discourse as a protective measure. They may endure threats to their employment, education, or reputation; or suffer additional criminal activity, such as extortion and stalking. Some experience depression, anxiety, and fear of being in public. And in the worst-case scenario, victims are driven to suicide.

Representative OCASIO-CORTEZ recently described her own reaction to being depicted in sexual deepfakes without her consent. She said: ''There's a shock to seeing images of yourself that someone could think are real.'' She described how it resurfaced trauma and haunts her thoughts. Once deepfakes are seen, they cannot be unseen. As she put it, ''deepfakes are . . . a way of digitizing violent humiliation against other people.''

Prominent women are often the target of nonconsensual sexually explicit deepfakes—singers, actors, politicians alike. You cannot escape the conclusion that these images are intended to diminish and shame women.

But, sadly, the victims can be anyone. There are many distressing reports this year of middle schools and high schools struggling to respond to the spread of sexually explicit deepfakes of students.

In March of this year, at least 22 students at the Richmond-Burton High School, in McHenry County, in my home State of Illinois, learned they were depicted in deepfakes circulating online. One of the images was a doctored version of a photo of two female students taken at the school prom. The perpetrator digitally removed their clothes to make it appear they were unclothed. The prom is supposed to be a joyous rite of passage for teenagers, a happy memory they keep for the rest of their lives. Now that memory has been stolen from these two young women.

Sadly, we are seeing an explosion of images like these. One researcher found that the number of nonconsensual pornographic deepfake videos available online has increased ninefold in the last 5 years. Such videos have been viewed almost 4 billion times—4 billion times.

Monthly traffic to the top 20 deepfake sites increased by 285 percent from July 2020 to July 2023, and search engines directed 25.2 million visits to the top five most popular deepfake sites in July 2023 alone.

Tragically, under the law now, the victims have no legal remedy. Time and again, victims are told nothing can be done to help them because existing laws simply do not apply to deepfakes. This is not just a gap in the law. It is an omission that shows a blatant disregard for the trauma to children, women, and girls who are victimized by this crime.

But this DEFIANCE Act will change that. It will give the victims a day in court. Once this bill is signed into law, victims finally will have the ability to hold civilly liable those who produce, disclose, solicit, or possess sexually explicit deepfakes while knowingly or recklessly disregarding that the person depicted did not consent to the conduct.

I am proud to have collaborated with survivor advocates on this bill. Their lived experience and leadership have shaped this bill. This bill was carefully crafted to comply with the First Amendment.

As the Center for Democracy and Technology wrote in their letter endorsing the bill, it is constitutional because it addresses ''a uniquely compelling problem with a narrowly-tailored solution.''

In addition to the CDT, the DEFIANCE Act is supported by the National Center on Sexual Exploitation, the Sexual Violence Prevention Association, the National Women's Law Center, My Image My Choice, PACT, Rights4Girls, and many others.

Congress has waited too long to act. Can you imagine, in your own family, if it was your wife, your daughter, your niece, or some young woman that you love who was exploited this way, who had to see these images and try to erase them from their minds, who realize that they have no power now under the law, no power to protect themselves? They are helplessly exploited and their lives have been changed for the worse.

We waited far too long to act. This is a bipartisan measure in both the House and the Senate. It is past time to give victims of nonconsensual sexual exploitation and explicit deepfakes the tools they need to fight back.

Madam President, notwithstanding rule XXII, as if in legislative session, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of S. 3696, the Disrupt Explicit Forged Images And Non-Consensual Edits Act of 2024, and the Senate proceed to its immediate consideration. I further ask consent that the Durbin-Grassley substitute amendment at the desk be agreed to; that the bill, as amended, be considered read a third time and passed; and that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Is there objection?

The Senator from Wyoming.

Ms. LUMMIS. Madam President, reserving the right to object, I strongly support the intent behind this legislation. We must combat the deeply harmful practice of nonconsensual deepfake pornography. It is as serious as the gentleman from Illinois just described.

But I am troubled that this bill, as currently drafted, is overly broad in scope. The expansive definitions and wide net of liability in this bill could lead to unintended consequences that stifle American technological innovation and development.

By extending liability to third-party platforms that may unknowingly host this illicit content, I worry this bill places an untenable burden on online services to constantly police user-generated posts. Even platforms making good-faith efforts to remove illegal deepfakes could become inundated with frivolous litigation.

A more prudent approach would be to tailor legislation to focus on publishers and knowing distributors. And such legislation exists. It is the Cruz-Klobuchar bill. We must ensure that, in our noble efforts to prevent abuse, we do not inadvertently impose overbroad restrictions and spur excessive lawsuits that would chill the development of American emerging technologies.

I stand ready to work with my colleagues to find this crucial balance.

For these reasons, I object.

The PRESIDING OFFICER. Objection is heard.

The majority whip.

Mr. DURBIN. Madam President, I am disappointed, seriously disappointed. When we talk about these young women and young children being exploited and have bipartisan legislation before both the House and Senate to deal with it, it is important that it be characterized properly.

First, there is no liability under this proposed law for tech platforms, despite what the Senator from Wyoming said.

And, secondly, the idea that the people would suffer with civil liability here, when they didn't know what was going on—listen to the language of this bill: The victims have the ability to hold civilly liable those who produce, disclose, solicit, possess sexually explicit deepfakes while knowingly—while knowingly—or recklessly disregarding that the person depicted did not consent to the conduct.

The two major issues raised by the Senator from Wyoming are both addressed in this bipartisan measure.

There are people who will shake their heads and say: Can't the Senate even address this issue of the sexual exploitation of children and young girls and attempts to ruin their lives? Can't they even agree on a bipartisan basis to come up with an answer?

We did. We have a bill that does it, and it has been stopped.

We are not going to stop our efforts, Madam President. This is a cause worth fighting for, and we are going to really appeal to those across America who believe as we do.

I yield the floor.

The PRESIDING OFFICER. The majority whip.

UNANIMOUS CONSENT REQUEST—S. 359

Mr. DURBIN. Madam President, for more than a year, the Supreme Court has been embroiled in an ethical crisis of its own design. Story after story about ethical misconduct by sitting Supreme Court Justices has led the news for months.

For decades, however, Justice Clarence Thomas has accepted lavish gifts and luxury trips from a gaggle of fawning billionaires. The total dollar value of these gifts is in the millions—one

Supreme Court Justice, millions of dollars' worth of gifts.

Justice Alito, as well, went on a luxury fishing trip that should have cost him over $100,000, but it didn't cost him a dime because the trip was funded by a billionaire and organized by right-wing kingpin Leonard Leo.

Well, Justice Thomas and Justice Alito failed to disclose gifts they accepted in clear violation of financial disclosure requirements under Federal law.

But it isn't only the shameless conduct that cast a dark shadow over the Court. Time and again, these Justices' actions have cast doubt on their impartiality on cases before the Court.

Last summer, Justice Alito sat for an interview conducted in part by an attorney with a case before the Court. In that interview, Justice Alito went so far as to publicly state that Congress has no authority to regulate the Supreme Court. By doing so, he made it clear that he had already reached a conclusion about the constitutionality of legislation that Congress was considering on the issue—legislation that is before this body today and that could someday come before the Court.

More recently, we learned that flags that were associated with the January 6 insurrection and the far right were displayed outside Justice Alito's home. This happened even as the Court considered cases related to the 2020 Presidential election and the insurrectionist attack on the U.S. Capitol.

Justice Thomas also continues to hear cases related to the January 6 attacks despite his wife's involvement with efforts to overturn the 2020 election.

For years, Justice Thomas served as a fundraising draw at the Koch political network's annual summits. This is the same network that bankrolled another case currently before the Court.

Federal law requires the disqualification of a Supreme Court Justice in any proceeding in which the Justice's impartiality might reasonably be questioned, and the Supreme Court's own code of conduct reiterates that Justices should disqualify themselves in cases where there is reasonable doubt about their impartiality. But despite serious questions about the impartiality of Justice Alito and Justice Thomas in numerous cases, they have refused to recuse themselves from these cases.

The ethics crisis at the Supreme Court, the highest Court in the land, is unacceptable, it is unsustainable, and it is unworthy of the highest Court in the land.

Our faith in the character and impartiality of our judges is essential to the functioning of our legal system and our constitutional form of government, but that faith requires judges—especially Supreme Court Justices—to conduct themselves in a way that inspires public confidence. The Justices should serve as models for every other judge in America. Instead, they are serving as prime examples for why a binding code of conduct is desperately needed for the Supreme Court.

The ethics crisis at the Court stems in large part from the fact that the nine Justices on the Court are the only Federal officials not bound by an enforceable code of conduct—the only Federal officials not bound by an enforceable code of conduct.

More than 12 years ago, I first asked Chief Justice Roberts to adopt a binding code of conduct for all Supreme Court Justices. In November of last year, for the first time in its 235-year history, the Supreme Court adopted an ineffective code of conduct for its Justices. The new code does not reform the Court's ethics rules in any meaningful way, and it does not include an enforcement mechanism to address violations of the code.

As the Court conceded in a statement accompanying the code of conduct's release, the code ''largely represents a codification of principles that we have long regarded as governing our conduct.'' In other words, this so-called new code did not raise the ethical standards to which the Justices would be held; it simply tried to paper over the failed practices of the past.

The Court can address these issues itself. The Court could have issued a stronger code of conduct in the first place. It could revise its own code of conduct today. But Chief Justice Roberts repeatedly refuses to use his authority and power to implement a binding code of conduct for the Supreme Court, and until he does, Congress will continue our legislative efforts.

Last year, the Judiciary Committee, which I chair, reported to the Senate floor the Supreme Court Ethics, Recusal, and Transparency Act. The bill, which was led by Senator WHITEHOUSE, who is on the floor, and which I am cosponsoring, would require the Supreme Court to adopt an enforceable code of conduct and add new recusal and transparency requirements that would be binding on the Justices. It would be a real code of conduct. Importantly, this legislation's ethical and recusal requirements would apply equally to every Justice on the Supreme Court regardless of the party of the President who appointed them.

This should not be a partisan issue. An enforceable code of conduct would be a good thing for the Court and for our country. It is essential to ensuring that the American people have confidence in the ethical conduct of the Supreme Court, and it is essential to restoring the Court's reputation.

The highest Court in the land should not and cannot have the lowest ethical standards. That is why I support this legislation and why I urge my colleagues to join me.

Madam President, notwithstanding rule XXII and as if in legislative session, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 199, S. 359, the Supreme Court Ethics, Recusal, and Transparency Act of 2023. I further ask that the committee-reported substitute amendment be agreed to; the bill, as amended, 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 an objection?

The Senator from South Carolina.

Mr. GRAHAM. Madam President, reserving the right to object, let's be clear—this is not about improving the Court; this is about undermining the Court.

We have three branches of government here. We have the legislative, executive, and judicial branch. This would be an unconstitutional overreach. This would undermine the Court's ability to operate effectively. And it has been a continued effort by our friends on the Democratic side to undermine a Court they don't like.

Here is what the Supreme Court has done: In April of 2023, all nine Justices signed a statement on ethics, principles, and practices specifying the ethics, principles, and practices they follow. In March of 2023, the Committee on Financial Disclosures formally amended the personal hospitality regulations in a manner that now requires more complete disclosure. In November of 2023, all nine Justices promulgated a code of conduct.

The Court is taking these problems seriously. The question is, What are we up to here? We are trying not to empower the Court or reform the Court; we are trying to attack it right at the end of the term.

I remember very well when the majority leader, Senator SCHUMER, went to the Court and said, right in front of the Court itself:

> I want to tell you, Gorsuch; I want to tell you, Kavanaugh: You have released the whirlwind, and you will pay the price. You won't know what hit you if you go forward with these awful decisions.

This is really about the way the Court decides cases that our colleagues on the other side really don't like.

So all I would say is that there are provisions in this bill that should bother anybody that cares about an independent judiciary.

Judicial investigative panels in section 2 of this bill are made up of lower court judges who would actually preside over their bosses. There is one Supreme Court here. It is unnerving to have a group of lower court judges basically handing an investigative panel the ability to investigate the Supreme Court—the constitutionally designated Supreme Court.

Recusal—that has been up to the individual Justices since the Court's founding. This bill would create a panel of judges to decide when a Supreme Court Justice should be recused. Again, that just puts the Court in, I think, disarray and fundamentally assaults the one Supreme Court we have.

All I can say is that section 7, where you have to have disclosures of amicus

briefs, would make it very hard for certain people to register their opinions about a particular matter before the Court because they could get destroyed by the media, they could get destroyed by special interest groups, and I think that chills out the ability of people to petition the Court apart from politics.

So my hope is that not only will we stop this exercise now, we will stop it forever.

With that said, I withhold my objection at this time.

The PRESIDING OFFICER. Is there an objection?

The Senator from Louisiana.

Mr. KENNEDY. Madam President, reserving the right to object and with all the respect I can muster for Senator DURBIN—and I mean that, DICK—I do not believe that most of my colleagues think this bill is about ethics. This bill is about abortion.

In June of 2022, the U.S. Supreme Court decided the Dobbs case. It returned the issue of abortion to the American people through their States.

While the Supreme Court was deliberating that case, my colleague and my friend Senator SCHUMER went over to the Supreme Court and on the steps of the Supreme Court building—I was there; I remember it like it was yesterday—this is what Senator SCHUMER said:

I want to tell you, Gorsuch; I want to tell you, Kavanaugh—

Not ''Justice Gorsuch.'' Not ''Justice Kavanaugh.''

I want to tell you, Gorsuch; I want to tell you, Kavanaugh: You have released the whirlwind, and you will pay the price. You won't know what hit you—

Senator SCHUMER said—

if you go forward with these awful decisions.

What we are seeing today with this legislation, in my opinion but most Senators agree with me, is part of the promised whirlwind. And I do not believe that we should try to undermine the integrity of the institution of the Supreme Court of the United States because we are unhappy with one of its opinions.

I will withhold my objection at this time to allow my friend Senator LEE to speak.

The PRESIDING OFFICER. Is there an objection?

The Senator from Utah.

Mr. LEE. Madam President, reserving the right to object, the United States of America has benefited for nearly 2½ centuries from having one of the world's best, most objective judicial systems in the entire world. While no system run by fallible, mortal human beings can be described as perfect, ours is as good a system as has ever existed in the world and certainly as good as any that exists in the world today. But the capstone of that is an entity that exists by virtue, by operation of the Constitution—the Supreme Court of the United States.

This solution—a solution that is being rammed through today—this is a solution in search of a problem that would itself create another problem for which there would be no solution. That problem would, in turn, turn one of our greatest strengths—an independent, functioning judicial system, one that has preserved the rule of law in this country for nearly 2½ centuries—into something, a more political animal. It is not what we wanted. It is not what the Constitution contemplates. It is not what we benefited from.

And why? We must ask the question why. Is there any great moral offense that has been committed? No. Is there any grave violation of law that has been committed? No. Is there any violation of law that has been committed at all? No, there is not.

What we have here is something very, very cynical, and what we have is that people on the left have a couple of cases currently pending before the Supreme Court of the United States—cases that they are worried about the outcome, cases in which they are worried that certain Justices might rule against them. And they have some Justices they don't like. They have some Justices that they worry are going to reject the bad arguments that they have made in those cases. So rather than double down on making sure that their arguments are good and that they are persuasive and recognizing that they are not going to win all cases, they are threatening, they are intimidating the Justices.

They are making—it is not just a mountain out of a molehill; they are making a mountain out of nothing. They are doing this specifically to harass, threaten, and intimidate certain members of the Supreme Court in order to influence the outcome of pending litigation. Make no mistake, that is what is going on here. They are trying to trigger more recusals—recusals of those Justices they don't like.

The legislation they are offering would create more problems in this, would make it easier for them to trigger more recusals.

This is not a good outcome. This is a political effort to influence the resolution of pending litigation before the Supreme Court of the United States and to threaten Justices that don't toe the woke line.

I withhold my objection at this moment.

The PRESIDING OFFICER. Is there an objection?

The Senator from Texas.

Mr. CORNYN. Madam President, reserving the right to object, I just want to briefly summarize the arguments that my able colleagues on this side of the aisle have made.

An independent judiciary is the crown jewels of our democracy. What do I mean by that? We have the political branches of government.

We have got the White House, popularly elected President through the electoral college. We have got individual Senators elected by various States. And then we have got the House of Representatives. Those are all political bodies.

The judiciary, created by the Constitution—the Supreme Court specifically—was designed to be a check on the abuses of power by the political branches of government and to hold up the Constitution as a supreme law of the land. That was Marbury versus Madison by Chief Justice Marshall in 1804, I believe.

So the Constitution is the supreme law of the land. It is not the political branches. And I think in recent years, we have seen every institution in Washington, DC, corrupted in one way or the other by the politicalization of previously revered institutions. And I am talking specifically about the FBI and the use of an opposition research by a Presidential candidate against a successful Presidential candidate, President Trump, and then the FBI director saying his mission in life was to see a special counsel appointed, which it was for 2 years—Robert Mueller, who found no basis upon which to bring any charges.

Unfortunately, the American people feel like there is a two-tiered system of justice in this country. And that justice system, which has been the crown jewel of our system, has been corrupted by politics. And now our colleagues want to use that same corruption by politics of the independent judiciary and the Supreme Court of the United States.

That may not be their intention. Maybe it is. They want the Supreme Court to become subservient to the Congress, which is anathema to the constitutional order created by the Framers.

This effort lays bare an effort by our Democratic colleagues to control an entire branch of government. There have been bills filed by the Senator from Massachusetts and others to pack the Supreme Court. Fortunately, they haven't gone anywhere. But as our colleague knows and admitted yesterday, the chairman of the Judiciary Committee, this is nothing but a political exercise, and it needs to end now.

For these reasons, I would oppose this legislation and withhold my objection so the distinguished ranking member from the Judiciary Committee can speak.

The PRESIDING OFFICER. Is there an objection?

Mr. GRAHAM. I object.

The PRESIDING OFFICER. Objection is heard.

The majority whip.

Mr. DURBIN. Madam President, before yielding to the Senator from Rhode Island, one of the critics of this proposal said it was a solution in search of a problem. The Republican side of the aisle believes, obviously, that for one Supreme Court Justice to accept lavish gifts and luxury trips from billionaires to the tune of millions of dollars and for another Supreme Court Justice to take an undisclosed fishing trip at the cost of

$100,000 is business as usual in the Supreme Court. The American people, I am sure, would disagree.

I yield the floor.

ORDER OF PROCEDURE

One last thing, I ask unanimous consent that the confirmation vote on the Chang nomination be at 11:30 a.m. tomorrow, Thursday, June 13; further, that following disposition of the Chang nomination, the Senate resume legislative session; that the cloture motion with respect to the motion to proceed to Calendar No. 413, S. 4445, ripen at 1:45 p.m.; and that the mandatory quorum call be waived.

The PRESIDING OFFICER. Is there an objection?

Without objection, it is so ordered.

The Senator from Rhode Island.

UNANIMOUS CONSENT REQUEST—S. 359—CONTINUED

Mr. WHITEHOUSE. Madam President, first, let me thank the chairman of our committee for attempting to bring this bill to the floor and to get us on it. Even though the Republicans have objected to Supreme Court ethics, it is important for us to continue to make the effort because the American people understand that there is something gone very wrong at the Supreme Court.

The objections that we just heard amounted to a long excursion through a great variety of topics: through abortion; through past FBI investigations; through allegations about a two-tiered system of justice; through wokeness; through things we all agree on, like separation of powers and an independent judiciary. I think it would be helpful to actually come into focus on what we are actually talking about here because most of what was said in opposition to this bill is completely irrelevant to what we are seeking to achieve.

We all accept the doctrine of separation of powers. Senator BLUMENTHAL, who is here, is an expert in the subject. He has argued more cases in the Supreme Court than any other Senator. To be clear, our bill does not make the Supreme Court subservient to Congress in any respect. The bill obliges the judicial branch of government to create its own ethics enforcement mechanism that will be run within the judicial branch of government by the judicial branch of government. There simply is not a separation of powers concern when the judicial branch of government runs an ethics program for the judicial branch of government that is administered within the judicial branch of government. It just ain't so.

The existing state of affairs is that the ethics requirements that apply to the Justices of the Supreme Court, first, related to recusal and, second, related to disclosure of gifts are laws passed by Congress.

And the enforcement, particularly of the disclosure requirements, is done by the Judicial Conference. The Judicial Conference is a body established by Congress.

When Harlan Crow first started giving free yacht and jet travel secretly to Clarence Thomas, that question was taken up by the Judicial Conference a decade ago.

Did the Justices complain that the Judicial Conference was investigating Justice Thomas and his disclosures? No, of course not, because the argument would make no sense. So to hear it here on the Senate floor is a bit disappointing. Right now, the Judicial Conference investigates and can sanction or refer for further investigation Justices of the Supreme Court.

We are trying to fix three really simple problems: One is factfinding. Factfinding ought not to be an issue in dispute. Every member of government in the United States who is subject to any kind of supervision or ethics requirement—which is everybody—had a process whereby the actual facts are found of what went wrong. Hell, even the President of the United States had to sit for a factfinding interview about the documents in his garage. It is only nine people in the entirety of the U.S. Government who think that they have no obligation to do any factfinding. And that is pretty dangerous because we just saw Justice Alito offer facts, a description, about what went on behind his family flying MAGA battle flags over their houses that has been proven false by information that is incontestable. Police reports with dates show that he got the order of things wrong. COVID showed that it couldn't possibly have been a schoolbus stop.

So you have erroneous facts offered by Supreme Court Justices with no method to review them. Or they completely ignore the facts. Justice Thomas has refused to ever say a word about what he knew about his wife's engagement in the insurrection while he was adjudicating the rights of those investigating the insurrection.

There is nobody else in the world where somebody doesn't come in and say: Sir, we have a complaint about your conduct, and we are going to need to take a statement from you. This won't take long. I am going to ask you some questions. You will give your answers. At the end, we will ask you to review and sign your statement.

Nothing difficult about that. Nothing against the separation of powers about that. Nothing that Chief Justice Roberts couldn't require right now about that. He could have Supreme Court staff attorneys conduct exactly that kind of work right now, as the chairman has repeatedly pointed out.

Factfinding is a really basic elemental proposition of our American judicial process, and it applies everywhere. It makes no sense for the body ultimately responsible for policing proper judicial process in the United States to not allow itself to participate in that most elemental and fundamental task of there being actual factfinding.

The second is a principle so old it is in Latin, for Pete's sake: ''Nemo iudex in causa sua''; no one should judge their own case. That is pretty easy to understand. And yet we let these Justices alone in the United States—nobody else—get to be the judges of their own ethics. And, obviously, they have failed to measure up.

And the third issue is transparency, disclosure. We know perfectly well that the Justices have failed at their disclosure obligations, and they can't keep their stories straight about meeting their disclosure obligations.

We just had Justice Thomas go back into his previous disclosures to correct them and tell the world and the Judicial Conference, which was reviewing this, that his failure to file was an accidental error. It was ''inadvertent.'' But earlier he had said about the same gift from the same billionaire: Oh, those don't have to be reported. That was personal hospitality from a dear friend.

Well, which is it? Is it personal hospitality that doesn't have to be reported? Or is it something that you knew perfectly well you should have reported, and now you are going back and cleaning up an error that you are claiming is inadvertent?

The disclosure mistakes are inexcusable on their face. Federal officials who commit far less in the way of disclosure mistakes have actually been prosecuted as felons, as misdemeanants, under the criminal law for those similar disclosure violations.

So we need to get this right. All it requires is factfinding and an independent voice so it is not nemo iudex. You are not judging your own cause. Those are really basic principles. That is all we are trying to do.

It would be done by judges within the judiciary. There is no separation of powers issue. That is a complete canard.

And I will close by saying that the Judicial Conference has been helping us in all of this. The Judicial Conference has just blown up Justice Scalia's trick, which was to solicit through intermediaries free vacations from resort owners, and then when the resort owner invited him with a personal invitation, he would pretend that that was personal hospitality because it was a personal invitation, even if he had never met the resort owner. That is a preposterous reading of the personal hospitality exemption. And it is not just me saying that. The judges of the Judicial Conference said: You are right. That is preposterous. That is ridiculous. We are clarifying the rule that that is not acceptable.

And he had done it 60 times. He was a vacation-taking fiend. My Lord.

So the idea that you can trust a Supreme Court Justice, with no independent review, no factfinding, each the judge in his own cause, to follow the rules has been blown to smithereens by the conduct of the Supreme Court Justices themselves. As our chairman is fond of saying: This is a crisis in ethics at the Supreme Court