

So why are we even thinking about passing a law making Tennesseans build 50-story wind turbines on our scenic mountains or buy it from South Dakota, which means running a lot of transmission lines through backyards, when the Tennessee Valley Authority says wind power is available when needed only 12 percent of the time?

So these are the two bad ideas that have had our clean energy consensus stuck on the sidelines for the last year.

There is another idea we should be focusing on, actually it should be our first priority; that is, the oilspill that has caused such destruction in the gulf coast. The bill we understand the majority leader may be bringing out this afternoon—of course, we do not know what is in it; it was written in secret—bringing it out this afternoon, may be the bill that came out of the Environment and Public Works Committee, which would, in effect, end offshore exploration for natural gas and oil.

That sounds pretty good, particularly in light of the fact that it has been 99 days since this terrible oilspill began. But what will happen if we were to, in effect, end offshore exploration of natural gas and oil? It means we would be depending more on oil from overseas. We use 20 million barrels of petroleum product a day. Unless we get busy with electric cars, we are still going to be using 20 million barrels a day.

It will probably mean higher prices, since about one-third of our natural gas and oil that we produce in the United States comes from the Gulf of Mexico. It would mean lost jobs in large amounts. The number of lost jobs is estimated, in a study released by IHS Global Insight on July 22—if we have a de facto end of independent oil production of offshore natural gas and oil in the gulf, the job loss would be 300,000 jobs by 2020; \$147 billion in tax revenues over that time.

So, in addition to depending more on foreign oil, higher prices, lost jobs, it means we would depend on leaky tankers to bring that foreign oil—some from countries that do not like us—over to the United States so we could use it. So that is a bad idea as well—not a very good proposal.

There is a better way to approach the problem of dealing with an oilspill that has been offered by Senator McCONNELL and other Republicans last week. Here is what it would do: Instead of ending offshore exploration for natural gas and oil, which is what unlimited liability requirements, in effect, would do, it would fashion a proposal that is much like the proposal we use for the 104 nuclear powerplants we have operating in this country.

They operate under a law called Price-Anderson. Price-Anderson is an industry-funded insurance program that spreads the liability for any nuclear accident among all the operators of nuclear plants. It is important to note, we have never had to use it. Even though we have not built a nuclear

plant in 30 years, there has not been a single death in the United States as a result of a nuclear incident at a commercial nuclear plant or as a result of a nuclear accident on one of our Navy ships, which have been operating with reactors since the 1950s.

But the Republican proposal, instead of saying unlimited liability, which sounds good but has all the problems I just mentioned, would employ a risk-based approach and allow the President to establish liability limits for offshore facilities by taking into account risk-based factors. There could be unlimited liability.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator has 1 minute remaining.

Mr. ALEXANDER. There could be unlimited liability. But the President, in setting those risk-based factors, could take into account that there might be a company with a spotless record operating at drilling 500 feet for oil, but there might be a company with not as good a record operating in 5,000 feet deep water.

In addition, the proposal would allow for collective responsibility. Instead of big oil companies just sitting around watching the one that spills clean up, everybody would have a stake in the game. In addition to that, it would not drive out of business the smaller oil companies and only leave big oil as the only ones that could risk unlimited liability and drill in the gulf, such big national oil companies as the Chinese, Venezuelan, or Saudi Arabians.

So I would recommend to my colleagues that the Republican proposal is where we should begin because a risk-based liability proposal would allow independent explorers for oil and gas to continue to operate, would not drive them out of business.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ALEXANDER. I ask unanimous consent for 1 additional minute to finish my remarks.

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

Mr. ALEXANDER. The 1.6 million of us who fly daily would not stop flying after a tragic airplane crash. We would find out what happened and do our best to make it safe. We cannot simply stop drilling after a tragic oilspill unless we want to rely more on foreign oil, run up our prices, turn our oil drilling over to a few big oil companies, and all our oil hauling over to more leaky tankers. I hope that instead of the proposal we have been hearing about, we can focus on the clean energy, low-cost consensus Republicans have advocated, and that the President has proposed as well, electric cars, nuclear power, energy research and development, and clean air.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. JOHANNES. Mr. President, may I inquire how much time is remaining?

The PRESIDING OFFICER. There is 8½ minutes remaining.

CAP AND TRADE

Mr. JOHANNES. Mr. President, I rise to talk about legislation that I intend to introduce today, both as an amendment to the small business bill and as a stand-alone measure.

With the BP oilspill in the headlines, we are rumored to tackle energy legislation later this week. For months, energy legislation has been held up while the majority attempted to find 60 votes for a very unpopular cap-and-trade aspect to this legislation.

But just last week, Americans sought to hear great news when they saw headlines such as "The Climate Bill is Dead," "Democrats Call Off Climate Bill Effort."

You have to imagine that around the country, thousands of Americans and small businesses breathed a sigh of relief that they would not be forced to bear yet another financial burden, a hidden tax increase in these trying times.

But, unfortunately, I believe the sigh of relief was premature and here is why. Some in Washington have been keeping a wish list of policies they want to complete after—and I emphasize after—the November elections. At the very top of that list is the national energy tax called cap and trade. So after the elections this November, the American people could be in for quite a surprise.

After voters have cleared out of the polling places and the yard signs are all taken down, after the voting booths have disappeared from the high school gymnasiums and the church basements, after the American people have exercised their constitutional right and made their claims regarding the future direction of this great Nation, well after all that, be warned because the politicians will return to Washington to advance an agenda that they did not have a chance of advancing at all prior to the election.

During this postelection time, we are likely to see what is called a lameduck session. You see, the newly elected will not be here on the floor after the election in that interim until they are sworn in, nor will they be on the House floor. Yet we may be conducting business with many who are not returning to office and therefore are no longer accountable to their constituents; will not stand for another election.

You see, therein lies the danger, a last gasp by this Congress to push an agenda that was dead on arrival prior to the election. But, I suggest today, do not take my word for this. Simply listen to the most senior members of the party that controls the White House, the House, and the Senate. In an interview on Friday, a senior Democratic Senator openly discussed the plan to have cap and trade in the lameduck session. The headline could not be more clear: "Democrats May Take Up Broad Climate Legislation After Election."

Why is that the plan, you might ask? Why could not the Senate advance this

measure in the more than a year since the House barely passed it? Well, I will point back to another surprisingly candid interview. According to one Democratic Senator: "If it is after the election, it may well be that some members feel free and liberated." Let me read that again. "If it is after the election, it may well be that some members are free and liberated."

Free and liberated, you ask. Well, the answer is as obvious as it is chilling. The plan to do cap and trade in a lame-duck is premised on Senators and House Members being free and liberated from the tethers of the American people. That is extraordinary, and it is deeply troubling. But it gets worse because the plan is not simply to wait until after the election. The plan is to add cap and trade in conference or attach it to some other legislation from the House, even though the Senate will not have considered, debated or approved a cap-and-trade bill. Stunning.

Again, do not take my word for it. You can read it in the various news reports. For example, on June 16, Politico reported that the Senate legislative plan for passing cap and trade is to: "... conference the new Senate (Energy) bill with the already-passed House bill in a lame-duck session after the election, so House Members don't have to take another tough vote ahead of midterms."

On June 28, Energy and Environment Daily reported that House Democratic leadership: "... acknowledged that lawmakers on the conference committee may wind up merging the House cap-and-trade plan with a Senate bill that does not include it."

On June 30, the Hill newspaper reported: "House Energy and Commerce Committee Chairman HENRY WAXMAN (D-Calif.) said he would 'absolutely' seek to keep greenhouse gas limits alive in a House-Senate conference if the Senate approves energy legislation this summer that omits carbon provisions."

So the not-so-secret plan is not secret at all. In fact, it is very transparent and clear: Pass an energy bill, any energy bill, pass it out of the Senate so it can be conferenced with the House cap-and-trade bill after the election. My legislation directly addresses this plan in a very concise way. It simply says, if the Senate has not previously approved cap-and-trade legislation, and you try to slip it into law during a lameduck session, then a point of order will lie against the legislation. However, if the Senate has already approved a cap-and-trade bill under regular order, then my amendment would not be triggered.

My amendment, therefore, preserves the opportunity for the Senate to debate this critically important issue. It takes the debate out of the shadows and the back rooms and the conferences onto the Senate floor, in full view of the American people, and it permits the American people to see what is in this bill.

It says, if the Senate has not approved cap and trade, do not slip it in an appropriations bill, do not add it to a defense bill, do not sneak it into another stimulus, and do not hide it in the heaven knows what during a conference committee meeting secretly held who knows where.

I urge my colleagues to look ahead down the road a few months. Members will be here. Maybe they will be "free and liberated" from the will of the American people as one Democratic colleague describes it. The shenanigans are already being forecast. Let's stop it here. I ask for support on this very important legislation.

If debate is intentionally circumvented, our business owners and all Americans will be impacted and hurt. They deserve to know what the debate is going to be about in cap and trade, and my amendment provides this assurance.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

DISCLOSE ACT

Mr. CARDIN. Mr. President, I take this time to urge my colleagues to allow us to proceed to the DISCLOSE Act to deal with campaign finance reform. I thank Senator SCHUMER for his hard work on this issue to bring forward a bill that I hope can enjoy sufficient support so we can continue to advance campaign finance reform. Election campaign finance reform is difficult to pass in this body for many reasons. First, it requires bipartisanship. We know that. We know we need to bring together Democrats and Republicans to say: Our legacy on fair elections is more important than our own individual elections, and we have a responsibility to the American public to deal with a growing problem in American politics; that is, the influence of money, particularly during election time.

That is why we celebrated in 2002 with passage of a bipartisan campaign reform act. Under the leadership of Senator MCCAIN and Senator FEINGOLD, we were able to come together, Democrats and Republicans, and advance campaign finance reform to reduce somewhat the influence of special interest corporate money in our political system and to add further disclosures so the American public could know who is trying to influence their vote. That is what campaign finance reform is about, to limit corporate money and provide greater disclosure. Democrats and Republicans came together in 2002 to get that done. The protection of our fair election process has now met a new opponent. That is the Supreme Court or, more specifically, five Justices on the Supreme Court, the so-called conservative Justices. They legislated from the bench, reversing precedent, and ruled on the side of corporate interests over the concerns of ordinary Americans. These were the so-called

Justices many of my colleagues look to for judicial restraint. It is not judicial restraint when they legislate from the bench. It is not judicial restraint when they reverse precedent, when they rule on the side of corporate America over ordinary Americans.

Let me quote from Justice Stevens in his comments as they reflect on the decision the Court made:

[E]ssentially, five justices were unhappy with the limited nature of the case before us so they changed the case to give themselves an opportunity to change the law. There were principled, narrow paths that a court that was serious about judicial restraint could have taken.

Justice Stevens goes on to warn, the majority "threatens to undermine the integrity of the elected institutions across the Nation. The path that is taken to reach its outcome will, I fear, do damage to this institution."

Justice Stevens, in his minority opinion, says:

At bottom, the Court's opinion is thus a rejection of the common sense of the American people, who have recognized a need to prevent corporations from undermining self government since the founding, and who have fought against the distinctive corrupting potential of corporate electioneering since the days of Theodore Roosevelt. It is a strange time to repudiate that common sense. While American democracy is imperfect, few outside the majority of this Court would have thought its flaws included a dearth of corporate money in politics.

We tried to do something about that in 2002. We passed a law that said corporations cannot directly try to influence elections. Then we set up how they can do so through a transparent way, collectively, through political action committees. But we stopped undisclosed direct corporate influence in American elections. Now the Supreme Court has reversed that bipartisan action. So how should we in Congress respond? What options do we have? We could amend the Constitution, but that is a matter that requires a great deal more deliberation. I am concerned about amending provisions in the Constitution. We need to think long and hard before we act. We could do something many of us have talked about for a long time—provide incentives for public financing of campaigns to try to reduce dramatically the amount of private money in our campaigns. Senator DURBIN has been a leader in this effort. I am proud to be a cosponsor. That is a matter that should be given serious review. But we don't have the opportunity to do that today.

Today we do have an opportunity to act as Senator SCHUMER has brought forward the DISCLOSE Act which we all profess we support—disclosure. All of us have said we should be serious about giving the public an opportunity to know who is trying to influence their vote.

The minority leader in the House of Representatives, JOHN BOEHNER, said:

I think what we ought to do is we ought to have full disclosure, full disclosure of all money we raise and how it is spent. And I think that sunlight is the best disinfectant.