

changes. You know, not going around the edges and trying to do a little something. We are talking about a balanced budget, one that has to do with financial and fiscal responsibility, one that has to do with not continuing to put it on the debt so our kids have to pay it. Our credit card is maxed out. We know that. We cannot come to any kind of agreement. We are going to talk some more today, I guess, and talk some more tomorrow. We probably will not be able to come to an agreement.

There is lots of room to come to an agreement. The parameters are pretty large—a balanced budget in 7 years, CBO numbers. Aside from that, you can bargain in there. That is a pretty broad parameter. We could do that. We could do that.

Mr. President, we ought to do that. We ought to get folks back to work. This is a ridiculous arrangement. We have to make some decisions. The people who are doing the negotiating need to make some decisions. That is our job. We are trustees for the American people and our job is to do something. Our job is to make decisions. Our job is to move forward. Mr. President, we ought to do that.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

#### THE OBLIGATION TO KEEP GOVERNMENT FUNCTIONING

Mr. BINGAMAN. Mr. President, we are now in the 18th day of the longest Government shutdown in the history of the Nation. Serious negotiations continue on the budget, but still the Republican majority in Congress refuses to pass legislation to fund the normal function of Government; that is, a clean continuing resolution. This persistent refusal to provide funding for normal Government operations is irresponsible. It is irresponsible conduct by the Republican majority, particularly in the House, which must originate appropriations bills regardless of which side may be right or wrong on the policy issues in the budget negotiations.

Any time the negotiation occurs, each side begins by assessing its own as well as its opponent's strengths and weaknesses. Each side determines the actions that it can take to put pressure on the other to reach concessions.

In these negotiations over the budget, for the first time in our Nation's history the Republicans who are controlling Congress have determined that they have the right to shut down the Government and they can use that right as a bargaining chip in their negotiations with the President. They do not see the obligation to keep Government functioning as a shared obligation. They do not see it. They do not see it as an obligation of both the executive and the legislative branches as previous Congresses have. Instead, they are quite willing to assign that responsibility exclusively to the President

while, for their own part, keeping the Government closed as a bargaining ploy. This is a profound change in the way Congress views its responsibilities. It is simply wrong to see this as more business as usual, more of the traditional bickering that characterizes Washington politics.

In November, we had the longest shutdown in the 207-year history of the Republic, and it was 6 days long. Now we are at 18 days and counting in the second shutdown of this Congress.

When our Founders embarked on the task of bringing to life the constitutional system, they devised in Philadelphia in 1787, it was the legislative branch of the Government which they called on to commence proceedings under the Constitution.

The Congress met in New York in 1789, organized itself, provided for the counting of Presidential electoral votes and the inauguration of the President. The Congress then passed legislation to establish the great departments of the executive branch, to provide for the organization of the judicial branch, and to furnish appropriations to enable all the branches of our new national Government to perform their constitutional functions.

It would be, frankly, unimaginable to our Founders that our branch, the first branch of Government whose duty it was to bring to life the Framers' plan, would ever think that it was within its purview to disable that plan by refusing to perform the Congress' primary constitutional responsibilities.

It would be unimaginable for the new Congress to have decided not to complete the work of setting up the Government that the Constitutional Convention contemplated. In fact, it would have precipitated a major constitutional crisis for a radical majority in the first Congress to decide not to set up a particular department or not to fund a particular department just to get the bargaining leverage with a new President. Such a step then might have doomed the future of our new constitutional Republic.

My Republican colleagues argue that it is not they who are acting irresponsibly in causing Government to remain closed. After all, they passed appropriations bills and the President has chosen to veto those bills. They are right; the President has exercised his veto. He has done so as provided in the Constitution. He has returned those bills to the Congress, also as provided in the Constitution. But when the President uses the veto, the Framers of the Constitution contemplated that Congress would either muster the two-thirds majority in each House needed to override the veto or make the changes necessary in the bill to satisfy the President's objections. When time has been required to resolve differences between the President and Congress on spending bills, all previous Congresses, 103 of them, have enacted continuing resolutions to maintain the normal functioning of Government.

When this Congress and this Republican majority came, that all changed. For the first time in our Nation's history, the majority in Congress is refusing to perform its primary constitutional responsibility to maintain a functioning Government. It is abusing its power under the Constitution. This refusal, this abrogation of responsibility, this abuse of power is being explained away as a natural consequence of policy differences between the President and the Congress. But there have been many times in our history when policy differences between Congress and the President were great and were strongly held. Never before has Congress approached the negotiations of those differences with the view that responsibility for maintaining a workable Government rests exclusively with the President and the ability to keep the Government closed is a bargaining chip that Congress brings to the negotiations.

If this Republican view is accepted with respect to a partial Government shutdown, why should it not also apply with respect to increasing the debt limit and extending the full faith and credit of the United States? If it is OK to shut down the functioning of Government to force the President to accept the Congress' negotiating position, why would it not be just as acceptable for the Congress to refuse to increase the debt limit for the same purpose? Why would it not be just as acceptable for the Republicans in Congress to say it is the President's responsibility alone to ensure the full faith and credit of the United States and he has to do it by agreeing to whatever we in Congress demand?

This view by the Republican leadership of Congress is as radical as it is wrong. The Founders of our Nation provided for a government in which responsibility as well as power was to be shared. If the Congress will not hold itself responsible for maintaining a workable government, then the people who elect the Congress will surely do so.

Mr. President, I yield the floor.

#### EXTENSION OF MORNING BUSINESS

Mr. DORGAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

Mr. DORGAN. Mr. President, we are in morning business until 12:30, is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for 5 minutes as if in morning business and have the time for morning business extended.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## END THE SHUTDOWN

Mr. DORGAN. Mr. President, I come from a town of 400 people in southwestern North Dakota, a very small community, a community probably like most other small communities in this country. Good people live there, thoughtful people, people who help others. Oh, the community has a few hot-heads like most communities have, a few freeloaders like most communities have.

My home community is probably not unlike the Congress; 535 people serve here in the U.S. Congress, mostly good, thoughtful, hard-working people, Republicans and Democrats who love their country and care about doing the right thing for their country. And we have a few hotheads here and we have a few hot dogs here, I guess.

We find ourselves today in a most remarkable position, one that I think causes all Americans to scratch their heads and wonder, what on Earth can they be thinking about in the U.S. Congress?

We have a disagreement over a 7-year budget plan. The disagreement is not over small issues; it is over some very significant issues. And there is a good reason that there would be disagreement over large questions, such as a \$245 billion tax cut, a \$270 billion proposed cut in Medicare spending, and a range of other things. There is good reason that there would be very substantial disagreement about those issues. And yet we know from two centuries of history that in a democracy you find compromise; you reason together; you find a way to come together and reach common solutions.

This year, however, it has been different. There is a disagreement on the 7-year budget plan. There are talks now ongoing at the White House, and I have been involved in some of those talks over this weekend at the White House, and I shall not talk about the merits of the balanced budget issues because I have been a part of those discussions. But I did want to say that because we find ourselves at this juncture, we now have a partial shutdown of the Federal Government by some who want to use that shutdown as leverage to try to get what they might think they can get in this 7-year balanced budget negotiation.

It does not make any sense to me that we use a partial shutdown of the Federal Government as leverage. There is no connection. It does not make any sense.

Can you imagine the city council of my hometown or your hometown, a city council that says we, as a city council, cannot agree on a budget, so you know what we are going to do? We are going to decide that city workers will not come to work, or we are going to have half of them not come to work and half of them come to work, and to those we prevent from coming to work we say, you stay home, we will not allow you to come to work and when this is over, we are going to pay you for

work we will not allow you to do. To those who come to work we say, you come to work because that is your responsibility, and when you get here we are not going to pay you, but we will pay you later when we resolve this dispute.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. DORGAN. This would be nurses at a veterans hospital, security guards at the prisons, and so on.

Mr. SARBANES. Will the Senator yield?

Mr. DORGAN. Many of whom work from paycheck to paycheck and live paycheck to paycheck. And that is who we are telling in this circumstance that they should bear the brunt of this dispute.

I would be happy to yield for a moment.

Mr. SARBANES. Very quickly. The Washington Post in a recent editorial said, and I quote them, "Can you imagine a Fortune 500 company operating like this, if they had a dispute between their board of directors and their President and they sent everybody home."

It is a coercive bargaining tactic that ought to have no place in the picture. As the distinguished Senator from New Mexico said, the regular operations of Government ought to be able to continue while we try to thrash out the very tough questions involved in this 7-year budget projection.

Mr. DORGAN. I appreciate the Senator's comments. I might say Senator DOLE has been in the Chamber and he has made the point several times that it is not his desire to see this shutdown continue.

I think and I hope very much that we will be able to pass a clean continuing resolution to end the shutdown. I know the previous Senator who spoke this morning said, well, we—meaning people on his side—have proposed to bring the Government workers back to work but we have objected.

Well, that sort of paints a different picture than exists. We have over 2 weeks now proposed clean continuing resolutions that people come back to work and be paid for coming back to work, and they have been objected to.

Aside from what has happened in the past, we ought to today, on Tuesday, all of us, decide that this is the day to end this shutdown, end this bizarre impasse, and pass a clean continuing resolution to have the Federal workers come back to work, to be paid for coming back to work, and stop this nonsense.

It does not make any sense to dangle those Federal workers at the end of a chain here and say, you are the ones who will be used as a pawn in this budget issue. That is not fair to them. I wonder, if we were talking about CEO's or Wall Street investors, whether someone would be saying, well, we would like to dangle you; we would like to use you as bait here in budget negotiations. I do not expect you would see people using CEO's like that or Wall

Street folks like that. It is just the Federal work force that people think they can use like that.

My hope is that at the end of the day we in the Senate, Republicans and Democrats, all of us who understand this makes no sense—the Presiding Officer in the chair has made that same point—my hope is all of us can decide at the end of the day, at least with respect to the Senate, we will pass a clean continuing resolution, send it to the House and urge that they do the same. Then we should move on to honestly and aggressively negotiating an end as well and a solution as well to the 7-year balanced budget plan.

It can and should be done and, I think, will be done, but this shutdown really makes no sense. It pokes the American taxpayer in the eye and dangles Federal workers as bait or as pawns in a circumstance that is terribly unfair to them.

In an hour—in a half hour, for that matter—we could, it seems to me, pass a clean appropriations bill to continue funding and end this shutdown, and I hope that will be the case this afternoon.

Mr. President, I yield back the remainder of my time.

Mr. SARBANES addressed the Chair. The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Mr. SARBANES. Mr. President, I ask unanimous consent to be recognized for 5 additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## POLICY DIFFERENCES AND CONSTITUTION

Mr. SARBANES. Mr. President, I want to thank the distinguished Senator from North Dakota for his very strong statement. I know how keenly he has followed this matter. I also want to thank the distinguished Senator from New Mexico for his very thoughtful analysis. He made some extremely important points about the workings of the American constitutional system.

We have a system of separation of powers and checks and balances. That means that one branch cannot simply abdicate itself from assuming a measure of responsibility when sharp policy differences confront decisionmakers.

There are sharp policy differences over the components of a 7-year balanced budget. One approach would make a cut of \$270 billion in Medicare and give tax breaks of \$250 billion. There are many of us who think that is a wrong set of priorities, that we ought not to be giving the tax breaks and, by not doing so we would not be making deep cuts in Medicare. That is an issue that needs to be argued out among the Members of the Congress and between the Congress and the President.

The President has stated he wants to move to a balanced budget, but he does not want to do it at the sacrifice of important priorities involving Medicare,