the thought that the establishment clause does not apply to States in and of itself sends shivers, I am sure, down the spines of virtually every American, let alone to advocate it as Justice Thomas has, and my recollection is not once at Justice Stevens.

Mainstream philosophy matters because some on the extreme would seek to abolish the right to privacy that the Court recognized 40 years ago in that famous case of Griswold v. Connecticut. There is an inherent right to privacy that the Constitution's own people. We do not want the President's own people. We want one's own people. We want independent people. We want the judicial branch. There is no deference to the President having his own appointees. The Administration has helped. But we all know Presidents are not mainstream constitutional values. We have our people on the Court. It also has helped. And, yes, support a nominee who is temperamentally appropriate. A book that was well read by our Founding Fathers is Every law student in America knows about Blackstone. Blackstone wrote:

In this distinct and separate existence of the judicial power, in a . . . body of men, nominated indeed, but not removable at the pleasure of the crown, capable may be named the preservative of public liberty; which cannot exist long in any state, unless the administration of common justice be in some degree separated both from the legislative and also from the executive power.

In explaining our newly minted Constitution, Alexander Hamilton wrote in Federalist No. 78: 'The judiciary is beyond comparison the weakest of the three departments of power. . . . [T]hough individual oppression may now and then proceed from the courts of justice, the general liberty of the people can never be endangered from that quarter; I mean so long as the judiciary remains truly distinct from both the legislature and the Executive. For I agree, that "there is no liberty, if the power of judging be not separated from the legislative and executive powers."'

That says we in Congress cannot have our people on the Court. It also says the President cannot have his person on the Court. Rather a process so that the judge is his person on the Court, his own person.

Hamilton continued:

[L]iberty can have nothing to fear from the judiciary alone, but would have everything to fear from its union with either of the other departments.

That is pretty profound. And Hamilton warned:

[F]rom the natural feellessness of the judiciary, it is in continual jeopardy of being overpowered, awed, or influenced by its co-ordinate branches.

Marbury v. Madison years later helped establish the independence of the judiciary, saying the Constitution is what the Court says it says, and that has helped. But we all know Presidents have tried to change the Court in their own ways because they did not like the Court's decision. FDR tried his court-packing plan. He did not like what the Supreme Court was deciding so he tried to influence the Court with court packing, and that did not work. Presidents have all kinds of ways to influence the Court. As I mentioned earlier, President Eisenhower very much tried to influence Justice Warren in Brown v. Board of Education. Fortunately, Justice Warren, who was appointed by President Eisenhower stood up and said, no, separate but equal is not the law of the land. Rather, we should integrate.

Hamilton then concluded:

The complete independence of the courts of justice is peculiarly essential in a limited Constitution. By a limited Constitution, I understand one which contains certain specified exceptions to the legislative authority; such, for instance, as that it shall pass no bills of attainder, no ex-post-facto laws, and the like. Limitations of this kind can be preserved in practice no other way than through the medium of courts of justice. Every act of every branch of government which passes evade those enumerated exceptions to the legislative authority of the people is illegal. The Constitution of the United States is thus in so many words declared forever immutable. No legislative act, ever so called, but is liable to be declarednull. . . . If, therefore, the Constitution is immutable, its authors intended it to be suspended, to be rendered null, and to be of no force. . . . [T]hose in power, who are not the law of the land. Rather, we should integrate.

With some sadness, I have noted over the last several years that that trend is developing. It is becoming almost assumed that the Senate must confirm the President's nominee, that the President has that right. There is no right. The right is for the American people to stand up under the Constitution and do what is right for their people. We do not want the President's people. We want one's own people. We are not talking about mainstream constitutional values. We have our people on the Court. It also has helped. And, yes, support a nominee who is temperamentally appropriate. A book that was well read by our Founding Fathers is Every law student in America knows about Blackstone. Blackstone wrote:

In this distinct and separate existence of the judicial power, in a . . . body of men, nominated indeed, but not removable at the pleasure of the crown, capable may be named the preservative of public liberty; which cannot exist long in any state, unless the administration of common justice be in some degree separated both from the legislative and also from the executive power.

In explaining our newly minted Constitution, Alexander Hamilton wrote in Federalist No. 78: 'The judiciary is beyond comparison the weakest of the three departments of power. . . . [T]hough individual oppression may now and then proceed from the courts of justice, the general liberty of the people can never be endangered from that quarter; I mean so long as the judiciary remains truly distinct from both the legislature and the Executive. For I agree, that "there is no liberty, if the power of judging be not separated from the legislative and executive powers."'

That says we in Congress cannot have our people on the Court. It also says the President cannot have his person on the Court. Rather a process so that the judge is his person on the Court, his own person.

Hamilton continued:

[L]iberty can have nothing to fear from the judiciary alone, but would have everything to fear from its union with either of the other departments.

That is pretty profound. And Hamilton warned:

[F]rom the natural feellessness of the judiciary, it is in continual jeopardy of being overpowered, awed, or influenced by its co-ordinate branches.

Marbury v. Madison years later helped establish the independence of the judiciary, saying the Constitution is what the Court says it says, and that has helped. But we all know Presidents have tried to change the Court in their own ways because they did not like the Court's decision. FDR tried his court-packing plan. He did not like what the Supreme Court was deciding so he tried to influence the Court with
The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 81, line 24, increase the first amount by $3,000,000.

On page 77, line 20, increase the amount by $2,714,300.

On page 77, line 24, after “grants” insert “, and of which at least $20,000,000 shall be available for interoperable communications grants”.

On page 85, line 18, after “expended” insert “, Provided, That the aforementioned sum shall be reduced by $70,000,000.”

On page 82, line 21, strike “$5,000,000” and insert “$3,000,000.”

(The remarks of Ms. LANDRIEU are printed in today’s RECORD under “Morning Business.”)

HO N ORING FOX McKEITHEN

Ms. LANDRIEU. Mr. President, I rise today in sadness to pay tribute to a man who served the State of Louisiana well for over 22 years, our late Secretary of State Fox McKeithen, who passed away over the weekend at his home, lovingly surrounded by friends, family, and admirers.

Walter Fox McKeithen was born on September 8, 1946. He was a young man when he died this weekend. He was the second of six children in a small northern town of Louisiana called Columbia. He was the son of a very well-respected family, and admirers.

His parents were the oldest child, took after his father’s spirited dedication to make great improvements to an office that was in need of improvement. He modernized the way the State archived its records. He made it easier for businesses to register and get assistance from the Secretary of State’s office. Most importantly, he was a friend to local clerks who work diligently in our State to process elections, make sure they are run fairly and openly. He had a very

strong view, as Secretary of State and our chief election commission officer, that registered voters should have a chance to vote. Not a radical notion, but in this day and age not something that always happens. So he worked overtime to make sure the machines were here on time, and that people were well trained. If the clerks had problems, he himself would step in and give personal attention. So we all owe him a debt of gratitude for his dedication and commitment. In fact, once there was a problem with the machines were arriving late. He jumped in his own pickup truck and went down to one of our parishes to bring them voting machines.

Perhaps his greatest legacy was the renovation of our old State capitol, a building that sits on the banks of the Mississippi River in decay and abandonment for many years. But with his vision and his leadership, he restored that building to its former grandeur, and now it is a place that is used by many different organizations and appreciated and admired by all the people of our State. When he started this project, people said it could not be done, there was not enough money to do it. But because of his tenacity and his hard work and leadership ability, he led a group of leaders both in the public sector and in the private sector to restore our own State capitol and enhanced one of the great communities on the banks of the Mississippi River, right there in our capital city, reminding us of our rich and colorful past.

It was truly an honor for me and many people in Louisiana to serve in public office with Fox McKeithen. He loved Louisiana and he loved serving all of her people. He shared his father’s famous line when asked, “Don’t you h’ep me?” as if it were a question that the people of Louisiana were asking of him. It didn’t matter if you were a Democrat or a Republican, rich or poor, from north or south of the Mason-Dixon Line, he was always there to help you if he could.

A dedicated public servant who gave everything he had to serving our State, Fox Mc Keithen will be dearly missed. The people of our State owe a great debt of gratitude to Fox and the entire Mc Keithen family for a legacy of leadership, compassion, and vision for our State. His eldest daughter Marjorie follows in her father’s footsteps through her practice of law and effective advocacy for many important programs and initiatives in our State. She is truly carrying on the great Mc Keithen legacy of service.

So I come to the floor today saddened by the fact but gladened by the life this man led and certain of his legacy that he left with the people of our State. Fox McKeithen made a long and dedicated career.

On behalf of the people of Louisiana, I say our thoughts and prayers are with him and his family at this time.

CHANGE OF VOTE

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, on roll call vote 187, I voted “yea.” It was my intention to vote “nay.” Therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome.

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

HONORING OUR ARMED FORCES

STAFF SERGEANT TRICIA L. JAMESON

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of Tricia L. Jameson of Omaha, NE, a Staff Sergeant Jameson in the Nebraska Army National Guard. Staff Sergeant Jameson was killed by an explosion after stopping to treat wounded Marines on July 14 near Trebil in western Iraq. She was 34 years old.

Staff Sergeant Jameson grew up in St. Paul, NE, before moving to Omaha as a teenager. She graduated from Millard South High School in 1989 and attended Central Community College at Columbus, NE, from 1987 to 1993. She served the last 5 years in the military, working the last 5 years as a health care specialist at the Nebraska Air National Guard base clinic in Lincoln, NE. Staff Sergeant Jameson was a member of the 131st Medical Company of Lincoln and was mobilized to duty in Iraq less than a month ago. Staff Sergeant Jameson volunteered for the assignment. She was not a regular member of the group but a replacement for another soldier.

Staff Sergeant Jameson was preceded in death by her father, Robert Jameson. She is survived by her mother Patricia Marsh of Omaha; brother, Rob Jameson of Omaha; and fiancé Mike Coldewey of Omaha. Our thoughts and prayers are with them at this difficult time. America is proud of Staff Sergeant Jameson’s heroic service and mourns her loss.

I ask my colleagues to join me and all Americans in honoring SSG Tricia L. Jameson.

DEPUTY JERRY ORTIZ: IN MEMORIAM

Mrs. BOXER. Mr. President, I rise to honor the memory of Deputy Jerry Ortiz, a 15-year veteran of the Los Angeles County Department, who was tragically killed in the line of duty on June 24, 2005.

As a young child growing up in Southern California, Jerry Ortiz knew that he wanted to dedicate his life to protecting his fellow citizens. So it came as no surprise when he enlisted in the U.S. Army shortly after his graduation from El Monte High School in