This is not a serious exercise. All indications are that they don't intend to have a real debate about one of the most important issues we face. Anybody who has been here for any period of time knows that energy bills take at least a couple of weeks. So it doesn't appear there is either the time or the willingness on the other side to debate this critical issue.

We would have liked to have had a debate on ideas we have already offered. Our energy bill would give the President the ability to raise the liability caps on economic damages done by companies such as BP, without driving small independent oil producers out of business.

It would lift the administration's job-killing moratorium on offshore drilling as soon as new safety standards are met—a moratorium that one senior Gulf State Democrat says could cost more jobs than the oilspill itself. How can you have a serious energy debate without addressing a problem that a leading Gulf State Democrat said is costing more jobs than the oilspill itself?

Our bill has a true bipartisan commission—with subpoena power—to investigate the oilspill, rather than the President's antidrilling commission.

Importantly, it also takes good ideas from Democrats, including Senator BINGAMAN's idea for much needed reform at MMS. Surely, we can all agree that this administration's oversight at MMS is in need of major reform.

Our bill includes revenue sharing for coastal States that allow offshore drilling to help them prepare for and deal with disasters such as the one we have right now in the gulf.

We have our own ideas, we have some of their ideas, and our bill doesn't kill jobs; it doesn't put a moratorium on production.

We are not interested in yet another debate about a Democratic bill in which the prerequisite is killing more jobs.

Our bill would address this crisis at hand. Their bill would use the crisis to stifle business and kill jobs in a region that is in desperate need of jobs.

It was my hope we could have a real debate about energy. Clearly, the majority—at least so far—isn't interested in that debate.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BEGICH). Without objection, it is so ordered.

ENERGY REGULATIONS

Ms. MURKOWSKI. Mr. President, it has now been 99 days since the Deepwater Horizon drill rig caught fire and sank to the ocean floor. That incident—and the millions of barrels of oil that have spilled into the Gulf of Mexico since it began—has made it absolutely clear that our Nation's offshore energy regulations need to be reformed. Even in a Congress as deeply and bitterly divided as this one, the fact that we are living through a terrible environmental disaster, caused at least in part by certain failures of the government, should be more than enough for us to work in good faith and reach consensus on a path forward.

For the past 3 months, that is exactly what the members of the Energy Committee have sought to develop. We have been working toward a responsible path that is acceptable to all—or at least most—of the Members of the Senate. We started by holding four major hearings on the gulf spill. This allowed us to build a record within the committee on everything from blowout preventers to certificates of financial responsibility. Our committee worked very hard on this. We spent countless hours working on legislation to repair the failed offshore regulatory system. We concluded our efforts last month, after all these series of hearings, and we unanimously passed legislation, S. 3516, the OCS Reform Act, out of committee unanimously. Around here nowadays, sometimes it is tough to get not only that real good committee work product but then to see that move through committee unanimously. It is not easy, and it is certainly not a perfect bill, but it was a fair and open process. I would like to think that our hard work within the committee and the negotiating that went on, and our very open markup and amendment process—what we did was the best of the Senate. It was an open and fair and a deliberative process. You would think that would go somewhere. But once that bill left committee, it became clear that some people cannot take yes for an answer, and that good committee product was not going to be advanced.

About the time we were marking up the MMS bill, we witnessed a deeply misguided effort to tie oilspill legislation to cap and trade. I think this was an attempt to literally convert one disaster into another. We were told that cap and trade was somehow or other going to end our dependence on oil and hold polluters accountable and prevent future spills. Then an analysis of cap and trade from the EPA itself showed that cap and trade would have almost no effect on our Nation's oil consumption—not now and not over the course of the next 40 years. After nearly 19 months of vote counting, I think the majority was forced to admit the obvious: There are not 50 votes, let alone 60, for cap and trade in the Senate.

What we now have before us is this coming together, or slapping together, of the Clean Energy Jobs and Oil Company Accountability Act—the bill that members of the press and the lobbyists received before my staff on the Energy Committee. A draft came out last night around 10 o'clock. I am told it will be officially introduced sometime this morning.

Again, this is such a disappointment. Instead of an open and transparent process as we did through our committee, what should and what could have been a bipartisan bill was hashed out in secret, written behind closed doors with very few Members of the Senate, least of all Members from the Gulf States, allowed to provide any level of input.

Since its 409 pages of text were released late last night, we have not had time to thoroughly review it, to develop amendments, negotiate improvements, or even decide if it is worth supporting yet. We have instead been told the majority leader is unlikely to allow amendments to be considered—unlikely to allow any amendments to this just-cobbled-together bill.

I can only imagine it is because there are provisions that are contained in this bill to which he does not want to draw attention, much less talk about and vote on. The phrase, ''rush to judgment,'' is used a lot around here. I challenge my colleagues to find a more flagrant example of that than what we have in front of us with this bill.

We talk around here about why Congress's approval ratings are as low as they are. We are at about 11 percent right now. It is bills such as this—when people look at this and say, How did this come about, what happened to the committee bill—that makes cynics out of all of us, especially when we know there is a very serious problem that demands a quick and robust policy response.

Instead of working together to fix the problems, the majority leader's bill would undoubtedly create more problems. The Senate's process and our traditions have just been left in the ditch. Decisions have been made almost exclusively in secret behind closed doors. Republicans were shut out of the room. But, of course, we are going to be blamed for holding up the bill.

One has to ask the question, Does anyone honestly believe that we in the Senate can pass something by Friday or perhaps early next week that we did not even see the light of day on until this morning?

I suggest that from every procedural vantage point, it seems as if the majority's goal has been to drive a stake into the heart of anything that can attract Republican support. The staging of this bill has been choreographed to ensure partisan opposition so the majority can blame us for the problems they are making even worse, such as the job losses from the moratorium, the increase in reliance on foreign oil—which, of course, we know is coming—the injustice of Federal OCS revenues never reaching coastal States such as in Alaska and the gulf where they derive in the first place.

The Democratic caucus can try to pass this bill as introduced without

amendment and with almost no debate, but I suggest this will be nothing more than a Pyrrhic victory. Like the stimulus, like health care, like financial reforms, it will give folks something to talk about, but it will only worsen the problems it is meant to deal with.

Unfortunately, it will come at the expense of a far better bill, a bill that was introduced last week by the Republican leadership team. Let me talk a couple minutes about the bill that has been introduced.

It starts at the root of the problem—the already apparent shortcomings with offshore regulations and at the Minerals Management Service, MMS. It includes the OCS Reform Act that we moved through our committee, reported unanimously by all 23 members of the Senate Energy Committee. Permitting and best available commercial technology requirements are strengthened to enhance the safety and the integrity of offshore operations. We also codify a complete reorganization of MMS. We remove the President's offshore moratorium once new safety requirements have been met. We establish strict liability limits for each project based on a range of risk factors. There is a series of 13 different risk factors that would be relevant. We include a bipartisan commission to investigate what went wrong with Deepwater Horizon. And, finally, we right a longstanding wrong by returning a large share of production revenues to the coastal States.

It has been suggested in one of the Hill publications this morning—a Democratic staffer is quoted as saying this Republican package was hastily thrown together. I remind that Democratic staffer or others who are looking at this that almost all of what is contained in this Republican package was introduced 1 month ago today, as a matter of fact, in an oilspill compensation act I introduced. We include that with the component pieces of the OCS Reform Act that was passed unanimously by the committee. To suggest this has been somehow hastily cobbled together, one needs to go back and look at the fact that it has been out there for public review and scrutiny now for almost 1 month.

As much as I will push back against the decision to race to finish this bill, we must—we absolutely must—have more debate on these issues. The majority, with very commanding numbers in both Houses and control of the White House, may want to try to somehow blame Republicans for the thousands of lost jobs from Alabama to our State of Alaska as well as the administration's failure to protect and restore the gulf's offshore environment. But that strategy will fail.

We are offering a more responsible and dramatically less costly piece of legislation that truly deserves to be considered and passed by the full Senate.

I wish the majority would take that same path instead of deciding, judging from the development of the bill and its actual content, that it is time we give up on policy for the year and focus instead on just messaging.

We need to look at the terrible toll we all know is taking place as a result of the Deepwater Horizon spill, the obvious failure of our offshore regulatory system, and of the growing economic consequences of the administration's offshore moratorium.

It is absolutely crystal clear there is action that needs to be taken. There is policy that needs to be put in place to respond to the oilspill, the environmental devastation, the economic devastation, and the regulatory confusion that was in place. It is not time for the politics or partisan activities. It is not time to roll the dice with our Nation's energy policy. For the continued vitality of an entire region in the United States, it is imperative that we move beyond the message and we provide the policy and the legislative response that is so necessary and so needed.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TELEVISING SUPREME COURT PROCEEDINGS

Mr. SPECTER. Mr. President, I have sought recognition to address the subject of televising the Supreme Court of the United States. Legislation is pending on the Senate docket which was voted out of the Judiciary Committee by a vote of 13 to 6, and it is particularly appropriate to consider this issue at a time when we are examining the nomination of Solicitor General Elena Kagan for the Supreme Court.

We have seen, in a series of nomination proceedings, the grave difficulties of getting answers from nominees as to their philosophy or ideology, and that is particularly important when the Supreme Court has become an ideological battleground. There is a great deal of lip service to the proposition that the courts interpret the Constitution and interpret legislation as opposed to making law, but the reality is that on the cutting edge of the decisions made by the Supreme Court, the decisions are based on ideology. Therefore, for the Senate to discharge its constitutional duty on advise and consent—on the consent facet, to have an idea of where nominees stand—there is an adjunct to that consideration; that is, to find a way to have the nominees follow the testimony they give.

We have found that in notable cases—the most recent of which is Citizens United—two of the Justices made a 180 degree about-face. Both Chief Justice Roberts and Justice Alito testified extensively about reliance upon Congress for factfinding under the obvious proposition that Congress has the ability to hear witnesses and make factual determinations. Chief Justice Roberts was explicit in his testimony that when the Court takes over the factfinding function, that it is legislation which is coming from the Court decisions.

Similarly, those two Justices were emphatic on their view of stare decisis, and there was a 180-degree about-face in Citizens United on precedent which lasted for 100 years, and now corporations may engage in political advertising. So the issue is one of trying to deal with some level of accountability.

The principle of judicial independence is the bulwark of our Republic. It is the rule of law which distinguishes the United States from most of the other countries of the world. The independence of the judiciary is assured by the fact they serve for life or good behavior. The suggestion that the Court be televised is in no way an infringement upon judicial independence.

We are not suggesting how the Justices should decide cases, we are saying to the Justices that the public ought to know what is going on. Recent public opinion polls show that 63 percent of the American people favor televising the Supreme Court. When the other 37 percent was informed that the Supreme Court Chamber only holds a couple hundred people and that when someone arrives there they can only stay for 3 minutes, that number in favor of televising the Court rose to 85 percent.

The highest tribunal in Great Britain is televised. The highest tribunal in Canada is televised. Many State supreme courts are televised. The press—the print media have an absolute right to be present in the proceedings under Supreme Court decision. So why not the Supreme Court?

This comes into sharp focus on the factor that there has been an erosion of congressional authority by what the Supreme Court has done. In the course of the past two decades—really, 15 years—the Congress has lost a considerable amount of its authority—some taken by the Court and some taken by the executive branch. The Court has taken greater authority.

In 1995, with the decision of United States v. Lopez, on the issue of caring guns into a school yard, for 60 years there had been no challenge to the authority of Congress under the commerce clause. That followed the legislation declared invalid under the New Deal of Franklin Roosevelt in the 1930s and led to the move to pack the Court. But since that time, the commerce clause has been respected.

The case of United States v. Morrison, involving legislation protecting women against violence, was another case diminishing the power of Congress. In a 5-to-4 decision, the Supreme Court declared that act unconstitutional because of Congress's ''method of reasoning.'' One may wonder what