may have been in use prior to the filing of Amazon's patent application. Priceline.com's ''buyer-driven sales'' over the Internet arguably may have been ''obvious'' to an expert in the field of auctions.

I do not know whether these patents should or should not have been granted (and ongoing litigation will inevitably make that determination), but it is clear that the review of business method patent applications is impaired by the lack of documentation capturing the history of innovation in the Internet or the development of business techniques and methods.

By contrast, in the fields of engineering or science (two areas in which many patents are sought), inventions and innovations are meticulously documented and published. With these publications at hand, an examiner has easy reference to existing inventions. But very little published information exists with Internet and hi-tech practices . . . and most of what does exist is analogous to ''folk knowledge'', handed from person to person orally or in chat rooms or by e-mail. Where developments are documented, there is no common organizing scheme. Where business plans are involved, they are usually closely held as trade secrets. Since an examiner can reject a patent application only on published ''prior art'', informal communications are excluded.

As to obviousness, it is usually up to the patent examiner—using his own expertise and research of ''prior art''—to assess whether an expert in the field would think to come up with the applicant's invention. In the area of business method patents, the endeavors for which patents are being sought are very new to the PTO. It has been only five years since the Internet became a tool of business, and only two years since the court clearly established the rule that a business method is patentable in the United States. Unfortunately, although PTO is taking strides to develop expertise in the appropriate fields, there must be improvement in how experts can submit information to the PTO regarding specific patent applications.

Many of the changes needed can be met only by legislative action. It is critical that we create new mechanisms to get ''prior art'' into the system and make it available to applicants and the PTO. We must enhance the deference given the PTO in rejecting patent applications on the basis of all of the provisions of subsections 102(a) and (b) of title 35 by allowing examiners to rely on evidence of knowledge, use, public knowledge or sale in the U.S. that may not be documented in published references.

I am today introducing with Mr. BOUCHER a bill that will enhance the quality of Internet and non-Internet business method patents by increasing the opportunity for expert input into the patenting process. These improvements will provide patent owners and investors alike with greater confidence in the quality of their patents. The bill requires the PTO to publish business method patent applications and give the members of the public an opportunity to present ''prior art'' they believe may disqualify the application. Members of the public may also petition the PTO to hold a hearing to determine whether an invention was known, used by others, or in public use or on sale in the U.S. prior to the filing of the application. The bill also establishes an expeditious administrative ''opposition'' process by which a party will be able to challenge a business method patent. The opposition process provides parties with substantial evidentiary tools but will be much less costly and more efficient than litigation. The opposition process must be invoked within 9 months of the granting of a patent, and must be concluded within 18 months thereafter. Thus, we assure that within 27 months after the granting of the patent, a patent owner will either have enhanced confidence in the quality of their patent—something akin to quiet title—or will know the patent has been invalidated. The procedure will be presided over by an Administrative Opposition Judge who has substantial patent expertise and will have the responsibility to assure efficient review.

In regard to adaptations of business methods to the Internet, the bill establishes that where an invention only differs from ''prior art'' in that it is implemented using computer technology, such an invention shall be presumed obvious and therefore not patentable (this presumption can be overcome if a preponderance of the evidence shows that the invention was not obvious). Finally, the bill lowers the burden of proof for a challenge to a patent from ''clear and convincing evidence'' to ''a preponderance of the evidence''—an appropriately lower standard where the difficulty of producing evidence is complicated by the traditions and practices of the industries.

In introducing this legislation I am not taking a final position as to whether business methods should be patentable—I tend to think they should be, but I could be persuaded otherwise. I am not wed to any particular provision of this bill itself But I do believe that we need to be sure that the Patent and Trademark Office is well equipped to consider these patents, that there are adequate means to get good information into the system describing prior inventions, and that there are the appropriate standards and processes in place to assure the quality of the patents that are actually issued. There should be no question that the U.S. patent system produces high quality patents.

This bill is a work in progress, and one that will likely generate great debate. As I have noted, there are some who believe that ''business methods'' should not be patentable at all. Others who are certain to argue that current law ''ain't broke'', so there is no need for Congress to fix it. Still others believe that, to the extent there may be a problem, the Patent and Trade Mark Office will address it administratively. My intent with this legislation is to stimulate the dialogue. We need to air these issues and ultimately (and hopefully quickly) find the proper solutions.

TEACHING ABOUT CONGRESS

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 2000

Mr. ROEMER. Mr. Speaker, I highly recommend the following speech recently given by our distinguished former Indiana colleague Lee Hamilton. Lee has devoted his career as a public servant to improving public understanding of Congress, and I found his remarks quite timely and informative. Mr. Speaker, I submit the following remarks into the CONGRESSIONAL RECORD.

TEN THINGS I WISH POLITICAL SCIENTISTS WOULD TEACH ABOUT CONGRESS—REMARKS BY THE HONORABLE LEE H. HAMILTON, PI SIGMA ALPHA LECTURE, AMERICAN POLITICAL SCIENCE ASSOCIATION ANNUAL MEETING, AUGUST 31, 2000

INTRODUCTION

My purpose this afternoon is to offer some thoughts on the role that you, as political scientists, can play in improving public understanding of the U.S. Congress.

I do not know what each of you teaches about the Congress—but I do know—on the basis of several thousand public meetings over three decades—that the lack of public understanding about the institution is huge.

That lack of understanding among ordinary Americans concerns me deeply because it increases the public's suspicions and cynicism about the Congress, weakens the relationship between voters and their representatives, makes it harder for public officials to govern, and prevents our representative democracy from working the way it should.

I believe you can improve public understanding of Congress by teaching several basic, and rather simple, lessons about this sometimes puzzling institution.

If Americans leave high school and college with a solid understanding of Congress, they will be better able to contribute to our nation's political life and will help make our representative democracy work better.

TEN THINGS TO TEACH ABOUT CONGRESS

First, I'd like you to teach that Congress is the most important link between the American people and their national government.

Many Americans have little appreciation for the basic function and role of Congress in our political system. I want you to help them understand that Congress is the institution whose job it is to seek consensus out of the many and diverse views of the American people. I want you to explain that Congress performs the extraordinary task of legislating and overseeing the government in the interest of more than 275 million Americans.

For all its deficiencies—which I will get to later—Congress has three great strengths:

Congress is, by far, the most representative institution in the United States. We live in a complicated country of vast size and remarkable diversity. Our people are many; they're spread far and wide; and they represent a great variety of beliefs, religions, and ethnicities. It isn't easy for such a country to live together peacefully and productively. Although Congress does not perfectly mirror the demographics of the American people, it does help bind us together by representing the country's great diversity.

Congress is also accessible—much more so than any other part of the federal government. Congress is the primary ''listening post'' of the people. If an ordinary American has a complaint or suggestion about the government, he cannot reach the President, or the Vice President, or a cabinet secretary—or even a deputy assistant secretary. He can reach his Representative or Senator.

And Congress is our nation's chief deliberative body. It is the place where the many views and interests of the American people on all manner of subjects get thrashed out. It remains the central forum for vigorous public debate, consensus building and decision making on the most important issues of the day.

Second, I'd like you to explain that Congress has a major impact on people's everyday lives.

Many Americans believe Congress accomplishes little and is simply irrelevant to their daily lives. I'd like you to help correct that misperception.

While Congress is no longer the most powerful institution in the national government—as it was at the beginning of the 19th

century—it is still an important shaper of national life.

Americans pay more attention to Congress as they understand the impact congressional decisions have on the fabric of their lives. When Congress funds basic research in science, it's helping create the future cures for deadly diseases. When it raises the minimum wage, it's enabling people to rise out of poverty. When it protects national parks, it's preserving our natural heritage.

I want Americans—I want your students—to appreciate that nearly every aspect of their lives is touched by the decisions of Congress.

It's remarkable how quickly we forget that Congress has been involved in some big things in recent years: Erasing the federal deficit; Overhauling the welfare and public housing systems; Rewriting telecommunications laws; Approving billions to improve roads and bridges; and Liberalizing international trade.

Although we may not all like what Congress did on each of these issues, after debating policy options and gauging public sentiment, it acted.

Third, I'd like you to emphasize that Congress was not designed to move quickly and efficiently.

One of the most common complaints about the Congress is that it's always arguing and bickering. I must have heard the complaint a hundred times: ''Why can't you guys ever agree?''

This perception is a major factor in the public's lack of confidence in the institution.

Why is it so difficult for Congress to reach agreement? Part of the answer involves politics. The struggle for partisan or personal advantage, particularly in an election year, can stall the work of Congress substantially.

But there is much more to it than that. Our system of government was intentionally set up with many checks and balances to prevent hasty action. Legislative dispute and delay, while frustrating, are not necessarily signs of democracy in decay.

The task of achieving consensus is made especially difficult today because the issues before Congress are so numerous, complex and technical, and they come at Members with staggering rapidity.

In the Federalist Papers, Madison wrote that a Member of Congress must understand just three issues: commerce, taxation and the militia. To a Member today, that observation is a bit quaint, to say the least.

Take the ten most difficult issues facing our country and you can be sure that Congress will take each of them up in some form over the coming year.

People misunderstand Congress' role if they demand that Congress be a model of efficiency and quick action. Congress can work quickly if a broad consensus exists in the country. But such a consensus is rare—especially on the tough issues at the forefront of public life today. Usually, Congress must build a consensus. It cannot simply impose one on the American people.

The quest for consensus can be painfully slow, and even exasperating, but it is the only way to resolve disputes peacefully and produce policies that reflect the varied perspectives of our diverse citizenry.

Fourth, I'd like you to highlight the great dynamism and complexity of the legislative process.

When I visit with students in American government classes, I make a point of flipping through their textbooks to see the diagram illustrating ''How a Bill Becomes a Law''. The diagram usually explains that a piece of legislation, once introduced, moves through subcommittee and committee, then to the House and Senate floors, then to a House-Senate conference, and finally to the President for his signature or veto.

In a technical sense, of course, these diagrams are generally accurate. But my reaction to them is: ''How boring! How sterile!'' They fail to convey the challenge, the hard work, the excitement, the obstacles to overcome, the political pressures, the defeats suffered, and the victories achieved to enact legislation. They give a woefully incomplete picture of how complicated and untidy the legislative process can be, and they barely hint at the clash of interests and the multitude of difficult things a Member must do to shepherd an idea into law.

One of the most important and time-consuming aspects of the legislative process is conversation: the scores—even hundreds—of one-on-one talks that a skillful Member will have with colleagues to make the case for a particular bill, to learn what arguments opponents will use to try to block it, and to get a sense of what adjustments might be needed to move it along.

These conversations end up posing difficult dilemmas to a Member pushing a bill. For instance, should the Member alter the proposal to broaden its appeal, or keep the bill as it is and hope to defeat the opposition?

How should the Member use the media—to rally public support behind the measure, put pressure on opponents, and advance the legislation?

The increased size and scope of individual bills today makes the legislative process still more complicated. Almost half of the major bills are referred to more than one committee in each chamber. Ad hoc caucuses are sometimes created to address new concerns. As the number of actors involved proliferates, the possibilities for conflict over a bill increase.

All of this adds up to a process that is extremely dynamic, unpredictable and messy. There are ways for astute Members to get around nearly every stage in the traditional model of the process.

Even for Members, it can be difficult to know when and where the key decisions on a bill will be made.

Fifth, I'd like you to teach that what this country needs is more, not fewer, politicians.

Members of Congress are, first and foremost, politicians. Their number one objective is to get re-elected.

Yet the art of politics does not often get high praise these days. When the federal government was almost shut down a few years back, that was considered ''politics''. When Washington, D.C. was consumed by the impeachment of President Clinton, and the rest of the people's business had to take a back seat, that was attributed to ''politics''.

Showing skill as a ''politician'' has come to mean demonstrating the ability to raise campaign funds, to engage in the tit-for-tat exchange of negative advertising, to fudge your positions, or to jockey for public support based on polls and focus groups.

But the fact is that good politicians are vital to the success of our representative democracy. When I say ''politician,'' I mean someone who knows how to practice the art of politics.

This art involves an assortment of important, but often underappreciated, skills. Good politicians must know how to listen—in order to find out what people want. They must be able to build support for their ideas with colleagues, constituents and key individuals. They must search for common ground across parties and among people with diverse interests. They must be able to compromise while preserving core beliefs. And they must get results—achieving passage of legislation that meets people's needs.

To avoid coming apart at the seams, our country needs people who know how to practice the art of politics. That is what good politicians do: they make democratic government possible in a nation alive with competing factions.

Politicians may not be popular, but they are indispensable to making representative democracy work.

That's why we need more politicians, not fewer.

Sixth, I'd like you to teach that Members of Congress behave better than people think.

The perception that Members are corrupt, or immoral, or enriching themselves at the taxpayer's expense, takes a serious toll on our system of government.

Americans of all stripes like to dwell on misbehavior by Members of Congress. People look at the latest scandal and assume they're seeing the real Congress. But they're not, not by a long shot.

Don't get me wrong. I'm not proposing my former colleagues for sainthood. But as the press lauds two vice presidential candidates—Republican Dick Cheney and Democrat Joe Lieberman—for their probity in Congress, we should remember that probity is the rule, not the exception.

Some Members, of course, do engage in improper conduct—and our system of financing elections degrades politician and donor alike—but my experience is that most Members are remarkable people who care deeply about our country and seek to better it through their public service. Most could make far more money on the outside, but choose to serve in Congress because they want to contribute to their country.

Moreover, the ethical standards in Congress are higher than ever before. When I entered the House, gifts and the use of campaign contributions for personal use were unrestricted; financial disclosure was not required of Members; there was no written code of conduct; and no standing House ethics committee existed to police the membership. All that has changed.

Certainly, Congress still has major strides to make in this area. The role of the House Ethics Committee, for instance, has not yet been fully worked out, and its performance has been disappointing over the last few years.

But the ethical climate at the Capitol is light years ahead of where it was a couple of decades ago. And, I might add, light years ahead of the common wisdom.

Seventh, I'd like you to teach that Members of Congress do pay attention to their constituents.

Often I hear that Members of Congress only pay attention to power brokers and big-time donors and don't care about ordinary citizens. That simply is not true.

Sometimes when I stood in front of a roomful of voters, I could feel a curtain of doubt hanging between them and me: I took the positions I did, they believed, because of this or that campaign contribution, not because I'd spent time studying and weighing the merits of issues. They had given themselves over to cynicism, and cynicism is the great enemy of democracy. It is very difficult for public officials to govern when their character, values, and motives are always suspect.

Of course, Members of Congress are influenced by special interests—often too much, in my view—but they are even more influenced by their constituents.

Members are—for the most part—very good politicians. They know what their constituents think. They hold numerous public meetings, poll their districts regularly, talk on the phone with constituents frequently, and answer hundreds of letters and e-mail messages daily. They are constantly helping to solve constituents' problems.

Members really do believe that constituent views are important; during all my years in Congress I never heard a Member say otherwise.

My view, in fact, is that Members are sometimes too close to their constituents—particularly when they risk reflecting their constituents' views at the expense of their own judgment. It was Lincoln who said that the art of democratic government is to be out in front of your constituents, but not too far out in front.

Eighth, I'd like you to emphasize that citizens play an essential role in making Congress work.

The American people bear more responsibility for the success of our representative democracy than they realize. If people don't participate in the political process, their views cannot be effectively represented. This is not just a matter of voting. Our system depends upon open and trusting interaction between representatives and the people who elected them.

Let me give you an example of what I mean. Back in the late 1970s, I was meeting with a group of constituents in Switzerland County, a deeply rural, tobacco growing county in the far southern corner of Indiana. It was not a place I expected to come for enlightenment on international politics.

While talking with the group, though, the subject of the Panama Canal treaties came up. This was well before the media had focused on the issue, but a man I'd never met suddenly stood up and laid out the clearest, most evenly reasoned argument for ratification that I ever did hear on the matter—even after the treaty debate mushroomed into a raging national issue. I was flabbergasted, but took it as a humbling reminder that as a Member of Congress, you can always find constituents who can teach you a thing or two about an issue.

My constituent in Switzerland County understood that the relationship between a citizen and a representative requires more than a quick handshake, or a vote, or a moment's pause to sign a computer-generated postcard. He understood that there must be a conversation, a process of mutual education, between citizens and representatives.

Many Americans have given up on the conversation. They must understand that they need to get involved if they want our system to improve.

They need to know that the nature of this relationship between the representative and the represented—and the honesty of the exchange between the two—shapes the strength of our representative democracy.

Ninth, I hope you teach that Congress needs a lot of improvement—to make it more accountable, transparent, responsive and efficient.

I urge you to be unrelenting critics of the Congress—but in the context of everything else I've said so far.

I won't go into detail here because you are familiar with these problems.

The incessant money chase—to fund increasingly costly campaigns—diverts Members' attention from their important responsibilities and leads to a growing sense that access is bought and sold.

Many Members—especially Members of the House—operate today in a state of perpetual campaigning. Rather than trying to develop consensus and pass laws, they view the legislative session primarily as an opportunity to frame issues and position themselves for the next election.

It is extremely difficult to defeat incumbents in Congress. Their financial advantages are great and they use the redistricting process to create districts that are heavily partisan in their favor.

Bitter partisanship and personal attacks have become all too common in Congress—poisoning the atmosphere and making it harder to meet the needs of the country.

Special interest groups have too much influence over Congress. They play an important role by representing the views of different segments of the population, but they often have tunnel vision—advancing narrow interests at the expense of the national interest.

The committee system has been eroded and is close to collapse. Legislation is regularly drafted in informal settings outside the authorizing committees and brought directly to the House or Senate floor.

Congress devotes too little attention to some of the country's major long-range challenges. How can we ensure that we have adequate food, energy, and water supplies well into the future? How do we maintain a prosperous and open economy? What domestic and international environmental challenges will we face? Congress spends so much of its time struggling to pass its basic spending bills that these kinds of long-term issues are simply set aside and not dealt with.

Congress doesn't perform adequate oversight of government programs. Oversight of the implementation of laws is at the very core of good government. But congressional oversight has shifted away in recent years from the systematic review of programs to highly politicized investigations of individual public officials.

Current scheduling practices make it difficult for Congress to carry out its responsibilities. The 2 1/2 to 3 day legislative workweek makes it impossible for Members to attend all of their committee meetings and other official business.

There is a severe lack of accountability in the appropriations process. Congress increasingly turns to omnibus legislation—combining hundreds of different provisions into one huge bill, tacking on unrelated riders and wasteful earmarks, and allowing only one up-or-down vote on the entire package. Simply put, these bills are abominations.

The rules for the consideration of bills in the House are often too restrictive. Although there has been some improvement in the 106th Congress, the House leadership has tended over the years to design rules that sharply curtail debate, restrict the opportunity for the average Member to participate, and limit the amendments and policy options that can be considered.

The Senate regularly fails to consider presidential nominations for key judicial posts and cabinet positions in a timely manner. This practice blocks appointments that are critical for the effective functioning of our government.

Congress must take its own reform seriously. It should work on reform every year—not every ten years, as has been its pattern.

Finally, I'd like you to teach that in spite of these many problems with Congress, our representative democracy works. It may be slow, messy, cumbersome, and even unresponsive at times, but it has many strengths, and continues to serve us well.

Some say our institutions of government—including the Congress—create more problems than they solve. In the past decade, we experienced an intensified assault on government from some quarters, and ''government'' and ''Washington, D.C.'' became bad words, symbols of the worst kind of corruption and waste. My hope is that we are now beginning to move away from that kind of extreme anti-government rhetoric. The more positive tone of the present presidential campaign would suggest that we are.

Representative democracy, for all its faults, is our best hope for dealing with our nation's problems. It works through a process of deliberation, negotiation and compromise—in a word, the process of politics. Politics is the way we represent the will of the people in this country. At its best, our representative democracy gives a system whereby all of us have a voice in the process and a stake in the product.

I don't for a moment agree with those who think that our representative democracy has failed or that the future of the country is bleak.

Just consider the condition of America today. In general I think it is a better place than it was when I came to Congress some 35 years ago.

Of course, our country still faces serious problems—from reducing economic inequality to improving access to health care to strengthening our schools—but overall we are doing quite well.

We must be doing something right.

Churchill's remark that ''democracy is the worst system devised by the wit of man, except for all the others,'' still rings true.

I would hope that when each student leaves your class, he or she would appreciate that this representative democracy of ours works reasonably well.

RECOGNIZING THE NATIONAL WALK OUR CHILD TO SCHOOL DAY IN HONOR OF JOHN LAZOR

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 2000

Mr. KUCINICH. Mr. Speaker, today I recognize Wendy Lazor, Councilman Ed Fitzgerald, the Lakewood City Council, and the Lakewood Board of Education for their work in establishing the ''International Walk your Child to School Day,'' in honor and memory of John Lazor.

The tragic loss of three-year-old John Lazor occurred on April 26, 2000, while on an innocent walk to the corner store with his day care provider. A pickup truck backed from across the street into the driveway which young John was standing in, killing him instantly. This tragedy emphasizes the importance of taking precautions and the need for children's safety education. John's courageous mother, Wendy Lazor, has decided to dedicate herself to the advocacy of pedestrian safety, especially children. Amazingly, she found strength in the midst of her loss to work as an advocate for the public good. She is the driving force behind Lakewood, Ohio's recent resolution to establish Wednesday, October 4, 2000, as National Walk Our Children to School Day.

Along with the help of the Lakewood Board of Education, City Council and Councilman Ed Fitzgerald, The Lakewood Early Childhood Professionals has decided to dedicate a special event, the National Walk Our Children to School Day, in John Lazor's honor. All of Lakewood can participate in this event, in which the purpose is to provide an opportunity for adults to teach children about pedestrian safety and choosing safe routes to school, and to help make our communities more safe for walking. Because Lakewood is a densely populated city, and one in whose children typically walk to and from school on a daily basis, the City Board of Education has decided to support and encourage participation in National Walk Our Children to School Day. The city's main event, honoring the memory of Wendy Lazor's son, John, will be held at his old school, Franklin Elementary.

Mr. Speaker, I ask my fellow colleagues to rise with me in recognition of the hard work