

caretakers of the environment than communist governments.

Yet the question remains, how do we prevent overzealous bureaucrats from using their authority in ways which threaten property rights?

Today I rise to join my colleague Senator RICHARD SHELBY of Alabama in introducing legislation which will strengthen every citizen's fifth amendment rights. Our bill, the Private Property Owners Bill of Rights, targets two of the worst property rights offenders, the Endangered Species Act and the Wetlands Permitting Program established by Section 404 of the Clean Water Act.

Our bill requires Federal agents who enter private property to gather information under either the Endangered Species Act or the Wetlands Permitting Program to first obtain the written consent of the landowner. While it is difficult to believe that such a basic right should need to be spelled out in law, overzealous bureaucrats and environmental radicals too often mistake private resources as their own. Property owners are also guaranteed the right of access to that information, the right to dispute its accuracy, and the right of an administrative appeal from decisions made under those laws.

Most importantly, the Private Property Owners Bill of Rights guarantees compensation for a landowner whose property is devalued by \$10,000, or 20 percent or more, of the fair market value resulting from a Federal action under the Endangered Species Act or Wetlands Permitting Program. An administrative process is established to give property owners a simple and inexpensive way to seek resolution of their takings claims. If we are to truly live up to the requirements of our Constitution, we must make this commitment. I believe this provision will work both to protect landowners from uncompensated takings and to discourage Government actions which would cause such takings.

The time has come for farmers, ranchers, and other landowners to take a stand against violations of their private property rights by the Federal bureaucracy. The Private Property Owners Bill of Rights will help landowners take that stand.

By Mr. KERREY:

S. 954. A bill to assure competition in telecommunications markets; to the Committee on the Judiciary.

THE TELECOMMUNICATIONS COMPETITION ACT OF 1997

Mr. KERREY. Mr. President, the Telecommunications Act of 1996 was to usher in a new era of competition, choice, jobs, universal service, and infrastructure investment.

Much of the promise of the new act remains unfulfilled. Most disappointing has been progress on the competition front. Rather than an explosion of competition, in the year since the law was enacted, there has been a disturbing trend toward consolidation.

I rise to express serious concern about the Department of Justice's approach to mergers in the telecommunications industry. I feel very strongly that the Justice Department approval of the Bell Atlantic and Nynex merger is bad competition policy and bad telecommunications policy.

With this merger, two strong potential competitors with two vibrant, rich markets are now one. This loss of competition follows the equally troublesome merger between Telecomm giants Pacific Telesis and Southwestern Bell. Perhaps most troubling is that these approvals have opened the door for even larger mergers.

What was unimaginable a year ago, the reconstruction of the old Bell System monopoly is very much within the realm of possibility.

Mr. President, the urge to compete should not be replaced with the urge to merge.

A little more than a year ago, the Congress enacted landmark legislation to open telecommunications markets to competition, preserve and advance universal service, and spur private investment in telecommunication infrastructure. Over the last year, the Federal Communications Commission has worked around the clock to implement the new law. It has been a daunting task, frustrated by litigation and regulatory wrangling.

While the FCC and the States struggle with implementation of the new law, it is important to remember that a key part of that legislation did not rely on regulation, it relied on the marketplace. The idea was to unleash pent up competitive forces among and between telecommunications companies. Mega mergers between telecommunications titans quell these market forces for increased investment, lower rates, and improved service.

To unshackle the restraints of the Court supervised breakup of AT&T, the Congress gave Regional Bell Operating Companies instant access to long distance markets outside of their local service regions and access to long distance markets inside their regions when they opened their markets to local competition.

In addition to responding to the lure of long distance markets, Regional Bell Operating Companies and other local exchange carriers were expected to covet each other's markets. The attraction of serving new local markets was to be a key catalyst for breaking down barriers to competition.

With these mergers, local competition and long distance competition is lost. In addition, potential internet, video and broad band competition has disappeared.

The promise of the new law was that competition, not consolidation would bring new services at lower prices to consumers. Where competition failed to advance service and restrain prices, universal service support would assure that telephone rates and services were comparable in rural and urban areas.

When certain large telecommunications companies combine, they not only eliminate the potential of competition with each other in each other's markets, but they can create a market power which may be capable of resisting competition from others. They can also create the possibility of an unequal bargaining power when they compete with or deal with small, independent and new carriers.

The promise of the Telecommunications Act was improved service and lower rates for consumers through competition and the advancement of universal service. If properly implemented, the Telecommunications Act of 1996 can deliver, but the disappointing merger decisions of the Department of Justice will make that task much more difficult.

The legislation I introduce today would clearly institute an appropriate level scrutiny for mergers between large telecommunications companies. I believe that the antitrust laws and the Telecommunications Act would permit this type of analysis, without the adoption of a new statute, but to date, the Department of Justice has not seemed willing to pursue this approach.

Under the Telecommunications Monopoly Prevention Act, new mega-mergers would not be prohibited but be required to be reviewed in the context of their contribution to competition.

This legislation is by no means a moratorium on mergers. Indeed, some mergers, even among large telecommunications companies, may be very much in the consumers interests and in the interest of competition. This legislation simply requires a level of review consistent with the vision of the Telecommunications Act.

It is my view that the Justice Department is presently pursuing a standard of review for telecomm mergers which would be appropriate for competitive companies tending toward monopoly, but not for monopolies which should be moving toward competition.

Mr. President, I ask that the text of the Telecommunications Monopoly Prevention Act be printed in the RECORD as read and urge my colleagues to review and support this needed piece of legislation.

ADDITIONAL COSPONSORS

S. 9

At the request of Mr. NICKLES, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 9, a bill to protect individuals from having their money involuntarily collected and used for politics by a corporation or labor organization.

S. 63

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey [Mr. TORRICELLI] was added as a cosponsor of S. 63, a bill to amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful

employment discrimination based on race, color, religion, sex, national origin, age, or disability, and for other purposes.

S. 294

At the request of Mrs. HUTCHISON, the name of the Senator from New Jersey [Mr. TORRICELLI] was added as a cosponsor of S. 294, a bill to amend chapter 51 of title 18, United States Code, to establish Federal penalties for the killing or attempted killing of a law enforcement officer of the District of Columbia, and for other purposes.

S. 328

At the request of Mr. HUTCHINSON, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 328, a bill to amend the National Labor Relations Act to protect employer rights, and for other purposes.

S. 362

At the request of Mr. LEAHY, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of S. 362, a bill to deter and punish serious gang and violent crime, promote accountability in the juvenile justice system, prevent juvenile and youth crime, and for other purposes.

S. 385

At the request of Mr. CONRAD, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 385, a bill to provide reimbursement under the medicare program for telehealth services, and for other purposes.

S. 397

At the request of Ms. MIKULSKI, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 397, a bill to amend chapters 83 and 84 of title 5, United States Code, to extend the civil service retirement provisions of such chapter which are applicable to law enforcement officers, to inspectors of the Immigration and Naturalization Service, inspectors and canine enforcement officers of the United States Customs Service, and revenue officers of the Internal Revenue Service.

S. 460

At the request of Mr. BOND, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 460, a bill to amend the Internal Revenue Code of 1986 to increase the deduction for health insurance costs of self-employed individuals, to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home, to clarify the standards used for determining that certain individuals are not employees, and for other purposes.

S. 587

At the request of Mr. CAMPBELL, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 587, a bill to require the Secretary of the Interior to exchange certain lands located in Hinsdale County, Colorado.

S. 589

At the request of Mr. CAMPBELL, the name of the Senator from Colorado

[Mr. ALLARD] was added as a cosponsor of S. 589, a bill to provide for a boundary adjustment and land conveyance involving the Raggeds Wilderness, White River National Forest, Colorado, to correct the effects of earlier erroneous land surveys.

S. 590

At the request of Mr. CAMPBELL, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 590, a bill to provide for a land exchange involving certain land within the Routt National Forest in the State of Colorado.

S. 591

At the request of Mr. CAMPBELL, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 591, a bill to transfer the Dillon Ranger District in the Arapaho National Forest to the White River National Forest in the State of Colorado.

S. 597

At the request of Mr. BINGAMAN, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 597, a bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the medicare program of medical nutrition therapy services furnished by registered dietitians and nutrition professionals.

S. 606

At the request of Mr. HUTCHINSON, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 606, a bill to prohibit discrimination in contracting on federally funded projects on the basis of certain labor policies of potential contractors.

S. 677

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 677, a bill to amend the Immigration and Nationality Act of 1994, to provide the descendants of the children of female United States citizens born abroad before May 24, 1934, with the same rights to United States citizenship at birth as the descendants of children born of male citizens abroad.

S. 770

At the request of Mr. NICKLES, the name of the Senator from Wyoming [Mr. ENZI] was added as a cosponsor of S. 770, a bill to encourage production of oil and gas within the United States by providing tax incentives, and for other purposes.

S. 810

At the request of Mr. ABRAHAM, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 810, a bill to impose certain sanctions on the People's Republic of China, and for other purposes.

S. 884

At the request of Mr. CLELAND, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 884, a bill to amend the Appalachian Regional Development Act of 1965

to add Elbert County and Hart County, Georgia, to the Appalachian region.

S. 885

At the request of Mr. D'AMATO, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 885, a bill to amend the Electronic Fund Transfer Act to limit fees charged by financial institutions for the use of automatic teller machines, and for other purposes.

S. 888

At the request of Mr. DOMENICI, the names of the Senator from Tennessee [Mr. FRIST], and the Senator from North Carolina [Mr. FAIRCLOTH] were added as cosponsors of S. 888, a bill to amend the Small Business Act to assist the development of small business concerns owned and controlled by women, and for other purposes.

S. 912

At the request of Mr. BOND, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 912, a bill to provide for certain military retirees and dependents a special medicare part B enrollment period during which the late enrollment penalty is waived and a special medigap open period during which no under-writing is permitted.

AMENDMENTS SUBMITTED

THE BALANCED BUDGET ACT OF 1997

ROTH (AND MOYNIHAN) AMENDMENT NO. 431

Mr. ROTH (for himself and Mr. MOYNIHAN) proposed an amendment to the bill (S. 947) to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for fiscal year 1998; as follows:

On page 169, between lines 24 and 25, insert:
“(5) SATISFACTION OF REQUIREMENT.—

“(A) IN GENERAL.—A MedicarePlus plan offered by a MedicarePlus organization satisfies paragraph (1)(A), with respect to benefits for items and services furnished other than through a provider that has a contract with the organization offering the plan, if the plan provides (in addition to any cost sharing provided for under the plan) for at least the total dollar amount of payment for such items and services as would otherwise be authorized under parts A and B (including any balance billing permitted under such parts).

“(B) EXCEPTION FOR MSA PLANS AND UNRESTRICTED FEE-FOR-SERVICE PLANS.—Subparagraph (A) shall not apply to an MSA plan or an unrestricted fee-for-service plan.”

On page 188, between lines 18 and 19, insert:
“(k) TREATMENT OF SERVICES FURNISHED BY CERTAIN PROVIDERS.—

“(1) IN GENERAL.—A physician or other entity (other than a provider of services) that does not have a contract establishing payment amounts for services furnished to an individual enrolled under this part with a MedicarePlus organization shall accept as payment in full for covered services under this title that are furnished to such an individual the amounts that the physician or other entity could collect if the individual were not so enrolled. Any penalty or other