well-armed guerrilla fighters, the Khmer Rouge probably could retake Cambodia by force if war breaks out again.

The Hun Sen government, installed by invading Vietnamese in 1978 and protected by 100,000 Vietnamese troops until 1989, has also observed the cease-fire mostly in the breach.

A former Khmer Rouge, Hun Sen has been portrayed by American liberals as a democratic reformer. He is anything but, and after 13 years of oppression, corruption, economic stagnation, and subservience to the Vietnamese, his grip on the country could be nearing its end.

Without President Clinton's active intervention, the situation in Cambodia will deteriorate and UNTAC's mission will be lost.

What can the president do? First, Mr. Clinton must insist that UNTAC do its job. Most of its well-paid soldiers stay in the cities. They need to be deployed to the countryside, where they can protect local political organizers.

Mr. Clinton also must insist that UNTAC take control of Hun Sen government ministries, as it was empowered to do in the October 1991 agreement. Hun Sen continued to use the security-related ministries, such as the Ministry of Interior, to intimidate his democratic opponents, led by Prince Norodom Ranariddh and former Prime Minister Son Sann. This will continue unless UNTAC fulfills its mandate.

Second, Mr. Clinton should provide direct assistance to the democratic opposition. Currently, Hun Sen is denying the noncommunists access to newspapers and radios. Washington should provide them with needed newsprint, and insist that Hun Sen give them equal access to radio stations.

Third, Mr. Clinton should be prepared to act firmly and immediately if the rapidly deteriorating situation breaks down completely. Mr. Clinton should warn both China and Vietnam that the United States will view with severity any resumption of military aid to their respective clients, the Khmer Rouge and Hun Sen. In addition, he should ask Thailand to end its trade with the Khmer Rouge, an important source of funds for the guerrillas, and he should make it clear that he intends to provide economic and military support to the noncommunist Cambodians.

Most important, the new U.S. government should not allow itself to be caught in the trap of equating elections with success in Cambodia. Elections will be meaningless if they are unfair and merely serve to perpetuate the strong-arm control of one communist faction or another.

THE BIOTECHNOLOGY ACT OF 1993

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. MOORHEAD. Mr. Speaker, today Congressman RICK BOUCHER and I are introducing legislation which is necessary to cure a defect in current patent law. When Congress last amended the patent law in 1988 in the omnibus trade bill, we provided that the unauthorized use of a patented process by a person—inside or outside the United States—to produce a product constituted an act of patent infringement. This action was aimed at preventing the use of American innovation by unfair foreign competitors. Unfortunately, these amendments do not adequately address the problems of the biotechnology industry. As a result additional legislation is necessary.

Biotechnology products currently on the market in the United States are virtually all the work product of American inventors. The predominant form of intellectual property protection in this industry has been process patents. There are two types of patents that we should be familiar with, one is a product patent and the other is a process patent. Product patents cover the actual item invented. A process patent does not cover the product invented but it covers the process used to make a product. An inventor would seek a process patent when a product patent would be unavailable, for example, the development of a new way to make gasoline. You would not be able to obtain a product patent on gasoline because it's an old product but you could obtain a patent on a new process for manufacturing gasoline. Another example in the biotech area is interferon which is a natural substance found in the human body, therefore not patentable as a product. However, if you invent a process for making interferon, that process is patentable. Product patents are generally considered to provide better protection for drugs than process or use patents because the latter two types usually can be circumvented more easily. Inventors of some recombinant versions of naturally occurring products have found it difficult to obtain adequate patent protection because of the mere existence of literature disclosing incomplete information about the product. When this occurs a patent may be denied for lack of novelty, in other words, as far as the Patent and Trademark Office [PTO] is concerned it has already been discovered. A second problem is that the PTO may find that a process is unpatentable because it is obvious, that is, its basic properties, before they have been isolated in a substantially pure form by use of recombinant technology are known and therefore deemed unpatentably obvious. Before you can obtain a patent it must be novel and nonobvious to someone skilled in the particular field of discovery.

This legislation addresses both of these problems. The bill we are offering today clarifies the rules of obtaining biotechnology-related process patent claims, and offers meaningful remedies for firms with U.S. patents on essential intermediates. This legislation will return the rules for obtaining process patents to the case law exemplified by In re Mancy and effectively overrule in the case of In re Durden, insofar as the biotechnology industry is concerned.

The second change in the bill will prospectively change the anomalous result that confronted the California biotechnology firm, Amgen, when they attempted to exclude from the United States products unfairly made in Japan using an essential intermediate—also known as a host cell or miniature factory—patented by Amgen. This part of the bill makes it an act of patent infringement to make, use, or sell products produced by patented biotechnological materials. The biotechnology materials envisioned by the bill include host cells, DNA sequences and vectors. But for the discovery of these patented materials and their application to create a commercially viable product there would be no meaningful discovery. Thus, it makes sense for us to extend the reasoning of the 1988 process patent amendments to this category of materials. Moreover, as the court of appeals for the Federal circuit said in the Amgen case, the remedies available to these innovative American firms is a question of policy best addressed by Congress.

This bill is the first step toward a recognition by the Congress of the need to nurture an innovative, high technology industry that has strong growth potential. Our U.S. industry is currently ahead of our major trading partners in this technology. In order to maintain that lead we need to assure that the risk taken, the scientific breakthroughs achieved, and the investments made, are rewarded by a system of adequate and effective intellectual property protection.

I urge early action on this legislation.

DELEGATE VOTING IN THE COMMITTEE OF THE WHOLE

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. HYDE. Mr. Speaker, today I must comment upon the deplorable decision of this body to allow delegates to vote in the Committee of the Whole. The following remarks, addressed to a citizen, set forth my views:

If you haven't given much thought to American Samoa recently, you should know that this U.S. territory consists of seven lush islands and coral atolls sitting atop New Zealand in the South Pacific—some 4,800 miles from Los Angeles. Its main industry is tuna fishing and canning. The 51,000 residents are not U.S. citizens, but U.S. nationals (who cannot be drafted into the armed forces). You may be more familiar with the U.S. Virgin Islands, perhaps having vacationed there. The Islands' 99,000 residents are U.S. citizens, but do not pay income taxes to the U.S. Treasury. They are dwarfed by the 1,000,000 tourists who visit each year.

What do these two American territories have in common? The majority Democrats in the House of Representatives have forced through a change in the rules of the House that will allow the two territorial delegates of Samoa and the Virgin Islands, along with the delegates of the District of Columbia, Guam, and the resident commissioner of Puerto Rico, to participate in votes on the House floor. This is a privilege presently possessed only by 435 U.S. Representatives by virtue of our each representing about 570,000 Americans.

Why was the change approved? Politics, raw and simple. It is no accident that the five delegates in the 103rd Congress are Democrats. The Democrats' majority in the House of Representatives was reduced by ten on November 3—and the party simply wants to regain some of their ground lost at the ballot box. It was such a blatant power grab that 27 Democrats voted against it, all demonstrating political courage for representatives who vote against their party on procedural matters do so at their own peril.

This rule change dilutes the political power of those Americans living in the 50 states by giving voting privileges to representatives of sparsely populated territories, whose residents do not always have to shoulder the burdens borne by other Americans. If the territories want full representation in Congress, they can get it the old-fashioned way—they can apply for statehood! Anyone interested is free to consult Article IV, Section 3 of the Constitution.

It is true that delegates would not be given the right to vote on the final passage of legislation, only on amendments that are offered in the "Committee of the Whole." (I

awards. This outstanding academic record was rewarded through his receiving a full 4-year Woodruff Scholarship to attend Emory University.

Throughout his tenure at Emory University, Stanley has maintained an academic record that has kept him on the Dean's list. Along with this attention to his studies, he was active in student government and served as president of the Residence Hall Association, resident advisor, sophomore advisor, and national regional officer of the Catholic Student Coalition.

All of these efforts have culminated in Stanley being selected as a Rhodes Scholar. He will attend Oxford University for 2 years beginning in October 1993, and will study politics, philosophy, and economics.

I join with Stanley's father, Stanley Joseph II, his mother, Joanne, his sisters, Linda and Karen, and his brother Michael, in commending Stanley on his outstanding academic achievements and in wishing him the future successes that other Rhodes Scholars have achieved—President Bill Clinton and Senator BRADLEY among them. This is indeed an accomplishment of which Stanley is well deserved.

THE ENERGY EFFICIENCY AND CONSERVATION ACT OF 1993

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. McDERMOTT. Mr. Speaker, today, I am introducing the Energy Efficiency and Conservation Act of 1993. I am pleased that Congressmen MIKE KOPETSKI, AMO HOUGHTON, and RICHARD NEAL have joined me in cosponsoring this legislation.

Energy experts across the Nation recognize conservation as the most environmentally responsible and cost-effective source of energy available today. Under the direction of the Northwest Power Planning Council, the States of Washington, Oregon, Idaho, and Montana are committed to achieving 1,500 megawatts of energy conservation over the next decade. This effort will save enough energy to meet the electricity demands of a city half again as large as Seattle.

This legislation will overturn the International Revenue Service practice that discourages private utilities from pursuing the kind of effective conservation programs that are vital to the Nation's energy future. Longstanding IRS policy has allowed electric and gas utilities to deduct from their tax liabilities the cost of their energy conservation programs in the year in which the costs are incurred. However, the Service has begun to pressure private utilities to spread these deductions over a period of several years. The Puget Sound Power and Light Co. estimates that this could reduce its annual conservation expenditures by up to 10 percent. That amount is equivalent to the loss of the electricity conserved when 4,500 homes participate in the company's residential weatherization program.

I want to emphasize that this legislation is nothing more than an affirmation of longstanding tax policy, and a rejection of the Service's recent attempts to modify it. Utilities have deducted conservation expenditures in the current year since the beginning of these programs in the 1960's. As recently as 1991, the IRS acknowledged in a technical memorandum that conservation expenditures are, in fact, allowable as a current deduction.

Investor owned utilities, like the ones represented here today, are key to the success of conservation programs across the country. Of the 1,500 megawatts of energy savings the Pacific Northwest has committed to achieve in this decade, over half of that will come from private utilities. I am committed to supporting these companies in this important effort, and this legislation is a vital first step.

BACKGROUND

Energy conservation and efficiency are top national priorities for the United States. Across the country, and especially in the Pacific Northwest region, energy conservation is the preferred alternative for obtaining new energy resources and slowing down the depletion of the available energy supply. In order to promote energy conservation, many utility companies have energy conservation programs which are mandated by State regulators and paid for by customers through authorized electric and gas rates.

Conservation expenditures are made by utilities for products and services to enable their customers to reduce energy use, and the products are owned by the customer. Examples of conservation expenditures include: Energy efficiency audits, education and marketing programs to promote conservation and efficient use of energy, insulation and weatherization materials, and subsidies and rebates for the installation of efficient lighting, appliances, and other efficiency products.

THE PROBLEM

Some IRS auditors, in an attempt to raise revenue, are currently beginning to disallow deductions for energy conservation expenditures made by electric and gas utilities and are directing that the deductions be spread over a period of years. This is in direct contradiction to the industry practice by electric and gas utilities, since the introduction of energy conservation programs in the early 1960's, of deducting energy conservation expenditures in the year incurred for tax purposes. If the IRS's recent interpretation remains unchanged, the after-tax cost of energy conservation programs will be dramatically increased, thus discouraging conservation at a time when environmental, energy, and customer cost considerations all argue for maximizing conservation. More importantly, utilities will also face enormous back tax liabilities for conservation expenditures made in previous years and taken as a current deduction as a result of reliance on well established accounting and tax principles.

If the IRS is allowed to continue to disallow deductions for energy conservation expenditures by electric and gas utilities, it is estimated that the expenditures utilities make for conservation programs will be reduced by up to 10 percent. For Puget Power, this is the equivalent of eliminating 4,500 homes from the company's residential weatherization program or having to sell an additional one or two average megawatthours of electricity per year to its customers.

PROPOSED LEGISLATION

The Energy Efficiency and Conservation Act of 1993 will establish that conservation expenditures by an electric or gas utility that promote and encourage energy efficiency and conservation are deductible for the year in which they are paid or incurred thus reducing the after-tax cost of these programs for the utility companies. The legislation only clarifies and makes explicit current tax and accounting practice.

TIME TO HELP CAMBODIA

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mrs. BENTLEY. Mr. Speaker, in a column printed last week in the Washington Times, Heritage Foundation analyst Richard Fisher lays out several courses of action for President Clinton regarding the unstable situation which persists in Cambodia. One suggestion is for the United States to provide direct assistance to the democratic opposition—a democratic opposition that is routinely denied equal access to newspapers and radios.

With national elections tentatively scheduled for May, it seems incomprehensible that the Khmer Rouge and the Communist Hun Sen government continues to monopolize the airwaves. The entire drama now being played out inside Cambodia is very disturbing indeed. But, despite the continued diplomatic intransigence of the Khmer Rouge, all is not lost. For 3 years, my colleague, JOHN PORTER, and I have advocated the creation of a Radio Free Asia to advance the cause of democracy where the free flow of information is reduced to a trickle.

I know that President Clinton supports Radio Free Asia because he said so on numerous occasions during the last campaign. Mr. Speaker, our new President is in a position to offer the Cambodian people a meaningful alternative to radio airwaves now entirely controlled by their oppressors. I hope that he will do the right thing.

I insert the text of the Washington Times article in the RECORD.

[From the Washington Times, Jan. 25, 1993]

AVOIDING THE U.N.'S OTHER CONFLICT

(By Richard Fisher)

In addition to Iraq, Somalia, and Bosnia, President Clinton may soon have another international crisis on his hands, this time in Cambodia.

Since October 1991, Cambodia's future has been in the hands of the United Nations Transition Authority in Cambodia (UNTAC). As part of a peace treaty that included a cease-fire, Cambodia's warring factions agreed that UNTAC would take control of the government, disarm the factions, and conduct elections—now scheduled for May.

To support this effort, UNTAC has gathered the largest-ever U.N. peace-keeping force: about 22,000 soldiers and administrators from 44 different countries. Total cost of the effort could be as much as $3 billion, of which the United States has pledged $513 million.

However, UNTAC appears headed for failure as a result of continuing terrorism by the two largest factions, the communist Khmer Rouge and the Hun Sen government in Phnom Penh. The notorious Khmer Rouge were responsible for killing more than a million Cambodians during their rule from 1975 to 1979. The Khmer Rouge has, unfortunately, refused to disarm and has regularly violated the U.N. cease-fire. With some 30,000

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