controlling the first half and the majority controlling the final half.

The Senator from New Hampshire is recognized.

REGULATORY REFORM

Mr. GREGG. Mr. President, first, I congratulate the Republican leader for a superb statement on where we stand relative to the bill on regulatory reform. It is truly a bill that is misnamed. This bill should be called ''The Expansion of Government for the Purposes of Making Us More Like Europe Act.''

As a very practical matter, the bill does almost nothing about the core issues that have created the issue of financial stability in this country. It does nothing in the area of Fannie Mae and Freddie Mac, which is the real estate issue. It does virtually nothing in the area of making sure we have a workable systemic risk situation and structure so we can address the issue of systemic risk. Instead of addressing it in a constructive way, which would actually put some vitality and usefulness in to regulate the derivatives market, it actually steps back and creates a derivatives regulation that all the major regulators, whom we respect, have said simply will not work.

I wish to talk about that. I didn't think there was anything you could do that would make this regulatory proposal on derivatives worse. But now we see an amendment from the chairman of the committee, which I am sure is well intentioned, but it makes it worse. The way the derivatives language of the bill has evolved is it gets worse and worse, in an almost incomprehensible and irrational way, which is rather surreal. It is almost as if we were at the Mad Hatter's tea party the way this derivatives language is evolving.

We now have in the bill itself proposed language which the chairman of the FDIC, the Federal Reserve staff, Chairman Volcker, and the OCC have all said will not work. In fact, not only did they say it will not work, they have said it will have a negative impact on the stability of the derivatives market. It will cause the market to move overseas and make America less competitive. It will cause a contraction in credit in this country, and it will hurt consumers and users of derivatives across this Nation.

Those are the words—paraphrased to some degree but essentially accurate—of the major players who actually discipline and look at this market, in defining the bill as it is presently before us. Now, in some sort of bizarre attempt—as if the Mad Hatter had arrived—to correct this issue, we see an amendment from the chairman of the committee suggesting that we should put into place an even more convoluted system, tied to uncertainty of no decision occurring for 2 years. The proposal says we will have the stability council, which is made up of, I think, nine different regulators, take a look at what is in the language of the bill now, relative to taking swap desks out of financial institutions and determine whether that language makes sense. Well, it doesn't. We know that already because a group of regulators has already said it doesn't make sense. So we are going to wait for 2 years to determine it doesn't make sense, when we already know it doesn't. Then they are going to make that recommendation to the Congress, so the Congress gets to legislate to correct what we already know is an error in the bill.

Then, to make this an even more Byzantine exercise in regulatory absurdity, the Secretary of the Treasury has the right to overrule the Congress or maybe act independently of the Congress and take action pursuant to whatever the stability council decided.

On top of this convoluted exercise in chaos, the proposal actually undermines the Lincoln proposal, which is in the bill, and makes it even less workable, by saying the swap desk cannot even be retained by affiliates but must be totally separated, which inevitably leads to swap desks that do not have capital adequacy or stability or the necessary strength to defend the derivatives action which they are making markets in. So you weaken and significantly reduce the stability of the market, making it more risky and, at the same time, the estimate is, you would contract credit in this country by close to $¾ trillion less credit.

What that means is John and Mary Jones, who are working on Main Street America producing something they are selling to a company that is maybe a little larger, and then they are selling that product overseas, are probably not going to be able to get the credit they need to produce the product, so they will have to contract the size of their business, and we will reduce the number of jobs in this country or certainly the rate of job creation.

This country's great and unique advantage is that we are the best place in the world for an entrepreneur and risk-taker—somebody who is willing to go out there and do something to create jobs—to get capital and credit at a reasonable price and in a reasonably efficient way. This bill fundamentally undermines that unique advantage that we have in this language, and this language compounds that event, undermining that unique situation. It is, as I said, similar to participating in the Mad Hatter's tea party to watch the way this bill has evolved on the issue of derivatives regulation. The product—I guess the Queen of Hearts would be proud of it, but I can tell you the effect on the American people, on commerce, and on Main Street will be extraordinarily negative should we pass it.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, I ask unanimous consent that I may be recognized for 15 minutes.

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

BERWICK NOMINATION

Mr. ROBERTS. Mr. President, recently, Leader MCCONNELL and Dr. JOHN BARRASSO, the distinguished Senator from Wyoming, and I engaged in a colloquy regarding President Obama's nominee for the head of CMS, the Centers for Medicare Services, Dr. Donald Berwick.

Simply put, Dr. Berwick has a long history of interesting statements—pertinent statements—that support government rationing of health care, an issue I have vigorously fought against throughout the entire health care debate.

The White House response to our colloquy, it seems to me, was most unfortunate, if not rather incredible. Here is what the Obama administration had to say:

> No one is surprised that Republicans plan to use this confirmation process to trot out the same arguments and scare tactics they hoped would block health insurance reform.
>
> The fact is, rationing is rampant in the system today, as insurers make arbitrary decisions about who can get the care that they need. Dr. Don Berwick wants to see a system in which those decisions are transparent—and that the people who make them are held accountable.

This is a fascinating response. Instead of flatout denials of government rationing, we have excuses. If you read between the lines, you will notice that for the first time ever in this debate, the Obama White House is admitting their health care plan will ration health care. It just doesn't make it transparent.

Remember, when Republicans, such as myself and JON KYL and Dr. COBURN, the Senator from Oklahoma, tried to warn that health care reform would result in government-rationed care, we were dismissed as crazy reactionaries or even worse. President Obama accused us of trying to scare people, and no less than the American Association of Retired Persons, AARP—that organization that purports to represent Medicare patients and seniors all across our great Nation—said our rationing concerns were a mere ''myth''—that ''none of the health care reforms . . . would stand between individuals and their doctors or prevent any American from choosing the best possible care.''

How interesting that now, after the health care bill has become law, the President is admitting we were right all along. Here is the quote:

> Don Berwick wants to see a system in which those [rationing] decisions are transparent—and that the people who make them are held accountable.

That is a complete and utter about-face.

Although cloaked in the typical straw man arguments that have come to characterize this administration,