gave his life. Those in line to vote, identifying with their index finger their commitment to liberty, were not injured and did not leave. They voted and democracy was born in that precinct, in that district in Iraq, in large measure because of the bravery and heroism of that Iraqi soldier saved by United States and coalition forces.

So as we consider the $8.1 billion for the continuation of our effort in Iraq and Afghanistan, and to a certain extent in the Middle East, if we look for optimism we are in a period for which we are not prepared. Only after our engagement in Afghanistan were the Taliban deposed. Only after our engagement in Iraq was Hussein captured. Only after our commitment against terrorism and countries that harbor terrorists did Libya give up its weapons of mass destruction.

Recently, the Palestinians elected a new leader, Abbas, and already the prospect for hope and peace in the Middle East between Israel and Palestine is brighter. To me, that is great optimism for the future of security and stability, not only in Iraq, not only in the Middle East, but throughout the world. We also must ask ourselves this: If we don't have optimism in the investment we make in the war on terror and the spreading of democracy, then what dividend would we receive by making no investment at all?

My submission to you is that we would not be fighting that war on terror not only overseas but on our own streets. We would be spending more than we invested in this war to try to be a defensive country, rather than an offensive country helping to spread democracy wherever people yearn for it.

I have great respect for those who will question any spending we might entertain. I understand the concerns about the investment that we may make in the coming weeks in the supplement. But, I will tell you that with the comments of Deputy Ambassador Salih, the comments of Dr. al-Rubaye, and the evidence of the heroism of the Iraqi soldier at the polling place Sunday, a week ago, it is clear to me this supplemental will continue.

We must make in the coming weeks in the supplemental will continue. I understand the concerns about this division. Mr. Chertoff will be at the head of many of the country's most complex security issues.

Just under 2 years ago, the Department of Homeland Security was created in the largest overhaul of federal agencies in more than half a century. It merged 185,000 Federal workers and 22 agencies in order to create a more national effort to protect ourselves in the wake of September 11.

It is a job that requires overseeing the development of innovative methodologies and techniques to prevent and deter terrorist attacks. It requires rapid response to threats and hazards, and it requires effective information analysis and information sharing between agencies at all levels—Federal, State and local.

The Secretary's job is to strengthen and maintain the security of our airports, seaports and land borders. But, equally important is the Secretary's ability to welcome the more than 500 million citizens, permanent residents, lawful visitors, students, and temporary workers who cross our borders each year.

As Secretary, Mr. Chertoff will have a major role on immigration policy. One of the most important responsibilities of his position is to see that the immigration service and enforcement functions are well-coordinated, and that the service functions are not given short shrift. Without strong leadership and coordination, the officials in the various immigration bureaus of the department are prone to issue conflicting policies and legal interpretations and create disarray in the department's mission.

Questions have been raised about Mr. Chertoff's role in the Criminal Division of the Department of Justice in developing the investigative strategy that led to the department's detention of hundreds of immigrants after 9/11. According to the report of the department's Inspector General in June 2003, there were "significant problems in the way the detainees were handled." There were also problems that included a failure to distinguish detainees suspected of ties to terrorism from detainees with no such connection. The Inspector General found there was inhumane treatment of detainees at Federal detention centers, unnecessarily prolonged detention resulting from the department's detention policy, secret detentions without formal charges, interference with access to counsel, and closed hearings.

I met with Judge Chertoff and raised me concerns about these detainees and his role in formulating the policy. He recognized and understood that significant problems had occurred at the Justice Department in the treatment of the detainees and indicated a willingness to re-evaluate current policies and put in place protocols to prevent these abuses from recurring.

Unfortunately, the administration has not been nearly as accommodating. It has refused to provide vital documents to the two Senate Committees charged with oversight over the Department of Homeland Security, the Homeland Security and Government Accountability Committee and the Judiciary Committee. Specifically, the administration continues to play hide and seek with documents that would shed light on the issues of torture and interrogation. In doing so, the administration persists in displaying a disturbing disregard for our constitutional role in Presidential nominations and the Senate's role in confirming our nominees and approval of their nominees on the issue of torture, the administration is only making the crisis worse, further embarrassing the Nation in the eyes of the world, and casting greater doubt on its commitment to the rule of law.

As Senator Levin has emphasized, FBI e-mails state that while Mr. Chertoff headed the Criminal Division, discussions occurred between the FBI and the Justice Department about interrogation abuses. The e-mails indicate that FBI personnel were deeply concerned about the interrogation techniques being used at Guantanamo Bay by the Department of Defense and the FBI communicated their concerns directly to certain persons in the Criminal Division.

The e-mails in their public form, however, were heavily redacted to discloses who spoke with whom. Although the e-mails were never provided by the administration to the Senate, we were able to obtain the documents in the same way as the general public obtained them, by surfing the web for the redacted documents as released in a Freedom of Information Act lawsuit.

Senator Levin and Senator Lieberman asked for the unredacted version of the e-mails in order to learn who in the FBI communicated the information to the Justice Department. The FBI did not respond. The request was denied, even though the information might well have been highly relevant.
to our consideration of Mr. Chertoff's nomination. It is beyond debate that our advice and consent function under the constitution includes inquiries into matters which may reflect on the nominee.

Mr. Chertoff may have no knowledge about the e-mails or the FBI discussion, but part of our constitutional obligation is to obtain enough information to make an informed decision. The American people deserve to know whether we have done our constitutional job responsibly.

Senator LEVIN has already spoken passionately about the stiff-arm that he and Senator LIEBERMAN and their committee received from the Department of Justice as they sought to give meaning to the words "advice and consent." From the text of the redacted version, it's obvious that Mr. Chertoff should have been asked about the torture issues in the depth that the documents would have enabled. He was head of the CIA during a critical period. Naturally, they asked to see the unredacted version of the document prior to any vote on the nomination.

But the administration flatly refused to cooperate. The White House could easily have provided the documents only to Senators and to staff with appropriate security clearances. It did not. Instead, it concealed the full text of the e-mails in what amounts to an obvious coverup.

The checks and balances in the Constitution are essential to our democracy and a continuing source of our country's strength. They are not obstacles to be jettisoned in times of crisis. We owe it to those who come after us to be vigilant. Republicans and Democrats alike must insist that our constitutional obligations and prerogatives be respected. I hope very much that this blatant abdication of our constitutional responsibility will not be repeated.

Regardless of the difficulties we have faced in obtaining these important documents, I am looking forward to working closely with Mr. Chertoff. His long history of government service and dedication to the public good are impressive. He has left the security of lifetime tenure on the federal bench to accept the challenge of steering the Department of Homeland Security through difficult times. His willingness to respond to the President's call speaks well of his character.

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

The PRESIDING OFFICIAL (Mr. SINUEN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with on Presidential nominations.

The PRESIDING OFFICIAL (Mr. BURR). Without objection, it is so ordered.

Mr. DODD. Mr. President, I ask unanimous consent to be able to proceed for 10 minutes as in morning business.

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

Mr. DODD. Mr. President, I rise this afternoon to discuss briefly the nomination of Judge Michael Chertoff, of New Jersey, to be Secretary of Homeland Security. I thank our colleagues on the Homeland Security and Governmental Affairs Committee, especially Chairwoman SUSAN COLLINS and my dear friend and colleague from Connecticut, JOSEPH LIEBERMAN, for their close consideration of this nomination. The task of reviewing the nominee for Secretary of Homeland Security is a difficult one, and the committee did a fine job.

I have reviewed the credentials of Judge Chertoff. They are impressive. In a legal career spanning more than a quarter of a century, Judge Chertoff has shown a respectable dedication to public service. In my view, he has demonstrated an ability effectively to manage a variety of security issues. For these reasons, I believe that Judge Chertoff is qualified and capable to serve as Secretary of the Department of Homeland Security. I plan on voting for his nomination.

The job for which Judge Chertoff is being nominated is a challenging one. In this post 9/11 era, the Secretary of Homeland Security bears the primary responsibility of ensuring the safety of Americans from the ever-changing perils of terrorism attacks to natural phenomena. In order to meet this responsibility, the Secretary must oversee 22 separate agencies and 180,000 employees, all of whom carry out critical duties that include defending our borders, securing our domestic infrastructure, and providing emergency disaster assistance. We all know that success in carrying out these duties will rest on the ability of the Secretary to coordinate and allocate resources at his disposal. They are huge. If confirmed, Judge Chertoff will unfortunately find that the current resources at his disposal are inadequate to ensure the operation of an effective Department of Homeland Security. I strongly agree with several of my colleagues on the Homeland Security and Government Affairs Committee who argue that more must be done to improve the Department's ability to identify security threats and to respond to these threats in an effective and appropriate manner.

I agree that the Department of Homeland Security must be given adequate resources to address the plethora of security vulnerabilities that continue to plague our borders, airports, seaports, transportation systems, utility networks, and financial networks. I also agree that more work must be done to develop and implement a Government-wide strategic security activities, and to devise specific plans of action for specific threats. Furthermore, I strongly concur that more resources must be provided to our first responders—the millions of brave men and women who make up our front lines of defense at home.

For any homeland security response to be fully effective and successful, our firefighters, law enforcement personnel, and emergency response teams require the most updated equipment and training to function. Regrettably, the administration's fiscal year 2006 budget deeply cuts these and other initiatives related to homeland security.
All of these challenges that I mention demand immediate and long-term investments. While I applaud the work that has already been done to enhance our domestic security since 9/11, I remain, as many of my colleagues do, deeply disillusioned by the administration’s continued disinterest in investing adequately in these activities. As more gaps in our security are uncovered and exploited, and as more work is being done to enhance our capabilities in identifying closing these gaps, the Bush administration’s policy has been to provide less resources, including unthinkably cuts of $615 million to State homeland security initiatives and our first responders. How can we fully expect to be safe as a nation if the very people who are committed to our safety are deprived of the vital resources that ensure our safety?

In his testimony before the Homeland Security and Governmental Affairs Committee, Judge Chertoff indicated his determination to improve our management practices, secure our borders and transportation systems, and most important, focus each and every day on keeping America safe from attack.

I am encouraged by these remarks, and I hope Judge Chertoff’s determination can allow him to meet the challenges, but he faces some awesome ones within the administration, if, in fact, these budget cut proposals are enacted into law.

I am also encouraged by the remarks he made regarding the rights to due process that all Americans enjoy. In his testimony to the Homeland Security and Governmental Affairs Committee, Judge Chertoff said:

I believe that we cannot live in liberty without security, but we would not want to live in security without liberty.

I believe this position is noteworthy, especially of the report issued by the Department of Justice inspector general in 2003 that criticized the prolonged detention of hundreds of people—primarily immigrants—of suspected ties to terrorism that were later evacuated, and as more work is being done with information necessary to carry out its constitutional responsibilities of giving advice and consent and conducting oversight of the executive branch.

In a letter written by the Department of Justice to Senators Lieberman and Levin on February 7—just over a week ago—the Department of Justice claimed that an unredacted document related to the Chertoff nomination would not be provided to the Homeland Security and Governmental Affairs Committee because “... it contains information covered by the Privacy Act and is protective of personal material.” The assertion by the Department of Justice that their inability to comply rests on the Privacy Act is absurd and wholly unacceptable.

As Senator Levin has stated—and I strongly agree with him in this—the Privacy Act protects private individuals from having personal information released without their consent. In this case, the Department of Justice is using the Privacy Act to conceal the names of public officials who have engaged in Government activities at taxpayers’ expense. That is precisely the kind of case in which Congress ought to have full knowledge of Government personnel and their activities in order to exercise its advice and consent responsibilities.

To deny the Senate information about what public officials are doing at taxpayers’ expense is essentially to deny the American people their right to know what their Government is or is not doing in the name of its citizens. To deny the American people their right to know of their Government’s actions is an abuse of not only the Privacy Act, it is an abuse of power, in my view.

This may seem like a small matter to some, just one document. However, it should be noted that Senator Levin has precisely and carefully raised an issue that could be deeply disturbing to anyone who is committed to safeguarding the long-term health and accountability of our Government. I suggest to my colleagues that we are going to be seeing this issue arise over and over again if we as a body—all of us here—do not challenge it. I do not consider it a partisan issue. If any administration starts making the case in the Executive Branch that the Privacy Act applies to Government personnel and Government documents that Congress may need to fulfill its Constitutional obligations, then a dangerous precedent will be set—one that I think we will deeply regret.

This matter reflects an already persistent, almost obsessive preoccupation by the current administration with secrecy. If the Governmental organizations were unable to ascertain who—just the names—participated in the Vice President’s energy task force, the group which laid the blueprints for the administration’s current energy policy.

Another example is the refusal of the recent nominee, now current Attorney General, to provide information to the Judiciary Committee pertaining to the development of his legal rationale for permitting torture. Of particular note in this case, when asked to provide information, the Attorney General said:

I do not know what notes, memoranda, e-mails, or other documents others may have about these meetings, nor have I conducted a search.

The unwillingness even to search for information requested by Congress epitomizes a certain official arrogance that sets a dangerous precedent because, when carried to its conclusion, it impairs and even impedes most congressional oversight. Government employees are named in countless documents that Congress needs in order to carry out its constitutionally mandated responsibilities and to shine the light on energy policy. Congress may need to fulfill its Constitutional duty in this case, when asked to provide information, the Attorney General said:

I do not know what notes, memoranda, e-mails, or other documents others may have about these meetings, nor have I conducted a search.

In closing, I do not believe Judge Chertoff is an architect of the policy to deny the public their right to know what their Government is doing. But Senator Levin has raised a very important issue that reaches the heart of the problem and reaches every agency and office in this Government. It is the issue of preventing the openness, transparency,
and accountability of our democratic government. I thank Senator Levin, who, once again, during his service here, has proved how valuable attention to detail is. I commend my colleague for raising it.

I thank the indulgence of the Chair. I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:38 p.m., recessed until 2:14 p.m. and reassembled when called to order by the Presiding Officer (Mr. Voinovich).

EXECUTIVE SESSION

NOMINATION OF MICHAEL CHERTOFF TO BE SECRETARY OF HOMELAND SECURITY

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session and resume consideration of the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Michael Chertoff, of New Jersey, to be Secretary of Homeland Security.

The PRESIDING OFFICER. Who yields time?

The Senator from Maine.

Ms. COLLINS. Mr. President, I yield 5 minutes to the distinguished Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I thank the Senator from Maine for yielding me time.

I am in support of the President's nominee, Judge Michael Chertoff. He seems to have worked for almost every part of the Federal Government, including this body. I heard the Senator from Maine say that she had never seen a better witness before her committee. As Secretary of Homeland Security, Judge Chertoff will play a very important and visible role in our everyday lives, protecting us from terrorism, but my purpose today is to highlight another job he has. He is also the chief immigration officer. As Secretary, he will oversee the Bureau of Citizenship and Immigration Services, the successor to the INS, which manages immigration in this country. This job of Judge Chertoff is not primarily about keeping people out of the United States; it is also about welcoming new Americans into the United States.

The numbers are down some since 2001, but as many as 1 million immigrants become new American citizens each year.

I have attended a number of the ceremonies which are held in Federal courthouses all over America every month to welcome and naturalize these new citizens. I was in Nashville in December when 50 or 60 people from all backgrounds were administered the oath of allegiance by Judge Echohs. The oath requires each new American to renounce any old allegiances and swear a new one to the United States of America.

Each one of these new citizens has waited at least 5 years. They have learned English. They have learned something about U.S. history. They have proved they are of good character. Many new citizens have tears in their eyes as they recite that oath. It is an inspiring scene. Each of these new citizens brings a new background and culture to this historic fabric of American life. That increases our magnificent diversity, but diversity is not our most important characteristic.

Jerusalem is diverse. The Balkans are diverse. A lot of the world is diverse. What is unique about the United States of America is that we take all of that diversity and make ourselves into one country. We are able to say we are all Americans. We do that because we unify it with principles and values in which we all believe: liberty, equality, rule of law. It also helps that we speak a common language. It is hard to be one people if we cannot talk with one another. Many of these newcomers, other than those living in this country lack a solid grasp of our common language or a clear understanding of our history and civic culture. Without proficiency in English, our common language, and an understanding of our history and cultural values, immigrants will find it difficult to integrate themselves into our American society.

So my hope today is that Judge Chertoff does a magnificent job in his role at preventing terrorism. My hope also is that he does a good job in keeping out of this country people who are not legally supposed to be here. But equally important is Secretary Chertoff's role in welcoming new citizens to this country, helping them learn our history, our common language—helping all of us remember those principles that unite us as one country. That is a part of the Department of Homeland Security. It is of increasing interest to Members of the Senate on both sides of the aisle, and I look forward to working with Judge Chertoff in this new role and I support his confirmation.

The PRESIDING OFFICER. Who yields time? The Senator from Maine.

Ms. COLLINS. Mr. President, I yield 5 minutes to the distinguished Senator from Virginia and, from the minority's standpoint, that is a word or two I want to speak on Judge Chertoff. I, frankly, had not met him prior to the President's very wise selection of this able individual. I rise today to urge my colleagues to give the strongest endorsement possible to this nominee.

I started my career as a young lawyer, a prosecutor, but my first job out of law school was law clerk to a Federal circuit court judge, the same position that Judge Chertoff holds today. I recall all through law school and the early part of my career about 10 years that I practiced law, lawyers always thought: Maybe someday I could be a judge, a Federal judge. The whole bar looks up to the judicial branch, as they should. It is the third branch of our magnificent Republic. An individual is selected by a President and confirmed in the Senate, he or she then dons that black robe, and it is a lifetime appointment.

I was privileged to observe the life of a Federal judge. My judge was E. Barrett Prettyman, and I had the privilege of standing on that very floor several years ago and recommending the Federal courthouse here in Washington be named for Judge Prettyman. I am always grateful to the Senate for its wisdom in accepting my recommendation. But I remember that judge so well. He had the strongest influence on my life. I aspired at one time to be a Federal judge, but I hastily tell my colleagues I am not sure I even would have been qualified, for various reasons.

But when you accept that appointment you take that oath of office for life. That is why I, and I think most if not every one of my colleagues, spend so much time working with our Presidents to find the best qualified people to assume these important jobs in the Federal judiciary. But it is a lifetime appointment.

When I looked at Judge Chertoff in my office, we compared experiences. He was a law clerk on the Supreme Court, so he had gone through some of the similar experiences that I had as a lawyer, and also I was assistant U.S. attorney as was he. I said: You have to explain to me why you gave up a lifetime appointment to a position in which you can control your hours and largely control your vacations and have a magnificent family life and everything else to take on this enormous, uncertain challenge.

He looked me in the eye, and he said: In America, you have to step up and be counted when the President and the citizens of this Nation need you. I give