulation on the availability of direct access to INTELSAT or Inmarsat or to any successor entities after a pro-competitive privatization is achieved consistent with sections 621, 622 and 624.

''SEC. 642. TERMINATION OF MONOPOLY STATUS.

''(a) RENEGOTIATION OF MONOPOLY CONTRACTS PERMITTED.—The Commission shall, beginning January 1, 2000, permit users or providers of telecommunications services that previously entered into contracts or are under a tariff commitment with COMSAT to have an opportunity, at their discretion, for a reasonable period of time, to renegotiate those contracts or commitments on rates, terms, and conditions or other provisions, notwithstanding any term or volume commitments or early termination charges in any such contracts with COMSAT.

''(b) COMMISSION AUTHORITY TO ORDER RENEGOTIATION.—Nothing in this title shall be construed to limit the authority of the Commission to permit users or providers of telecommunications services that previously entered into contracts or are under a tariff commitment with COMSAT to have an opportunity, at their discretion, to renegotiate those contracts or commitments on rates, terms, and conditions or other provisions, notwithstanding any term or volume commitments or early termination charges in any such contracts with COMSAT.

''(c) PROVISIONS CONTRARY TO PUBLIC POLICY VOID.—Whenever the Commission permits users or providers of telecommunications services to renegotiate contracts or commitments as described in this section, the Commission may provide that any provision of any contract with COMSAT that restricts the ability of such users or providers to modify the existing contracts or enter into new contracts with any other space segment provider (including but not limited to any term or volume commitments or early termination charges) or places such users or providers at a disadvantage in comparison to other users or providers that entered into contracts with COMSAT or other space segment providers shall be null, void, and unenforceable.

''SEC. 643. SIGNATORY ROLE.

''(a) LIMITATIONS ON SIGNATORIES.—

''(1) NATIONAL SECURITY LIMITATIONS.—The Federal Communications Commission, after a public interest determination, in consultation with the Executive Branch, may restrict foreign ownership of a United States signatory if the Commission determines that not to do so would constitute a threat to national security.

''(2) NO SIGNATORIES REQUIRED.—The United States Government shall not require signatories to represent the United States in INTELSAT or Inmarsat or in any successor entities after a pro-competitive privatization is achieved consistent with sections 621, 622 and 624.

''(b) CLARIFICATION OF PRIVILEGES AND IMMUNITIES OF COMSAT.—

''(1) GENERALLY NOT IMMUNIZED.—Notwithstanding any other law or executive agreement, COMSAT shall not be entitled to any privileges or immunities under the laws of the United States or any State on the basis of its status as a signatory of INTELSAT or Inmarsat.

''(2) LIMITED IMMUNITY.—COMSAT and any other company functioning as United States signatory to INTELSAT or Inmarsat shall not be liable for action taken by it in carrying out the specific, written instruction of the United States issued in connection with its relationships and activities with foreign governments, international entities, and the intergovernmental satellite organizations.

''(3) PROVISIONS PROSPECTIVE.—Paragraph (1) shall not apply with respect to liability for any action taken by COMSAT before the date of enactment of the Communications Satellite Competition and Privatization Act of 1998.

''(c) PARITY OF TREATMENT.—Notwithstanding any other law or executive agreement, the Commission shall have the authority to impose similar regulatory fees on the United States signatory which it imposes on other entities providing similar services.

''SEC. 644. ELIMINATION OF PROCUREMENT PREFERENCES.

''Nothing in this title or the Communications Act of 1934 shall be construed to authorize or require any preference, in Federal Government procurement of telecommunications services, for the satellite space segment provided by INTELSAT, Inmarsat, or any successor entity or separated entity.

''SEC. 645. USE OF ITU TECHNICAL COORDINATION.

''The Commission and United States satellite companies shall utilize the International Telecommunication Union procedures for technical coordination with INTELSAT and its successor entities and separated entities, rather than INTELSAT procedures.

''SEC. 646. TERMINATION OF COMMUNICATIONS SATELLITE ACT OF 1962 PROVISIONS.

''Effective on the dates specified, the following provisions of this Act shall cease to be effective:

''(1) Date of enactment of this title: Sections 101 and 102; paragraphs (1), (5) and (6) of section 201(a); section 301; section 303; section 502; and paragraphs (2) and (4) of section 504(a).

''(2) On the effective date of the Commission's order that establishes direct access to INTELSAT space segment: Paragraphs (1), (3) through (5), and (8) through (10) of section 201(c); and section 304.

''(3) On the effective date of the Commission's order that establishes direct access to Inmarsat space segment: Subsections (a) through (d) of section 503.

''(4) On the effective date of a Commission order determining under section 601(b)(2) that Inmarsat privatization is consistent with criteria in sections 621 and 624: Section 504(b).

''(5) On the effective date of a Commission order determining under section 601(b)(2) that INTELSAT privatization is consistent with criteria in sections 621 and 622: Paragraphs (2) and (4) of section 201(a); section 201(c)(2); subsection (a) of section 403; and section 404.

''SEC. 647. REPORTS TO THE CONGRESS.

''(a) ANNUAL REPORTS.—The President and the Commission shall report to the Congress within 90 calendar days of the enactment of this title, and not less than annually thereafter, on the progress made to achieve the objectives and carry out the purposes and provisions of this title. Such reports shall be made available immediately to the public.

''(b) CONTENTS OF REPORTS.—The reports submitted pursuant to subsection (a) shall include the following:

''(1) Progress with respect to each objective since the most recent preceding report.

''(2) Views of the Parties with respect to privatization.

''(3) Views of industry and consumers on privatization.

''SEC. 648. CONSULTATION WITH CONGRESS.

''The President's designees and the Commission shall consult with the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate prior to each meeting of the INTELSAT or Inmarsat Assembly of Parties, the INTELSAT Board of Governors, the Inmarsat Council, or appropriate working group meetings.

''SEC. 649. SATELLITE AUCTIONS.

''Notwithstanding any other provision of law, the Commission shall not have the authority to assign by competitive bidding orbital locations or spectrum used for the provision of international or global satellite communications services. The President shall oppose in the International Telecommunication Union and in other bilateral and multilateral fora any assignment by competitive bidding of orbital locations or spectrum used for the provision of such services.

''Subtitle D—Negotiations To Pursue Privatization

''SEC. 661. METHODS TO PURSUE PRIVATIZATION.

''The President shall secure the pro-competitive privatizations required by this title in a manner that meets the criteria in subtitle B.

''Subtitle E—Definitions

''SEC. 681. DEFINITIONS.

''(a) IN GENERAL.—As used in this title:

''(1) INTELSAT.—The term 'INTELSAT' means the International Telecommunications Satellite Organization established pursuant to the Agreement Relating to the International Telecommunications Satellite Organization (INTELSAT).

''(2) INMARSAT.—The term 'Inmarsat' means the International Mobile Satellite Organization established pursuant to the Convention on the International Maritime Organization.

''(3) SIGNATORIES.—The term 'signatories'—

''(A) in the case of INTELSAT, or INTELSAT successors or separated entities, means a Party, or the telecommunications entity designated by a Party, that has signed the Operating Agreement and for which such Agreement has entered into force or to which such Agreement has been provisionally applied; and

''(B) in the case of Inmarsat, or Inmarsat successors or separated entities, means either a Party to, or an entity that has been designated by a Party to sign, the Operating Agreement.

''(4) PARTY.—The term 'Party'—

''(A) in the case of INTELSAT, means a nation for which the INTELSAT agreement has entered into force or been provisionally applied; and

''(B) in the case of Inmarsat, means a nation for which the Inmarsat convention has entered into force.

''(5) COMMISSION.—The term 'Commission' means the Federal Communications Commission.

''(6) INTERNATIONAL TELECOMMUNICATION UNION.—The term 'International Telecommunication Union' means the intergovernmental organization that is a specialized agency of the United Nations in which member countries cooperate for the development of telecommunications, including adoption of international regulations governing terrestrial and space uses of the frequency spectrum as well as use of the geostationary satellite orbit.

''(7) SUCCESSOR ENTITY.—The term 'successor entity'—

''(A) means any privatized entity created from the privatization of INTELSAT or Inmarsat or from the assets of INTELSAT or Inmarsat; but

''(B) does not include any entity that is a separated entity.

''(8) SEPARATED ENTITY.—The term 'separated entity' means a privatized entity to whom a portion of the assets owned by INTELSAT or Inmarsat are transferred prior to full privatization of INTELSAT or Inmarsat, including in particular the entity whose structure was under discussion by INTELSAT as of March 25, 1998, but excluding ICO.

''(9) ORBITAL LOCATION.—The term 'orbital location' means the location for placement of a satellite on the geostationary orbital arc as defined in the International Telecommunication Union Radio Regulations.

''(10) SPACE SEGMENT.—The term 'space segment' means the satellites, and the tracking, telemetry, command, control, monitoring and related facilities and equipment used to support the operation of satellites owned or leased by INTELSAT, Inmarsat, or a separated entity or successor entity.

''(11) NON-CORE.—The term 'non-core services' means, with respect to INTELSAT provision, services other than public-switched network voice telephony and occasional-use television, and with respect to Inmarsat provision, services other than global maritime distress and safety services or other existing maritime or aeronautical services for which there are not alternative providers.

''(12) ADDITIONAL SERVICES.—The term 'additional services' means Internet services, high-speed data, interactive services, non-maritime or non-aeronautical mobile services, Direct to Home (DTH) or Direct Broadcast Satellite (DBS) video services, or Ka-band services.

''(13) INTELSAT AGREEMENT.—The term 'INTELSAT Agreement' means the Agreement Relating to the International Telecommunications Satellite Organization ('INTELSAT'), including all its annexes (TIAS 7532, 23 UST 3813).

''(14) HEADQUARTERS AGREEMENT.—The term 'Headquarters Agreement' means the International Telecommunication Satellite Organization Headquarters Agreement (November 24, 1976) (TIAS 8542, 28 UST 2248).

''(15) OPERATING AGREEMENT.—The term 'Operating Agreement' means—

''(A) in the case of INTELSAT, the agreement, including its annex but excluding all titles of articles, opened for signature at Washington on August 20, 1971, by Governments or telecommunications entities designated by Governments in accordance with the provisions of the Agreement, and

''(B) in the case of Inmarsat, the Operating Agreement on the International Maritime Satellite Organization, including its annexes.

''(16) INMARSAT CONVENTION.—The term 'Inmarsat Convention' means the Convention on the International Maritime Satellite Organization (Inmarsat) (TIAS 9605, 31 UST 1).

''(17) NATIONAL CORPORATION.—The term 'national corporation' means a corporation the ownership of which is held through publicly traded securities, and that is incorporated under, and subject to, the laws of a national, state, or territorial government.

''(18) COMSAT.—The term 'COMSAT' means the corporation established pursuant to title III of the Communications Satellite Act of 1962 (47 U.S.C. 731 et seq.)

''(19) ICO.—The term 'ICO' means the company known, as of the date of enactment of this title, as ICO Global Communications, Inc.

''(20) REPLACEMENT SATELLITES.—The term 'replacement satellite' means a satellite that replaces a satellite that fails prior to the end of the duration of contracts for services provided over such satellite and that takes the place of a satellite designated for the provision of public-switched network and occasional-use television services under contracts executed prior to March 25, 1998 (but not including K–TV or similar satellites). A satellite is only considered a replacement satellite to the extent such contracts are equal to or less than the design life of the satellite.

''(21) GMDSS.—The term 'global maritime distress and safety services' or 'GMDSS' means the automated ship-to-shore distress alerting system which uses satellite and advanced terrestrial systems for international distress communications and promoting maritime safety in general. The GMDSS permits the worldwide alerting of vessels, coordinated search and rescue operations, and dissemination of maritime safety information.

''(b) COMMON TERMINOLOGY.—Except as otherwise provided in subsection (a), terms used in this title that are defined in section 3 of the Communications Act of 1934 have the meanings provided in such section.''.

The CHAIRMAN. No amendment to the committee amendment is in order unless printed in the CONGRESSIONAL RECORD. Those amendments shall be considered read.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Chairman of the Committee of the Whole may postpone a demand for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for the voting on the first question shall be a minimum of 15 minutes.

Are there any amendments to the bill?

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the purpose, of course, would be to engage the chairman of the full committee, my good friend from Richmond, Virginia, in a colloquy.

I would like to personally thank the gentleman from Virginia (Mr. BLILEY) for his work in moving this very important bill forward and his leadership on this issue over the past number of years.

We can all agree that government should not be providing commercial services, especially in advanced telecommunications. We can likewise agree that the intergovernmental satellite organizations should be privatized in a manner that creates a level field for all competitors.

Now, given that all these organizations are intergovernmental organizations, the United States must inevitably engage with our global partners as we move forward to privatization. We operate in a global interconnected world today, with a complex web of economic undertakings binding us to countries around the world. We all know that.

For instance, the United States and approximately 100 other countries that participate in INTELSAT and Inmarsat are members of the World Trade Organization, the WTO. We, therefore, have obligations to these countries, as they do to us, pursuant to agreements in the WTO. With respect to satellite services, we have an obligation to our WTO partners under the Fourth Protocol of the General Agreement on Trade and Services, which governs basic telecommunications services.

Now, I would like to ask the chairman, is the bill intended to be consistent with U.S. obligations under WTO on the provisions of the basic telecommunications services?

Mr. BLILEY. Mr. Chairman, will the gentleman yield?

Mr. DAN SCHAEFER of Colorado. I yield to the gentleman from Virginia.

Mr. BLILEY. The gentleman is correct. My bill is intended to be consistent with the WTO.

As the gentleman may know, I was a strong supporter of the WTO basic telecommunications agreement, which will open the world's markets to other telecommunications companies. For the price of improved access to the global market for our telecom companies, the U.S. Government has to permit foreign investment in this market. Given the competitiveness of our telecom companies, that is a good bargain.

I support playing by the rules and I believe this bill is consistent with our obligations. But nothing in the WTO agreement says we cannot protect competition in our market. We are permitted to do so under the WTO services agreement. If necessary, we will vigorously fight for our beliefs and rights within the WTO and protect the integrity of U.S. competition policy.

So my bill uses an entry test of not causing competitive harm. As long as the IGO's privatized entities meet the criteria and will not cause competitive harm, and their entry is otherwise in the public interest, the FCC may authorize their use. A competition entry test in the public interest is consistent with our WTO obligations.

Mr. DAN SCHAEFER of Colorado. Reclaiming my time, Mr. Chairman, I appreciate the gentleman's remarks. As the gentleman knows, I am very interested in seeing that the commission, when making its determination whether to license or authorize the use of privatized entities, act in a manner consistent with U.S. obligations under the WTO agreement on basic telecommunications.

Now, I would ask the gentleman one final question. Is this legislation intended to ensure that the FCC not only take notice but, as much as practicable, act in a manner consistent with the WTO agreement on basic telecommunication services?

Mr. BLILEY. If the gentleman will continue to yield, we intend by this legislation that the FCC will implement this satellite reform legislation in a manner consistent with our obligations under the WTO basic telecommunications agreement.

However, the bill does not mandate that, because foreign parties may differ with the FCC's reading of the public interest or whether the future structure of an IGO spin-off or successor entity will harm competition in this market. If it did mandate that the FCC act consistently with our WTO obligations, then that privatized entity or, more precisely its government, could go off to Geneva and petition the WTO for a panel against the United States due to the FCC finding.

While I support the principles of the WTO and believe the U.S. should live up to its obligations, I do not wish to invite WTO panels. I do not want our bill to become an avenue for a recovering monopolist, to use a phrase of my cosponsor, to slow down reform by causing trouble for the United States in Geneva. Rather, the bill relies on a perfectly acceptable ''measure,'' to use WTO parlance, a competition test, as the entry standard that should guide the FCC in making decisions on the section 601.

Mr. Chairman, I thank the gentleman for addressing this important issue.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I thank the chairman of the full committee.

Mr. DINGELL. Mr. Chairman, I move to strike the last word.

I simply want to commend the gentleman from Colorado for what it is he has done. This treaty violates the INTELSAT agreement and the basic telecom agreement of the World Trade Organization.

It also would have the practical effect of insisting on specific results and would impose sanctions on INTELSAT in violation of that treaty if those results are not achieved. The sanctions would violate that treaty further by expelling INTELSAT from the U.S. market in violation of that treaty agreement.

In addition to that, it would violate the Inmarsat agreement by preventing COMSAT and Inmarsat from providing certain specifically required, economically viable service to U.S. consumers. It also punishes COMSAT in the event foreign participants do not meet the privatization criteria and time schedule, something which is, again, in violation of that treaty.

Now, in addition to that, COMSAT would be barred from providing many services to American and foreign participants under the treaties requiring those actions, to which this Nation is a signatory. It also imposes requirements for spin-offs which do not, I believe, comply with the requirements of the treaty.

It also violates the WTO basic telecom agreements' open market requirements because, in point of fact, it tends to close rather than to open markets and reduce rather than increase competition. It would, in fact, imperil the entire future of the WTO agreement entered into with 68 other countries.

The comments of the gentleman from Colorado were appropriate and should be considered as my colleagues prepare to vote against this outrageous bill.

AMENDMENT NO. 6 OFFERED BY MRS. MORELLA

Mrs. MORELLA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mrs. Morella:

Page 6, after line 8, insert the following new subsection:

''(e) TAKINGS PROHIBITED.—In implementing the provisions of this section, and sections 621, 622, and 624 of this Act, the Commission shall not restrict the activities of COMSAT in a manner which would create the liability for the United States under the Fifth Amendment to the Constitution.

Page 11, after line 11, insert the following new subsection:

''(d) TAKINGS PROHIBITED.—In implementing the provisions of this section, the Commission shall not restrict the activities of COMSAT in a manner which would create a liability for the United States under the Fifth Amendment to the Constitution.

Mrs. MORELLA. Mr. Chairman, I had submitted two amendments for H.R. 1872, and so I want to clarify for my colleagues that I am only offering one of those amendments, the one that deals only with the question of takings under the fifth amendment.

My amendment addresses a fundamental problem with H.R. 1872. As reported by the Committee on Commerce, the bill contains service restrictions which, when implemented, will constitute an unconstitutional taking of COMSAT's property, and so my amendment just very simply cures that problem.

I know that the gentleman from Virginia, my good friend and chairman of the committee, contends these restrictions do not constitute a taking, but I must respectfully disagree. Quite frankly, if it does not constitute a taking, then this amendment is completely in order. Why not put it into the bill?

Mr. Chairman, the United States induced private investors to fund COMSAT by offering the company an opportunity to earn a profit by helping to serve the communications needs of the United States and other countries. That is a quote.

The United States also instructed COMSAT to sign the INTELSAT and Inmarsat operating agreements, which are binding on the parties. COMSAT's investments were made in reliance on existing law.

The United States cannot take COMSAT's property by deliberately destroying its value without paying compensation. This is particularly true where, as here, the investments were compelled by Federal law. And in accordance with that law and with government approval, COMSAT has acquired an investment interest in satellites, orbital positions and spectrum, as well as other costs associated with the establishment, operation, and maintenance of a global satellite system.

□ 1215

And yet this Federal law statute would prohibit COMSAT from using or earning a return on those investments. Putting a company in such a position would be a compensable taking, and the liability for this taking is massive.

COMSAT has invested billions of dollars in its space-based assets and millions more on the ground. Unless my amendment is adopted, the U.S. Treasury and, ultimately, the taxpayers will have to foot the bill.

These are not opinions that I cooked up myself. They are shared by many, including some of our colleagues on the Committee on Commerce. They are also shared by Nancie Marzulla. She is the president of Defenders of Property Rights. In a recent column in the Washington Times, Ms. Marzulla addressed the takings aspect of H.R. 1872. She said, ''Some in Congress and elsewhere seem to have forgotten the Constitution's fifth amendment prohibition against uncompensated takings.'' She notes correctly that ''The Government would have to compensate COMSAT for taking the company's property in violation of the fifth amendment's guarantee against uncompensated takings. The U.S. is liable for just compensation not just when it physically seizes real or personal property, but also, as Justice Holmes said in 1922, 'If regulation goes too far, it will be recognized as a taking.' ''

I also want to point out the Washington Legal Foundation that the chairman of the committee admires so, and many of us do, agrees that these provisions are an unconstitutional taking of COMSAT's property. In an analysis prepared at my request, WLF has concluded that H.R. 1872 would indeed effect a compensable taking of private property belonging to COMSAT, as well as a material breach of the terms of the compact between the United States and COMSAT.

Mr. Chairman, I include the following for the RECORD:

WASHINGTON LEGAL FOUNDATION,
2009 MASSACHUSETTS AVENUE, N.W.,
Washington, DC, April 29, 1998.

Hon. CONSTANCE A. MORELLA,
U.S. House of Representatives, 2228 Rayburn House Office Bldg., Washington, DC.

Re H.R. 1872—The Communications Satellite Competition and Privatization Act of 1998

DEAR REPRESENTATIVE MORELLA: In response to your written request for counsel, the Washington Legal Foundation (WLF) has undertaken a legal analysis of H.R. 1872, ''The Communications Satellite Competition and Privatization Act of 1998.'' In particular, we have considered whether H.R. 1872 in its present form would constitute a ''taking'' by the federal government (subject to just compensation under the Fifth Amendment to the United States Constitution) or a breach of compact between the United States and COMSAT Corporation.

After careful consideration of H.R. 1872, WLF has concluded that H.R. 1872 would indeed effect a compensable taking of private property belonging to COMSAT, as well as a material breach of the terms of the compact between the United States and COMSAT. WLF's conclusion should not be construed as endorsement or opposition to H.R. 1872. WLF is a nonprofit group organized under 26 U.S.C. §501(c)(3) and does not engage in any lobbying activity.

Background. The current wave of telecommunications reform comes from a shift in how the economics of communications networks are generally understood. Whereas it was once assumed that these networks were natural monopolies, experts in the field now believe that these facilities can be provided (and are best provided) by multiple competitors. Nowhere is this shift more clear than in satellite communications. In the 1960s and 1970s, it was universally believed that the establishing and maintaining a network of satellites was so complicated and expensive that only a global consortium could do it. Thus, the United States spearheaded the formation of two treaty-based international satellite organizations (ISOs), INTELSAT and Inmarsat, to carry out this mission.

Since that time, private companies such as PanAmSat, Loral, Motorola, and Teledesic have launched (or made plans to launch) their own satellite networks. The success of these companies has demonstrated that government involvement is no longer needed to ensure the provision of satellite services. Accordingly, the United States has begun the delicate process of negotiating with other countries—most of whom do not fully share the U.S.'s faith in the marketplace—to privatize the ISOs. These efforts have already borne fruit; INTELSAT has agreed to spin off

six of its satellites to a private company, and Inmarsat has agreed to privatize all but its public-safety services.

Several members of Congress, believing that privatization cannot be achieved unless mandated by the U.S., have introduced legislation intended to force the ISOs to privatize. H.R. 1872 would close the U.S. market to INTELSAT and Inmarsat, their privatized spin-offs and successors, and all U.S. entities that use their facilities, unless the ISOs meet the bill's rigid criteria, and do so by dates certain. H.R. 1872 has been criticized by some for hamstringing the government's ability to negotiate with other countries, and for adopting—allegedly for the purpose of enhancing competition—a protectionist strategy that benefits certain U.S. satellite companies by excluding their most likely international rivals from the market. What has received less attention is that H.R. 1872 would effect the largest confiscation of private property in recent times, exposing the U.S. to billions of dollars in claims for compensation.

The problem is this: The United States actually does not hold any investment in the ISOs. Private investors have committed massive amounts of capital to fund the ISOs, and they have done so at the behest of the U.S. government, in furtherance of declared national policy. When Congress passed the Communications Satellite Act of 1962, 47 U.S.C. §§701 *et seq.*, it determined that ''United States participation in the global system shall be in the form of a private corporation, subject to appropriate regulation.'' 47 U.S.C. §701(c). Congress therefore authorized the creation of a new company, COMSAT, to be the sole operating entity in INTELSAT. In 1978, Congress also made COMSAT the sole U.S. participant in Inmarsat.

By statute, COMSAT is a ''corporation for profit'' and not ''an agency or establishment of the United States government.'' 47 U.S.C. §731. It has never been funded or otherwise subsidized by the United States. Rather, Congress authorized and expected COMSAT to raise capital by selling shares of voting capital stock ''in a manner to encourage the widest possible distribution to the American public,'' 47 U.S.C. §634(a), and by selling its securities to private investors. See 47 U.S.C. §§721(c)(8), 734(c). COMSAT's stock trades on the New York Stock Exchange, and its current market capitalization is over $2 billion.

The INTELSAT and Inmarsat Operating Agreements (which COMSAT was directed by the U.S. government to sign) obligate COMSAT to meet periodic capital calls. At the end of 1997, COMSAT owned roughly 18% of INTELSAT, with a carrying value of approximately $402 million, and roughly 23% of Inmarsat, with a carrying value of approximately $223 million. COMSAT is pledged to invest another $332 million in INTELSAT. In addition, it has invested hundreds of millions in shareholder capital outside the ISOs in order to provide INTELSAT and Inmarsat services to the U.S. public.

H.R. 1872 could substantially impair, or perhaps destroy, that investment. The bill sets conditions for privatization that the State Department concedes are too onerous for other countries to accept. The entity that INTELSAT recently agreed to privatize would not qualify, nor would the privatized Inmarsat. Some have argued that the bar has intentionally been set too high, at the request of U.S. companies seeking protection for competition, so that the market-closing sanctions that accompany a failure to meet the criteria will be triggered.

During the transition to privatization, H.R. 1872 would effectively bar the ISOs from deploying satellites to new orbital locations or replacing obsolete satellites at the end of their lives. Moreover, H.R. 1872 declares that if ''substantial and material progress'' is not made, year by year, toward meeting the bill's conditions, COMSAT will be barred from providing high-speed data, Internet, and land mobile service—even though it relies on such services now for significant portions of its revenue. In addition, COMSAT would be frozen in time while the rest of the marketplace moved forward; it could not provide additional services, or additional applications of existing services.

If privatization is not achieved in exactly the time and manner specified, the bill would limit COMSAT to the provision of so-called ''core'' services, defined as force telphony and occasional use services for INTELSAT, and emergency services (now provided at no charge) for Inmarsat. But the refuge of these ''core'' services may well be illusory, because changes in technology are causing these markets to disappear. Voice traffic, for example, is migrating rapidly from satellites to fiber-optic cables, and a voice-only provider likely would see its market slip away in a world of converging voice and data services.

Moreover, H.R. 1872 imposes further sanctions that could cripple COMSAT *whether or not the ISOs privatize.* Most significantly, the bill would give *every one* of COMSAT's customers the unilateral right to abrogate its contracts with the company. Such sweeping Congressional abrogation of the private contract rights of a single company—without any judicial determination of wrongdoing—may be unprecedented in U.S. history .

Constitutional Analysis. WLF has concluded that, if adopted, H.R. 1872 would effect a substantial compensable taking of private property. The bill would impair COMSAT's substantial investments in and for INTELSAT and Inmarsat, thus imposing on COMSAT's shareholders virtually the entire cost of a congressional policy change. The Takings Clause of the Fifth Amendment is ''designed to bar Government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.'' Armstrong v. United States, 364 U.S. 40, 49 (1960). Congress may not induce a company to invest its private capital, and then turn around and declare that policy changes have made the investment unnecessary, without compensating that company for the assets dedicated to public use.

WLF has concluded that if H.R. 1872 passes, COMSAT may have legitimate claims for compensation for its taken investments. Government's regulation of the uses to which private property may be put can ''take'' that property, just as if the government had seized the property. See Lucas v. South Carolina Coastal Council, 505 U.S. 1003, 1017–18 (1992); Webb's Fabulous Pharmacies, Inc. v. Beckwith, 449 U.S. 155, 163–64 (1980). The Supreme Court has articulated three factors that determine whether usage regulation goes so far as to constitute a taking: ''the economic impact of the regulation on the claimant,'' the ''extent to which the regulation has interfered with distance investment-backed expectations,'' and ''the character of the governmental action.'' Penn Central Transp. Co. v. City of New York, 438 U.S. 104, 124 (1978).

H.R. 1872 bears all the indicia of a regulation that, in Justice Holmes's words, goes ''too far.'' Pennsylvania Coal v. Mahon, 260 U.S. 393, 415 (1922). Based on WLF's understanding of the situation, the bill would have a devastating economic impact on COMSAT, immediately stranding hundreds of millions of dollars of investments made to provide (and useful solely for providing) banned services, and ultimately relegating the company to providing an ever-shrinking core of services with ever-more-obsolete technologies. Moreover, H.R. 1872 appears to interfere with COMSAT's investment-backed expectations. If COMSAT had not legitimately expected that it would be allowed to pursue a profit on its INTELSAT and Inmarsat investments, it would have been irrational for COMSAT to have made them, and for its shareholders to have contributed capital to the company.

Nor does H.R. 1872 merely ''adjust the benefits and burdens of economic life to promote the common good,'' with only an incidental effect on COMSAT. Connolly v. Pension Benefit Guaranty Corp., 475 U.S. 211, 225 (1986). It is true that COMSAT's actions have always been subject to regulation, cf. id. at 226–227. But H.R. 1872 goes well beyond the ordinary regulatory adjustment that such an actor must expect. It rejects the most basic premise of COMSAT's existence: that a global ''commercial communications satellite system,'' built ''in conjunction and cooperation with other countries,'' will best ''serve the communications needs of the United States and other countries.'' 47 U.S.C. §701(a). In light of this language, the backers of H.R. 1872 cannot reasonably maintain that COMSAT should have expected that the U.S. would seek to exclude INTELSAT and Inmarsat from the market altogether. See Ruckleshaus v. Monsanto Co., 467 U.S. 986, 1010–11 (1984) (where company submits trade secrets to EPA upon statutory assurance that EPA will not disclose them, later amendment of statute to permit disclosure works a taking); United Nuclear Corp. v. United States, 912 F.2d 1432 (Fed. Cir. 1990) (where mining company invested $5 million to explore for uranium on tribal lands in reliance on Interior Department approval, company could not be expected to foresee Interior's decision six years later to allow tribe to cancel the land claims, and decision worked a compensable taking).

Finally, H.R. 1872 does not ''substantially advance'' its stated regulatory goal: securing the privatization of INTELSAT and Inmarsat. See Lucas, 505 U.S. at 1016. To the contrary, by setting the bar as high as it does, the bill guarantees that privatization will fail and that COMSAT will be expelled from the U.S. market. Congress may legitimately decide that it no longer wants COMSAT to serve its historic role. But if it does so, it is required by the Fifth Amendment to compensate COMSAT's shareholders for the capital they have put in public service at the government's request.

Please let us know if you seek further legal counsel from WLF on this issue.

Sincerely,

DANIEL J. POPEO,
General Counsel.

[From the Washington Times, Apr. 27, 1998]

DEREGULATION OR PLAIN OLD THEFT?

(By Nancie G. Marzulla)

More than 30 years ago, hundreds of Americans invested in an idea: that communications satellites could benefit their nation and the world. The result was COMSAT, a Maryland-based shareholder-owned company that successfully launched the United States to the apex of the satellite industry.

Today, however, if a bill now being considered in Congress passes, these investments will be in jeopardy. Some in Congress and elsewhere seem to have forgotten the Constitution's Fifth Amendment prohibition against uncompensated ''takings.'' In their quest for deregulation, they've proposed federal legislation that could end up costing the U.S. Treasury hundreds of millions, if not billions, of dollars to cover COMSAT's takings claims.

In the process, these ''takers'' would be sending a clear message to current and future investors: Risk your money, but don't

expect the government to play by the rules if your investment pays off. With that kind of federal attitude, what sane investor would risk their hard-earned capital on today's fledgling companies that take huge financial and technological risks at the request of the government, as COMSAT did in the 1960s.

In the Communications Satellite Act of 1962, Congress commissioned COMSAT to ''establish in conjunction and in cooperation with other countries, as expeditiously and practicable, a commercial communications satellite system.'' At the time, this task was recognized to be a risky financial and technological undertaking. Congress's mandate led to the creation of the International Telecommunications Satellite Organization (INTELSAT), an international consortium that now includes some 140-member countries. A similar international organization, the International Mobile Satellite Organization, or ''Inmarsat'' was formed in 1978.

As the U.S. representative to INTELSAT and Inmarsat, COMSAT has been bound by those organizations' operating agreements which (among other things) obligate COMSAT to meet all of INTELSAT and Inmarsat's capital investment calls. Moreover, COMSAT must seek FCC approval for every investment.

In exchange for living within these constraints, COMSAT was afforded an opportunity to earn a reasonable return on its investments. It also was given exclusive franchise in selling services using INTELSAT AND Inmarsat satellites for communications to and from the United States. Access has never been a problem for customers: these services are energetically offered to all at non-discriminatory rates.

During the 1960s and 1970s, INTELSAT and Inmarsat satellites were the only ''birds'' in the sky American telephone companies and television networks needing satellite services had to purchase them from COMSAT. But since the early 1980s other companies have been allowed to launch competing communications satellite systems. These systems have been extremely successful.

In addition to the growth of new, rival service providers, new technologies also have created more competition for satellites. For example, higher capacity fiber-optic undersea cable has become the favored mode of transmitting phone calls internationally. Today, 117 countries are directly connected to the United States by fiber-optic cable.

As a result of these technological and marketplace development, COMSAT now has only 21 percent of the market for international voice communications and about 42 percent of the market for international video transmission.

There are still those who inexplicably view COMSAT, a relatively small player in the communications marketplace, as a monopoly despite the fact that numerous suppliers serve the market today. Believers in the ''monopoly power'' of COMSAT have introduced a bill in Congress that would, among other things:

Authorize customers to abrogate their existing contracts with COMSAT;

Require the immediate surrender of allocated orbital slots (essentially a parking place for a satellite in outer space) not in actual commercial use, despite the millions of dollars COMSAT, INTELSAT, and Inmarsat have invested in satellites intended for those slots;

Terminate existing services that COMSAT is providing to customers, as well as restricting the company's participation in new services (such as Internet access, high-speed data and interactive services) thus depriving Americans of advanced computer and video technologies.

Maybe some in Congress believe that this is the definition of progressive, fair and pro-competition legislation, but COMSAT and its shareholders aren't laughing about a bill that would knock this competitor out of the market in the name of competition.

This bill would breach COMSAT's implicit but enforceable regulatory compact with the federal government. As the Supreme Court recently said when enforcing promises made by bank regulators to savings and loans institutions, Congress is free to change its policies and, as a result, to break a pledge to a private party. But if Congress does so, it must ''insure the promise against loss arising from the promised condition's nonoccurrence.''

The government also would have to compensate COMSAT for taking the company's property in violation of the Fifth Amendment's guarantee against uncompensated takings. The U.S. is liable for just compensation not just when it physically seizes real or personal property but also, as Justice Holmes said in 1922, ''if regulation goes too far it will be recognized as taking.''

Clearly, it is going ''too far'' to require COMSAT and its investors to bear the burden of a congressional decision to reverse course and exclude treaty organizations and their signatories from almost the entire field of satellite communications. If Congress were to order this, it would have to compensate companies for investments they made at the government's behest and approval—investments made specifically to solidify the U.S. as the satellite industry leader.

The provision that would invalidate existing contracts is even a more obvious and aggressive taking of private property. It is well recognized that contract rights are property rights, protected by the Constitution. Congress can no more abrogate existing contracts than it can take away tangible personal property without just compensation. Yet this bill would void current and future agreements negotiated between COMSAT and other parties.

Of course, deregulation must be pursued with vigor. At the same time, promises governments made to private companies, and on which investors based their investment, must be kept. Deregulation cannot be an excuse for the uncompensated confiscation of private property.

Mr. Chairman, the service restrictions of H.R. 1872 are not only unconstitutional, they are anticompetitive and they are anticonsumer. They will remove a competitor from the marketplace, and therefore, they will then deny consumers, including the U.S. Government, an alternative service provider. COMSAT's competitors will have succeeded in ejecting a major player from the communications marketplace. They are the only beneficiaries of these provisions.

So, Mr. Chairman, we also put satellite reform, but we must proceed in a way that is fair to the customers, fair to COMSAT, and above all else consistent with the Constitution. We must avoid enacting a law that is found to be unconstitutional and that exposes the Treasury to a multibillion-dollar liability for damages.

Mr. Chairman, I ask my colleagues to support this amendment.

Mr. BLILEY. Mr. Chairman, I rise in opposition to the amendment of my good friend, the gentlewoman from Maryland (Mrs. MORELLA).

Before I begin, let me share with my colleagues an interesting bit of history. The phrase ''red herring'' comes from the practice of dragging a smoked and, thus, red herring across the path of a track of dogs trying to follow a scent. The idea was to use the scent to distract them from that prey.

In this case, the taking issue is being used in an attempt to distract Members from the real issue, which is that without incentives that could cost the intergovernmental satellite organizations money, they will never privatize in a procompetitive manner.

The amendment is an attempt to tie down the FCC through litigation. Currently, if COMSAT has a takings claim, it can sue the FCC. Just like anyone else, if there were a taking, they could go to court. Why do they want this amendment? To tie the bill in knots through litigation, that is why.

The amendment offered in committee by the gentleman from Maryland (Mr. WYNN), the colleague of the gentlewoman, was offered which also sought to cause fundamental problems for the bill. The gentleman from Maryland (Mr. WYNN) failed by a vote of 37-to-8. This one dresses the knife up in takings clothing possibly in the hope that many of my conservative colleagues who care about takings will join the gentlewoman in attacking our carefully crafted legislation.

I have to tell my colleagues that I do not think the amendment of the gentlewoman from Maryland (Mrs. MORELLA) is designed to fix the takings problem. It is designed to protect her constituent COMSAT. And it does that well. It says that the FCC shall not restrict the activities of COMSAT in a manner which would create liability for the U.S. under the fifth amendment, which would mean COMSAT could go to the courts as soon as the FCC issued a decision and tie the bill up for years. COMSAT's whole strategy is to delay reform. This would play right into their hands.

What the amendment does not take into account is that we already have a Constitution with the fifth amendment that protects against takings. There is also a remedy. Under current law, if they think there is a taking, they can sue, but under the same laws applicable to any other company.

Once again, the intergovernmental satellite organizations and the U.S. affiliate, COMSAT, want to continue the special advantages they have always had.

Now, I thought I would take a moment to address the takings issue itself. The committee has thoroughly analyzed that there are no takings. CRS has looked at the issue. They found that ''a review of the bill's text reviews no provisions likely to cause constitutional takings.'' The committee's analysis, which quotes at length from the CRS, is available in the committee report.

I would now like to read a letter dated May 5 from the Washington Legal Foundation to me.

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 had been mischaracterized.

I want to make it very clear that the Washington Legal foundation does not in the any way oppose your bill or in any manner support amendments to your bill. WLF does not engage or partner in any lobbying activity whatsoever. In fact, some members of the WLF's own advisory boards disagree with the WLF's legal analysis of the takings clause in connection with this legislation.

Unfortunately, when we sent our analysis to 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 for you. Sincerely, Daniel J. Popeo, General Counsel.

Mrs. MORELLA. Mr. Chairman, will the gentleman yield?

Mr. BLILEY. I yield to the gentlewoman from Maryland.

Mrs. MORELLA. Mr. Chairman, if in fact there is no takings problem, then what is wrong with the amendment?

Mr. BLILEY. Reclaiming my time, the gentlewoman must not have been listening. They have the right under the Constitution now by the fifth amendment. What this does is it puts a chill on the FCC. As soon as they do anything, they will can run into court and tie them up for years. That is what the strategy of COMSAT is, delay, delay, delay, hold their monopoly, get those 68 percent profits as long as they possibly can; and if we are forced to privatize, set it up in such a way that all we have done is change the name, but we still have the monopoly.

Mr. WYNN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to thank my colleague, the gentlewoman from Montgomery County, Maryland, (Mrs. MORELLA) for her leadership on this issue. It is a very important issue to one of our own companies, COMSAT.

The question that is posed by this amendment is simply this: deregulation or plain old theft? This the question was posed by Nancie Marzulla, president of the Defenders of Property Rights, in an op-ed piece in the April 27, 1998, edition of the Washington Times.

In her piece they state clearly that the sponsors in the quest for deregulation have proposed Federal legislation that could end up costing American citizens hundreds of millions, if not billions, of dollars to cover COMSAT's takings claims. That is right, takings claims.

As reported by the Committee on Commerce, this legislation contains restrictions that will limit the services that COMSAT can offer using its satellite assets. The restrictions take effect if rigid milestones are not met for privatization. The critical point, however, is that these milestones are not milestones within the control of COMSAT; they are milestones beyond their control, in fact, in the control of international organizations.

COMSAT is urging and helping move toward privatization, but they cannot control the pace of privatization. Nonetheless, they would be subject to unfair restrictions if our imposed milestones are not met. And I do not believe that this is fair.

I know we have constitutional scholars in this body, and I call upon them today. This is an unconstitutional taking. COMSAT is a private, investor-owned company. COMSAT's contract rights are property; and under the fifth amendment of the Constitution, the government simply cannot take this property, which is what this legislation does, without paying for it; and I fully expect that COMSAT will be filing claims on this issue.

Should this occur, the money the U.S. taxpayers will have to pay as a result of litigation will far exceed anything we are contemplating now in the context of our tobacco concerns. The amendment being offered by my colleague today will significantly reduce our liability and that of our constituents by eliminating the takings provisions for the bill's restrictions on COMSAT. The amendment does the right thing by allowing COMSAT to continue to use its property, and I urge our Members to support this amendment.

Now, I applaud the purpose of the chairman with this legislation, and I think the intent is laudable and he has worked very hard. However, the underlying theory of this legislation is quite flawed. The sponsors of this bill would have us believe that COMSAT is a huge, untenable monopoly. This is simply not true.

In fact, there are more than 20 current competitors to COMSAT, with more than $14 billion in investments and $40 billion in stock value. If this is not competition, I do not know what is. I do not think we can ask for much more. But let us consider further.

In 1998, COMSAT controlled 70 percent of the international voice traffic. Today they have only a 21 percent share. Significantly, COMSAT's market share has declined. In 1993, COMSAT controlled 80 percent of the video market; today it controls 42 percent. Clearly, competition is emerging under our present structure. We do not need this piece of legislation to promote competition.

But finally and most telling, on April 28 of this year, the FCC declared that COMSAT is nondominant in most of its market, thus authoritatively eliminating the argument that we have to get rid of COMSAT or punish COMSAT because it is an egregious monopoly.

Despite these facts, however, the sponsors of the legislation, so intent on privatizing this industry, would subject our constituents to potentially billions of dollars in liability as a result of litigation.

I think Ms. Marzulla put it best in her op-ed piece when she said, ''Deregulation must be pursued with vigor. At the same time, promises governments made to private companies and on which investors based their investment, must be kept. Deregulation cannot be an excuse for the uncompensated confiscation of private property.'' And that is what we are debating here today.

I urge my colleagues to support and adopt the Morella amendment. I believe that this is a proper move and an appropriate step to making this bill something that we can support.

Mr. WELDON of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I too oppose the amendment offered by the gentlewoman from Maryland (Mrs. MORELLA). The Morella amendment is premised on the notion that H.R. 1872, as reported out of the committee, would work a taking of COMSAT's property. This proposition seems to me to be entirely unfounded.

To begin with, I am at a loss to see any property that would be impacted by the bill. The term ''property'' has a particular legal meaning. It is not just a unilateral expectation, as the opponents of this bill have suggested, but rather an entitlement based upon a mutually explicit understanding.

The fact that COMSAT or its shareholders may have made investments with the expectation that COMSAT would continue to operate as the monopoly provider of INTELSAT and Inmarsat's services in the United States does not give them a property interest in those investments. Half the equation is missing.

To constitute property protected by the fifth amendment, COMSAT would need to show that these expectations were based upon a mutuality of understanding sufficiently well-grounded to create an entitlement protected at law. Of course, any such claim would collide headlong with the reality that when Congress established COMSAT in the 1962 Satellite Act, it expressly reserved the right to modify COMSAT's role in the market at any time.

□ 1230

To the extent that COMSAT and its shareholders made investments based on the provisions of the Satellite Act, they did so presumably knowing of the risk that Congress might some day do so. It is absolutely baffling to me that COMSAT could think that Congress created an entitlement, a property interest, by the terms of the Satellite Act. In any event, even if COMSAT had identified a protected property interest that would be impacted by H.R. 1872, the legislation hardly would reach the level of a regulatory taking, quote-unquote, under the Supreme Court's cases.

The bill will without a doubt adjust the benefits and burdens of economic life, quote-unquote, and end one of the last government protected monopolies in the telecommunications field. It would not, however, take any tangible property or vitiate any specific right or assurance conferred by the government. I therefore urge the Members to oppose this amendment.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, the amendment gets to the nub of the question. It says this, and I can understand why the opponents of the amendment are so distressed about it, because it says,

In implementing the provisions of this section, the Commission shall not restrict the activities of COMSAT in a manner which would create a liability for the United States under the Fifth Amendment to the Constitution.

What is wrong with that amendment? All it says is that the Commission has to respect the Constitution and cannot create a liability on the taxpayers because we have engaged in an unconstitutional taking or because we have violated the provisions of the Tucker Act.

I want my colleagues to listen to what the Washington Legal Foundation said. By the way, the gentleman from Virginia (Mr. BLILEY) is a major contributor to that agency and has sent them a wonderful letter in which he told them how he wanted to support the good work of that foundation. Here it is. This is what they had to say:

In response to your written request for counsel, the Washington Legal Foundation has undertaken a legal analysis of H.R. 1872. After the consideration of H.R. 1872, WLF has concluded that H.R. 1872 would indeed effect a compensable taking of private property belonging to COMSAT, as well as a material breach of the terms of the compact between the United States and COMSAT. WLF's conclusion should not be construed as endorsement or opposition to H.R. 1872.

They are giving you a clear warning. The amendment says that the Commission cannot subject your constituents and mine to that kind of liability. I would want to observe something else. What this bill does is to impair contract rights of COMSAT and to impair the value, the good will and the corporate assets of that corporation.

The Supreme Court has been very clear on this point. They have said that the most significant factor in determining whether economic regulation constitutes a taking is the extent to which, and I quote now from the Supreme Court, ''the regulation has interfered with the owner's reasonable investment-backed expectations.'' That is from the Penn Central case, *Penn Central Transportation Company* v. *The City of New York,* 438 U.S. 104, 124, dated 1978.

They went on to say some other things which I think are important. They went on to say, ''The simple words,'' and I am now interpolating, the Supreme Court said ''that Congress may at any time alter, amend and repeal this act * * * cannot be used to take away property already acquired * * * or to deprive'' a private ''corporation of the fruits already reduced to possession of contracts lawfully made.''

We are here with considerable diligence in this legislation interfering in the contract rights of COMSAT. COMSAT's officers are, at the proper responsibility and under the insistence of their shareholders, most assuredly going to file suit under the Tucker Act. I can offer my colleagues firm assurances that the judgment that will be awarded to COMSAT will be most generous and it will be done at the expense of your constituents unless this body has the wisdom to adopt the amendment offered by the gentlewoman from Maryland.

It should be observed, this does not do anything, the amendment, except to assure that there will be no liability imposed on our constituents because of an unconstitutional taking by this body. I urge my colleagues to keep that thought in mind. You have a responsibility to pass legislation in this body which observes the Constitution, but which also does not subject our taxpayers to a liability for wrongful acts taken by this Congress.

I would urge my colleagues to keep carefully in mind that the sums here are not piddling. They amount to billions of dollars. My question to my colleagues, Mr. Chairman, is, do you want the responsibility on your soul and on your conscience of having dissipated this enormous sum of money and subjected your taxpayers to that kind of liability?

Mr. COX of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think we have just heard from the ranking member on the Committee on Commerce that he is prepared to accept as a norm for debate and decision in the House in futuro the decisions of the Washington Legal Foundation. I think that will actually help us a great deal here in our deliberations in the House. I think he is quite right, the Washington Legal Foundation is a fine outfit. I will look forward to holding the ranking member to his new principle.

But the Washington Legal Foundation, which he sings the praises of, has written us a letter subsequent to the one that he is describing that says, ''I want to make it very clear, the Washington Legal Foundation does not in any way oppose this bill or in any manner support amendments to this bill.'' Specifically, the letter was written so that we would all know that they oppose this amendment. That is the position of the Washington Legal Foundation.

Furthermore, the Congressional Research Service has written us on the same point telling us that it is their legal analysis that the impacts described in the gentleman's presentation are not likely to support successful takings claims. That is the view of the Congressional Research Service.

So the question is not whether we are going to expose taxpayers to spending huge amounts of money because Congress did something wrong. This amendment would expose taxpayers to huge expenditures of their hard-earned money because Congress did something right, which is to take away the monopoly powers that this bill in fact takes away from COMSAT. This is not a Fifth Amendment taking.

Private actors can be disadvantaged in any number of ways by governmental action. A private landowner can discover that the value of her real estate is reduced to zero because of the land being declared essential habitat. That is an example of governmental action that ought to be considered a taking and the landowner in that case ought to be fairly compensated. But here our private actor is not some innocent landowner trying to recover from government regulation. This is a private company seeking to compel continued government protection for the unique monopoly powers, the privileges and benefits that flow from those monopoly powers that it enjoys. This is an anticompetitive policy that is in fact hostile to true property rights. In fact, current law unfairly restricts the ability of private companies to compete. Instead it guarantees to COMSAT's investors monopoly-sized returns on their investments.

What property does COMSAT have that it alleges is being taken? It suggests that takings claims are raised by the ''fresh look'' provisions of this bill. That is the language that enables the FCC beginning in 2000 to permit users or providers of telecommunications services to renegotiate contracts they signed with COMSAT prior to the repeal of its statutory monopoly as the only U.S. company authorized to sell INTELSAT services. In other words, COMSAT wants to retain its monopoly powers and anything less would be considered a taking.

The United States Supreme Court has repeatedly ruled that persons doing business in a regulated marketplace should expect the legislative scheme to change from time to time, even in ways that might be unfavorable to their interests. This principle was most recently reiterated by the Supreme Court in its unanimous 1993 decision in Concrete Pipe, which quoted from the Court's 1958 decision in FHA v. The Darlington. Here is what the Court said. ''Those who do business in the regulated field cannot object if the legislative scheme is buttressed by subsequent amendments to achieve the legislative end.''

Even if COMSAT were to pretend that it is not a participant in a heavily regulated marketplace, and, that would be a tough argument for COMSAT to make because they testified before Congress just last year that their company is hamstrung by a burdensome regulatory regime, Congress took special care when it created COMSAT in 1962 to let investors know that there would be no guaranteed return on their investment. These days COMSAT gets an 18 percent guaranteed rate of return. These days INTELSAT gets immunity from antitrust lawsuits. There is no doubt that H.R. 1872 will impair

COMSAT's ability to obtain monopoly rents in the international satellite marketplace, and that is the purpose of the bill.

While the bill does end an obsolete and outdated international monopoly, it does not deprive COMSAT of the right to compete in the new competitive marketplace. Instead, COMSAT will be forced to compete. Nor will H.R. 1872 bar COMSAT from providing service to the same customers to whom it presently provides service. But apparently in COMSAT's view, the company should be compensated by U.S. taxpayers if it is not guaranteed anything less than the absolute right to sell its services at inflated monopoly prices. That is a bad idea. Therefore, this amendment is a bad idea. I urge my colleagues to reject it.

Ms. ESHOO. Mr. Chairman, I move to strike the requisite number of words. Mr. Chairman, this amendment is searching for a problem that does not exist. The argument that takings is an issue seems tenuous at best. The gentleman from California (Mr. COX) I think has done a superb job of rolling out the case in detail on this issue because it defines contracts as property, which I think is a new twist. I have not heard of that one before.

I would congratulate those that are offering the amendment and supporting it for coming up with such a unique take on this. But the argument that takings is defined as property I think is faulty. Furthermore, removing the FCC's ability to apply service restrictions, or a fresh look, actually cuts out the heart of the bill. These provisions are incentives to privatization and they are necessary incentives and need to be retained. I would like to believe that COMSAT and INTELSAT will act in all of our best interests without any prodding, but that does not seem to be the case, nor does it seem to be realistic.

As I warned in my opening statement, this amendment is designed to kill the bill, not to amend it or to improve it. If Members of the House wish to support and protect a monopoly, then they should vote for this amendment. If they are in fact pro-competition and pro-privatization, they should vote to oppose the amendment.

Mr. KLINK. Mr. Chairman, I move to strike the requisite number of words.

(Mr. KLINK asked and was given permission to revise and extend his remarks.)

Mr. KLINK. Mr. Chairman, I rise in support of the Morella amendment. The previous speaker, a dear friend of mine, had mentioned, and I, like her, am not an attorney but I think it is very clear that contracts are property. I think that the Supreme Court made that decision about a century ago. Beyond that, this legislation may or may not lead to privatization and competition in international communications. I do not think that we are all very sure if exactly that is going to happen. I have my doubts whether it will or not.

I think the approach has been backwards. But whether or not this legislation succeeds in its goal, one thing is clear, that your constituents will end up footing the bill. We could pass this bill, it may fail to open up telecommunication markets in foreign lands, and still could end up spending billions of dollars of your taxpayers' money.

□ 1245

We could end up with a very extensive status quo in telecommunications.

Many of the investment decisions that COMSAT has made over the years have been made at the urging of the United States Government, and if we look at comments made by Nancie Marzulla, who is the President of Defenders of Property Rights, she said that Congress would have to compensate companies for investments they made at the government's behest and approval, investments made specifically to solidify the U.S. as the satellite industry leader.

Similarly, if we take a look at comments made by the Washington Legal Foundation, if adopted, H.R. 1872 would effect a substantial compensable taking of private property, and yet this legislation will take away COMSAT's business, will force them to renegotiate contracts that do reduce the value of their investments and really open up the United States Government to liability for damage for takings of COMSAT property. Those contracts are real property.

Now I am reminded a little bit in this legislation of an old movie. I do not know how many of us in here remember the old movie ''Blazing Saddles.'' They had a sheriff in there, Clevon Little, who held a gun to his own head and said, as my colleagues know, ''If you don't let me out of here, I'm going to shoot myself.'' That is really what this bill does. If my colleagues view this as a United Nations of satellites, we are holding a gun to our dear friend, Billy Richardson's head. And I refer to him as ''Billy'' only because I have great affection and friendship for the U.N. Secretary. It is like us holding a gun to his head and saying to the other countries, if they do not do what we want them to do, we are going to shoot our own representative.

Mr. Chairman, that would be foolish, and I think that that is what this amendment tries to correct.

While the sanctions imposed by this bill may not work, they will cost money.

My colleagues should support the Morella amendment, block the sanctions that really do amount to a taking of property, try to save our constituents money, try to keep the United States satellite industry viable and competitive.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. KLINK. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I just want to ask a question to my colleagues on the other side.

They said there is no taking here, and so we need to have no fear on that. The gentlewoman from Maryland offers an amendment which says there can be no taking. Well, if they do not intend to do a taking, if the amendment says there is no taking, if in fact there is no taking, what is wrong with the amendment?

I would think those who say there is going to be no taking here would accept this amendment with vast enthusiasm and would be speaking for it, not against it. I am curious. What is it that they are trying to tell us; that there is a taking and so they do not want the amendment, or that there is not a taking so the amendment is not needed? I do not know.

But I do know one thing. If there is a possibility of the taking, we better doggone well see to it that we adopt the amendment so that we do not impose upon our constituents $6 or $7 billion of liability because of the unwise action in this Chamber today.

Mr. KLINK. Mr. Chairman, I thank the gentleman from Michigan.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. KLINK. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Let me first commend the gentleman on his statement. I cannot think of a better metaphor than the one he gave us that we are literally telling a U.S. company, ''We're going to shoot you and your customers if these international organizations don't do what we want.''

Do my colleagues know that in the bill is a provision that says even if they do what we want, they still have to shoot themselves? I will talk to my colleagues about that one in a minute.

Mr. KLINK. Mr. Chairman, I thank the gentleman for his insight, and I thank the gentleman for his leadership on this issue.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first let me say that I am pleased that the Washington Legal Foundation sent a letter of clarification to the chairman, the gentleman from Virginia (Mr. BLILEY). They should have because they are 503(c), they cannot lobby on a bill, they did not mean their letter to the gentlewoman from Maryland (Mrs. MORELLA) to be a lobbying effort. But notice they have not repudiated what they said. They have not said, we change our mind, we change our opinion.

Here is what they said this bill does, and Members who are listening in their offices or wherever they may be, I hope they pay close attention to this. This is what the Washington Legal Foundation said this bill does without the Connie Morella amendment:

It says that this bill provides that if INTELSAT and Inmarsat do not privatize quickly enough, as this bill hopefully gets them to do, this bill will punish COMSAT by telling COMSAT, this U.S. private company, that they

no longer can offer new services to their customers. All they can offer them is the old services they used to give them.

Well, as the Washington Legal Foundation points out, those core services are illusory because there are changes in technology causing those markets to disappear. If they cannot offer the new services, who the heck wants to do business with them?

This bill literally says to COMSAT and its customers, ''Quit doing business, shoot yourself in the head because you can't offer the new services that all the other companies will be offering its customers.'' Why? Because Inmarsat and INTELSAT did not move fast enough to privatize, even though they could not control that.

But it gets even worse. The bill also says that even if INTELSAT and Inmarsat privatize at the speed of light, if they are faster than a speeding bullet and stronger than a locomotive, and they get to this world of privatization faster than the chairman wants; even if they do that, this bill says that COMSAT's customers no longer have to keep their contracts. They can renegotiate them with whenever they want. They can leave doing business with COMSAT anytime they want.

Now put these two provisions together, and we really get the sense of what this is all about. This bill says in effect that COMSAT may not be able to offer its customers new services and, by the way, they can get out of their current contracts. Now what do my colleagues think is going to happen? If this bill passes without the Morella amendment, in fact, COMSAT is going to lose those customers.

Why? One, we just abrogated their contracts; and, number 2, they just found out that COMSAT may not be able to offer them any new services. Why would someone stay with a company that came out with new services when Congress just told them they do not have to keep their word, they do not have to live up to the terms of their contract? Why would one stay? They would leave.

And guess what? That is exactly what the people who are behind these two provisions want. Why? Because they are competitors of COMSAT. They would like to have those customers, and so they are asking us in Congress to rearrange the customer base, to send customers away from COMSAT and to send them to their competitors. That is exactly what is behind these two amendments.

And if we do that, if we do that, the Washington Legal Foundation warns us, warns us very clearly, that such sweeping congressional abrogation of the private contract rights of a single company, without any judicial determination of wrongdoing, may be unprecedented in U.S. history. What an awful taking. We do not even get to go to court. Congress says, ''Your property is gone.'' Congress says, ''Your contracts are no good.'' Congress says, ''The company can't give you any more services.'' Congress destroys a U.S. company. What an unprecedented taking in U.S. history.

And the Washington Legal Foundation concludes by saying,

> Congress may legitimately decide it no longer wants COMSAT to serve its historic role, but if it does so, it is required by the fifth amendment to compensate COMSAT's shareholders for all the immense capital they have put in public service at the government's request.

In short, we, the taxpayers and the citizens of this country, will have an enormous legal bill to pay because we in Congress incurred that debt, we in Congress abrogated contracts, we in Congress took away private property without providing compensation.

I suggest to my colleagues if there is going to be no taking under this bill, why not pass an amendment? If there is not going to be taking under this ''fresh look'' approach under this restricted service provision, if these contracts really will not get abrogated, if none of this will really happen, then what is wrong with the Morella amendment which says do not do it if it takes property under the fifth amendment. Do it only if, and only if, we are not taking property without compensation as a violation of the fifth amendment.

This amendment makes this a good bill. I urge my colleagues to adopt it for the sake of the taxpayers and the citizens of this country; more importantly, for those of us in Congress who have never been asked to vote to abrogate private contracts.

Mr. KLUG. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment and I want to, if I can, address issues that have been raised by the last three speakers, the gentleman from Pennsylvania (Mr. KLINK), the gentleman from Michigan (Mr. DINGELL), and the gentleman from Louisiana (Mr. TAUZIN).

Now for everybody who is sitting back home, in their office, in the Chamber, and really do not understand what we are arguing about in terms of satellite communication, let us make it very simple. There is a monopoly today, and today we are trying to end the monopoly. That is what this entire debate is all about.

Now contracts are not in perpetuity. The United States over the course of time makes lots of contracts. We buy everything from airplanes to railroad tracks to nuclear weapons and paper clips and staplers and cars and everything else in the world. We do not go to General Motors, say we are only going to buy cars from General Motors for the rest of our lifetime. We make a deal, the deal ends, and we move on. And that is essentially the principle we are discussing today: Can we end the deal with COMSAT?

Now everybody has said for the last 5, 6, 7 years that the monopoly should be reformed, and guess who leads the opposition today to this amendment? It is the monopoly itself because it wants to hold onto power, it wants to eliminate competition, and it wants to keep all the money for itself. Very simple rule in economics.

Now the gentleman from Pennsylvania (Mr. KLINK) said, the last phrase that he used was to say to keep the U.S. satellite industry viable and competitive. There is no competition today. There is only one guy who calls all of the shots. That is why every private satellite company that wants to compete supports this bill, and it is why every major user of satellite communications, the folks who buy stuff from COMSAT, want the bill; because they want a choice. They understand this, anybody who is listening to this debate today.

There are choices about what television stations to watch, what newspapers to buy, where to buy groceries, where to fill up the car with gasoline. And today, people who use satellite communication services, the purchasers, do not have any competition; it is a monopoly.

Now as to the heart of the amendment that this constitutes a taking, keep in mind that the fifth amendment of the United States already provides protection against anybody who thinks that their property has been unjustifiably seized and who wants compensation from the United States Government. There is a takings protection, and obviously everything that Congress does has to abide by the Constitution, and therefore COMSAT and anybody else we pass legislation affecting today has the ability to appeal back to the fifth amendment.

Now, if the fifth amendment already protects them, then they do not need this takings provision. If they need a takings provision, then it is not applied to in the fifth amendment. And they are essentially asking us to pass something that is already redundant and in fact is enshrined in the basic document that this body has to live by.

So that raises the question who wants the takings provision in here? And open up the mystery box, and reach inside, and who is inside there with a business card? It is COMSAT; because what they want to say is, ''You can't pass go, you can't force competition in the industry unless the FCC thinks it will do so.'' And so they can delay, by essentially saying there cannot be a taking; so the FCC has to go to court to prove that it is not a taking, and if it is not a taking, then we can go forward.

It is a delaying tactic. It is legal jargon thrown out there, with no sense of seriousness, and we have got one opinion that says there may be a remote chance that there is a taking.

Now the Congressional Research Service that does work for Congress to essentially figure out legal issues has said there is no taking, and our best legal experts inside Congress itself say that there is absolutely no reason for this taking provision because they are

protected by the fifth amendment; and secondly, because there is no takings here whatsoever. We are simply saying, ''You've had an exclusive deal for decades, you're the only people who run the satellite business in this country, and we're saying in Congress it comes to an end. It's over.''

The only way we are ever going to have competition for satellite providers and purchasers of satellite services is by making sure that COMSAT's monopoly comes to an end. And when monopolies come to an end anyplace, in the railroads, in the steel industry, the kind of debate we are now having about the computer industry in this country, the basic underlying economic theory is that competition drives prices down, it does not raise them.

And so if we take the argument of the gentleman from Pennsylvania (Mr. KLINK) to its logical conclusion, the only way we can have competition and lower prices in the marketplace is if the government gives everybody a monopoly, and then not only do we give them a monopoly, we give them a monopoly for eternity. They can never have any competition because that is a bad thing.

So for those of us in this body who are interested in competition, who are interested in fundamental economics, the choice that is good for the American consumer, then I urge the defeat of this amendment because it is only a delaying tactic to make sure that a monopoly can preserve its power as long as possible.

□ 1300

Mr. MARKEY. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, this is not a debate about takings. This is a debate about givings. The givings of the American people for 35 years to a single company and a single orbiting cartel. The American people gave this company a domestic monopoly over resale of INTELSAT and Inmarsat services. The American people gave to COMSAT and Inmarsat and INTELSAT immunity from antitrust law. The American people gave them privileged access to orbital slots and to spectrum. The American people gave them access to all of these privileges because there were no other companies, there was no other way of doing it; only by using this mechanism could we create this industry.

Over the years, the American people have granted the same opportunities to electric monopolies, to local telephone monopolies, to long-distance monopolies, to cable monopolies. But we always reserve the right, when technological change makes it possible, to introduce competition. In fact, within the legislation that was passed in 1962, the Congress expressly reserved the right to repeal, to alter, or to amend the provisions of the 1962 COMSAT–INTELSAT Act. We reserved to ourselves this right, as we always have.

Now, we can go back in history, all the way back to 1602 when Queen Elizabeth had granted to one individual and one company a monopoly on playing cards in England. Now, the Parliament ruled, after a point in time, that other companies should be able to get into the business of selling playing cards in England. It is the famous monopolies case. Now, the courts in England ruled that the Parliament had the right to have other companies sell playing cards, notwithstanding the original monopoly.

Standard Oil, 1911 in the United States, says, we have got a monopoly; the Congress has no right to break up our monopoly. The Supreme Court of the United States in 1911 ruled, the Congress has a right to break up monopolies, the Antitrust Division of the Justice Department has the right to break up monopolies. And every electric company, every telephone company, every cable company, every monopoly for time immemorial has argued that it is a takings. It is not. It is a givings. We gave it to them, and we have the right to take it back with reasonable economic regulation, which does not put them out of business.

We are not putting COMSAT out of business. We are allowing other companies to get into business, because the reality is that for at least the last 15 years, that taking has been COMSAT, INTELSAT and Inmarsat blocking other American company's ability to get into these markets.

The taking goes on every day when dozens of companies across America do not create jobs because they are denied the opportunity. They have had this right taken from them. The consumers do not have lower prices because that opportunity has been taken from them. That is what this legislation is all about. It is ending the giving, that we have been undertaking for 35 years, to a monopoly. That is the privilege of the Congress. We have always had this right and we will always retain that right.

So I say to my colleagues, we have a choice. Support for the Morella amendment is for a continuation of monopoly, of a global economic cartel with COMSAT as its American subsidiary, its American affiliate continuing on this tradition of denying American companies and American workers the ability to get into these industries the way we shoot to dominate the global marketplace.

I urge a very strong ''no'' on this amendment. For those of us who believe in competition, for those of us who believe in opening up markets, for those of us who believe that America is going to be the dominant telecommunications leader, a vote ''no'' here guarantees that we enter this world as its dominant power.

Mr. TRAFICANT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have listened to a lot of the debate, and I am concerned about the giving as well, and sometimes we just give a little bit too much of the rock away.

With that, I yield to the distinguished subcommittee chair, the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding.

Let me point out that this is not about monopoly, it is not about monopoly. COMSAT owns a franchise right to deliver services over these international satellites, but they do not have a monopoly. That is totally wrong. If COMSAT were a monopolist in this world of international telephone and other data services, then there would not be a Hughes or a PanAmSat Corporation, another private satellite corporation. There would not be a Loral, there would not be a Teledesic, a Columbia, Meridian, ELLIPSO, all private satellite companies just like COMSAT, providing communication services in this country and around the world. There would not be an undersea cable taking so much business across the oceans and delivering communications services across the world.

In fact, COMSAT's percentage of voice services right now is 22 percent. Does that sound like a monopoly? And have they signed monopoly contracts? Well, here is what the FCC said on April 24, 1998, just a couple of weeks ago, on that very point. It said that we conclude the contracts that COMSAT has signed, the long-term contracts to AT&T and MCI, actually permit AT&T and MCI to choose COMSAT's competitors for services. Does that sound like a monopoly, where one signs a contract that allows a company to use other competitors for services?

What I am trying to tell my colleagues is that this is not about a monopoly, as much as my colleague may want to make it about a monopoly. It is about whether or not one of these companies, COMSAT, which happens to be the government franchisee on these international satellite systems, which competes with all kinds of other private companies: PanAmSat, Loral, Teledesic, Columbia, Meridian, ELLIPSO and Cable Undersea, whether this one company and its customers are going to be hammered with unconstitutional takings. That is what the issue is all about.

Finally, let me make one other point. If any one of these companies, PanAmSat included, thinks that COMSAT has an anticompetitive contract, they have a remedy today. They can go to the FCC, they can go to the Federal court and they can demand that that contract be abrogated.

In fact, PanAmSat took a case to the district court just recently. Here is what the court said. Nothing in the record suggests that COMSAT secured any of the contracts by means of anticompetitive acts against PanAmSat. They threw PanAmSat out of court, and yet we in Congress are going to overturn that court decision and abrogate those contracts.

No. The amendment protects against this taking, and my colleagues ought to vote for it.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, listen to the language of the amendment. This is what it says: Takings prohibited. In implementing the provisions of this section, the commission shall not restrict the activities of COMSAT in a manner which would create a liability for the United States under the fifth amendment to the Constitution.

That is all it says. It does not say the commission is supposed to allow monopolies. It simply says, we are not going to subject the taxpayers of the United States to a $6 billion or $7 billion liability by taking property from COMSAT. If there is no taking under this amendment, I say to my friends who oppose it, there is nothing for them to fear. If there is a taking, by God, my colleagues better pray that this is in the bill, because if it is not, my colleagues are going to be trying to defend through our Constitution why they dissipated $6 billion or $7 billion of your constituents' and your taxpayers' money.

I thank the gentleman.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, let me summarize by pointing out that the Morella amendment simply says, do not do anything that is going to take private property that the taxpayers of America are going to end up having to pay for.

Now, the opponents say, well, the fifth amendment already protects them. It protects the company by making taxpayers liable.

That is not a good protection for us. If we want to protect the American taxpayers, we tell this bill and we tell the FCC, do not do anything that takes private property that American taxpayers are going to end up having to compensate for. That is why we need to pass this good amendment.

Mr. TRAFICANT. Mr. Chairman, in closing, I think the interpretation of the Constitution has been so perverted I think we had better be very specific on this takings issue.

Mrs. MORELLA. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentlewoman from Maryland.

Mrs. MORELLA. Mr. Chairman, I know there are some differences of opinion in this Chamber and they are well founded, but all of us feel that there should not be improper takings.

We have had a number of opinions on it. Therefore, this amendment should be right in order and right in accord with what we have been saying. So put this amendment in the bill, it will make a difference, and this bill will then become law ultimately. Without it, there will be problems.

Mr. PITTS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Virginia (Mr. BLILEY).

Mr. BLILEY. Mr. Chairman, I thank the gentleman for yielding.

The fifth amendment already addresses this; that is why we have a Constitution, to protect us. Here, once again, COMSAT wants special privileges. The Constitution is not good enough for COMSAT. They want special protection for a reason to be able to stop the FCC from implementing my bill, by tying it up in court. COMSAT's strategy is to delay because they make a monopoly of profits under the status quo at the expense of our constituents.

Let me say a couple of words about monopoly. COMSAT claims its share of the market for all switch voice and private line services is 21 percent. The figure is irrelevant. International satellite delivered services constitute a separate submarket within the larger market for international telecommunication services, because satellites provide more cost-effective service for thin traffic paths and because most carriers prefer to use a mix of cable and satellite facilities, international carrier 102 FCC.

COMSAT has virtually the entire market for international satellite delivered telephone onto itself. Separate satellite systems generally have not been able to carry public switch telephoning, which accounts for less than 1 percent of PanAmSat's revenues, Economists Incorporated, Market Power, Market Foreclosure and INTELSAT, February 16, 1998. By the time INTELSAT permitted separate systems to offer any meaningful quantity PSN service in November of 1994, COMSAT had already locked up the largest carriers to long-term contracts.

This amendment is a red herring; it is just a way for COMSAT to tie up the FCC in court for years and to preserve their monopoly. I hope my colleagues will vote the amendment down. I thank the gentleman.

Mr. DEUTSCH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, hopefully, Members are listening to the debate and listening carefully, because there have really been a lot of red herrings, as my Chairman has stated previously.

The facts of the monopoly issue of COMSAT are just a fact. We have heard numbers thrown out: 20 percent of the market, 22 percent of the market. In the specific area of international satellite communications, it is 100 percent of the market. It is a monopoly. There is no way around it. It is a monopoly, that is, a statutory monopoly that this Congress granted for good reason many years ago.

But that monopoly that exists is a monopoly. If we are trying to communicate with a phone call from here, Washington, D.C., to Africa, to Asia, there is only one path to complete that phone call, and it is through COMSAT, through INTELSAT, 100 percent.

There is no option to that whole aspect, and if one does not accept that the monopoly exists, I guess if one wants to convince oneself that it does not exist, I do not see how one can, but I guess if one wants to, one can, then the next logical step I could understand one saying, well, there is a taking going on in terms of saying that some of the existing contracts need to be modified.

□ 1315

I guess if we accept that there is not a monopoly, then there is a logical step that we could take. But, again, I find it very, very difficult even to perceive that argument.

But let me follow up though really with the fact that the monopoly exists in terms of the issue of the taking. What has been spoken about before, and I think from a Member perspective to completely understand, is that those people who have contracts with COMSAT entered into those contracts in an environment of dealing with a monopoly, a monopoly in terms of the monopoly power that they had in terms of those contract negotiations. This is not the first time this type of situation has existed.

What I have pointed out previously and I think is absolutely appropriate as an analogy is when AT&T was broken up for long distance service, AT&T was a monopoly. It was broken up. When it was broken up, the existing contracts were able to be modified. That is exactly what is being done here.

It is not unprecedented. It has been done in other areas as well. That is the policy implication behind what we are doing.

Mr. Chairman, I urge Members to oppose the amendment and support the bill.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Maryland (Mrs. MORELLA).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DINGELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 111, noes 304, answered ''present'' 2, not voting 15, as follows:

[Roll No. 127]

AYES—111

Andrews	Clyburn	Frost
Archer	Condit	Furse
Baker	Conyers	Gekas
Barcia	Cummings	Gilchrest
Barrett (NE)	Davis (IL)	Goss
Bartlett	DeLay	Granger
Berry	Dingell	Gutknecht
Blagojevich	Dooley	Hall (OH)
Boehlert	Doolittle	Hall (TX)
Boehner	Doyle	Hamilton
Bonior	Ehrlich	Hilliard
Boucher	Ensign	Horn
Brown (FL)	Farr	Hoyer
Calvert	Fazio	John
Campbell	Filner	Johnson (CT)
Chenoweth	Foley	Johnson, E. B.
Clayton	Fowler	Johnson, Sam

Kaptur	Oberstar	Schaefer, Dan
Kilpatrick	Owens	Schumer
Klink	Oxley	Sensenbrenner
Kucinich	Pascrell	Sessions
Livingston	Paul	Skelton
Maloney (NY)	Payne	Stark
Martinez	Peterson (MN)	Stearns
Mascara	Petri	Stenholm
McCarthy (MO)	Pombo	Stokes
McCarthy (NY)	Pryce (OH)	Tauzin
McIntosh	Rangel	Taylor (NC)
Meek (FL)	Redmond	Thomas
Meeks (NY)	Regula	Thompson
Menendez	Riley	Torres
Minge	Rivers	Towns
Mink	Rohrabacher	Traficant
Morella	Royce	Upton
Nethercutt	Sabo	Watt (NC)
Northup	Salmon	Wynn
Nussle	Scarborough	Young (AK)

NOES—304

Abercrombie	Edwards	Kolbe
Ackerman	Ehlers	LaFalce
Aderholt	Emerson	LaHood
Allen	Engel	Lampson
Armey	English	Lantos
Bachus	Eshoo	Largent
Baesler	Etheridge	Latham
Baldacci	Evans	LaTourette
Ballenger	Everett	Lazio
Barr	Ewing	Leach
Barrett (WI)	Fattah	Lee
Barton	Fawell	Levin
Bass	Forbes	Lewis (CA)
Becerra	Ford	Lewis (GA)
Bentsen	Fox	Lewis (KY)
Bereuter	Frank (MA)	Linder
Berman	Franks (NJ)	Lipinski
Bilbray	Frelinghuysen	LoBiondo
Bilirakis	Gallegly	Lofgren
Bishop	Ganske	Lowey
Bliley	Gejdenson	Lucas
Blumenauer	Gephardt	Luther
Blunt	Gibbons	Maloney (CT)
Bonilla	Gillmor	Manton
Bono	Gilman	Manzullo
Borski	Goode	Markey
Boswell	Goodlatte	Matsui
Boyd	Goodling	McCrery
Brady	Gordon	McDade
Brown (CA)	Graham	McDermott
Brown (OH)	Green	McGovern
Bryant	Greenwood	McHale
Bunning	Gutierrez	McHugh
Burr	Hansen	McInnis
Burton	Harman	McIntyre
Buyer	Hastert	McKeon
Callahan	Hastings (WA)	McKinney
Camp	Hayworth	Meehan
Canady	Hefley	Metcalf
Cannon	Hefner	Mica
Capps	Herger	Millender-McDonald
Castle	Hill	Miller (CA)
Chabot	Hilleary	Miller (FL)
Chambliss	Hinchey	Moakley
Clay	Hinojosa	Mollohan
Clement	Hobson	Moran (KS)
Coble	Hoekstra	Moran (VA)
Coburn	Holden	Murtha
Collins	Hooley	Myrick
Combest	Hostettler	Nadler
Cook	Houghton	Neal
Cooksey	Hulshof	Ney
Costello	Hunter	Norwood
Cox	Hyde	Obey
Coyne	Inglis	Olver
Cramer	Istook	Ortiz
Crane	Jackson (IL)	Packard
Crapo	Jackson-Lee (TX)	Pallone
Cubin	Jefferson	Pappas
Cunningham	Jenkins	Parker
Danner	Johnson (WI)	Pastor
Davis (FL)	Jones	Paxon
Davis (VA)	Kanjorski	Pease
Deal	Kasich	Peterson (PA)
DeFazio	Kelly	Pickering
DeGette	Kennedy (MA)	Pickett
Delahunt	Kennedy (RI)	Pitts
DeLauro	Kennelly	Pomeroy
Deutsch	Kildee	Porter
Diaz-Balart	Kim	Portman
Dickey	Kind (WI)	Poshard
Dicks	King (NY)	Price (NC)
Dixon	Kingston	Quinn
Doggett	Kleczka	Rahall
Dreier	Klug	Ramstad
Duncan	Knollenberg	Reyes
Dunn	Kolbe	Rodriguez
Edwards	LaFalce	Roemer
Ehlers	LaHood	Rogers
Emerson	Lampson	Ros-Lehtinen
Engel	Lantos	Rothman
English	Largent	Roukema
Eshoo	Latham	Roybal-Allard
Etheridge	LaTourette	Rush
Evans	Lazio	Ryun
Everett	Leach	Sanchez
Ewing	Lee	Sanders
Fattah	Levin	Sandlin
Fawell	Lewis (CA)	Sanford
Forbes	Lewis (GA)	Saxton
Ford	Lewis (KY)	Schaffer, Bob
Fox	Linder	Scott
Frank (MA)	Lipinski	Serrano
Franks (NJ)	LoBiondo	Shadegg
Frelinghuysen	Lofgren	Shaw
Gallegly	Lowey	Shays
Ganske	Lucas	Sherman
Gejdenson	Luther	Shimkus
Gephardt	Maloney (CT)	Shuster
Gibbons	Manton	Sisisky
Gillmor	Manzullo	Skeen
Gilman	Markey	Slaughter
Goode	Matsui	Smith (MI)
Goodlatte	McCrery	Smith (NJ)
Goodling	McDade	Smith (OR)
Gordon	McDermott	Smith (TX)
Graham	McGovern	Smith, Adam
Green	McHale	Smith, Linda
Greenwood	McHugh	Snowbarger
Gutierrez	McInnis	Snyder
Hansen	McIntyre	Solomon
Harman	McKeon	Souder
Hastert	McKinney	Spence
Hastings (WA)	Meehan	Spratt
Hayworth	Metcalf	Stabenow
Hefley	Mica	Strickland
Hefner	Millender-McDonald	Stump
Herger	Miller (CA)	Stupak
Hill	Miller (FL)	Sununu
Hilleary	Moakley	Talent
Hinchey	Mollohan	Tanner
Hinojosa	Moran (KS)	Tauscher
Hobson	Moran (VA)	Taylor (MS)
Hoekstra	Murtha	Thornberry
Holden	Myrick	Thune
Hooley	Nadler	Thurman
Hostettler	Neal	Tiahrt
Houghton	Ney	Tierney
Hulshof	Norwood	Turner
Hunter	Obey	Velazquez
Hyde	Olver	Vento
Inglis	Ortiz	Visclosky
Istook	Packard	Walsh
Jackson (IL)	Pallone	Wamp
Jackson-Lee (TX)	Pappas	Waters
Jefferson	Parker	Watkins
Jenkins	Pastor	Watts (OK)
Johnson (WI)	Paxon	Waxman
Jones	Pease	Weldon (FL)
Kanjorski	Peterson (PA)	Weldon (PA)
Kasich	Pickering	Weller
Kelly	Pickett	Wexler
Kennedy (MA)	Pitts	Weygand
Kennedy (RI)	Pomeroy	White
Kennelly	Porter	Whitfield
Kildee	Portman	Wicker
Kim	Poshard	Wise
Kind (WI)	Price (NC)	Wolf
King (NY)	Quinn	Woolsey
Kingston	Rahall	Yates
Kleczka	Ramstad	Young (FL)
Klug	Reyes	
Knollenberg		

ANSWERED ''PRESENT''—2

Cardin	Sawyer

NOT VOTING—15

Bateman	Hastings (FL)	Pelosi
Carson	Hutchinson	Radanovich
Christensen	McCollum	Riggs
Fossella	McNulty	Rogan
Gonzalez	Neumann	Skaggs

□ 1340

Mrs. KENNELLY of Connecticut, Ms. MILLENDER-MCDONALD and Messrs. HEFLEY, MILLER of California, SPRATT, CASTLE, LEVIN, and FOX of Pennsylvania changed their vote from ''aye'' to ''no.''

Mrs. JOHNSON of Connecticut, Ms. EDDIE BERNICE JOHNSON of Texas and Messrs. DOOLEY of California, CLYBURN, OWENS, and STOKES changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 8 OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. TRAFICANT:

At the end of the bill, add the following new sections:

SEC. 4. COMPLIANCE WITH BUY AMERICAN ACT.

No funds authorized pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–30c, popularly known as the ''Buy American Act'').

SEC. 5. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Federal Communications Commission shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 6. PROHIBITION OF CONTRACTS.

If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a ''Made in America'' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspensions, and ineligibility procedures described in section 9.400 through 9.409 of title 48, Code of Federal Regulations.

MODIFICATION TO AMENDMENT NO. 8 OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I ask unanimous consent that the amendment be modified with the language at the desk.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment No. 8 offered by Mr. TRAFICANT:

In lieu of the matter proposed to be inserted by the amendment, on page 33 after line 17, add the following:

(4) Impact privatization has had on U.S. industry, U.S. jobs and U.S. industry's access to the global marketplace.

The CHAIRMAN. Is there objection to the modification offered by the gentleman from Ohio (Mr. TRAFICANT)?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, I support this legislation. I want to commend the gentleman from Virginia (Mr. BLILEY), the gentleman from Massachusetts (Mr. MARKEY), and the gentleman from Michigan (Mr. DINGELL), the gentleman from Louisiana (Mr. TAUZIN) regardless of how they feel on the issue.

The time has come for this legislation. I have some concerns. In this legislation is a section that requires annual reports to the Congress of the United States. The contents of those reports are listed to include the following progress with respect to each objective since the most recent preceding report. You see, these reports are to measure whether or not this legislation is meeting the objectives and is carrying out the provisions of its intent.

The first thing the bill calls for is the progress it makes to do that; the second is the views of the respective parties with respect to the privatization issue; finally, the views of the industry and consumers on privatization.

Quite frankly, although I am concerned about the views, my biggest concern is not about anybody's views, my big concern is about the impact this legislation will have on jobs, the United States industry, United States competitiveness, and our access to the global marketplace from a competitive spirit.

The Traficant amendment simply says that there would be another section in this report language that will ask for each year from the President and the Commission to update us on the impact that privatization has had on U.S. industry, United States jobs, and United States industry's access to the global marketplace.

I would hope that the legislation would be accepted. It makes, in my opinion, good sense.

Mr. Chairman, I yield to the distinguished gentleman from Virginia (Mr. BLILEY).

□ 1345

Mr. BLILEY. Mr. Chairman, this gentleman has reviewed the amendment and finds it acceptable and urges Members to vote for it.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I thank the gentleman very much and I want to congratulate him on his amendment. I think he is adding substantially to the nature of this bill, in the change which is taking place internationally, its impact upon the United States, and how fully we should understand it. I thank the gentleman very much.

Mr. TRAFICANT. Mr. Chairman, reclaiming my time, I appreciate the gentleman's comments, and I am hoping that impact is going to be favorable.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I wanted to thank my friend for offering the amendment, congratulate him on it, and suggest that not only do we not have any opposition to the amendment, but we gratefully and warmly embrace it, and I would urge all Members to support it.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Ohio (Mr. TRAFICANT).

The amendment, as modified, was agreed to.

The CHAIRMAN. The committee will rise informally.

The SPEAKER pro tempore (Mr. DUNCAN) assumed the chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

COMMUNICATIONS SATELLITE COMPETITION AND PRIVATIZATION ACT OF 1998

The Committee resumed its sitting.

AMENDMENT NO. 4 OFFERED BY MR. GILMAN

Mr. GILMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. GILMAN:

Page 33, line 5, strike ''the Congress''; and insert ''the Committees on Commerce and International Relations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Foreign Relations of the Senate''.

Page 33, beginning on line 20, strike ''Committee on'' and all that follows through ''of the Senate'' on line 22 and insert the following: ''Committees on Commerce and International Relations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Foreign Relations of the Senate''.

(Mr. GILMAN asked and was given permission to revise and extend his remarks.)

Mr. GILMAN. Mr. Chairman, I commend the gentleman from Virginia (Mr. BLILEY) for taking up this complicated issue of international satellite policy. Furthermore, I support the basic purpose of this measure, which is to move ahead with privatizing the intergovernmental satellite organizations. It is an important undertaking to meet the current telecommunications marketplace.

However, in consultation with the distinguished ranking minority member of the House Committee on International Relations, the gentleman from Indiana (Mr. HAMILTON), I am offering an amendment to make a simple change to the bill before us. It merely adds the House and Senate Committees on International Relations to the committees required to be consulted prior to the meetings of the INTELSAT or Inmarsat Assembly of Parties, and revises the annual reporting requirement to also include these committees.

We are interested in this legislation because changing international communication satellite policy has foreign policy implications. I want to be clear we are not seeking to interfere with the Committee on Commerce's jurisdiction to determine telecommunications policy, but the State Department is the lead agency in the negotiations with the intergovernmental satellite organizations.

State traditionally has had the lead in multiagency teams negotiating with any international organizations. Inclusion of the Committee on International Relations in the reporting and consultative process allows the committees to perform their fundamental oversight responsibilities.

I hope the chairman will be willing to accept this amendment. This bill raises other concerns, which were flagged in testimony by the administration last fall. These issues, such as including specific directives on the conduct of the negotiations, deserve further consideration.

I have a concern about the expanded responsibilities given to the Federal Communications Commission in this bill for the multilateral negotiations aimed at privatizing INTELSAT. The President should have the discretion of ensuring that our State Department, and any other relevant government agency, plays a role in this process.

I look forward to continuing to work with the Committee on Commerce as the bill proceeds through the process.

Mr. BLILEY. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Chairman, I have reviewed the amendment and think it is a fair proposition. The State Department plays an important role in international negotiations, including regarding the intergovernmental satellite organizations.

My understanding is that this amendment is not intended to and in no way does affect the jurisdictional interests of our committees in the bill. Does the gentleman agree?

Mr. GILMAN. Mr. Chairman, reclaiming my time, this amendment has no impact nor is it intended to have an impact on our committees' jurisdictional interest.

Mr. BLILEY. Mr. Chairman, if the gentleman will continue to yield, with that understanding, I think we are prepared to accept the amendment.

Mr. GILMAN. I thank the chairman for his considerable consideration.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. GILMAN).

The amendment was agreed to.

AMENDMENT NO. 7 OFFERED BY MR. TAUZIN

Mr. TAUZIN. Mr. Chairman, I offer an amendment. It is amendment No. 7.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. TAUZIN:

Page 28, beginning on line 14, strike section 642 through page 29, line 24, and redesignate the succeeding sections accordingly.

Mr. TAUZIN. Mr. Chairman, let me first apologize for the complexities in this bill. There is no way for us to deal with satellite policy and the extraordinary nature by which this highly technical industry has developed without some very technical provisions.

Let me secondly again compliment the chairman and the gentleman from Massachusetts (Mr. MARKEY) for the bill. It is a good attempt at accomplishing something which must be accomplished very soon, and that is the privatization of the government organizations, INTELSAT and Inmarsat, which service telecommunications needs across the world.

Let me thirdly point out that the amendment I offer is in no way, shape, or form designed to gut this bill. It does not. It is a very targeted amendment which deals with a single provision in the bill, which many of us believe ought not be in the bill if we want a bill passed to accomplish its good purposes.

Now, what is the provision that this amendment deletes? It is a very simple provision. It is a provision that says that the contracts that COMSAT has negotiated with companies like AT&T and MCI, those contracts to provide services over their network, could be abrogated by those customers unilaterally, at their own will, within a couple years. In effect, the provision in this bill is a grant of right by Congress to companies that have executed willfully, freely, contracts with COMSAT to then decide they will no longer keep