



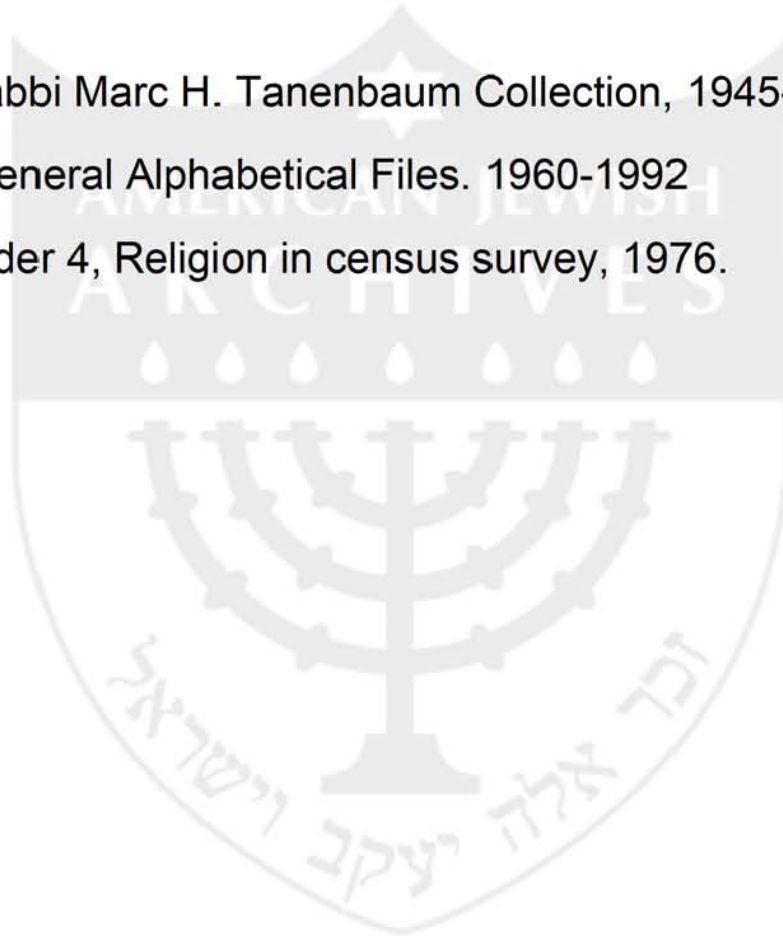
THE JACOB RADER MARCUS CENTER OF THE AMERICAN JEWISH ARCHIVES

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MS-603: Rabbi Marc H. Tanenbaum Collection, 1945-1992.

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Box 90, Folder 4, Religion in census survey, 1976.



MEMORANDUM

THE AMERICAN JEWISH COMMITTEE

date September 13, 1976
to Seymour Samet
from Sam Rabinove
subject Voluntary question on religion in Census Bureau survey

The attached items are self-explanatory. What position, if any, should AJC take on this newly-revived issue?

As is reflected in Morris Fine's masterful digest, AJC's traditional position, while clearly opposing any mandatory question on religion, in 1966 at least appeared to be open to a carefully-framed voluntary question. Even on the latter, however, some of our people had reservations, as did most of the other Jewish agencies.

I have alerted Joel Ollander to the matter for NJCRAC consideration. It would seem to merit attention by one or more of our lay bodies.

As for my personal view on this, much as I am fond of the camel, I tend to prefer that it keep its nose out of the tent. My Bedouin heritage, no doubt.

SR:PL

Att: Census query on religion called violation of freedom (News, 8/2/76)
Memo from Morris Fine
Memo to Roger Meltzer
Morris Fine digest on Question on Religion in United States Census

CC: B. H. Gold
M. Fine
Y. Rosenman
W. Katz
M. Tanenbaum ✓

August 2, 1976

Census query on religion called violation of freedom

By James H. Bowman
Daily News Religion Writer

The 1977 Current Population Survey by the U.S. Census Bureau will ask people's religious preferences, and the executive director of Americans United for Separation of Church and State is objecting.

"We believe such a question would be improper government interference in the sa-

cred area of religion and raises serious constitutional objections," Andrew Leigh Gunn said.

Gunn wrote in response to a decision by a Census Advisory Committee on Population Statistics supporting inclusion of a religious question in the 1977 sample.

"THE GOVERNMENT is prohibited from legislating in the realm of religion and thus

cannot inquire into the religious persuasion of American citizens," Gunn said in a letter to Vincent P. Barabba, director of the Census Bureau.

Gunn said the question would violate freedom of religion "because refusal to answer the census-taker constitutes a federal crime."

He argued that such information is not needed because it is already gathered by private agencies such as the Gallup organization, the Glenmary Research Center and the National Council of Churches.

"IT IS NOT the government's business to gather this kind of information," Gunn said.

"A religious question could constitute a dangerous precedent of government snooping into the personal political and social views of our people."

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APR 13 1976

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M. FINE

FO-PA-D-M
April 7, 1976

Sam Rabinove
Roger Meltzer

Government Collection of Religious Data

Harvard economist Martin Feldstein relayed the following information to Professor Stephen Goldstein:

*
The special CPS division of the Dept. of Commerce, which takes selective census data for research and projections (not to be confused with the larger 10-year survey) voted (7-2) to include a voluntary question on religious preference. Feldstein, a member of the CPS team, was among the dissenting votes.

Steve reminds me that in the past AJC has expressed opposition to governmental collection of this sort of data, and has asked me to pass this information to our national staff in the event it is deemed appropriate to look into this matter.

RM:g

cc: Will Katz ✓

& Current Population Surveys

2/5/68
Census

THE AMERICAN JEWISH COMMITTEE

QUESTION ON RELIGION IN UNITED STATES CENSUS

In August 1966 AJC submitted testimony before the Subcommittee on Census and Statistics of the Committee on Post Office and Civil Service of the U.S. House of Representatives on the issue of including a question on religion in the United States Census. In that testimony Morris B. Abram reaffirmed AJC's traditional opposition to a question in the upcoming 1970 Census but he went on to say:

We recognize that there is widespread interest in data on the religious composition of our population and that such information has considerable sociological, cultural and practical uses. It is needed by scholars and by the religious communities themselves, and is also of interest to the general public. The religious bodies, in spite of their best efforts, have been unable to compile adequate statistics about their memberships. There seems to be no way to gather reliable data without active involvement of the Federal Government.

It is held by many that a question on religion in a sampling, wherein the response would be entirely voluntary, would not constitute an abridgment of religious liberty under the First Amendment. Others disagree. We respectfully suggest, therefore, that your Committee initiate a study of this issue.

We believe that, subject to the determination that Constitutional barriers do not exist, the Census Bureau should explore alternative means of obtaining data on religion without the compulsion accompanying the Decennial Census. Thus, the Census Bureau could include an appropriate question in one of its sample studies, similar to the one conducted in 1957...

However, if that course is followed, we maintain that any question asked must restrict itself to religious affiliation or identity as understood by each respondent, and must avoid probing into anyone's religious belief or behavior.

Any question asked must be clear, simple, and of a kind likely to attract a high rate of response. The wording of the question in the 1957 sample Census ("What is your religion?") seems to have met these criteria, and might well serve as a model for future inquiries...

The position cited above was approved by the Domestic Affairs Committee in June, 1966 following a full discussion of the issue. There being no Board of Governors meeting scheduled between June and the time the testimony was to be offered, there was no Board review of the Domestic Affairs Committee decision.

Various Kinds of Census Surveys

It should be noted that there are two kinds of census studies conducted by the Bureau of Census. One is the decennial census (1960, 1970, etc.). This is the most comprehensive in terms of the questions asked and the area covered (every single household), and answers to it are mandatory under the law. The other is the Current Population Survey (CPS) conducted in the off-years on a sampling basis and dealing essentially with economic data. The basic objective of the CPS is "to obtain estimates of employment, unemployment, and other characteristics of the general labor force and of the population as a whole, or various subgroups of the population." In addition the CPS also conducts periodic studies of income, migration, educational attainment and other demographic characteristics. The information obtained by the CPS in this way serves to supplement the decennial census and is highly regarded in the scholarly community.

As our testimony indicated, it was in one of these surveys, in 1957, that the Census Bureau for the first time asked a question on religion. The data thus obtained was tabulated according to gross totals, the proportion of Jews to the general population, age differentiation, birth rates, intermarriage rates, etc., and were published in a special government publication as well as in our own American Jewish Year Book. The government's second inquiry into religion was on October, 1965. This was done under the provisions of the 1964 Civil Rights Act which specifically provided that the Commissioner of Education shall "make a report to the President and the Congress...concerning the lack of availability of equal educational opportunities for individuals by reason of race, color, religion, or national origin in public educational institutions at all levels in the United States..."

Recent Developments in the Jewish Community

At the request of the Council of Jewish Federations and Welfare Funds, a study committee was created two years ago, consisting of representatives of the NCRAC agencies and the CJFWF, for the purpose of studying the legal, constitutional and community relations aspects of requesting the government to include a question on religion. (AJC was not then a member of the NCRAC but joined midway in this study process.) The CJFWF had

recently embarked upon a campaign to raise funds in the Jewish community for a study of Jewish attitudes, identity and commitment and felt that for such a study it would first be necessary to obtain certain benchmark data of basic demographic characteristics of the Jewish population (total numbers, distribution by age, sex, birth rate, fertility ratios, intermarriage rates) and they felt that such data could best and most easily be obtained in a government census survey. The joint study committee quickly reached a unanimous conclusion that a question on religion in the 1970 census, the answer to which is mandatory, would be unconstitutional and was undesirable as a matter of public policy. It failed to reach agreement, however, on the advisability of a question on religion in one of the government's sampling studies. The legal staffs of the ADL and the American Jewish Congress, in their memorandum, expressed the view that even the latter study would be unconstitutional. The CJFWF, however, then consulted legal scholars, who rendered tentative opinions that such a question might not be unconstitutional.

At a public conference,* both the sociological and constitutional aspects were explored in scholarly papers and general discussion. Dr. Milton Konvitz of Cornell, who had been commissioned by the study group to explore the constitutional arguments, came to the conclusion in his paper that a question of the voluntary-answer type was constitutional. Leo Pfeffer, on the other hand, delivered an address refuting Dr. Konvitz's argument. Professor Kent Greenewalt of the Columbia Law School, also responding to Dr. Konvitz's paper, believed that constitutional arguments could be marshalled for either side. He felt that there were certain questions of public policy to be determined, and these - he stated - were not clear.

The national Jewish community relations agencies, with the exception of AJC, and the Synagogue Council, have subsequently reaffirmed their opposition to a voluntary-type question. The NCRAC Executive Committee is scheduled to take up this matter at its Spring meeting. The CJFWF has not yet taken a position.

AJC's Role

AJC is perhaps in a unique position among the Jewish community relations agencies. It has a diversity of needs and concerns. It genuinely needs data on the Jewish community. It has compiled and edited the American Jewish Year Book since 1908; it has engaged in many studies of Jewish community life; it has gone deeply into studies of Jewish attitudes (e.g., the two-volume Lakeville Studies); and it is now very much concerned with the problem of Jewish continuity in the U.S. For all this, basic demographic data is needed. On the other hand, AJC as a

*Held on Oct. 22-23, 1967.

community relations agency is very sensitive to the church-state issue and to the possibility of the misuse of data on religion compiled by the government.

Some of the Principal Arguments

Those who argue for the participation of the federal government in population studies that include the factor of religion base their argument on the need of religious bodies for such information, on the further usefulness of such information to government on all levels in conducting welfare and anti-discrimination programs, and on the right of government to do research and conduct inquiry into the make-up of the population. Aid to religion in the sense forbidden by the First Amendment, they argue, is incidental to the larger welfare purpose. Furthermore, the type of data sought is sociological, referring to affiliation, in this view, and not religious in the sense of inquiring about belief.

The principal arguments advanced against a question on religion are primarily legal and constitutional, although broad policy and community relations considerations are also advanced. They go something like this: The First Amendment forbids the federal government to make laws "respecting the establishment of religion or prohibiting the free exercise thereof." If the government should ask a question on religion it would be violating both clauses of the First Amendment. It would be interfering with matters of individual conscience and it would be aiding religion. Moreover, indirectly it would be forcing a person "to profess a belief or disbelief in any religion" which the Court in the Everson decision said was unconstitutional under the Establishment Clause of the First Amendment. Also unconstitutional--said the Court in the Everson case--was participation by a state or the federal government "openly or secretly...in the affairs of any religious organizations or groups, and vice versa."

This question might also be an opening wedge for the later inclusion of other questions on religion, such as church attendance, belief in God, etc.

The legal argument as it has been advanced sees no distinction between voluntary and mandatory census studies. AJC's legal experts, for example, state that a voluntary-type question would be equally unconstitutional unless a cogent case can be made for the relevance of such information to the business of government.

Question for Decision

In the light of the need to take a position at the NCRAC Executive Committee meeting, it is appropriate to consider it at this time. Do we approve or disapprove the position taken in 1966, as indicated on p. 1 of this memorandum.

MF:ms - 2/5/68