many of their counterparts in countries around the world.

There is a plan to repair our schools. Under this plan, federal tax credits would be used to help underwrite some $22 billion in bonds that would be used to build and renovate public schools.

Mr. Speaker, we must make required reforms, improvement and sufficient investment to provide a quality education system where every child has a chance to learn, develop and contribute.

If we do nothing before we adjourn, our children will ask, why Congress did you fail us?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. COBURN) is recognized for 5 minutes.

(Mr. COBURN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Mrs. CAPPS) is recognized for 5 minutes.

(Mrs. CAPPS addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

CENSUS LAWSUITS

The SPEAKER pro tempore (Mr. PITTS). Under a previous order of the House, the gentlewoman from New York (Mrs. MALONEY) is recognized for 5 minutes.

Mrs. MALONEY of New York. Mr. Speaker, I rise to discuss the census lawsuits that will be argued before the Supreme Court on November 30 of 1998. Mr. Speaker, you sued the Department of Commerce to prevent it from carrying out its plans to use statistical methods in the 2000 Census. A similar case was filed by private citizens, including the gentleman from Georgia (Mr. BARR).

Members must understand the importance of these cases, as my comments will demonstrate. I am confident that the Supreme Court will rule that the statutes and the Constitution permit the use of statistical methods. We must have the most accurate census possible and the use of statistical methods is the only way to ensure accuracy.

Mr. Speaker, I ran across a very good example of why statistical methods are the only real solution to an accurate census. It appeared this morning in the New York Times, and it talked about the Welcome Wagon. It stated that the Welcome Wagon, this is a program that used to welcome new residents to their neighborhoods and also do a little marketing for local merchants. The article says that the Welcome Wagon is closing its doors. Why? Because people are not home. They cannot find people at home to welcome when they move into the neighborhoods, so they are no longer going to be doing it. They will be reaching out through the mail and other ways.

Mr. Speaker, that is the problem with the census. Knocking on doors to get information, many people are not home in America. That is the case in very simple terms.

Six months ago I came to this well to discuss procedural issues raised in the court cases. As many constitutional scholars suggest, the Supreme Court could rule on procedural grounds and dismiss the cases or remand them back to the District Court. The Supreme Court cannot give advisory opinions. The Constitution states that there must be a case in controversy in order for it to proceed on the merits.

Today, however, I want to switch from the procedural issues and focus on the merits of these lawsuits. The lawsuits filed by the Speaker and by Representative Barr ask the Court to review the Census Act and in particular two sections which discuss the use of statistical methods.

In addition to alleging that the Census Act prohibits the use of statistical methods, the Speaker and Representative BARR argue that the Constitution prohibits their use.

□ 2000

Because neither the Census Act nor the Constitution creates such a prohibition, the Commerce Department may and should use statistical methods in the 2000 census.

The Census Act does not prohibit the use of statistical methods for the purpose of apportionment. Two sections of the Census Act mention the use of statistical methods. Section 141 plainly allows for the broad use of statistics and section 195 states that statistics may be used. Yes, two district courts, the District court for the District of Columbia and the District court for the Eastern District of Virginia recently ruled otherwise. These are the two cases that the Supreme Court will hear on November 30 of this year.

Both of these courts erred in their rulings. First they ignored the plain meaning of each of the words of section 141 and 195. Section 141 gives the Secretary broad discretion to take the census in such manner as he chooses, including the use of sampling. Section 195 limits that broad discretion by stating that if he considers it feasible, the Secretary must use statistical sampling for nonapportionment purposes. However, for apportionment purposes, the Secretary's broad discretion remains as afforded by section 141.

Second, even if the courts determined that the Census Act provisions are unclear as to whether the use of statistical sampling is permissible, they should have deferred to the Census Bureau's reasonable interpretation of these provisions as required by law.

No one disputes the definition of 141, but the real issue is section 195.

Section 195 is clear with regard to the requirement of the Secretary to use statistical sampling for non-apportionment purposes if he deems it feasible. Obviously, Secretary Daley deems it feasible or we would not be where we are today. The question the courts reviewed was what Section 195 says with regard to statistical sampling for apportionment purposes.

The Supreme Court has ruled on numerous occasions that if a statute is silent or anbiguous with respect to the specific issue, the question for the court is whether the agency's intrepretation is a permissible construction of the statute. It should not decide whether the intrepretation is the same intrepretation that the court would have made. Therefore, the District of Columbia Court and the Virginia Courts failed to give the Bureau the discretion it deserved.

Three District Courts, the Eastern District of Michigan, the Eastern District of Pennsylvania and the District Court for the Eastern District of New York, have ruled correctly that the Census Act allows for the use of statistical methods. That is why I am pleased that the Supreme Court is reviewing the Speaker and BARR'S lawsuits.

The Constitution does not prohibit the use of statistical methods for the purposes of apportionment. Instead, it expressly delegates to Congress the authority to conduct the census ''in such Manner as they by law shall direct.'' Congress passed such a law which give the Secretary of Commerce the authority to take the census. THe Secretary of Commerce is doing just that, taking the census. The Secretary has chosen to take the census using the most modern technological advances available.

Now Congress no longer likes the law it passed and no longer wants the Secretary to have the authority to take the census. Congress has the right to change its mind but it must do it by law, not by the Appropriations process and not through the court system. Until Congress passes such a law, the Secretary has the authority to use statistical methods.

I should note that neither the District of Columbia Court nor the Eastern District of Virginia reviewed the constitutional issue. However, the Michigan, Pennsylvania and New York Courts did reach the constitutional issue and they all found that the use of statistical methods is constitutional.

Mr. Speaker, neither the Census Act nor the Constitution prohibits the use of modern technology in the taking of the census. I look forward to the Supreme Court explaining this fact to the House of Representatives and to the American people.

Mr. Speaker, I include for the RECORD the following:

[From the New York Times, Oct. 12, 1998]

WELCOME WAGON TO MAKE ITS VISITS VIA POST OFFICE

(By Constance L. Hays)

The Welcome Wagon is rolling up the welcome mat.

Since the 1920's, Welcome Wagon's sales representatives, almost always women, have gone house to house visiting newlyweds and the newly moved-in, bearing greeting baskets laden with coupons, magnets, ballpoint pens and other items sponsored by the local locksmith, the town optometrist and other merchants. But these old-fashioned visits are coming to an end, in a testament to changing life styles or perhaps that traditional corporate desire to cut costs.

The owner of the Welcome Wagon, the Cendant Corporation, is dismissing most of its 2,200 representatives and will replace them with direct marketing through the mail.

So rather than a lengthy visit with the possibility of real-time conversation, each of