that gave voice to the dissenters this administration has tried to muffle. The redactions prevent us from fully understanding that debate and how Criminal Division lawyers under Judge Chertoff's supervision dealt with the FBI. The torture policies were not only immoral but ineffectual. It prevents us from truly understanding Judge Chertoff's role and whether attorneys under his supervision raised the issue with him directly. He said he does not remember. I accept the judge's statement in that regard. But that does not take away from the necessity of being able to have this information.

In response to Senator Levin's request for an unredacted version of the FBI emails, the administration issued its broadest assault against the Senate's duty to evaluate a nominee to get oversight of this administration. The administration claimed it would not turn over the unredacted emails because they would violate the Privacy Act, even though, through Senate security, any classified information would be protected. The Privacy Act is designed to prevent the Government from disclosing personal information about individuals who have not consented to disclosure. It is not a tool to conceal identities of public officials engaged in this Nation's business.

As my colleague from Michigan, Senator Levin, has so forcefully stated, engaged in this Nation's business. This act of conscience and consented to disclosure. It is not a tool about private individuals who have not

FBI concerns that the torture policies in place under Judge Chertoff's supervision dealt with the 9/11 killers back to al-Qaida. And for the next 2 years, Judge Chertoff helped craft our antiterrorism policy. His experience working directly with law enforcement, his expertise in homeland and national security, and his proven ability to lead in times of national crisis make him overwhelmingly qualified to direct our homeland security.

The nomination was confirmed. The President will be immediately notified of the Senate’s action.

LEGISLATIVE SESSION

The PRESIDING OFFICER.

The President will now entertain legislative business.

The majority leader.

MORNIGN BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a
Will these regulations, if approved, apply to all employees otherwise covered by the CAA? No. Subsection (5) of 2 U.S.C. 1316a, states that, for the purpose of application of these veterans' employment rights the term "covered employee" shall not apply to any employee of an employing office: (A) whose appointment is made by the President without Senate confirmation; or (B) whose appointment is made by a Member of Congress or by a committee or subcommittee of either House of Congress; or (C) to employees to whom Chapter 35 of Title 5, U.S.C. (the "VEOA") applies. These regulations apply only to the Veterans Employment Opportunity Act, as amended.

Do other veterans' employment rights apply via the CAA to Legislative Branch employing offices and covered employees? Yes. Another statutory scheme regarding veterans' and armed forces members' employment rights is incorporated in part through section 206 of the Congressional Accountability Act of 1995 (CAA). Section 206 of the CAA, 2 U.S.C. 1316, applies certain provisions of Title 38 of the U.S. Code regarding "Employment and Re-employment Rights of Members of the Uniformed Services". Section 206 of the CAA also requires the Board of Directors to issue substantive regulations patterned upon the regulations promulgated by the Secretary of Labor to implement the Title 38 rights of members of the uniformed services. As of this date, the Secretary of Labor has not finally promulgated any such regulations. Therefore, regulations implementing CAA section 206 rights will not be proposed by the Board until the Labor Department regulations have been promulgated. The proposed regulations therefore are not based on substantive regulations promulgated by the Secretary of Labor. These regulations are promulgated to implement the statutory protections described in section 206 of the CAA, but solely on the other veterans' rights referenced in 2 U.S.C. 1316a.

What are the veterans' employment rights applied to covered employees in offices in 2 U.S.C. 1316a? In recognition of their duty to country, sacrifice, and exceptional capabilities and skills, the United States government has accorded veterans a preference in federal employment through a series of statutes and Executive Orders, beginning as the Civil War drew to a close. Certain statutory provisions, promulgating the statutory protections have remained largely unchanged since they were first codified in the Federal Employees Retirement Act of 1940, adopted in June 1940 ("FERA"). The FERA incorporated provisions from the historic Veterans' Preference Act of 1944, 5 U.S.C. § 3502(c), (emphasis added). Along with this explicit command to retain qualifying employees with retention preference, agencies are to follow regulations governing the release of competing employees, giving "due effect" to the following factors: (a) employment tenure (i.e., type of appointment); (b) veterans' preference; (c) length of service; and, (d) performance ratings. 5 U.S.C. § 3502(a). 5 U.S.C. § 3502 also requires that certain notices of retention preference, provided to the employee, their family members (mainly spouses, widow(er)s, parents, and children), and others, are "a qualifying element for a position, preference eligible individuals (including those who are disabled) may obtain a waiver of such requirements in certain circumstances.

How are substantive regulations proposed and approved under the CAA? Pursuant to section 304 of the CAA, 2 U.S.C. 1384, the procedure for promulgating substantive regulations requires that: (1) the Board of Directors adopt proposed substantive regulations and publish a general notice of proposed rulemaking in the Federal Register; (2) there be a comment period of at least 30 days after the date of publication of the general notice of proposed rulemaking; and (3) after consideration of comments by the Board of Directors, that the Board adopt regulations and transmit notice of such action to all employees and covered employees and submit a recommendation regarding the method for Congressional approval of the regulations to the