Well, by God, maybe it is not, but maybe it should be.

I know some of my friends are thinking: Kennedy, if we do that, we are taking too big of a political risk.

Maybe we are. Maybe we will win.

I just think that there are bills that will make the American people able to live better lives, and we ought to spend a little more time thinking about the next generation than the next election.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

THE FEDERALIST SOCIETY

Mr. WHITEHOUSE. Mr. President, on Tuesday, the Washington Post published an important piece of investigative journalism. The journalists looked into a very narrow, very wealthy group of special interests seeking to control our Federal judiciary. It was a revealing story, one that matters a great deal to the Senate and to the people we serve. I come to the floor today to discuss that tightening special interest grip on our courts.

The central operative in this court-fixing scheme is Leonard Leo of the Federalist Society, the organization at the center of this effort. As I described here on the Senate floor several weeks ago, there are three incarnations of the Federalist Society.

The first is a debating society for conservatives at law schools. They convene panels and forums for like-minded, aspiring lawyers to talk about conservative ideas and judicial doctrine. That is all fine.

The second is a flashy Washington, DC, think tank. They attract big-name lawyers, scholars, and politicians—even Supreme Court Justices—to their events. They publish and podcast. They hold black tie galas. I don't agree with the work they do, but I don't question their right to do it.

The third Federalist Society is what was exposed in the Post article. It is something much, much darker, both in its funding and in its function. It is a vehicle for powerful interests seeking to ''reorder'' the judiciary under their control so as to benefit their corporate rightwing purposes. It seeks to accomplish by judicial power grab what the Republican Party has been unable to accomplish through the open Democratic process.

This third, dark Federalist Society understands the fundamental power through the Federal judiciary to rig the system in favor of special interests.

So what did the Post find out about how our judges on the most important courts in the country are selected? It found a network of front groups. It found shell entities with no employees. It found shared post office mail drops, common contractors and officers across nominally separate entities, even common presidents of nominally separate entities. In these characteristics, it has some resemblance to money laundering and crime syndicates.

What else did they find? They found dark money funders, anonymous advertising, enormous pay packages for the operatives, and judicial lists prepared secretly. It found $250 million in dark money flowing through this apparatus.

The story turns up familiar dark money political funders like the Mercers and the National Rifle Association, but it also exposes groups that are harder to spot, which may not have garnered much attention before but serve central functions in Leonard Leo's court-fixing apparatus.

A few weeks ago I delivered remarks on the Senate floor about the sweeping influence of Leonard Leo and the Federalist Society court-fixing scheme. I touched on one Federalist Society product of this scheme in particular: the newly confirmed DC Court of Appeals judge, Neomi Rao. I described some pretty straightforward facts about Rao. Her connection to the Federalist Society is no secret. Sitting on the DC Circuit right now, her bio still appears on the Federalist Society website along with the list of 26 times she has been featured—26 times she has been featured at Federalist Society events.

Before being nominated for one of the most influential courts in the country, which some call the second highest court in the land, she had never been a judge, she had never tried a case. Instead, she had served as the Trump administration's point person for helping big Republican donors tear down Federal safety regulations. She did this as the head of the White House's Office of Information and Regulatory Affairs, OIRA. That is not disputed.

Before that, she founded something provocatively called the Center for the Study of the Administrative State at George Mason University's Antonin Scalia Law School. Her center is a cog in Leonard Leo's machine.

Let's revisit Rao's testimony before the Senate Judiciary Committee about the funding for the Center for the Study of the Administrative State. She testified that neither the Koch Foundation nor any anonymous donors had funded her center. Well, a trove of documents obtained by me, the New York Times, and others showed that was not true. A Virginia open records request had revealed that an anonymous donor funneling its dark money donation through Leonard Leo and the Charles Koch Foundation in fact donated $30 million intended to flow to her organization, her Center for the Study of the Administrative State.

Well, my remarks drew quite a reaction. The center's current director took to Medium to post a 2,500-word rebuttal. He claimed I was all wrong about the center's funding—that none of its money came from those anonymous and Koch brothers' donations.

The National Review jumped into the fray and noted the Medium post on its website. The nub of their criticism was that although I was right, the Scalia Law School had indeed received millions in anonymous and Koch brothers' money. That money had gone to fund scholarships, not to the anti-regulatory Center for the Study of the Administrative State.

Let's start by assuming that is true. I will tell you, if I gave $30 million to my alma mater ''for scholarships,'' I would expect a thank-you. I expect they would see a gift of $30 million in scholarships as a benefit to the school. If they were asked ''Has Senator WHITEHOUSE ever given you a gift?'' I would expect them to say ''Yes, he gave us a $30 million scholarship fund.'' I might even expect a nice press release. So I don't buy the ''this was just scholarships money'' dodge around telling the truth to the Judiciary Committee.

But look a little more. In 2016, George Mason University, indeed, received a $10 million donation from the Charles Koch Foundation and, indeed, did receive a $20 million donation from an anonymous donor. Both gifts came with grant agreements, and these grant agreements were among the Virginia open records documents. So we can learn a little bit more.

The grant agreements stipulate that the money was intended to fund ''scholarships'' but also specify that gifts were conditioned on the school's providing ''funding . . . and support for''—you guessed it—Neomi Rao's Center for the Study of the Administrative State.

That is not all we found. Private communications revealed with the grant agreements show that the Koch Foundation and their handpicked law school administrators viewed all of this money as fungible.

I earlier said that if I gave $30 million, I might expect a press release. The Antonin Scalia Law School did a press release. Its announcement of this funding stated: ''The scholarship money will also benefit the institution because it frees up resources that can be allocated for other priorities, including additional faculty hires and support for academic programs.''

It didn't end there. The documents keep telling us more. They include a progress report—a progress report—to the Koch Foundation. Under the heading ''most pressing needs,'' Dean Henry Butler wrote to the Koch Foundation: ''Cash is King (scholarships are cash).'' In that same memo to the Koch Foundation—which, by the way, is kind of a bizarre document to exist in the first place, unless this is kind of a front for Koch brothers' political activities—Dean Butler also made clear that Rao's center had indeed received hundreds of thousands in funding from an anonymous donor, just as I charged, and further made clear that Rao's center was

being funded with $400,000 from ''naming-gifts scholarship revenue''—the Koch brothers' ''scholarships'' money that was earmarked for Neomi Rao's center. It was being rerouted to fund Leonard Leo and Neomi Rao's project to gut public protections in this country on behalf of those donors. The dark plot thickened.

Here is the most interesting part of all. The open records documents also show that the law school dean, Henry Butler, regularly reported to Leonard Leo on developments at Neomi Rao's center, including faculty hiring and other Federalist Society priorities. The emails are very cozy. The dean is deferential. There is even a calendar entry for lunch at a Washington, DC, restaurant for Neomi Rao, Henry Butler, and Leonard Leo. Cozier still is that another condition of the Koch Foundation's massive gift was that Henry Butler be protected as dean because they viewed him—specifically him—as ''critical to advancing the school's mission.'' That mission? Doing the Koch Foundation and Leonard Leo's bidding to help cripple public interest protections in this country for big special interests funding Leo, funding the center, and funding the Federalist Society.

Neomi Rao's defenders were quick to push back on this point and argued that my criticisms of her center's work was stifling their academic inquiry. They pointed to the center's research roundtables and public policy conferences as evidence of its fair and independent academic bona fides.

Sorry, but it is tough to buy when, in one private fundraising email, Dean Butler was revealed to have asked one wealthy donor for a $1.5 million gift ''to entice Neomi [Rao] to return home to Scalia Law after she dismantles the administrative state.''

Tell me, who is the real threat to academic inquiry here?

Perhaps more to the point, now that she is a judge: Who is a present threat to judicial independence on the DC Circuit Court of Appeals?

Fancy lunches and weird, cozy relationships between public law school deans and DC power brokers can seem a bit in the weeds, so let's not lose sight of the bigger picture here. This stuff matters because Americans are now seeing their courts fill with judges, like Neomi Rao, who are expected and chosen to reliably rule for big corporate and Republican partisan special interests—the ones funding the Federalist Society's selection of these judges, the ones funding the Judicial Crisis Network's confirmation of these judges, the ones funding Amici, the front group Amici that shows up to argue in court.

I recently looked at the numbers for the Federalist Society-dominated Supreme Court. Under Chief Justice Roberts' tenure, through the end of the October term of 2017 to 2018, Republican appointees delivered partisan 5-to-4 rulings that favored corporate or Republican partisan special interests, not three or four times, not even a dozen or two dozen times, but 73 times. If you look at the Court's cases during Chief Justice Roberts' tenure and look at the 5-to-4 decisions and look at the 5-to-4 decisions wherein the breakdown between the five and the four was partisan and look at those 5-to-4 partisan decisions, for the ones in which there was a clearly apparent, big Republican donor interest, you will find that every single one of those 73 decisions was won—was decided—in favor of the big Republican donor interest. There were 73 victories delivered for big Republican interests with there being no Democratic appointee who joined the majority.

Here is one case study—a recent decision after the 73. It is Lamps Plus v. Varela. The plaintiff, Frank Varela, sued his employer, Lamps Plus, after a company data breach led to a fraudulent tax return being filed in his name. An appellate court looked at the case and relied on a State contract principle to agree with plaintiff Varela. That is a traditionally conservative principle—deferring to State laws. Along came the Supreme Court in this case, and it ditched the conservative principle to rule in favor of the corporation in a 5-to-4 partisan decision.

There is another case study pending before the Court now—Kisor v. Wilkie. On its face, Kisor addresses an obscure administrative law doctrine about judicial deference to Federal Agencies, but Kisor has been described as a ''stalking horse for much larger game.'' The larger purpose is to strip away judicial deference to administrative Agencies' capacity to regulate independently in the public's interest.

You have to understand that if you are a mighty corporation, you come to an administrative Agency from a position of terrific advantage ordinarily, and where administrative Agencies are willing to stand up, that is important, but if you can get your judges on a court and strip away that deference, now you can put the fix in through the courts.

Imagine a world in which Federal Agencies get virtually no judicial deference and in which Leonard Leo's special interest, handpicked judges rule on Americans' disputes with big corporations. If these big special interests are sick of protections for workers in the workplace, let the judges get rid of them. Dismantle the administrative state. If a big special interest is sick of safeguards for our air and water or dangers in toys our children play with, dismantle the administrative state. Tear down the safety regulations. They will have the judges to do that. If corporations are sick of a guardrail that keeps our financial system from dragging down millions of Americans' financial security, these judges stand ready to dismantle the administrative state that protects investors.

Leonard Leo's dark Federalist Society element is installing judges who are poised to systematically and relentlessly dismantle government Agencies that are sworn to keep us safe and secure.

How do you push back on this machine wherein the big-money special interests select a nominee by contributing to the Federalist Society and Leonard Leo's secretive judicial lists and judge-picking process? They spend money campaigning for their selected judge's confirmation through the Judicial Crisis Network. They then spend money through amicus briefs and argue before the judges on whom they have spent money to select and confirm. Sure enough—bingo—it is 73 to 0 in the important decisions in which they can get the Republican appointees to gang up in a group of five and deliver and deliver for the interests of the center of this, which you can't properly identify because it is not transparent.

The Federalist Society doesn't disclose its donors. The Judicial Crisis Network doesn't disclose its donors. The Supreme Court rule doesn't get at who the real donors are to this phony front group, Amici. You find out later on who the winners are—73 to nothing.

How do you push back on that machine? You push back with sunlight, with transparency. We must have transparency in our campaign finance system. We must have transparency in this special interest conveyor belt that is filling our courts. We should also have transparency in the courts. Right now, the dark money-funded front groups behind Leonard Leo and behind the Federalist Society's judge-picking operation are probably also behind those amicus briefs. With a little transparency, we would know. It is through these amicus briefs that the judges who were selected and confirmed by these folks get instructed on how they should rule. This is a recipe for corruption.

The Court itself should require real transparency from so-called friends of the Court. These amicus groups come in under a Supreme Court rule. The Supreme Court rule only requires them to disclose who paid for the brief. Yet who is really behind the group? We don't know. The Supreme Court could correct that. It could correct it like that, but then it would start to expose who is here.

If the Court will not, Congress must. Democracy dies in darkness, it has been said, and so does judicial independence. The American people deserve to know when powerful special interests are paying to sway Federal judges with self-serving legal advice. If those same interests paid to get those judges selected and paid to campaign for their confirmations and then paid to have the amicus briefs put before the Court, the need for the American people to understand what is going on becomes even more profound.

I close with a big thank-you to the Washington Post for its reporting. Thanks to its careful investigative work of its pouring through tax records and interviews, we now know a lot

more about the Federalist Society's court-fixing operation.

Our President likes to describe investigative journalism that pokes and probes at the mischief of his administration as fake news. There is nothing fake about this news. This is in the best traditions of investigative journalism, and I am grateful for its work to illustrate how our courts are being captured by corporations and runaway partisanship that is fueled by dark money.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

HEALTHCARE

Ms. BALDWIN. Mr. President, I rise today to speak about the ongoing threat from the Trump administration to healthcare and the guaranteed protections that millions of American families depend upon.

President Trump has tried to pass repeal plans that would take people's healthcare away and allow insurance companies to charge more for people with preexisting health conditions or those insurance companies could deny them coverage altogether.

When that repeal plan failed to pass in the Senate in the summer of 2017, instead of working in a bipartisan way to lower healthcare costs, President Trump turned to truly sabotaging our healthcare system.

What do I mean by that?

The Trump administration made it harder for people to sign up for the Affordable Care Act coverage. They have done so by limiting the window of time when people can enroll. They have truly created instability in the healthcare market, and their sabotage has contributed to premium spikes that we have seen across the country, including in my home State of Wisconsin.

The Trump administration has even gone to court to support a lawsuit in order to overturn the Affordable Care Act completely, and that, of course, would include protections for people with preexisting health conditions. They have essentially gone into court to ask the court to strike down the Affordable Care Act. Now, if they were to succeed, insurance companies will again be able to deny coverage or charge much higher premiums for the more than 130 million Americans who have some sort of preexisting health condition. The number with preexisting health conditions includes some 2 million Wisconsinites.

What is the President's plan to protect people with preexisting health conditions? He doesn't have one, and I don't believe he ever will.

In fact, he has acted in just the opposite vein. This administration has expanded junk insurance plans that can deny coverage to people with preexisting conditions, and they don't have to cover essential services like prescription drugs or emergency room care or maternity care.

I ask my friends on the other side of the aisle to think about this for a moment. President Trump supports overturning the law that provides protections for people with preexisting health conditions at the same time he is expanding these junk plans that don't provide those very protections. If this isn't straight-up sabotage, I really don't know what is.

When I was 9 years old, I got sick. I was really sick. I was in the hospital for 3 months. Now, I recovered, but my family still struggled because I had been branded with the words ''preexisting health condition'' and I was denied insurance coverage.

That family and personal experience has driven my fight to make sure that every American has affordable and quality healthcare coverage.

Today, because of the Affordable Care Act, those with preexisting health conditions cannot be discriminated against. They can't be denied healthcare coverage, and they can't be charged discriminatory premiums.

I want to protect the guaranteed healthcare protections that so many millions of Americans now depend upon. I have introduced legislation along with my colleague Senator DOUG JONES of Alabama to overturn the Trump administration's expansion of junk insurance plans.

The entire Senate Democratic caucus, including the two Independents who caucus with us, have supported this legislation. They have signed on to this bill. The Nation's top healthcare organizations, representing tens of thousands of doctors and physicians, and patients and medical students, and other health experts have supported this legislation and endorsed it. Anyone who says they support healthcare coverage for people with preexisting conditions should support my legislation.

UNANIMOUS CONSENT REQUEST—S. 1556

Mr. President, as in legislative session, I ask unanimous consent that the Health, Education, Labor, and Pensions Committee be discharged from further consideration of S. 1556; that the Senate proceed to its immediate consideration; that the bill be considered read a third time and passed; and that the motion to reconsider be considered made and laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

The Senator from Tennessee.

Mr. ALEXANDER. Reserving the right to object, this is the latest Democratic attempt to raise the cost of healthcare paid for out of your own pocket by taking away an ability to provide lower cost health insurance that preserves preexisting condition protection and the essential health benefits. These short-term health benefits were available under President Clinton. They were available under President Bush. They were available under President Obama right until the last few months of his office, when he cut them down to 3 months long.

President Trump has simply said that you may now have them up to a year and renew them for 3 years. If you live in Fulton County, GA, your insurance costs will be 30 percent less against the typical ObamaCare bronze plan and even more against the silver plan.

This is the latest Democratic attempt to increase the cost of what you pay for healthcare out of your own pocket. Their next attempt will be Medicare for All, which, if you have health insurance on the job, will take that health insurance away.

I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Wisconsin.

Ms. BALDWIN. Mr. President, I am certainly disappointed that my Republican colleagues have chosen to object to protecting people with preexisting conditions.

It is my contention that some of the very opposite impacts, because of these junk plans, are occurring than what my colleague has recited. In fact, I hardly consider them insurance plans. Many have argued that they are not worth the paper that they are written on. They don't cover many essential benefits. They are not required to cover people with preexisting health conditions. They can drop people. They can charge outrageous prices. What we found—and the reason that the Obama administration went from yearlong plans to 3-month plans—is that they saw the distortion in the markets. They saw that people who had believed that they might not get sick—healthy, often younger people—were availing themselves of these plans, making the Affordable Care——

Mr. ALEXANDER. Mr. President, will the Senator yield for a question?

Ms. BALDWIN. I would yield to one question, and then I want to wrap up my comments.

Mr. ALEXANDER. Mr. President, is the Senator of Wisconsin not aware that the short-term healthcare plans do not change the law of preexisting condition?

Ms. BALDWIN. Mr. President, these short-term plans do not have to cover preexisting conditions. I can tell you, as I have inquired—

Mr. ALEXANDER. Mr. President, may I——

Ms. BALDWIN. I yielded already for a question. But I want to say——

Mr. ALEXANDER. She gave the wrong answer, Mr. President.

The PRESIDING OFFICER. The Senator from Wisconsin has the floor.

Ms. BALDWIN. It may not be to the Senator's liking, but I was going to tell you about the plans that I read the fine print on from the State of Wisconsin. Now that these short-term plans are renewable for up to 3 years, in these junk plans, you can see the fine print. Many times they start with this: We will not cover a preexisting condition. Every single one of them refuses to cover maternity care. That means none of these junk plans cover that essential benefit. Most of them don't cover