

Mr. LINDER. Madam Speaker, I am not sure we are going to settle that violation question here today. But I yield 1½ minutes to the gentleman from Texas (Mr. PAUL) to try.

Mr. PAUL. I thank the gentleman for yielding.

Madam Speaker, I rise in support of this rule; and I support H.R. 2846, which forbids the use of Federal funds to develop or implement a national test without explicit authorization from Congress.

Supporters of protecting the United States Constitution from overreaching by the executive branch should support this bill. The administration's plan to develop and implement a national testing program without Congressional authorization is a blatant violation of the constitutional doctrine of separation of powers.

However, support of this bill should in no way be interpreted to imply that Congress has the power to authorize national testing. Education is not one of the powers delegated to the Federal Government.

As the 9th and 10th amendment makes clear, the Federal Government can only act in those areas where there is an explicit delegation of power. Therefore, the Federal Government has no legitimate authority to legislate in this area of education. Rather, all matters concerning education, including testing, remain with those best able to educate children: individual States, local communities and, primarily, parents.

I therefore urge my colleagues to vote for H.R. 2846 which stops the administration from ultimately implementing national tests and oppose all legislation authorizing the creation of a national test. Instead, this Congress should work to restore control over their children's education to the American people by shutting down the Federal education bureaucracy and cutting taxes on American parents so they may better provide for the education of their own children.

Mr. FROST. Madam Speaker, I yield 1 minute to the gentleman from California (Mr. MARTINEZ).

Mr. MARTINEZ. Madam Speaker, let me explain something very clearly. In the agreement that was made and in the law now, no test can be conducted without the authorization of Congress. That is in there. In fact, in its planning stage with what is authorized in that agreement, they have changed the date. They have renewed the contract, changed the contract. The contract had already been let by the administration because they thought they had the prerogative to do that.

And NAGB then, when they were given the sole responsibility for this, not the responsibility of education as my friend from South Carolina says, but NAGB was given sole authority, and, in doing so, they called back the contract and renegotiated the contract.

They have the option now under the law and the agreement as it was made

to terminate that contract at any time, at any time upon the authority of Congress or on Congress deciding whether or not they should proceed. This is doing it without the benefit of the three studies that was also included in that agreement to give us a chance to really look at the merits of national testing.

Mr. LINDER. Madam Speaker, I yield 1 minute to the gentleman from Arizona, Mr. SHADEGG.

Mr. SHADEGG. Madam Speaker, I thank the gentleman for yielding time to me.

With all due respect to my colleague on the other side, I am afraid he does not read carefully the agreement which occurred last year. The legislation which addressed this issue was an appropriations bill. It cannot authorize. Appropriations acts cannot do that.

In the appropriation bill, it said specifically, no funds in this legislation may be used to implement or field test a national test. But I think listening to the debate, it is clear that we are missing some issues here.

Some of us believe strongly in education but strongly oppose a national test. Let me tell my colleagues why. Because if they go across America, as I have done and others have done on the Committee on Education and the Workforce, they discover that schools work where parents and teachers get involved, where they have possession of the curriculum, not where the curriculum is dictated by a national test.

But, for purposes of this debate, that is not even the issue. We can indeed, with the passage of this legislation, debate whether or not a national test dictated from Washington is a good idea. This bill lets the Congress do that. This bill gives us a chance to get into the merits of a debate of whether a national test crammed down the throats of the American people is the best thing for the American children.

I urge the passage of this bill.

Mr. FROST. Madam Speaker, I yield myself such time as I may consume.

(Mr. FROST asked and was given permission to include extraneous material.)

Mr. FROST. Madam Speaker, I urge Members to vote against the previous question.

If the previous question is defeated, I will offer an amendment to the rule that will make in order the amendments offered in the Committee on Rules by the gentleman from Missouri (Mr. CLAY) and the gentleman from California (Mr. MARTINEZ), the Public Schools Renewal and Improvement Act and the School Construction Act. These are the kinds of programs we need to improve in order to improve our public education.

Vote no on the previous question so we can consider these two worthy legislative initiatives to improve the quality of our public schools.

Madam Speaker, I include the following for the RECORD:

PREVIOUS QUESTION FOR RULE ON H.R. 2846 TO PROHIBIT SPENDING FEDERAL EDUCATION FUNDS ON NATIONAL TESTING

TEXT:

At the end of the resolution add the following new section:

"Sec. 2. One amendment offered by Representative Clay of Missouri and one amendment offered by Representative Martinez of California each shall be considered as read, shall be debatable for 60 minutes equally divided and controlled by the proponent and an opponent, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. All points of order against an amendment offered under this section are waived.

The majority argues that our attempt to defeat the previous question is futile because our proposed amendment is not germane. The fact of the matter is that the chair has not made a ruling nor heard our arguments as to the germaneness of our amendment. The only way to make that determination is to allow us to offer the amendment by defeating the previous question.

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote.

A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan.

It is a vote about what the House should be debating.

The vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

I ask unanimous consent to insert material in the RECORD at this point.

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's *Precedents of the House of Representatives*, (VI, 308-311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate