

# THE AVAILABILITY OF CENSUS RECORDS

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## HEARING

BEFORE THE

SUBCOMMITTEE ON CENSUS AND STATISTICS

*United States Congress.* OF THE

*Senate.* COMMITTEE ON

POST OFFICE AND CIVIL SERVICE

UNITED STATES SENATE

NINETY-FOURTH CONGRESS

SECOND SESSION

ON

**S. 3279**

TO AMEND TITLE 13, UNITED STATES CODE, TO REQUIRE THAT POPULATION CENSUS RECORDS BE TRANSFERRED TO THE NATIONAL ARCHIVES WITHIN FIFTY YEARS AFTER A CENSUS, AND THAT SUCH RECORDS BE MADE AVAILABLE AFTER FIFTY YEARS TO PERSONS CONDUCTING RESEARCH FOR GENEALOGICAL OR OTHER PROPER PURPOSES

AND

**H.R. 10686**

TO AMEND TITLE 13, UNITED STATES CODE, TO REQUIRE THAT POPULATION CENSUS RECORDS BE TRANSFERRED TO THE NATIONAL ARCHIVES WITHIN FIFTY YEARS AFTER A CENSUS, AND THAT SUCH RECORDS BE MADE AVAILABLE AFTER SEVENTY-FIVE YEARS TO PERSONS CONDUCTING RESEARCH FOR GENEALOGICAL, HISTORICAL, OR MEDICAL PURPOSES

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AUGUST 2, 1976

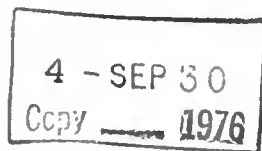
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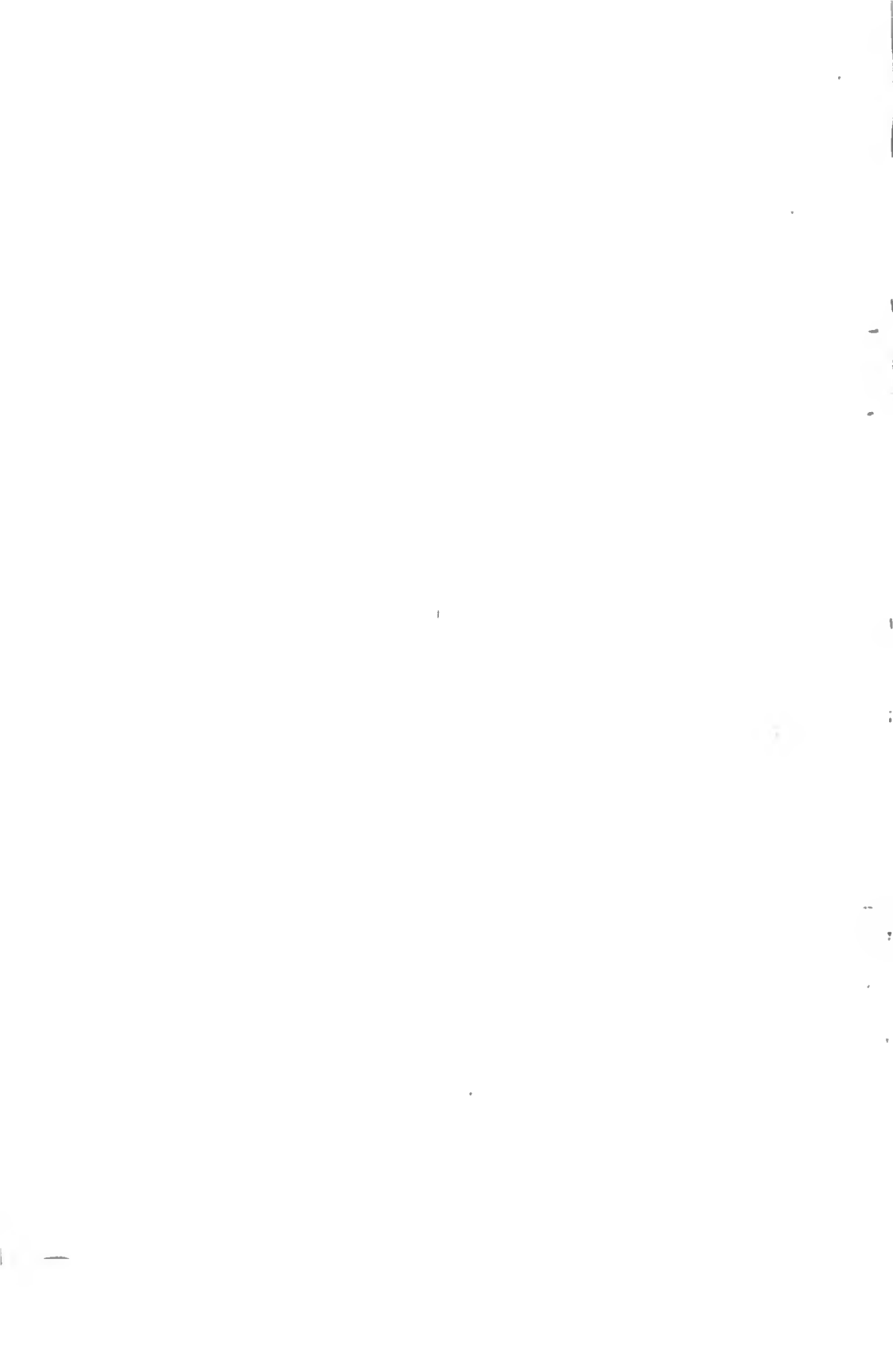
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# THE AVAILABILITY OF CENSUS RECORDS

MONDAY, AUGUST 2, 1976

U.S. SENATE,  
SUBCOMMITTEE ON CENSUS AND STATISTICS OF THE  
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,  
*Washington, D.C.*

The subcommittee met, pursuant to notice, at 10:01 a.m., in room 6202, Dirksen Senate Office Building, Hon. Frank E. Moss (subcommittee chairman) presiding.

Also present: Senators Randolph and Stevens.

## OPENING STATEMENT OF CHAIRMAN MOSS

Senator Moss. The Subcommittee on Census and Statistics will come to order.

Last week, this subcommittee received testimony on legislation to expand the collection of population and social data by instituting a mid-decade census.

This morning, we are considering some of the uses of information from past and future censuses. Specifically, we will hear testimony on two bills, H.R. 10686 and S. 3279. Both bills have the same purpose, which is to regularize the transfer of population census records to the National Archives and their availability to bona fide investigators conducting genealogical, historical, medical, and social scientific records. Both prohibit the misuse of the information disclosed. The bills differ only with respect to the time that must elapse before researchers may have access to the records.

The census is one of our oldest and most respected institutions. The information it produces is a vital national resource. The Constitution mandates an enumeration of population as a basis for apportioning seats in the House of Representatives.

Population data is required in the administration of more than 120 Federal programs. Statistical analyses and sample surveys are used extensively by Government agencies and private organizations and individuals. Citizens may obtain their own responses in order to document their eligibility for social security, for example. None of these uses of census material is in question today.

In addition, genealogists, historians, medical doctors, and others have been able to study older census records for important and legitimate research purposes. Their work has contributed to our knowledge of institution slavery, foreign immigration, domestic migration, and family histories. At issue now is whether researchers in the future

should be permitted to consult census records, after an appropriate period of time has elapsed, or whether they should be effectively barred from full use of this unique source of information.

HISTORY OF S. 3279 AND H.R. 10686

Because of the complexity of the present situation, I think it would help to recount its history very briefly. Shortly after the National Archives was established in the 1930's, the Director of the Bureau of the Census and the Archivist of the United States agreed that census records from 1790 through 1870 would be made available through the Archives to research groups and individuals, largely without restriction. The Federal Records Act of 1950 authorized the Archives to open executive agency—including the census—records when they became 50 years old, although the Archivist testified that census schedules were among the records containing personal information that he might restrict at his discretion beyond 50 years.

In 1952, the Director of the Bureau of the Census proposed and the Archivist agreed to delay access to census records until 72 years after the census date. The 1880 records were opened in 1952, and the 1890 records were available in 1962. Prior to the opening of the 1900 census in 1972, however, the Director of the Bureau took the position that the disclosure agreement conflicted with the confidentiality provision of section 9 of title 13 of the census statute and therefore was not valid. An opinion was sought from the Attorney General, whose office resolved the question in favor of the Archives under authority of the Federal Records Act. Late in 1973, the 1900 census records were opened to qualified researchers.

Presumably, this policy will apply in 1982 to the 1910 census records and will continue thereafter for the foreseeable future even if this legislation progresses no further. However, the controversy continues, heightened by the legitimate national concern for individual privacy.

First, beginning in 1910, census respondents have been given assurances that their answers would be confidential. One of the interpretations of these assurances holds that release of any identifiable information at anytime without the individual's consent, or that of his heirs, would be a breach of that pledge.

Second, the Bureau of the Census is concerned that continued access by researchers will discourage citizens from responding to future census inquiries.

Third, there is concern that such access may lead to the publication or dissemination of information detrimental to past respondents.

It is certainly the responsibility of this subcommittee to promote the effectiveness of the census. We do not want to do anything that will seriously jeopardize the reliability of its results. We are no less concerned to protect the integrity of Government and personal privacy. This legislation will be considered by committees with expertise and authority in freedom of information and privacy, but our committee will do its utmost to resolve the questions that have been, and may be, raised. At the same time, we must consider the importance of genealogical work and scholarly research, not only to the individuals involved, but also to the welfare and health of the Nation.

In conclusion, I would like to quote my distinguished colleague Congressman Gunn McKay of Utah, cosponsor of the House bill, from his testimony before the House Subcommittee on Census and Population:

An either-or solution to a difficult problem which requires careful balancing of a number of important interests is not the solution, but rather a balance must be struck between competing interests. After all, this is a function of Congress.

At this point, I would like S. 3279 and H.R. 10686 with agency views placed in the record.

[The aforementioned follows:]

94<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 3279

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IN THE SENATE OF THE UNITED STATES

APRIL 8, 1976

Mr. Moss introduced the following bill; which was read twice and referred to the Committees on Post Office and Civil Service, the Judiciary, and Government Operations jointly by unanimous consent

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## A BILL

To amend title 13, United States Code, to require that population census records be transferred to the National Archives within fifty years after a census, and that such records be made available after fifty years to persons conducting research for genealogical or other proper purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 That subchapter I of chapter 1 of title 13, United States  
4 Code, relating to general provisions for census administration,  
5 is amended by inserting immediately after section 9 the fol-  
6 lowing new section:

II



1 **“§ 10. Transfer to Archives; availability for genealogical**  
2 **and other purposes**

3 “(a) Not later than fifty years after the census date of  
4 any census conducted under the authority of subchapter II  
5 of chapter 5 of this title, the Secretary shall transfer to the  
6 Administrator of General Services for deposit with the Na-  
7 tional Archives of the United States all schedules and related  
8 indexes pertaining to such census which have been deter-  
9 mined by the Archivist of the United States to have sufficient  
10 historical or other value to warrant their continued preserva-  
11 tion. The Administrator shall provide for the preservation of  
12 all census material which is deposited with the National  
13 Archives.

14 “(b) All schedules and related indexes deposited in  
15 the National Archives which pertain to a census conducted  
16 under the authority of subchapter II of chapter 5 (or  
17 similar provisions of prior law) shall be made available  
18 fifty years after the census date and thereafter to persons  
19 whom the Archivist of the United States determines will  
20 utilize access to such material for genealogical or other  
21 proper purposes.

22 “(c) In no case shall information furnished under the  
23 authority of this section be used to the detriment of the per-  
24 sons to whom such information relates.

25 “(d) Any copy of a schedule or a related index de-

1   posited in the National Archives of the United States may  
2   be transferred by the Archivist of the United States only  
3   upon the condition that access to and use of information con-  
4   tained in such a schedule or index be subject to limitations  
5   approved by the Archivist. The Archivist may not approve  
6   limitations under the preceding sentence which are less  
7   restrictive than those under which such information is made  
8   available by him.

9       “(e) The Secretary of Commerce shall make available  
10   all census schedules and related indexes to qualified medical  
11   researchers ten years after the census date or transfer said  
12   schedules and related indexes to the Administrator of Gen-  
13   eral Services for deposit with the National Archives of the  
14   United States for dissemination by the Archivist to qualified  
15   medical researchers only.”.

16       SEC. 2. The table of sections of chapter 1 of title 13,  
17   United States Code, is amended by striking out the item  
18   relating to section 10 and inserting in lieu thereof the  
19   following:

    “10. Transfer to Archives; availability for genealogical and other  
        purposes.”.

94TH CONGRESS  
2D SESSION

# H. R. 10686

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## IN THE SENATE OF THE UNITED STATES

APRIL 8, 1976

Read twice and referred to the Committees on Post Office and Civil Service,  
the Judiciary, and Government Operations jointly by unanimous consent

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## AN ACT

To amend title 13, United States Code, to require that population census records be transferred to the National Archives within fifty years after a census, and that such records be made available after seventy-five years to persons conducting research for genealogical, historical, or medical purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 That subchapter I of chapter 1 of title 13, United States  
4 Code, relating to general provisions for census administra-  
5 tion, is amended by inserting immediately after section 9  
6 the following new section:

7 “§ 10. Transfer to Archives; availability for genealogical,  
8 historical, and medical research purposes.”.

9 “(a) Not later than 50 years after the census date of

1 any census conducted under the authority of subchapter II  
2 of chapter 5 of this title, the Secretary shall transfer to the  
3 Administrator of General Services for deposit with the  
4 National Archives of the United States all schedules and  
5 related indices pertaining to such census which have been  
6 determined by the Archivist of the United States to have suf-  
7 ficient historical or other value to warrant their continued  
8 preservation. The Administrator shall provide for the pres-  
9 ervation of all census material which is deposited with the  
10 National Archives.

11 “(b) All schedules and related indices deposited in the  
12 National Archives which pertain to a census conducted  
13 under the authority of subchapter II of chapter 5 (or similar  
14 provisions of prior law) shall be made available—

15 “(1) beginning as soon as is practicable after deposit  
16 (but in no event before the end of the 50-year period  
17 beginning on the census date) to persons whom the  
18 Archivist of the United States determines will utilize ac-  
19 cess to such material solely for medical research purposes,  
20 and

21 “(2) except as provided in paragraph (1), begin-  
22 ning 75 years after the census date to persons whom the  
23 Archivist determines will utilize access to such material  
24 solely for genealogical or historical purposes.

25 The Archivist shall ensure that such persons are bona fide

1 researchers engaged in legitimate scholarly, genealogical, or  
2 scientific pursuits. In no case shall information furnished  
3 under the authority of this section be used to the detriment of  
4 the persons to whom such information relates.

5 “(e) Any copy of a schedule or a related index deposited  
6 in the National Archives of the United States may be trans-  
7 ferred by the Archivist of the United States only upon the  
8 condition that access to and use of information contained in  
9 such a schedule or index be subject to limitations approved by  
10 the Archivist. The Archivist may not approve limitations  
11 under the preceding sentence which are less restrictive than  
12 those under which such information is made available by  
13 him.”.

14 SEC. 2. The table of sections of chapter 1 of title 13,  
15 United States Code, is amended by striking out the item  
16 relating to section 10 and inserting in lieu thereof the  
17 following:

“10. Transfer to Archives; availability for genealogical, historical, and  
medical research purposes.”.

Passed the House of Representatives April 7, 1976.

Attest: EDMUND L. HENSHAW, JR.

*Clerk.*

UNITED STATES OF AMERICA  
 GENERAL SERVICES ADMINISTRATION  
 WASHINGTON, DC 20405



REC'D JUN 3 1976

June 1, 1976

Honorable Gale McGee  
 Chairman, Committee on  
 Post Office and Civil Service  
 United States Senate  
 Washington, DC 20510

Dear Mr. Chairman:

Your letter of April 15, 1976, requested the views of the General Services Administration (GSA) on H.R. 10686, a bill "To amend title 13, United States Code, to require that population census records be transferred to the National Archives within 50 years after a census, and that such records be made available after 75 years to persons conducting research for genealogical, historical, or medical purposes."

The proposed legislation essentially elevates to statute, and thereby makes permanent, the existing arrangement between the Archivist and the Bureau of the Census with regard to the availability of census records for research purposes. We believe this agreement represents a sensible and well-balanced approach to the issue of public access to these records and have strongly opposed recent efforts aimed at terminating the agreement and closing the population census records forever. In light of these repeated efforts, however, we have also concluded that positive action is necessary to ensure that the invaluable documentation of our past contained in these records remains available to the citizens of this country.

The background of the agreement between the Bureau and the National Archives, its relationship to the Federal Records Act of 1950, and the recent controversy surrounding the availability of population census schedules is outlined in our attached testimony. Although the National Archives and Records Service and the Bureau of the Census differ on this issue now, there is a long history of close cooperation.

As we noted, in our testimony, our differences of opinion began to develop as the date for opening the 1900 census approached. Sensitive to the concerns expressed by the Bureau, the National Archives delayed opening the records until a new agreement covering these records was reached. Under the terms of the agreed upon procedures, only specific categories of researchers were granted access, researchers were cautioned concerning

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the disclosure of information that might be harmful to individuals or their heirs, and they were not permitted to reproduce any part of the records by camera or photocopy.

No such restrictions had been applied to previous census schedules after the 72-year period and we would have preferred to open the 1900 schedules with the same conditions. We, however, hoped that by agreeing to access procedures responsive to the Bureau's concerns, the matter would be put to rest, particularly in view of the fact that the agreement and restricted rules of access appeared to be the best and may be the only solution that would meet the needs of all concerned parties--the bureau, historians and other scholars who use the records, and the individual data subjects.

This has not been the case, however, and the controversy continues. The experience of the last few years has demonstrated that the issue is not one of legal authority--that question was decided by the Department of Justice. Nor is the issue to whom, when, and under what conditions the public will be granted access. Any additional restrictions on access to these records would preclude their being made available to the "public" in even a limited sense of the word. The issue is whether, in fact, any public access is to be granted.

In recent years two opposing points of view have developed: those who believe that the population census records should be closed forever, and those who wish to ensure that the records are available to historians and others at an appropriate date in the future. The National Archives, of course, represents the latter point of view, and in doing so we speak for the thousands of interested researchers across the country.

The question of when and to whom population data should be released has always been a sensitive issue--an issue made all the more sensitive during the last year with efforts relating to the Privacy Act. We do not believe, however, that the case for closing these records is as strong as the overriding public interest in keeping them open.

Arguments for closing the records have been based upon one or a combination of the following: (a) a breach of the "contract for confidentiality" contained in the applicable census statutes, (b) invasion of an individual's privacy, or (c) individuals will be less willing to supply data to the census enumerators if they know the information will be made available to qualified researchers 72 years hence.

The "contract for confidentiality" argument assumes that there was, and is, a provision of permanent confidentiality for the information supplied. This assumption in turn is based upon an interpretation of previous laws governing the use by the Census Bureau of the information obtained. We do not believe

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that the "contract for confidentiality" contained in the census statutes was intended to be a contract for confidentiality in perpetuity. The "contract" was, and is, an assurance to the American people that the information provided to census enumerators will not be used by other branches of the Government for "purposes of taxation, investigation, or regulation." (The legal aspects of this same question--namely whether or not the Federal Records Act limit of 50 years on agency or statutory imposed restrictions took precedence over portions of the census law which appeared to some to restrict census data indefinitely, was resolved by the Justice Department opinion of June 14, 1973, discussed in our testimony.)

The issue of "invasion of privacy" is more difficult to deal with. The National Archives has always been aware of the fact that some of the records in its custody contain information of a personal nature, the release of which would constitute an invasion of the individual's privacy and we have always been very careful to protect this privacy. At the same time, we recognize the needs of scholarly research. As keeper of the nation's permanently valuable records, we have had considerable experience in dealing with the twin issues of privacy and access, and our record in these areas--balancing the legitimate need for privacy with the legitimate right to know--is, we feel, an excellent one. In taking this position we are not unmindful of the privacy dimensions of the issue. It is our view that there is very rarely any reason, other than the protection of individual rights, that should be used to deny citizens access to Federal records created more than a half century ago. It is, however, our usual practice to extend to 75 years the restriction on records containing information about individuals. This policy is reflected in our general 75-year restrictions on records containing information about the physical or mental health, or the medical or psychiatric care or treatment of individuals, or relating to the investigation of individuals. We believe that this time period provides the necessary protection of personal privacy. Experience has demonstrated both the feasibility and the wisdom of this policy.

Similarly, the 72-year period of restriction on population census schedules has also been sufficient in our judgment. We would have no objection to increasing the 72 years to 75 years, as provided in the legislation under consideration, as this would bring the restriction into conformity with other restrictions on personal data discussed earlier.

The best judge of whether the release of information constitutes an invasion of privacy is the citizen himself, or possibly his heirs. After years of intensive use of the 1880 census schedules we have never received a complaint about invasion of privacy, although approximately 40,000 requests for the records are received each year and microfilm copies of the schedules have been sold to many historical societies and universities and have been distributed to our 11 regional archives branches. It should also be noted that not one complaint concerning the opening of the 1900 census has been received by the Bureau or the National Archives even though they have been used extensively and their availability has been well advertised.



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To a large extent this is true because genealogists, historians, and others engaged in research are not interested in focusing upon individuals for the sake of sensation or ridicule and their findings are usually concentrated on their own families or are presented in general or quantitative terms. As a result of our experience, we feel the 75-year period is sufficient for protection of privacy. Thereafter, the social needs of the nation to explore and analyze its past surpasses the need to continue to keep the data confidential.

The argument that census respondents will be less willing to supply information if they know the information will not be permanently sealed from public access has never been documented. This point was addressed in the April 1973 hearings before the Census and Statistics Subcommittee of the Committee on Post Office and Civil Service. When asked if they felt that future release of data would affect the willingness of people to furnish the information requested, representatives of the Department of Commerce and Bureau of Census stated that they felt it had little impact and, in any case, the impact would be difficult to measure. Our experience suggests that release of records after a reasonable period of time does not constitute an invasion of privacy. Nor does it appear that knowledge of the eventual availability of schedules, a fact which has been well publicized by archival, historical, genealogical and religious organizations for over 20 years, affects the willingness of people to cooperate and furnish information.

In testimony before the Subcommittee on November 17, 1975, representatives of the Bureau suggested that they were moving forward with a project that might be helpful in determining public attitudes on the subject of confidentiality, and urged that any legislative action be postponed--presumably until the project was completed. In June of 1975, the Bureau contracted with the National Academy of Sciences to have its Committee on National Statistics do an "Exploratory and Planning Project for Confidential Statistical Data" to be completed November 1976. We are unsure as to what relevance the findings of this study will have on the issue at hand. It is our understanding that the study group is developing recommendations as to the way in which the Bureau of the Census should do, or contract to have done, small scale exploratory studies on how the public perceives the privacy issue and whether heightened interest in privacy and confidentiality affects their responses to survey questionnaires. Since the study will not necessarily focus on archival records and the study group is expected to recommend that the Bureau of the Census conduct a larger scale survey, we fail to see the relevance of the project to the issue at hand, particularly as it relates to the 1900 census questionnaire.

The Bureau of the Census also stated in their testimony before the Subcommittee that they were hopeful that the question of access would be resolved prior to preparation for the 1980 census, especially in view of the fact

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that the Privacy Act requires that the eventual availability of these records be made known to census respondents. It may be worthwhile to note that such a statement will need to be provided irrespective of the action taken on H.R. 10686. The inclusion of the statement could be avoided only if the current agreement is abrogated and the authority of the Federal Records Act as applied to Census Records is amended accordingly. We do not feel that the need to notify respondents that their answers may be disclosed to researchers in the year 2052 is a valid reason for doing so.

Prior to the passage of the Privacy Act last year, the Congress gave careful consideration to the need to protect sensitive information contained in archival records. While recognizing that this was a valid concern, the Congress also noted that the unique nature of archival records required that different provisions as to their disclosure be made. Since nearly all of the records in the National Archives contain personal information about individuals, some of which I might note is far more sensitive than that contained in census records, application of the provisions of the Act pertaining to disclosure of information from current records would have virtually closed all archival records to research. Less than one percent of all Federal records created are preserved at the National Archives of the United States to document the operation of the Federal Government and its relation to the people it serves. The Congress recognized the need for citizens to have access to these records and therefore exempted them from most of the provisions of the Act. In doing so, the Congress took into consideration the National Archives' reputation for protecting the privacy of individuals while providing the greatest possible access to the records.

In response to some of the discussions relative to recent changes in the procedures governing access to the 1900 census schedules and the distribution of copies of the schedules to our regional archives facilities, I have attached some additional data sheets for the information of the Committee members.

In summary, it is important that the invaluable documentation of our past contained in census records not only be preserved, but made available to qualified researchers at an appropriate time in the future. Further, we believe that the current policy, based upon the authority of the Federal Records Act, represents a sensible and well balanced approach to the issue of public access to these and other permanently valuable records. Unfortunately, however, the controversy surrounding these records continues unabated. We are hopeful that it can be resolved once and for all.

GSA FACT SHEET  
National Archives and  
Records Service  
May 1976

1. Distribution of microfilm copies of the 1900 census to regional archives facilities.

The National Archives and Records Service (NARS) has established regional archives branches in 11 Federal Records Centers to preserve, describe, and make available permanently valuable records that relate primarily to the States or regions in which the records were created and accumulated. To supplement these accessioned holdings, copies of National Archives microfilm publications of official records are being deposited in the branches. Included in this program are microfilm copies of pre-1900 population census schedules. In accordance with this general policy and to assist researchers from distant States who are unable to do research at the National Archives Building in Washington, D.C., action was taken to provide the regional archives branches with copies of the 1900 census schedules and related Soundex (a coded index to certain census entries). Access to the 1900 census records in the regional branches is governed by the regulations in effect in the National Archives Building in Washington.

The branches are staffed with professional archivists whose experience and educational requirements are identical to those for archivists working in Washington, D.C. In fact, most of these archivists spent several years working in the National Archives in Washington before transferring to the regions. As experienced archivists they are experienced in and responsible for administering many groups of records whose use is subject to restrictions. I can assure the members of the Committee the "access" to these 1900 records is as carefully guarded as in the National Archives Building, and that distribution to the regional branches in no way compromises the terms of the agreed upon access procedures.

I might add that this distribution was always intended and represents no departure from our official understanding with the Bureau. The delay in the distribution to our regional archives branches was due solely to a lack of funds.

2. Changes in restrictions and procedures governing access to the 1900 census schedules.

a. Provision was made for qualified researchers to be provided with copies of pages that they have examined which relate directly to their authorized research. In view of the provisions of the Freedom of Information Act, there appeared to be no legal basis for denying copies of a page or pages of the 1900 schedules to qualified researchers who had satisfied the conditions for access to the records and had agreed upon the restrictions on use.

b. Provision was made which would allow researchers to make requests by mail for pages from the 1900 census schedules. These requesters must satisfy the same requirements for access which are followed by researchers making a personal visit to the National Archives Building or a regional archives branch. This change was made to meet the objections raised by requesters unable to travel to Washington or one of the branches and yet preserve control over access to the records.

c. Other minor changes included: (1) limiting admonishments about disclosure to those that would constitute a clearly unwarranted invasion of privacy of living individuals rather than disclosure of information "that might be harmful to individuals or their heirs", to make the language conform more closely to the language of the Freedom of Information Act; (2) removal of threats of criminal penalties against misuse of information since the citation of 18 U.S.C. 1001 and 2071 seemed only vaguely applicable to this situation; and (3) eliminating the requirement that census researchers be provided only one roll of 1900 population census microfilm at a time and substituting instead "a limited number." This change was made because of the severe strain on reference personnel of NARS and because of considerable dissatisfaction among researchers. The limited number of rolls, used under close supervision, maintains adequate controls.

Senator Moss. I have received word that Congressman McKay, who was to have been our first witness, has been delayed slightly this morning, and we will thus proceed with our other witnesses and permit him to come on to testify when he arrives.

We will therefore ask Hon. Vincent P. Barabba, Director, Bureau of the Census, if he could come forward and present his testimony at this point.

Very glad to have you before the committee again, Mr. Barabba.

**STATEMENT OF HON. VINCENT P. BARABBA, DIRECTOR, BUREAU OF THE CENSUS; ACCOMPANIED BY DAVID L. KAPLAN, ASSISTANT DIRECTOR FOR DECENNIAL CENSUS; DANIEL LEVINE, ASSOCIATE DIRECTOR FOR DEMOGRAPHIC FIELDS; AND THEODORE CLEMENCE, PROGRAM PLANNING OFFICER**

Mr. BARABBA. Thank you very much, Mr. Chairman.

I have with me Mr. Levine on my left, Associate Director for Demographic Fields in the Bureau, and Mr. Kaplan who is Assistant Director, most specifically responsible for decennial censuses of population and housing. In addition today, I have Mr. Theodore Clemence, who is our program planning officer.

Senator Moss. Thank you. Glad to have you gentlemen here before us.

Mr. BARABBA. Mr. Chairman, we welcome this opportunity to discuss S. 3279 and H.R. 10686, bills which would amend title 13, United States Code, to provide for release of census records in the custody of the National Archives. My comments reflect the views of the Census Bureau and the Department of Commerce. The executive agencies with primary, yet differing, interests in this matter have been free to bring their respective views to the Congress. The administration has interposed no objections to this procedure which permits all facets of the issue to be discussed.

During the House hearing last November, all of the factual background was placed rather extensively on the record in terms of how the same population census records are preserved in two agencies and subject to two parts of the Federal Code, title 13 and title 44, which provide different standards of confidentiality. The present focus of attention is not what the present statutes permit, but what new legislation should allow.

Let me place a little more emphasis on this point, Mr. Chairman, by quoting from a letter from the Assistant Attorney General that you had reference to in your statement on the history of this issue:

Thus authority to release access at this time rests with the Administrator. We express no views on the policy question, whether it is appropriate to permit such access.

It is in regard to this question of whether it is appropriate to permit such access, that I want to concentrate on the potential impact of the legislation and the relative benefits and risks of various procedures for access to census information.

The record to date is also helpful in bringing into better focus the distinct and different interests in the information. I would like to discuss these interests separately, after briefly stating our basic position.

## OPPOSITION TO S. 3279 AND H.R. 10686

We are strongly opposed to the legislation. In very candid terms, we believe enactment would (1) abrogate assurances given to the American people through congressional legislation and Presidential statements over many decades, and (2) endanger the reliability of the national population census both because of the destruction of previous assurances and the instituting of limitations on future assurances. This damage would be done for (1) the convenience of genealogical research, and (2) the purported interests of historical and medical research, interests which the record shows could likely be served through available protective techniques.

## ASSURANCES OF CONFIDENTIALITY

The Government, through the census statute and Presidential proclamations issued from 1910 forward, has assured the American people that personal information reported in the population censuses will be used solely for statistical purposes and that there need be no fear that any disclosure will be made regarding any individual or his or her affairs. Statements of this nature have long been made by census interviewers during visits to households and, more recently, included on the forms mailed to respondents to be completed and returned by mail. The confidentiality of census information is widely publicized during each census, and these assurances are a vital part of the overwhelming willingness of the American people to furnish information to the Census Bureau. In our judgment, people perceive that their answers will be protected from disclosure, and they should not be expected after the fact to accept such disclosures without their informed consent. Once the information is made available without their knowledge or consent, they have every reason to distrust future assurances.

CONFIDENTIALITY ESSENTIAL TO PUBLIC COOPERATION WITH  
THE CENSUS

We are especially concerned with the potential impact of the legislation on the 1980 census, when every household in the Nation will be contacted. Whether the contact is by mail or personal interview, the honest and willing response of each household depends on a simple, bedrock assurance that the information is confidential. It is our best judgment that this is the least desirable moment to explain that, at some point in the future, other people may examine identifiable information without the consent of the person who provides it. Even a small shift in the willingness of people to cooperate can seriously affect the quality of statistics absolutely critical for congressional apportionment, redistricting, and the allocation of Federal funds to State and local governments.

It is true that we do not know with any real certainty whether the level of response would be affected by a statement to the effect that after 10, 50 or 75 years the information will be used for research purposes. There should be absolute certainty on this matter before less restrictive disclosure procedures are fixed by statute. Although some research has been undertaken to explore the matter, the coopera-

tion of the American people should not, as a matter of principle, be placed at risk. We do not have the luxury of determining after the fact that disclosure was a mistake and we should return to the condition of rigid protection. Once the trust of the people has been eroded, it is not restored in the short term.

It is also true that if the issue is not resolved by statute, an inter-agency agreement provides for restrictive release of census information 72 years after each decennial census. We believe the agreement was a mistake, but we cannot revoke it at this time unilaterally. I shall emphasize further along that the present legislative proposals represent a very great departure from that agreement and hardly constitute a ratification of previous administrative decisions.

#### RESEARCH OF CENSUS RECORDS

We turn now to the statements of need for greater disclosure as expressed by proponents of the legislation. I would like to refer to these in terms of the responsibilities of the National Archives, genealogical research, and the some what different needs and interests of historical and medical researchers.

With regard to the National Archives, we understand the importance of preserving valuable information and making it available to scholars.

Both the Census Bureau and the National Archives and Records Service have long and unique experience in this area, even though we proceed differently according to the respective statutes involved. The two agencies differ primarily on what restrictions should govern access to census information, and what the balance should be between privacy and research interests. Even while the Bureau and the Archives have differed on this issue over the past few years, the two agencies cooperate in many other areas of mutual interests, including most recently the preservation of valuable information maintained on computer tapes. We recognize the competence of the professional staff at the Archives.

The most widely expressed interest in census records is for genealogical research purposes. The 1900 census records were opened for research use in 1973, and most requests for those records relate to genealogy.

#### CENSUS ACCESS POORLY CONTROLLED BY THE NATIONAL ARCHIVES

We understand that when a researcher is acting on behalf of another individual or family, some authorization from the client is required before the information is released. For these researchers, as well as the individual acting on his own behalf, the requests for copies of the records are met by reproducing the appropriate page or pages of microfilm and giving it to the requester. Our principal objection to these arrangements is that a requester receives information for approximately 50 individuals, or about 10 families, listed on each page copied, thus disclosing identifiable information which was not even requested. We realize the more restrictive approach used by the Bureau is less convenient. Nonetheless, we feel strongly that such disclosures should be limited to the information requested or should require the consent of others about whom the information will be disclosed.

## RISK OF MISUSED CENSUS RECORDS VERY REAL

There is no real way to prevent abuse of information through this procedure because there is no way to detect abuse, which is why I would not assume that all users who come to the Archives necessarily have only legitimate interests. I do not wish to belabor this point but, as the official charged with upholding the specific congressional mandates of title 13 and insuring that many critical Government statistics are accurate and complete, I must communicate to you my deep concern about any proposals which do not guarantee safeguards consistent with the Bureau's statutory responsibilities.

Suppose I receive a page of information which identifies some of my ancestors. Along with that, I have up to 10 other families, most likely neighbors on the same street. I may find evidence of illegitimacy, polygamy, mental instability, or other information that would be considered sensitive. These are not the most common entries, but they do occur. Additionally, information may have been reported inaccurately, or based on observations made by the local census taker. For example, people were listed as white, black, or mulatto, just by observation. Sensitive information should not, in my judgment, be disclosed to anyone without the informed consent of the individual, his heir, or authorized representative.

I know of no way the Archivist or anyone else can say that no harm will come to anyone through the manner in which this information is released. Yet, when a household is contacted, particularly one which has not returned a census form, the Bureau must be able to assure the respondent that no harm will come to the individual as a result of giving the information, and that this assurance has the force of law. A promise of "probably no harm" is not good enough.

## ACCESS TO CENSUS RECORDS UNDER THE FREEDOM OF INFORMATION ACT

There is also a broader issue of fundamental importance. And that is whether the census information at Archives is really protected by title 44 and related regulations from compulsory disclosure under the Freedom of Information Act, FOIA. Last fall, the Deputy Archivist, James O'Neill, stated that the Archives regards its statute as providing sufficient authority to deny access under FOIA unless the requester meets the qualifications of a bona fide researcher.

I strongly recommend that the committee with jurisdiction over the Freedom of Information Act examine this matter with great care before Congress enacts legislation which leaves to the discretion of the Archivist who can receive census records and who can be denied under FOIA. This assessment is also critical in the context of the provision in these bills to authorize the transfer of census information outside the confines of the National Archives and Records Service and its regional libraries.

## AVAILABILITY OF CENSUS RECORDS FROM THE BUREAU OF THE CENSUS

We do not dispute the right of individuals to obtain census information about their ancestors. We regularly receive and respond to requests of this nature. They are processed with great care, because we simply will not photograph a page and mail it out. The individual



must have the consent of each family member for whom information is desired, or must, in the case of a deceased direct-line ancestor, provide a death certificate. Most of our requests relate to proof of one's own age for social security purposes, and almost 10 million individuals have been assisted by this service since 1935. The choice in procedures for the genealogical request is one between protecting privacy and an inconvenience in genealogy. That is not a difficult choice for us to make and, in view of the spirit and intent of the Privacy Act, it is hard to see how it is a difficult choice for anyone else.

Historical and medical research present somewhat different problems. There is presumably substantial interest among historians in locating particular groups of individuals, such as migrants, and tracing them through several censuses, or study the characteristics of families in a particular community, by examination of the identifiable census records. We believe the Census Bureau can respond to these needs by preparing special data files which would present the profile of a particular group of people over time, and without disclosing names. Some careful specifications would be required. The possibilities here should be studied, and we would be as responsive as possible within the limitations of title 13. The aggregation of information frequently proves to be the most efficient and timely approach to the utilization of data available on individual records.

We also believe that where the interest is in a relatively few individuals or families, the historian does not have any great difficulty in following the principle of informed consent. In most cases, the participation of the family in locating or interpreting records is considered desirable as a practical matter as well as a matter of professional ethics. One historian has indicated to us that whenever there is any question on the part of an individual as to the confidentiality of personal information, the historian is not likely to proceed without the individual's agreement that the information can be made available.

#### IMPROPER NOTICE AND REVIEW GIVEN TO THE NATIONAL ARCHIVES' REGULATIONS COVERING THE 1900 CENSUS

As a final point with respect to the procedures now in effect for access to the 1900 census records at Archives, we do not believe these procedures have been given the proper notice and review. The Archivist has indicated that his staff is sensitive to the privacy issue and able to review requests accordingly. These procedures have been made known to the Bureau and have been published in House Document Serial No. 94-50 as part of the record of hearings last November.

Yet, the regulations have not, to our knowledge, been set forth in detail in the Federal Register for comment before adoption. Nor does the statement of procedures reveal what is really released. It states that "provision was made which would allow researchers to make request by mail for pages from the 1900 census schedules." That statement does not explain the fact that if you request information for 1 family, you receive information for as many as 10 or more families.

When we formalized our own procedures last year, we published them in the Federal Register before final adoption. We received one major set of comments to the effect that our rules were unreasonably restrictive from the Law Department of the Church of Jesus Christ

of Latter Day Saints. This review process is as it should be, and we think the details of the present Archives procedures should be published in the same fashion. We believe that if the public, in general, understood what is really being released, there would be strong objections expressed that the procedures are not restrictive enough.

#### CENSUS RECORDS FOR MEDICAL RESEARCH

I would like now to discuss the apparent interest in population census records for medical research. This area of interest was asserted rather strongly during the House hearing last November. I say apparent interest because of two somewhat remarkable features of this concern.

First, there was a hearing in April 1973 on legislation which would have prohibited access to census records in the custody of the National Archives without the approval of the Secretary of Commerce. No one in the medical research community spoke out to object to this proposal as an undue restriction on research activity. Yet it was well publicized that the proposal would protect the disclosure of identifiable information. The genealogists and historians were well represented. Where were the medical researchers?

The second point is that the Census Bureau, for many years, has assisted in a broad spectrum of research interests by making special tabulations of census data. Medical research interest in having access to identifiable census records has been virtually nonexistent in terms of inquiries to the Bureau. I raised a question about this last year, and had a member of my staff go through all of the official correspondence of Census Directors from the 1940's to the late 1960's. The report was that we could find only a few medical research requests for identifiable data. These had to be turned down.

On the other hand, we have been able to assist medical research by preparing special tabulations of detailed data or for specific geographic areas. To give a few examples, in one instance we compiled special demographic information from the 1970 census, which was requested by NIH in connection with studies of neurologic diseases with a very high incidence among native Guamanians. In another instance, the Cancer Control Bureau, New York State Department of Health, requested and received detailed census data by country of birth for selected counties in the State in connection with an epidemiologic study of selected cancer sites. About 10 years ago, the Bureau participated more directly in a collaborative international study of chronic respiratory illness, heart disease, and cancer, sponsored by the National Institutes of Health. Through a special sample survey, the Bureau was able to collect health information on specific groups of migrants. The study raised no problems with respect to the confidentiality of individual census records, which were drawn upon for the sample design.

#### NSF STUDIES TO IMPROVE RESEARCH POTENTIAL OF CENSUS RECORDS

The Bureau is participating currently in a series of discussions sponsored by the National Science Foundation to explore methods for making very detailed census information available from the 1940

and 1950 population censuses as a basic and unique resource for a broad variety of research purposes. If successful, the special files thus created would contain individual but anonymous information for most of the characteristics which were collected in those two censuses. This type of data source is far more flexible for the researcher than using aggregate statistics already tabulated. At the same time, the identity of any person is not revealed by the final data tapes.

Researchers generally recognize that the manipulation of large files of records is complex and expensive. The extraction of information relevant to a particular research objective often requires extensive handling and technical knowledge of computerized files, but this is considerably more efficient than the handling of microfilm records with manual labor.

We not only have the expertise to perform these tasks, we can often perform the matching of one set of records with another set of records in order to link up census information with cause of death or other facts available from other sources. Because the Bureau can perform these kinds of tasks while still guaranteeing the confidentiality of personal information, the Privacy Act in an exception to the rule permits other agencies to transfer identifiable information to the Bureau when it will assist us with our statistical mission.

Some proponents of this legislation have emphasized that access to the identifiable census records will facilitate epidemiological studies of disease. We have examined very carefully the documents inserted into the record last fall by Congressman Gunn McKay. They presumably support the concept that much needed medical research is so urgent that provision should be made for release after 50 years for medical research, rather than 75 years as for other research. Additionally, the urgency is reflected in S. 3279, which restricts access for medical research for only 10 years. This would immediately open all of the population records up through 1960, containing the names and characteristics of virtually every living adult. For 1940, 1950, and 1960, the records also show the income of each individual enumerated.

#### DISCLOSURE OF INCOME INFORMATION

Respondents are particularly sensitive about reporting income, even in the census. It is most doubtful that their willingness to report such information to the Bureau in the future would remain unaffected if the law permits their income information to be transferred to private research organizations or disclosed on a page of microfilm made available to a private individual with a genealogical interest.

With regard to medical research, the most extensive document put in the record by Congressman McKay is a project description by Dr. Mark Skolnick of the University of Utah. The project involves constructing a data base for the study of the "genetic components of many diseases, using the Mormon population of Utah."

In this entire 1,700 word project description, there is not a single reference to the need for census records. This may be due to the wealth of information already available, which includes computerized genealogical data for 200,000 families, obtained from the Genealogical Society of the Mormon Church, and medical records from various sources.

This project was also referred to in a letter of November 14, 1975, to Congressman McKay from Dr. Skolnick, in which the following statement is made:

It would be extremely useful if we could link census information to this resource, particularly for the socioeconomic data contained therein. To do this, we would need much information from the census, including the first name, last name, and birthday.

I agree that the socioeconomic data from census records would be useful, and I am ready to sit down with Dr. Skolnick tomorrow or any other time to discuss how to utilize census information. I would be very surprised if we found that the need for individual names was compelling or that the use of the original microfilm—with names—was the most efficient way to proceed for this type of epidemiological research.

In our judgment, it is not reasonable to conclude that medical research needs for access to identifiable census records are so compelling that the privacy of personal information should be compromised. The Census Bureau should be fairly tested on its ability to respond to whatever needs there are before legislative action is taken which would infringe on the right of privacy and revoke the promise of confidentiality.

#### 5. 3270 AND H.R. 10686 TOO PERMISSIVE

The legislation under consideration represents a sharp departure from the conditions of access first agreed to in 1952. In addition to the 50-year and 10-year provisions, there is provision for records transfer, as follows:

Any copy of a schedule or a related index deposited in the National Archives of the United States may be transferred by the archivist of the United States only upon the condition that access to and use of information contained in such a schedule or index be subject to limitations approved by the Archivist \* \* \*.

The limitations must be no less restrictive than those under which such information is made available to it.

#### MICROFILMED CENSUS RECORDS FOR SALE

The intent of this provision is ambiguous. In our view, this transfer provision would permit the Archivist to sell copies of the entire set of microfilm reels for each census as the periods of closure expire. This would permit millions of identifiable records of living persons to be sold to any private organization, profit or nonprofit, which meets the criteria for qualified research. The Deputy Archivist agreed last November, in response to a question, that once the records are dispersed outside of the Archives and its regional branches, effective control over access is lost. We could not agree more.

We view the transfer provision as particularly objectionable and totally inconsistent with the Government's commitment to privacy.

In conclusion, I urge the committee to consider the grave risks that may be inherent in this legislation. We believe these proposals represent a departure from the promise of confidentiality, an erosion of the right of privacy, and a gamble with the credibility of the Government's data gathering activities.

## PUBLIC CONFIDENCE ESSENTIAL TO IMPROVED CENSUS COVERAGE

The Census Bureau is exerting very strenuous efforts to improve the coverage of the population in the 1980 national census. Public cooperation is vital to this endeavor. A very small negative shift in public attitude could wipe out literally decades of work and millions of dollars devoted to coverage improvement. If this shift were to occur, critical information needs of the Government could suffer irreparable damage.

Why should any risks be taken at this time? If our concerns are well founded, deferral of action would seem very appropriate. If our position seems unnecessarily stringent, then let that be demonstrated through a more comprehensive assessment of the risks, which we believe are real, and the benefits, which we believe can be achieved through other more satisfactory procedures.

I will be happy to answer questions.

Senator Moss. Thank you, Mr. Barabba, for that statement.

## COMPLAINTS ABOUT RELEASING CENSUS INFORMATION

I believe you said you have not had any complaints as yet about the releasing of information.

Is that presently true?

Mr. BARABBA. No, sir; that is not true.

Senator Moss. You have had some complaints?

Mr. BARABBA. Yes.

Recently, the Bureau received a letter, in fact, from a constituent of a member of this committee, concerning the release of the 1900 records.

If I could just quote some of the words, Mr. Chairman, perhaps you would get a flavor.

I will not read all of it because I think it would reveal the individual and the concerns he has expressed for this particular area. I will read portions of it.

The 1820 census shows that the *x* family is white. After this, the family is shown as mulatto. This is tragic, because it shows that the census enumerators just put down what they wanted for race. The 1900 census is what really bothers me. My people are listed as black. As you know, the 1900 census will not be open to the public for a few years. If you could get this injustice changed before they are opened to the public, it would be a great service to our people. We do not want to take this to court. It would open old wounds and would be an embarrassment for the good people of *x* State.

Senator Moss. Do you have other objections?

Has there been any consistent raising of questions on the release of census records?

Mr. BARABBA. Well, I think most of the professional organizations which the Bureau deals with and seeks advice from have indicated to us their displeasure because they are concerned with the threat that a break of the assurance of the promise of confidentiality would have on future data collection, and we would be more than happy, if you wish, to provide this committee with statements and resolutions that have been passed by these professional organizations as to their concern.

FURTHER SAFEGUARDS OF PRIVACY REQUIRED UNDER  
S. 3279 AND H.R. 10686

Senator Moss. It is true the House bill provides more restricted access than presently is being used, that is access after 75 years rather than 72 years, and limited to bona fide researchers and prohibition on misuse?

Is that not a sufficient guarantee against revealing confidential matters?

Mr. BARABBA. Mr. Chairman, as I tried to point out in my testimony, when we find that these procedures are being discussed to allow the Archivist to send to a respondent through the mail a full page of confidential census information on the basis of the fact that the individual requested information only about himself or his family, it seems to us that that is not confidential as far as we are concerned.

Senator Moss. Is it not possible for you to block that out and just send the—

Mr. BARABBA. Mr. Chairman, we do not do it that way. We have a procedure where we fill out on the form only the information that that person requested. I think the Archivist would be able to respond to that question by saying it would be too costly or too inconvenient to do it that way, and we disagree that it is too inconvenient.

Senator Moss. You said that you had very few requests from medical researchers for access to identifiable census records.

Is it not likely most researchers who have use of such information know it is not available and that this would limit the number who made any requests?

Mr. BARABBA. That is possible. But the other areas who know of this limitation have made the request.

ACCESS TO CENSUS RECORDS BY FEDERAL AGENCIES

Senator Moss. Does any law enforcement, regulatory, or revenue collection agency of Government have access to individual census records?

Mr. BARABBA. None.

Senator Moss. Do you have adequate authority to deny them access and to prevent use of census information for any of these purposes?

Mr. BARABBA. Yes, sir, and we have.

Senator Moss. You have indicated the sensitivity of people as to the amount of their income. Is that not in the IRS records?

Mr. BARABBA. Yes, sir, it is.

Senator Moss. What confidentiality protection is exercised there?

Mr. BARABBA. I think you will recall that there is current legislation that has been established limiting the access to those records. In addition to that, I think it is important to note that the IRS records are an administrative procedure, to collect that information so action can be taken to that individual.

Census records are not administrative records. They are statistical records, and the basis for their collection is to aggregate them, not to make individual identifiable information available, which is the major distinction between two types of data collection.

I would point out, too, Mr. Chairman, that when the Senate and House passed the Privacy Act, there was great concern over the Census Bureau's access to IRS records for statistical purposes. They established, as you may be aware, the Privacy Protection Study Commission to look into this matter of the access to IRS records, and other matters. This Commission, after reviewing the census procedures for maintaining confidentiality, found them sufficiently strong to indicate to the Congress that they supported continued access to these records by the Bureau.

I think it is interesting to note that our access to IRS records is under stronger provisions of confidentiality while they are in the Bureau than would be the census records, if this legislation was passed.

#### PUBLIC SKEPTICAL ABOUT ASSURANCES OF CONFIDENTIALITY

Senator Moss. What is your response to the provisions that prohibit, in the proposed legislation, the misuse of information disclosed?

Is that not sufficient to assure that it will not be abused?

Mr. BARABBA. Mr. Chairman, we get a lot of correspondence from respondents, and we have a hard time convincing them they can trust the Federal Government.

When we have to get into nuances as to what we mean by maintaining it confidential, then we say it will only be used for these purposes, rather than saying no one else can have access to it, other than yourself, that is to many people a signal to say that, in fact, other people can have access to these records.

If I might just read to you some of the statements we get from people who we ask to provide us with information:

Though your interviewers and your office staff have been sworn to confidentiality and the records of the U.S. Census Bureau is unblemished, I can recall similar promises in the past which have been broken.

I appreciate your assurance that all information is held confidential, but I will tell you the truth, I don't believe it. In my particular case it makes very little difference. But you know the people have lost faith in the ability of the Government to keep its mouth shut in any branch—

and so on.

The census form says confidential, but I don't trust Government bureaucracy. I don't have any reason to believe it will be kept confidential or personal.

It is the perception of the American public, and any time we start weakening the strength of our promise, we weaken our ability to collect information.

Senator Moss. What you are saying now is, they do not trust the Government anyway. They are not going to give it.

How is that going to be changed by enactment of this legislation?

Mr. BARABBA. If we have a bad situation, in my judgment, we should not make it any worse.

Now, to the best of our ability, we have been able to keep that kind of concern down to a minimum. All we are concerned about is that this legislation would just encourage that even more, and we are trying to remove it to the extent we can.

Senator Moss. Are not those people having these concerns fearful that census information is going to be used against them in some way

on their taxes or some other matter and not really concerned about whether it is used for research purposes?

Mr. BARABBA. I cannot answer that question specifically, Senator. I imagine that there are a lot of people who feel what you have expressed, but I am sure there are a lot of people who do not want anybody nosing into their business.

Senator Moss. I can understand that. But I do not think they are going to answer your questions anyway, if they have that state of mind. They are not going to tell the enumerator anything.

#### INVASION OF PRIVACY

Mr. BARABBA. Senator, in our last hearing, I think it was Senator Stevens who asked the question as to how do we determine what is invasion of privacy and what is a legitimate request.

We partially answered the Senator—and I do not think fully to his satisfaction—that one of the ways we ease people's concerns about invasion of privacy is that we promise them that no one else will see that personal information about them.

We think that that promise helps in easing the concerns that are expressed in those comments I just read.

Now, if we cannot make that promise, or if we have to make that promise with a condition, well, then, we have just weakened our ability to collect information.

#### CENSUS BUREAU PRECAUTIONS TO MAINTAIN CONFIDENTIALITY

Senator Moss. I can understand your concern. But, of course, the Bureau of the Census itself is a large, very large organization with a great many individuals in it, and all of those people, at some point or other, have some degree of access to the information, do they not?

Mr. BARABBA. Yes, sir.

And, Senator, each of those people at least once every 6 months is reminded of his job and the oath that that person takes, and the penalties involved, including imprisonment for violation of that oath. That is a little bit different than making them available to libraries and other genealogical interests.

I would also point out that there is not one incident in which a census employee has ever released census information because there is a strong rule in the Bureau that access to information is on a need-to-know basis.

Senator Moss. Why has the Bureau had a problem of distrust, as you say?

Mr. BARABBA. Senator, I think the Bureau has a little problem of fallout from other agencies of Government.

Senator Moss. The Senator from Alaska.

Senator STEVENS. I share your comment on that, Mr. Barabba.

I thank you for this memorandum. I do not know whether the chairman wished to put it in this record. I would like it printed in the other record, where I asked the question about the constitutionality of these questionnaires.

I noted in the memorandum that the Supreme Court apparently has sided with the Bureau of Census as to the constitutionality of



requiring an individual to respond to a census question in a footnote in the *Rickenbacker* case, by approving a second circuit court decision, even though it has not ruled on it directly.

CENSUS BUREAU PROCEDURES FOR THE RELEASE OF INFORMATION

Am I to understand that there is no way today that you could be forced to disclose the identity of an individual who answered a question?

Mr. BARABBA. Yes, sir.

Senator STEVENS. Do I further understand that if anyone inquires of you as to what information is on your record, that they can obtain that information as to themselves only?

Mr. BARABBA. Themselves, or if there was an ancestor and they can provide a certificate of death and show they are an heir to that ancestor.

Senator STEVENS. They are an heir?

Mr. BARABBA. Yes, sir.

Senator STEVENS. Not just a relative, but an heir?

Mr. BARABBA. Not just a relative.

Senator STEVENS. My son or daughter could find out, as direct descendants, but my brother's children could not get the information unless they could prove I had no sons or daughters?

Mr. BARABBA. That is correct, or they had the permission of either your son or daughter.

ACCESS UNDER S. 3279 AND H.R. 10686

Senator STEVENS. My part of the country is an area where people have had great success in establishing a new life, this is part of the frontier spirit. I know many people who have replanted themselves and their families and have no desire for anyone ever to be able to connect them to their past.

Now, if this bill that is before the committee is passed, would it be possible for a researcher to connect Mr. X with the background of Mr. Y in another section of the country?

Mr. BARABBA. I think it would be with great difficulty, but the potential for it certainly exists. And that is what bothers us the most, that an individual as he goes through that process of deciding when he wants to fill out that Government form, has this apprehension of how it is going to be used.

If he knows his name and information is going to be made public, and I cannot envision if he uses different names how it can be connected, but his concern about it is what bothers us the most.

SOCIAL SECURITY RECORDS

Senator STEVENS. Are you tied in with social security information?

Mr. BARABBA. Only in one instance, Senator.

As the Privacy Act indicates, other agencies of Government can transfer to the Census Bureau records of individuals without their consent if it is for the purpose of meeting the objectives of title 13.

From time to time, we do a match between Social Security, Internal Revenue Service, and census records, to study the comparability of responses on questions such as income.

We get that information, do the match, and make aggregate totals, and we publish only aggregate totals. No information about the individual that is collected in the census goes back to Social Security nor does it go to Internal Revenue Service.

Senator STEVENS. Does it go anywhere else?

Mr. BARABBA. No, sir.

Senator STEVENS. You use it on a statistical gross sampling basis?

Mr. BARABBA. Just publishing of aggregated totals of the difference between how the people respond to income questions on an IRS form versus a social security form.

Senator STEVENS. I note the court, in this recent district court case, indicated it is the primary purpose to provide statistical information on which the legislative and executive departments may wisely and effectively act in those governmental areas to which this information pertains.

What do you make available to Congress?

What does that reference to legislative mean?

Do you provide Congress with any particular information from the census?

Mr. BARABBA. Well, the entire census is made available to the Congress.

Senator STEVENS. I mean as to any particular individual?

Mr. BARABBA. No. No one gets it on the basis of a particular individual, no one.

#### AGGREGATE STATISTICS CHECKED FOR POSSIBLE DISCLOSURE

Senator STEVENS. I have seen your census breakdowns of States and municipalities and race and income, and all the rest, and both of those tables you put out.

Do you publish in any way any information that can identify the source from which it came?

Mr. BARABBA. By law we are prohibited from doing that, Senator, and we take great pains to go through what we refer to as disclosure analysis, so we review every table that we publish, to make the determination as to whether by inference any analyst could come to a conclusion as to the identity of the respondent that has those characteristics.

Senator STEVENS. The Senate just went through an exercise on this on the tax bill, concerning the social security number and information that would follow that, and has limited, I think, access to that information to those that are involved in welfare, taxation and automobile licensing, which is a limitation.

As I understand it, the existing law gives you access to that same information. Again I may be redundant, but I want to be assured that if any of that information flows in to you, it does not flow back out to any individuals, organizations we denied it to the other day.

Is that possible?

Mr. BARABBA. It is not possible under existing law.

Senator STEVENS. In a particular sense, you would make available gross statistics?

Mr. BARABBA. Yes, sir.

We could help you, if, for example, you wanted us to compare other characteristics of people that you had other information for that was derived from the Social Security Administration, and you wanted us to match those with additional information we have from census records. We could do that, and we would give you a profile of that particular group that you have identified in such a way that you could not identify any one of the people.

Senator STEVENS. You could identify the native people in my State by their answers, you could give us their income levels, their education levels, their basic living conditions, but you could not identify any individual in that?

Mr. BARABBA. That is correct.

If there was a particular village with very few people in it, and we felt that by releasing even aggregate statistics of those people, you could tell anything about any one of them, we would not release that information. We would aggregate the information up to the next level of geography.

Senator STEVENS. That was going to be my next question.

What do you do with an area where the village is, in effect, inhabited by one family, and we have several of those?

You do not release those figures?

Mr. BARABBA. That is right. We do not publish that information. We aggregate it into the next level of geography.

#### PRIVACY VERSUS THE NEED FOR INFORMATION

Senator STEVENS. You have stated, as I understand it, if we were to enact this legislation, Congress would be going back on the promise of confidentiality and not protecting the right of privacy.

Just to make certain I understand that, you may recall the question the other day during the hearing on S. 3688, where is the line between a privacy and confidentiality as far as you are concerned in this case?

Where would this legislation fail to protect the right to privacy?

Mr. BARABBA. AS I recall our conversation last week, Senator, I said it is an invisible line, and difficult to say you are on one side or the other. It is really a sense or a notion that is in the minds of the people. Because of that, our argument to the people is that, if we cannot find out where we are, or what our problems as a society are, the impact of the various programs that are being developed by Government cannot be measured unless we know with some certainty what the situation is.

Now, that is the benefit for you to participate in this endeavor of Government collecting information.

Now, it is an invasion of your privacy when we do it, but we have the law that says we are allowed to do it. The Congress has reviewed it and agrees with the law, and has given us the authority to do it.

I know you are still concerned relative to the Government bothering you—

Senator STEVENS. You can compel me in the court to answer those?

That is what this recent district court says.

Mr. BARABBA. That is correct.

But in an effort to ease your concern that the information will be used against you personally any time in the future, we promise you that no one else will see it.

Now, that is how we try to ease the concern relative to the invasion of privacy.

We do not eliminate the invasion of privacy. We just try to ease the concern.

What we have said in our testimony is, while we are having this conversation at the door, after having given you that statement, we say "Except that at X period of time someone else can start looking over these records." Our feeling is we just brought another level of anxiety to your concern.

#### IMPACT OF DISCLOSURE ON ADOPTIONS

Senator STEVENS. My attention was called to the question the other day, as a question of adoption.

As a practicing attorney, I handled many private adoptions. As a matter of fact, I think that is one of the great pleasures of practicing law is you can help people who want children to get them in private adoption.

We went to great pains to protect the record, and those records, under the law, in my State are sealed. They are not accessible to anybody.

In this census, do you ask the question of a woman as to whether she had ever given birth to a child?

Mr. BARABBA. Yes; we do, sir.

Senator STEVENS. Do you have a question which indicates whether or not that child is still part of her family?

Mr. BARABBA. Yes; we do, sir.

Senator STEVENS. In other words, it would be possible to have information on the record which would disclose the fact that a particular couple had had—or particular woman had had a child and that the child was no longer part of her family?

Mr. BARABBA. That is correct.

As an example, you as an individual today could write to the Archivist and ask him for the record of your family. You would get a page of information about the record of your family, and everybody that lived around you that is on that page.

One of the questions on there says how many children have you borne, and also how many children are living there.

By subtraction, you could identify whether one of your neighbors did, in fact, have perhaps an adopted child.

Senator STEVENS. I think that would be extremely unfortunate and it could go the other way, could it not?

A child in later years could try to go back and trace his or her parentage, as a matter of fact, that was not available in any place or any court—

Mr. BARABBA. At that point, by the way, when the mother fills out the form in 1980, the mother then has the choice of telling the truth, realizing that at some point the information can be made available, or

lying under mandate to provide the information, in a sense breaking the law.

Senator STEVENS As long as this legislation does not become law, that would not be possible?

Mr. BARABBA. Well, under the agreement, the 1952 agreement that exists, which the Attorney General said was valid, the Archivist has the authority to release the information after 72 years.

We think if that agreement had not been in existence, and anybody tried to get agreements like that today, they would not even have a chance to have a conversation about it.

We think that that agreement should be abrogated as well.

Senator STEVENS. I was surprised to read about that agreement, as a matter of fact.

Thank you, very much, Mr. Chairman.

Senator MOSS. You would like to see it changed then so even a child could not get any information about their parents?

Mr. BARABBA. Only that child, sir.

Senator MOSS. Then the thing that was concerning the Senator would be available?

Mr. BARABBA. That is correct, but only to that person.

However, I should point out that there is a sense of discrimination left to the Bureau as to what information they will provide when the person calls for the information.

If the child is asking to prove an age, and the child is listed there, we do not then give all the information that is available. We answer only that part of the question that there is an inquiry of. We do not release the whole report.

#### DISCLOSURE OF INFORMATION PERTAINING TO LIVING PERSONS

Senator MOSS. Of course, this is all 72 years later, so it nearly always would be a child or descendant that was seeking the information, would it not?

Mr. BARABBA. I would point out that it would be interesting to determine whether an individual could identify information of either Senator John McClellan or Senator Sam Ervin today, because I think you will be able to find them identified under the 1900 records.

Senator MOSS. Yes.

It is possible the person might have been enumerated in that, but a 1- or 2-year-old child, other than being identified by name, would not have any of these other things that seem to give great concern.

I thank you, Mr. Barabba.

We have a vote on. I am trying to find out what we are voting on. Thank you. I appreciate your testimony.

Mr. BARABBA. Thank you.

[The following memorandum was submitted to the committee in response to a question from a previous hearing on mid-decade census.]

July 29, 1976

MEMORANDUM FOR Vincent P. Barabba  
Director  
Bureau of the Census

From: Paul J. Burke  
Attorney Adviser

Subject: Constitutionality of Census  
Questionnaires

I understand that a question was asked you at the Senate Committee hearing held on the Mid-decade Census concerning the constitutionality of certain questions on population schedules.

In the United States of America v. Thomas L. Little 321 F. Supp. 388 (1971), at page 392, the court stated as follows:

"[8] Finally, the defendant contends that the answers sought by the questions propounded in the census questionnaire amounted to an unconstitutional invasion of defendant's right of privacy. He maintains that while the power of inquiry is an essential and appropriate auxiliary to the legislative function, it must be exerted with due regard for the rights of citizens, and that a citizen may refuse to answer when the bounds of the power are exceeded.

"The authority to gather reliable statistical data reasonably related to governmental purposes and functions is a necessity if modern government is to legislate intelligently and effectively." United States v. Rickenbacker, 309 F.2d 462, 463 (C.A. 2, 1962), cert den. 371 U.S. 962, 83 S.Ct. 542 9 L.Ed.2d 509 (1963). The questions, which defendant allegedly refused to answer, all relate and bear upon important federal concerns, such as population, housing, labor and health. The

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information sought in these vital social welfare areas, in which the government is so heavily committed, will afford a sound statistical basis for taking intelligent governmental action. *United States v. Moriarity*, 106 F. 886, 891-892 (C.C.S.D.N.Y.1901). The fact that many personal questions may be asked in order to provide statistical reports on housing, labor, health and welfare matters does not make these questions an unconstitutional invasion of a person's right to privacy. The Supreme Court in *Qyman v. James*, 400 U.S. 309, 321, 91 S.Ct. 381, 388. 27 L.Ed. 2d 408 (1971) recently rejected the notion that a beneficiary of the program for Aid to Families with Dependent Children could refuse a house visit by a caseworker because the beneficiary might be asked "questions concerning personal relationships, beliefs and behavior \* \* \* which are unnecessary for a determination of continuing eligibility." The Court held that such home visits were reasonable for the purpose intended and equated any possible questions that might be asked by the caseworker as no more onerous than the census taker's questions." For this proposition the Court cited with approval the holding of the Court of Appeals for the Second Circuit in *United States v. Rickenbacker*, supra.

Moreover, the information obtained by the census questionnaire is strictly confidential. 13 U.S.C. § 9. It may not be used other than for statistical reporting, and may never be disclosed in any manner so as to identify any individual who has answered the questions. Its primary purpose is to provide statistical information on which the legislative and executive departments may wisely and effectively act in those governmental areas to which this information pertains. The Court therefore concludes that the defendant's privacy is not unreasonably invaded by requiring answers to the questions asked in the census schedule submitted to him.

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Accordingly, defendant's motion to dismiss the information will be denied."

I believe this quotation from the above referenced case should satisfy the questioner.

PJBURKE/tam/7-29-76

cc: Dave Kaplan  
Subject  
Reading



Senator Moss. Our next witness is Congressman Gunn McKay, who is author of a similar bill in the House. That bill also is before us today.

We are very glad to have you, Congressman McKay, before the committee.

You may proceed.

**STATEMENT OF HON. GUNN MCKAY, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF UTAH**

Mr. McKay. Thank you, Mr. Chairman. Thank you for the invitation to testify before this committee on H.R. 10686 and S. 3279, bills which would limit access to the names of respondents and other information contained in the census.

I would simply like to make some brief comments and be available for questions if there are any.

I submit to the committee my written testimony, which discusses a number of issues which I will not comment on orally today.

Mr. Chairman, may I submit that testimony for the record?

Senator Moss. That will be printed in the record.

**H.R. 10686 ENSURES GREATER PRIVACY PROTECTION**

Mr. McKay. The reason an H.R. 10686 is necessary is because present law allows the Archivist of the United States to disseminate census information to any person after a 50-year period has elapsed. By mutual agreement that time period has been extended to 72 years, but the law itself only provides for 50 years.

To insure greater privacy and protection for those enumerated in a census, the House Post Office and Civil Service Committee determined in H.R. 10686 that more stringent controls on this sensitive information should be enacted into law, not leaving discretion totally to the Archivist.

Consequently, H.R. 10686 requires a 75 year, instead of a 50-year waiting period (except in the case of medical researchers) before the names of respondents of any given census can be disclosed by the Archivist.

To further protect privacy, H.R. 10686 limits access to census information by three specific groups, namely, *bona fide* historians, medical researchers, and genealogists. Although this information has been available in the past to almost anyone seeking access, and although no abuse of this information has ever been reported to the Archivist, the sponsors of the bill felt that further caution should be used in dissemination of census records. They recognized the harm that might occur from misuse, but felt that access to census data benefits society as well.

**THE NEED OF MEDICAL RESEARCH FOR CENSUS RECORDS**

I am sure that the Archivist's representative will address himself to the needs of historians and other scholars for limited access to this information. Therefore, I will focus in some detail on medical uses for census information. In fact, it is in this area that census information

provides data essential for certain medical discoveries of enormous value to all of us.

For example, cancer specialists are linking census and other genealogical records with hospital medical records. This process enables medical researchers to measure the kinship of people who have a given type of cancer, diabetes, or other disease with a familiar pattern.

In a letter sent to me dated October 1, 1975, from Dr. Charles R. Smart, director of the Rocky Mountain States Cooperative Tumor Registry, he points out that any legislation which would limit the availability to researchers of information on individuals contained in the census would greatly curtail cancer research.

In fact, present limits on the use of census data make it difficult to do some kinds of medical research. Dr. Smart said, "It is only by relating medical information on individuals to census information that proper epidemiological studies can be undertaken."

Dr. Homer Warner, professor and chairman of the Department of Medical Biophysics and Computing at the University of Utah, also stresses the need for census data. In a letter addressed to the Speaker of the House dated September 17, 1975, he described a project he is working on, utilizing the names of respondents in census data to distinguish hereditary and environmental factors in various diseases. He is currently studying cancer and heart disease, but expects to extend his study to many other diseases in the future. He is developing a resource consisting of 250,000 family group sheets containing four generation pedigrees. This information will be fed into a computer, which will then link these files with medical records obtained from hospitals through the area and to census and death certificate files for the same population. This information will enable him to test certain genetic hypotheses which could show how a particular disease is inherited.

Even more important, Dr. Warner believes that he will be able to examine populations separated on the basis of environmental factors, for instance, smoking, common water supply, and so on, to determine whether they are homogeneous with respect to relatedness among individuals. Dr. Warner said:

This will be a new and very important field for epidemiological research in medicine, and we expect it to be an important national resource \* \* \*. We confidently expect that major medical advances may result from these studies, and I'm appealing to you that the census records not be restricted to free access by individuals doing medical research \* \* \*.

I would also like to submit for the record a letter by Dr. John Mulvihill from the National Institutes of Health which also points up the need for census information in medical research as well as a letter from William J. Schull, Ph. D., from the University of Texas Health Science Center at Houston, Texas.

Senator Moss. Thank you. It also will be placed in the record.

Mr. McKAY. I might indicate also that I have a list of interested medical doctors. It was indicated by Mr. Barabba that there were not many medical doctors interested in this bill. We have been in touch with numerous doctors, and would like to submit some of their names for the record.

Just to name a few, here is Dr. David Baltimore from New York, John W. Berg from Iowa, Dr. Byron William Brown from Stanford,

Dr. Bert Carnow from Illinois, Dr. Epstein from Case Western, Dr. Hammond from ACS, Dr. Klauber from Utah, and Dr. McMahon from Harvard.

Senator Moss. Do any of these medical researchers indicate they must be able to identify individuals for research purposes from the census records?

Mr. McKAY. Yes.

The census records are used in a number of ways. First, they enable a researcher to track down the location of relatives who may be especially susceptible to a disease or may in fact have a disease which he is not aware of because of the long period for some diseases.

#### IMPORTANCE OF GENEALOGICAL RESEARCH TO MEDICINE

The census tool is used, then, as a locating device. Even if the particular person one finds is deceased, once a researcher has located a relevant person's whereabouts, he can also find in that person's neighborhood medical records which are helpful when studying the genetic relationships of diseases. Second, in order to study the genetic relationships of diseases, a substantial amount of genealogical information is necessary. Seventy percent of the genealogical research in this country depends on census records. Obviously, access to specific individual's names is necessary.

Mr. Barabba indicated that the Bureau of Census would release respondent's names if the requesting party could prove first that he was related. In many cases that can not be established unless the person has access to the name in the first place. This circular, or "Catch 22" requirement, virtually prevents any serious genealogical research through the Bureau of the Census.

#### ALEXANDER GRAHAM BELL'S MEDICAL RESEARCH OF CENSUS RECORDS

An interesting example of what census data can be used for medically is illustrated by Alexander Graham Bell.

In 1878 the Massachusetts State Board of Health enlisted him in an effort to study hereditary defects. Mr. Bell decided to investigate heredity in deafness. After consulting different sources for data, he found the information was not complete.

In 1880 the Federal Government took a more complete census. By consulting the census, Bell found enough additional information to produce a paper written for the National Academic Academy of Science in November 1883.

During the 1880's Bell continued to trace deafness through several generations in various families. He did this by using genealogical records. He was able to complete his research when he found an amateur genealogist with thousands of notes carefully tucked away in little muslin bags.

Consequently, Bell was able to trace the course of deafness to a number of families. The census had been such a valuable tool for Mr. Bell, that he took an active interest in shaping census policy.

In 1886 he discovered that the 1790 census was carelessly scattered over the floor in a vault located in the Patent Office. There were more

than 1,000 volumes in disarray. Later he persuaded the Secretary of the Interior to store those records properly.

During the mid-1890's Mr. Bell opposed legislation in the House of Representatives which would have destroyed or sold for wastepaper all census population schedules. He said that if this came about, scientific endeavors would be greatly hampered and that he would consider such an act an outrage.

Medical research more than ever before depends on genealogical information to study various diseases. It should be noted that science and medicine have rather successfully dealt with infectious diseases. Noninfectious diseases, such as heart ailments, diabetes, and cancer, are most stubborn causes of death, and the key to their cures may well be found in medical exploration of genealogical records which depend on census records as a primary source of information. In fact, 70 percent of the genealogy done in the United States depends upon access to census records.

#### AVAILABILITY OF CENSUS RECORDS IN THE PUBLIC INTEREST

H.R. 10686 provides for necessary privacy safeguards, but also recognizes the social value of census information. Any suggestion of complete closure is tantamount to destruction of such records. What good are records that cannot be used? Any suggestion of complete access with no safeguards has its hazards overlooks legitimate privacy interests of individuals. H.R. 10686 provides greater privacy, while at the same time allows some access.

Mr. Chairman, I submit that the public wants some access. There is an instant, not too long hence, in Illinois where there was a move to shut the records completely, and that officer who tried to do it was resoundly defeated in the next election, and that was a major issue in his campaign.

To argue that no further legislation needs to define the present situation leaves it in the hands of administrators who come and go, and Congress ought to set the policy in this matter.

Senator Moss. Thank you, Congressman McKay.

H.R. 10686 has passed the House, is that correct?

Mr. McKay. It has passed the House.

Senator Moss. What was the vote over there? Was there a rollcall?

Mr. McKay. Yes; there was, 376 to 4.

Senator Moss. It was not very controversial there?

Mr. McKay. No.

Senator Moss. Thank you very much. We appreciate your coming here to testify.

You were involved with this legislation in the House, and we value particularly what you have to say for our records.

Thank you.

Mr. McKay. Thank you.

[Prepared statement of Congressman McKay plus aforementioned material follows:]

TESTIMONY OF CONGRESSMAN GUNN MCKAY, UTAH  
Monday, August 2, 1976

Senate Post Office and Civil Service Committee  
Subcommittee on Census and Statistics  
Honorable Frank Moss, Chairman

Mr. Chairman:

Thank you for your invitation to testify before this committee on H.R. 10686 and S. 3279, bills which would limit access to the names of respondents and other information contained in the census. A bill is necessary because present law allows the Archivist of the United States to disseminate census information to any person after a fifty year period has elapsed. To ensure greater privacy and protection for those enumerated in a census, the House Post Office and Civil Service Committee determined in H.R. 10686 that more stringent controls on this sensitive information should be enacted into law. Consequently, H.R. 10686 requires a 75 year, instead of a fifty year, waiting period (except in the case of medical researchers) before the names of respondents of any given census can be disclosed by the Archivist. To further protect privacy, H.R. 10686 limits access to three specific groups, namely, *bonafide* historians, medical researchers and genealogists. Although this information has been available in the past to almost anyone seeking access, and although no abuse of this information has ever been reported to the Archivist, the sponsors of the bill felt that further caution should be used in dissemination of census records. They recognized the harm that might occur from misuse, but felt that access to census data benefits society as well.

I am sure that the Archivist's representative will address himself to the needs of historians and other scholars for limited access to this information. Therefore, I will focus in some detail on medical uses for census information. In fact, it is in this area that census information provides data essential for certain medical discoveries of enormous value to all of us. For example, cancer specialists are linking census and other genealogical records with hospital medical records. This process enables medical researchers to measure the kinship of people who have a given type of cancer, diabetes, or other disease with a familial pattern. In a letter to me dated October 1, 1975, from Dr. Charles R. Smart, Director of the Rocky Mountain States Cooperative Tumor Registry, he points out that any legislation which would limit the availability to researchers of information on individuals contained in the census would greatly curtail cancer research. In fact, present limits on the use of census data make it difficult to do some kinds of medical research. Dr. Smart said, "It is only by relating medical information on individuals to census information that proper epidemiological studies can be undertaken." I submit for the record a paper written by Mark Skoinick entitled "Genetic and Epidemiological Studies in Utah," which discusses in more detail the research being undertaken.

Dr. Homer Warner, Professor and Chairman of the Department of Medical Biophysics and Computing at the University of Utah, also stresses the need for census data. In a letter addressed to the Speaker of the House dated September 17, 1975, he described a project he is working on, utilizing the names of respondents in census data to distinguish between hereditary and environmental factors in various diseases. He is currently studying cancer and heart disease,

but expects to extend his study to many other diseases in the future. He is developing a resource consisting of 250,000 family group sheets containing four-generation pedigrees. This information will be fed into a computer, which will then link these files with medical records obtained from hospitals throughout the area and to census and death certificate files for the same population. This information will enable him to test certain genetic hypotheses which could show how a particular disease is inherited. Even more important, he believes that he will be able to examine populations separated on the basis of environmental factors, for instance, smoking, common water supply, and so on, to determine whether they are homogeneous with respect to relatedness among individuals. Dr. Warner said, "This will be a new and very important field for epidemiological research in medicine, and we expect it to be an important national resource. . . . We confidently expect that major medical advances may result from these studies, and I'm appealing to you that the census records not be restricted to free access by individuals doing medical research. . . ." I also submit for the record a letter by Dr. John Mulvehill from the National Institute of Health which also points up the need for census information in medical research as well as a letter from William J. Schnell, Ph.D. from the University of Texas Health Science Center at Houston, Texas.

Finally, with respect to the value of census data in medical research, it should be noted that science and medicine have rather successfully dealt with infectious diseases. The non-infectious diseases such as heart ailments, diabetes and cancer are the most stubborn causes of death and the key to their cures may well be found in medical exploration of census records.

As I understand it, the Bureau of Census would curtail this kind of necessary research on the grounds that (1) the 1900 census and those that follow were gathered with an accompanying promise of confidentiality, i. e., that the enumerated names would be kept strictly confidential, and (2) if the above-mentioned promise of confidentiality were broken, it would impair the Bureau's ability to collect sensitive information in the future.

Upon examination, the Census Bureau's assurances of confidentiality should not have been as sweeping as they may have made them. Presidential proclamations introducing the taking of censuses have never promised complete secrecy. Rather, they have promised that the information would definitely not be used for such purposes as tax law enforcement, selection of juries by the courts, or induction into the armed forces. The proclamations also included a more general promise that the information would not be used to the respondent's damage, detriment, or disadvantage. Such language leaves open the possible future use of census data by groups with legitimate interests, provided that no harm is perpetrated on the enumerated.

Indeed any other interpretation would be contrary to existing statutes, and if the Bureau of the Census instructed enumerators to promise respondents that census questionnaires were to be inviolate, they overstepped Congressional statutory restrictions in 13 USC 8-9, which sets forth guidelines for census taking. While it is true the law sets forth general provisions of confidentiality of census material, it also provides exceptions to the general rule. One of those exceptions is the use of census data by "private individuals" or by "genealogical" and other

groups which use such information for "proper purposes." Certainly, this Committee should not feel bound by a promise of the Bureau of the Census which should not have been made in the first place. To take this approach would encourage the executive branch to legislate policy, a function which they all too often usurp from the legislative branch by intentionally circumventing statutory direction to satisfy their own "so-called" needs.

The second argument advanced by the Bureau--that a disclosure of the 1900 census would make it more difficult to collect information in the future--is tenuous at best. The 1870 and 1880 censuses were collected with no assurances whatsoever that information would be kept confidential. In fact, census information has been available to the public and is presently available as previously indicated. The Bureau of the Census has, over the years, been able to collect data without any promise of confidentiality in perpetuity. This bill provides for more privacy and less access than at present. This will, according to the Bureau's own testimony, assist in the collection of data. The 1900 census has been available for the past year, and I am informed that the only complaints have been that access is too limited. In conversations with a major public polling firm, I am assured that promises of confidentiality are not the major obstacle in the collection of data. Rather, a general suspicion of the "government" or of any stranger at the door in crime-ridden areas contributes to skepticism by potential respondents. In any event, the Bureau has authority to compel a respondent to reveal information. I admit, however, that this is not a practical solution if the refusal rate were to become enormous.

Under the circumstances, it seems reasonable that bonafide groups should have access to the census. The real issue should be not strict confidentiality, but rather how to allow access without harming the enumerated. To insure protection, I concur with the proposed language of the bill which provides for the release of census data 75 years after taking the census. This virtually provides that the vast majority of the enumerated will be deceased by the time the information is made public. This kind of safeguard, coupled with penalties for improper use of census data and reasonable restrictions on access, would adequately protect the interests of those enumerated. The interests of the Bureau of the Census as opposed to those of historians, genealogists, economists, the medical professions and others are not mutually exclusive. Adequate confidentiality can be preserved at the same time census data is used for beneficial research and study. This bill, I believe, will adequately safeguard the enumerated while providing access to information which in the future may account for significant advancements in science as well as a better understanding of our past.

In any event, the greatest potential for abuse comes not from academics and medical researchers, but as recent events illustrate, from regulatory agencies who make improper use of data for political and other reasons. As a group, academics and medical researchers have shown themselves to be responsible when it comes to honoring privacy.

This is particularly true in regard to medical research because an individual's records, while essential to medical research, are not important for what they reveal about John Doe, but rather for what the life of John Doe, his habits, his place of birth, his occupation, his medical history, tell scientists

-4-

about diseases in general. There is very little, if any, incentive for use of an individual's data which would cause that individual embarrassment, harm, or personal injury. The archivist has never had a complaint by a person enumerated claiming that he had been damaged by information in census materials given to researchers.

I am confident that this Committee will act wisely in this matter. An "either-or" solution to a difficult problem which requires careful balancing of a number of important interests is not the solution, but rather a balance must be struck between legitimate competing interests. This bill is a step in that direction.



January 5, 1976

The Honorable Gunn McKay  
House of Representatives,  
Washington, D. C. 20515

Dear Congressman McKay:

Recently, it has come to our attention that the Director of the Bureau of the Census has proposed a series of regulations which would effectively deny in perpetuity personally identifying information gained through the decennial censuses to everyone save the individual to whom the individual record pertains. We believe this policy to be detrimental to many areas of health research, but particularly to those epidemiologic efforts directed towards the identification of the complex sequence of events in an individual's life time which may conduce to coronary artery disease, cancer, or diabetes, to cite but three major health problems in the United States. Much of the occupational, residential and similar information which the Bureau of the Census routinely collects in its decennial census at substantial expense would have to be collected in other manners by ad hoc surveys at still further expense if we are to identify the events which lead to ill-health.

We believe that it should be possible to protect an individual's privacy without such draconian methods, and still utilize census information to the betterment of the health of all of us. Most epidemiological studies which might utilize such information are not concerned with the individual for his or her own sake, but rather with the sequence of life events as they affect the health of any individual exposed to the same sequence. It seems patent that the recognition of marked differences in risk of ill-health will prove beneficial not only to those individuals at high risk but to the public health of our nation as well.

We support fully your efforts and those of Representatives Schroeder and Simon, as set forth in HR 10686, to open the census records for legitimate historical, genealogical and medical uses.

Yours sincerely,



William J. Schull, Ph.D.  
Anderson Mayfair Apartments, #709  
1600 Holcombe Boulevard  
Houston, Texas 77025

WJS:ml



THE UNIVERSITY OF TEXAS  
HEALTH SCIENCE CENTER AT HOUSTON  
GRADUATE SCHOOL OF BIOMEDICAL SCIENCES AT HOUSTON  
CENTER FOR DEMOGRAPHIC AND POPULATION GENETICS

January 5, 1976

Mr. James W. McConkie  
Administrative Assistant,  
Representative Gunn McKay,  
U. S. House of Representatives,  
Washington, D. C. 20515

Dear Mr. McConkie:

Enclosed please find a written statement addressed to Congressman McKay setting out our interests in access to the personal data accumulated at the various decennial censuses. I've tried to emphasize, as I know John Mulvihill did, the potential uses of such information in medical research, particularly that which involves diseases like coronary artery disease, cancer and diabetes where the chain of causal events may be long and complex.

You may also be interested to know that I have spoken to the current President of the American Society of Human Genetics, and that as an individual he supports the need to have access to such information, and as the Presiding Officer of the Society will set in motion the steps necessary to have a formal statement of support on behalf of the Society itself. I've also spoken to a number of colleagues here and elsewhere encouraging them to write to Representatives McKay, Schroeder and Simon, as well as to their own Representatives, and if at that point they are not too tired to write further, to the President of the United States as Speaker Albert suggested. While I hardly expect these efforts to swamp the postal system in the near future, many of my colleagues are notoriously tardy in matters such as this, but hopefully we can help you muster the professional and general support which this legislation will need.

We all much appreciate what Congressman McKay and his colleagues are attempting to do and are impressed by the growing number of members of the Congress who are distressed, as are we, by the increasing capriciousness of the regulatory policies of so many of our super abundant bureaucracies.

If I can be of further assistance, please let me know. I will attempt to keep you informed of our efforts to mobilize sentiment behind the bill.

Sincerely yours,

William J. Schull, Ph.D.  
Director  
Professor of Population Genetics

WJS:ml  
Enclosure (1)

John J. Mulvihill, M.D.  
9516 Edgeley Road  
Bethesda, Maryland 20014

June 4, 1976

Senator Gale McGee  
Senate Office Building  
Washington, D.C. 20515

RE: HR10686

Dear Senator McGee:

As a medical doctor doing epidemiologic cancer research, I am Head of the Clinical Genetics Section, Clinical Epidemiology Branch, Field Studies and Statistics, Division of Cancer Cause and Prevention, National Cancer Institute, National Institutes of Health, Department of Health, Education and Welfare; however, the following remarks are made by me as a private citizen and are not Departmental or Institutional policy or statement.

Your Post Office and Civil Service Committee, I understand, is considering HR10686, concerning the availability of Federal Census data for research toward the public good. I see no overriding harm in its purpose and believe that the Act would expedite medical research. From my perspective, I see advantages primarily to research on the elusive causes of cancer as well as to geneologic and sociologic studies.

Many scientists believe that the most human cancers are caused by environmental agents, encountered in especially high doses in certain occupations, localities, and ethnic groups. One recent advance in associating environmental factors with certain cancers is the National Cancer Institute's Atlas of Cancer Mortality for U.S. Counties: 1950-1969. By elaborate statistical analysis and computer technology, many "hot spots" of cancer were identified in the U.S. For some "hot spots," the explanation is widespread pollution by industry; for others, direct hazards on the job. Other "hot spots" are difficult to interpret for several reasons. One reason that demonstrates the need for census data relates to the extreme mobility of the U.S. people. The latent period for cancer is known to be long; that is, in man, ten to thirty years may pass from the time cancer is induced by an agent to the time it appears clinically. If a twenty-year-old man had lived for years under the carcinogenic plume of a smelter, then moved to Los Angeles and, five years later, died of lung cancer, Los Angeles would be credited with a case of lung cancer. Under present regulations, his earlier residence--the one more relevant to the cause of his cancer-- would be unknown. Census data may help resolve this difficulty.

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The same intranational migration, that frustrates the interpretation of cancer data for the general population, also impedes the study of so-called "occupational cancer." The importance of studying cancer in certain occupations (besides for the workers' own welfare) arises from the fact that workers exposed to high levels of chemical or physical agents on the job may be the best sentries for hazards from low level exposure in the general population. Such studies depend on identifying individuals by name and residence. Company or union records may have the data, if the suspected industry is known. If not, census data might well supply crucial information.

So far, I have discussed the experience of others studying environmental causes of cancer; but, heritable or genetic factors also play a role in determining who gets cancer. From my research on families that seem to have more than their share of tumors, I know that census data would supplement geneologic information. Many times relatives recall medical details on their generation and the preceding one, but are ignorant of earlier generations. Census data, even with a seventy-five year delay (about two generations), could fill an important gap.

May I give you an example from our study of breast cancer? One approach to understanding cancer of the breast in females is to study breast cancer in males, with the theory that whatever factors are important would be more "concentrated," or obvious in men, who ordinarily rarely get breast cancer. Familial factors have been strongly suspected in female breast cancer, so I was excited to learn of two men with breast cancer in one state. Each also had the rare occurrence of a second tumor involving the tongue; finally, each had the same last name! The problem was to determine if they were related, perhaps as brothers. If they were, the importance of familial factors in breast cancer would be clarified. Vital records of births, marriages, and deaths failed to prove a relationship. Town directories, telephone books, and health department records gave no clue. Census data giving residence would have helped--but census data were not available. In this case, I must admit, the information was lost by fire. This thwarted research would have been even more frustrating if some misguided Federal restrictions had stopped the trail.

In summary, census information of individuals would help medical research at least by furthering knowledge on the mobility of the population, especially of workers exposed to possible hazards, and by facilitating geneologic studies of possibly inherited diseases. I urge you to shorten the delay before release of data from 50 years to 20 or so.

At first glance, releasing any personal information collected in trust by the U.S. Government would seem to jeopardize citizens' privacy. In fact, the questions being asked medical or cancer researchers are so pressing that answers must be obtained. Without easy access to informative data, researchers will still be pursued needed information with perhaps greater invasion of

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privacy. For example, an epidemiologic study of steel workers, which could have used a National Death Index which might be constructed from Government Records, required instead following up workers through credit references, police records, social security data and neighborhood inquiries - surely, a gross invasion of privacy, which HR10686 might prevent.

Sincerely yours,

*John J. Mulvihill* *MD*

John J. Mulvihill, M.D.

CC: Honorable Gunn McKay  
President G. Ford

GENETIC AND EPIDEMIOLOGICAL  
STUDIES IN UTAH

by

Mark Skolnick, Ph.D.  
Biophysics Department  
and  
Biology Department  
University of Utah

July 11, 1975

This document is a brief description of a project which is being built to study the genetic components of many diseases, using the Mormon population of Utah. Four resources are used: 1) the archives of the Genealogical Society, 2) the computerized tumor registry for the state of Utah, 3) the death certificates for the state of Utah, and 4) medical records of the major hospitals of the state. A grant has already been received to link the first two data sets (CA 16573) and further proposals are being prepared to provide funds for linking the third and fourth resources.

#### The Mormons of Utah as a Genetic Isolate

The Mormon population of Utah has many unique characteristics which make it an informative population to study. The state was originally settled by a relatively small group of pioneers (about 20,000) who inhabited the Salt Lake valley and started smaller settlements in other parts of the state. Until 1890, there were many polygamous marriages and the people were extremely pronatalist, with fertility per couple being about eight children ever born. Thus, the original settlers are now represented by a large number of descendants. Families tended to stay in the same area and so the population is relatively stable with respect to migration. Many genetic isolates exist, even within larger cities. The population is encouraged by their religion not to use tobacco or drink coffee, tea, or alcohol, so the epidemiology of a population largely free from the effects of these substances could be studied here. In the rural areas much of the diet consists of locally grown foods, and environmental conditions are quite uniform.

Aside from these characteristics, the population is one of the best documented in the world, having created a tremendous source of demographic material in the Genealogical Society of the Church of Jesus Christ of Latter-day Saints, the largest and most active genealogical organization in the world. Founded in 1894 and currently with more than 500 employees, its primary purpose is to assist members of

the Latter-day Saints Church in compiling genealogical information. Of primary interest for this project are the more than six million family group sheets representing ancestors of L.D.S. church members. Many of these have been compiled by more than one family member, and accuracy is stressed by the Genealogical Society.

The first task of the project is the construction of the genealogies for Utah. We are interested in linking all Mormon families whose children were born in Utah (or along the pioneer trail) to form a statewide genealogy which extends from 1830 to the present.

Contained in a file of family group sheets of the Genealogical Society in Salt Lake City is a very high percent of the Mormon families with children born during that period of study. Our initial task amounts to selecting and photocopying the 200,000 families with children born in Utah from the file. The genealogy will be completed from other less direct sources in the Genealogical Society. Thus, we should have nearly complete ascertainment, and our method of ascertainment is without a medical bias.

Three generations are mentioned in each family sheet. Genealogies are formed by introducing these sheets into the computer, verifying them, linking them, and resolving ambiguities as they appear in the linking process.

#### Cancer Incidence and Risk Factors by Kinship

The goals and objectives of the initial project are:

- A. Identify patients who are represented in both the Utah State Cancer Registry and the genealogy file of the Latter-day Saints church, using computer techniques, and identify their relatives.
- B. Examine the relationships among this group of patients in order to formulate and test a variety of methods (models) for predicting cancer incidence among blood relatives.



- C. Develop a practical scheme for using one or more of these models to predict the probability of cancer risk in a particular person from his family history, and use this effectively in the prescription of screening procedures for that individual.
- D. Identify cancer-free and cancer-prone families suitable for detailed studies of endogenous (biochemical) and exogenous (environmental) factors which may shed light on the etiology of cancer, and
- E. Use this data base to test basic genetic models of several types of cancer to increase our understanding of genetic mechanisms in this disease. The recessive component of cancer will be evaluated by comparing the inbred portion of the population with the whole population for cancer incidence.

This project will be completed using medical records from the Utah State Cancer Registry. A statewide computerized cancer registry was initiated in Utah in 1966, which included all cancer cases seen in all hospitals, all pathology laboratories, and all death certificates. In 1969, under funding by the Inter-mountain Regional Medical Program, the Rocky Mountain States Cooperative Tumor Registry was established. It now encompasses six states, 245 hospitals, 6,000 doctors, and over 100,000 cancer patients. The Utah Cancer Registry was the original unit in the six-state registry and is the monitor of the present Utah Cancer Control Program. It now contains information on 30,000 cancer patients in Utah. In April, 1973, the Utah Cancer Registry became part of the Surveillance, Epidemiological, and End Results (SEER) program, a group within the Biometry Branch of the National Cancer Institute which develops incidence and end results figures for the nation.

Two major restrictions of the present project can be removed if funds are approved for linking the death certificates to the resource being created. First, the incidence by kinship figures will have an estimated component caused by some

outmigration and uncertainty whether some relatives are out of the area of study and have cancer unknown to us. Secondly, although there are about 20,000 L.D.S. patients in the tumor registry between 1965 and the present, some rarer sites have too few cases for an excess familial tendency to be significantly detected. By computerizing and linking death certificates, depth will be given to the number of cases under study, and by considering only dead relatives, increased cancer mortality by kinship can be computed without the methodological problems of incidence. If we computerize all the death certificates, we will have cancer mortality from 1904. By linking all causes of death, we can also test for familial and local relationships between cancer mortality and other causes of death.

The second aspect of our cancer study involves families and localities which show unusual incidence of cancer. For example, the breast cancer kindred (Number 107) originally described by E.J. Gardner and F.E. Stephens in 1950 now has more than 1,300 members representing seven generations, many of whom are still below the breast cancer susceptible age. Follow-up studies have shown that the two generations descended from the original sibship, many of whom are now deceased, fall into two groups: 1) those whose progenitors in the sibship had cancer and 2) those whose progenitors in the sibship did not have cancer. The first group included 28 women with breast cancer and five with cancer in other sites among 91 women. The other group had one member with breast cancer and one with uterine cancer among 37 women. The risk of breast cancer compared with 1960 incidence data is 10.04 times higher in the cancer-prone families even though they contain some apparently normal branches. The highest incidence of breast cancer stems from a sib whose husband's line had a high incidence of urinary and uterine cancer, indicating the possibility of a complex etiology.

Such families will be useful in later studies which attempt to relate gene segregation (HLA, ABO, Gm, etc.), biochemical function, or enzyme polymorphism to cancer risk. Once we have isolated cancer-prone families from the linked files, additional medical records kept before the creation of the Utah Cancer Registry can be obtained

from hospital files to complete the classification of individuals as affected or non-affected for the earlier members of the pedigree.

We will also study areas of high cancer incidence such as Oak City, Utah, which is currently being studied at a pilot level. The exact incidence and the familial nature of the cancer are under investigation. As the town is essentially self-sufficient and most of the food is grown locally, excesses of heavy metals are being looked for which might be concentrated and therefore carcinogenic. Early results suggest high levels of arsenic, cadmium, and lead in the water, food supply, and hair samples of the residents.

#### Studying Other Genetic Diseases

It is difficult to decide which diseases should be studied since most major diseases have genetic components and there are approximately 2,000 known genetic diseases which could be fruitfully studied with this resource. We have currently initiated studies in several areas. Osteogenesis imperfecta, a bone-formation defect with associated deafness, is being studied because the literature shows conflicting evidence as to the underlying genetic models. Hematological diseases (elliptocytosis and false-positive VDRL) are being studied with Dr. Weinberg and Dr. Wintrobe, and studies of genetic defects of copper and iron metabolism have been initiated with Dr. Cartwright. An initial investigation of Wilson's disease, a genetically-induced copper retention, has shown that the model in the literature is incompatible with the large pedigree found in Utah.

The next major project to be undertaken has been initiated by Dr. Cartwright. A program project is being prepared to study pedigrees of genetic hyperlipidemia which predisposes to coronary artery disease, gout, diabetes, and obesity. A registry of myocardial infarction will also be prepared to assess the relative importance of the hyperlipidemia in coronary artery disease. The project will also involve basic research into the biochemical mechanism involved.

The final step in the creation of the resource would be the complete computerization of the medical records of the major hospitals of the state, using the system developed by Dr. Warner in the Biophysics Department. The resource would then be ready for studying any disease and would also greatly contribute to identifying high risk individuals, thus making a major contribution to health care in the state.

#### Theoretical Problems

The resolution of the above questions requires the development of a considerable number of mathematical techniques, which can be implemented by computer. One such implementation has already been achieved; a program now exists for calculating the risk of disease for all individuals in a genealogy, when the disease status of some members of that genealogy is available. The underlying logic for this program was developed in collaboration with Dr. Cannings. This program is to be further developed to permit additional parameters of interest to be estimated, such as genetic linkage, and to allow the comparison of various genetic models to be made.

The Mormon genealogies provide a unique opportunity for the study of genetic problems, due to the large size of the families and of the genealogies. At the same time this large size creates a challenge mathematically since existing techniques are virtually impossible to implement, being too time consuming or too restricted in scope.

#### Equipment

The genealogical resource is being created in a disk file on the Data General Eclipse computer. The present computer configuration includes 40K of 16 bit memory and a 90 mega-byte disk. Two terminals are used to input the genealogical data. Another terminal is used to create technical programs such as linkage, pedigree analysis or file maintenance. This modern "mini-computer" is being expanded with current funding to be a multi-programming system with dial-up capabilities and

execution speeds only slightly slower than large computers such as the Univac 1103, CDC 6400, IBM 360/65. It will be able to provide important analytic capabilities to the cancer community.

Funding

The following grants have been awarded to establish this facility:

|   | <u>Amount</u> | <u>Begins</u> | <u>Terminates</u> |
|---|---------------|---------------|-------------------|
| 1. NCI-NIH-HEW 1 R01 CA 16573-01<br>Mark Skolnick, Principal Investigator<br>Homer Warner, Co-principal Investigator<br>"Cancer Incidence & Risk Factors by<br>Kinship"                 | \$397,457     | 2-5-75        | 2-5-78            |
| 2. American Cancer Society-Utah Division<br>Mark Skolnick, P.I.<br>"Cancer Incidence & Risk Factors by<br>Kinship"  | 5,000         | May, '74      | Indef.            |
| 3. Academic Vice-President of<br>University of Utah<br>Homer Warner, P.I.<br>To be used at the University of<br>Utah Computer Center<br>"Cancer Incidence & Risk Factors by<br>Kinship" | 4,000         | 5-10-74       | Indef.            |
| 4. Biomedical Sciences Support Grant<br>Committee<br>PHS Grant No. RR07092-08<br>Mark Skolnick, P.I.<br>"Cancer Incidence & Risk Factors by<br>Kinship"                                 | 5,000         | 5-10-74       | Indef.            |
| 5. Institutional Research Grant,<br>American Cancer Society<br>Mark Skolnick, P.I.<br>"Cancer Incidence & Risk Factors by<br>Kinship"   | 3,000         | 10-1-74       | 10-1-75           |
| 6. Cardiovascular Research and Training<br>Institute<br>Mark Skolnick, Principal Investigator<br>"Construction of Pedigrees of Coronary<br>Artery Disease"                              | 4,000         | 7-1-75        | Indef.            |

The following grant is being sought from NIH:

|   |         |      |         |
|---|---------|------|---------|
| 7. NCI Research Grant, CREG announcement<br>DCSP-5<br>Mark Skolnick, P.I.<br>"Frequency of Cancer in Genetic<br>Isolates" | 213,943 | 1976 | 3 years |
|---|---------|------|---------|

Senator Moss. Our next witness is Mr. James O'Neill, Deputy Archivist of the United States.

Mr. O'Neill, thank you for appearing today. Would you introduce the woman who accompanies you, please?

**STATEMENT OF JAMES E. O'NEILL, DEPUTY ARCHIVIST OF THE UNITED STATES, NATIONAL ARCHIVES, WASHINGTON, D.C., ACCOMPANIED BY CLAUDINE J. WEIHER, ASSISTANT EXECUTIVE DIRECTOR, NATIONAL ARCHIVES AND RECORDS SERVICE**

Mr. O'NEILL. I will be happy to. Accompanying me this morning is Claudine J. Weiher, Assistant Executive Director of National Archives and Records Service.

Mr. Chairman, I am very pleased to have the opportunity to appear before you today as this subcommittee considers H.R. 10686, which was passed overwhelmingly by the House last April, and S. 3279, a similar bill which, however, make census records available after a shorter period of time.

My remarks will be primarily directed at H.R. 10686, since it closely approximates the National Archives' current experience and policy with regard to census schedules.

As you know, representing General Services Administration's National Archives and Records Service, we appeared before the House Subcommittee on Census and Population last November to testify on H.R. 10686; in addition, we provided comments on the subject to the Chairman of the House Committee on Post Office and Civil Service. While our testimony and comments of November are still applicable, I would like to spend a few moments on the question of the public availability of census records.

**S. 3279 AND H.R. 10686 WOULD NOT "OPEN UP" RECORDS NOT PRESENTLY AVAILABLE**

First, I would like to summarize what this proposed legislation would or would not do. Except for limited medical research purposes it would not now or in the immediate future "open up" any census records that are not already available. Each census through 1900 has already been made available to the public, and under an existing agreement between the National Archives and the Bureau of the Census, pursuant to the Federal Records Act of 1950, succeeding censuses will be released at 10-year intervals after the records are 72 years old.

This proposed legislation would elevate to the level of a statute and thereby make permanent, the existing arrangement between the Archivist and the Bureau of the Census with regard to the availability of census records for research purposes. If the proposed legislation is not enacted, the census records will continue to be made available after 72 years—the terms of the existing agreement.

**SEVENTY-TWO YEARS RELEASE DATE REASONABLE**

We believe this 72-year release agreement represents a sensible and well-balanced approach to the issue of public access to these records,

and we have strongly opposed recent efforts aimed at terminating the agreement and restricting access to census records.

In light of these repeated efforts, however, we have also concluded that positive action is necessary to insure that the invaluable documentation of our past contained in these records remains available to the citizens of this country. This point needs to be emphasized. The question is not whether 70, 72, 75, or some other number of years represents a reasonable point at which to make such records containing personal data available. It is under what conditions those records will ever be made available.

#### CENSUS RECORDS INVALUABLE DOCUMENTATION FOR RESEARCH

Second, although the point has been made many times in the past by representatives of the National Archives as well as representatives of historical, genealogical, and other interested groups, I want to reiterate how invaluable the documentation contained in census records is to the Nation, and its importance to our society, which is why we feel so strongly that these census records should be open to the citizens of this country after the passage of a reasonable interval.

The important research for which the documentation is used varies widely. For example, population census schedules have been used in studies relating to slavery, demography, ethnic groups, social conditions, and occupations. During the last 15 years there has been a great upsurge in the use of census data by historians for documenting the movements of Americans to take advantage of opportunities—the movement westward from the seaboard, the movement of blacks north during the period of rapid industrialization following reconstruction, and the manner in which early immigrants found their way into the labor force. The 1900 and later census returns will be important in documenting the great wave of immigration which occurred after 1880, the shift of population from farm to city, and the political, social, and economic changes accompanying these movements. These are important problems that historians are studying; and we and others want to insure that such studies continue, for the more we know about how these processes have worked in our past history the better we can understand them in the present.

Census records are also used extensively for genealogical, biographical, and legal research, and for studies in political science such as those dealing with the correlation between the ethnic composition of townships and voter preference. The researchers who use this material come from every part of the United States and represent a wide range of scholarly interests. In pursuing these research interests, individuals of necessity focus on copies of the original census schedules and not simply on statistical compilations. Researchers are continuously seeking the answers to new and complex questions which were not even considered when the census occurred.

Consequently, abstracts prepared by the Census Bureau at the time the census was taken cannot predict, let alone satisfy, the researcher requirements of a future generation of historians, emphasizing the importance of making the census schedules themselves available. Additionally, although in theory the Bureau can provide tailored statistical abstracts in almost any area of interest, those are very expensive,



and, traditionally, historians and other researchers prefer to do the necessary factfinding and analysis themselves. It is doubtful that a Government monopoly on such research is in the public interest.

While it is recognized that earlier census returns are extremely valuable because they are in many instances the only data available, more recent census records are equally important even though other sources containing similar data exist. Besides being of value in and of themselves, the more recent or 20th Century returns provide an excellent starting point for studies that will eventually utilize other valuable sources. Without census records to provide the vital link to these outer sources—in many cases the sampling base—many studies would be difficult or impossible to undertake. Consequently, the more recent returns are of no less interest to historians and other researchers because of the availability of similar data.

#### GENEALOGICAL RESEARCH

In addition, I would like to say a few words on behalf of genealogists and genealogical research. I speak not as a genealogist, let me note, but as an historian and an archivist. In recent years I have had many dealings with genealogists and I have been impressed by their dedication, their integrity, and the skill with which they carry out their research. Genealogy has become a highly professional field.

As a result, "the intersection of the new social history and the new genealogy"—as the distinguished historian Samuel P. Hays has put it—is increasingly blurring the distinction between genealogist and historian. Genealogical research today, which depends heavily upon such sources as census records, is neither amateurish nor frivolous; it is an important tool for exploring our Nation's past.

#### 1952 AGREEMENT BETWEEN THE NATIONAL ARCHIVES AND THE BUREAU OF THE CENSUS

I am certain that it comes as no surprise if I say that there is a difference of opinion between the National Archives and Records Service and the Bureau of the Census on the desirability of making older census records available. The details of our relations on this issue were presented in our testimony before the House subcommittee, and I doubt if it is necessary to repeat them. Suffice it to say that by agreement of the Bureau of the Census the 1870, 1880, and the surviving parts of the 1890 censuses were opened to research 72 years after each census was taken. This 72-year rule was formalized in a written agreement between the Archivist of the United States and the Director of the Bureau of the Census in 1952. Controversy between the two agencies is relatively recent, beginning at about the time the 1970 census was taken and revolving about the question of opening the 1900 census records. Those records were opened, although 1½ years late. We understand the position of the Bureau of the Census on this issue, and we believe they understand ours.

We have, as the cliché goes, agreed to differ on the matter. Our experience over the last 30-odd years in making census records available and in assisting researchers in their uses has led us to conclude that something in the neighborhood of 72 years is a reasonable period for making the material available.

“CONTRACT OF CONFIDENTIALITY” ARGUMENT SPECIOUS

This brings me to my fourth point, which is that we need to carefully examine the arguments being put forth for keeping the records closed. Generally they have been based upon one or a combination of the following: A breach of the “contract for confidentiality” contained in the applicable census statutes; invasion of an individual’s privacy; or a belief that people will be less willing to supply data to the census enumerators if they know the information will be made available to qualified researchers 72 years hence.

The “contract for confidentiality” argument assumes that there was, and is, a provision of permanent confidentiality for the information supplied. This assumption in turn is based upon an interpretation of previous laws governing the use by the Census Bureau of the information obtained.

We do not believe that the “contract for confidentiality” contained in the census statutes was intended to be a contract for confidentiality in perpetuity. The “contract” was, and is, an assurance to the American people that the information provided to census enumerators will not be used by other branches of the Government for “purposes of taxation, investigation, or regulations.” This is what respondents are concerned about—the sharing of census data among Federal agencies—or even with local agencies—now, not the fact that 72 or 75 years from now individual returns will be the subject of historical research. These are really two separate concerns. We understand and support the need for confidentiality to protect adults who supply data from having it misused. But the pledge of confidentiality to an individual under these circumstances should not be construed to mean that the data should never be made available for historical or other legitimate research after a suitable period of time.

The key point here is that the assurances are being made to adults to protect them throughout their adult lives. After the passage of 75 years, when the data would become available to qualified researchers, very few of these individuals would still be living, and if they were, the potential for harming them by making the records available for research is virtually nil.

THE NATIONAL ARCHIVES’ PRIVACY POLICY

The issue of “invasion of privacy” is more difficult to examine. We frequently hear generalities to the effect that the release of certain kinds of data on individuals will result in substantial harm or embarrassment to these individuals. It is not possible to say that that will never happen, and if it does happen, it is also not always possible to detect how, or when, or where it happened. I would just like to emphasize that the National Archives has always been aware of the fact that some of the records in its custody contain information of a personal nature. I might add that many of them—for example, IRS records that you were inquiring about—contain data of a much more sensitive nature than the census returns. The untimely release of this data would constitute an invasion of the individual’s privacy and we have always been very careful to protect this privacy. At the same time, we recognize the needs of scholarly research. As keeper of the Nation’s permanently valuable records, we have had considerable experience in

dealing with the twin issues of privacy and access, and our record in these areas—balancing the legitimate need for privacy with the legitimate right to know—is, we feel, an excellent one.

In taking this position we are not unmindful of the privacy dimensions of the issue. It is our view that there is very rarely any reason, other than the protection of individual rights, that should be used to deny citizens access to Federal records created more than a half century ago. It is, however, our usual practice to extend to 75 years the restriction on records containing information about individuals. This policy is reflected in our general 75-year restrictions on records containing information about the physical or mental health, or the medical or psychiatric care or treatment of individuals, or relating to the investigation of individuals.

We believe that this time period provides the necessary protection of personal privacy and is also reasonable from the standpoint of scholarly research. After this period individuals are usually no longer living so historians need not undertake a very time consuming, difficult, and sometimes impossible task of attempting to locate individuals to seek their permission to use information. Similarly, the 72-year period of restriction on population census schedules has also been sufficient in our judgment. Experience has demonstrated both the feasibility and the wisdom of this policy. We would have no objection to increasing the 72 years to 75 years, as provided in the legislation under consideration, as this would bring the restriction into conformity with other restrictions on personal data.

#### NO KNOWN PROBLEMS WITH THE 75-YEAR PRIVACY POLICY

How then do we determine whether this policy sufficiently protects individual privacy? I cannot state unequivocally that the policy has worked without fail, but when I ask our critics to provide an example of where it has failed they are unable to do so. In my opinion, therefore, the way we judge the policy is to look to the citizen himself, or possibly his heirs if you extend the individual's right to privacy to his heirs, for an answer. After years of intensive use of the 1880 census schedules we have never received a complaint about invasion of privacy. It should also be noted that not one complaint concerning the opening of the 1900 census has been received even though they have been used extensively and their availability has been well advertised. This is true primarily because genealogists, historians, and others engaged in research are not interested in focusing upon individuals for the sake of sensation or ridicule, and their findings are usually concentrated on their own families, or are presented in general or quantitative terms. As a result of our experience, we feel the 75-year period is sufficient for protection of privacy. Thereafter, the social needs of the Nation to explore and analyze its past surpass the need to continue to keep the data confidential.

#### CENSUS RESPONSES AFFECTED BY DISCLOSURE UNDOCUMENTED

The argument that census respondents will be less willing to supply information if they know the information will not be permanently sealed from public access has never been documented. This point was addressed in the April 1973 hearings before the Census and Statistics

Subcommittee of the House Committee on Post Office and Civil Service. When asked if they felt that future release of data would affect the willingness of people to furnish the information requested, representatives of the Department of Commerce and the Bureau of the Census stated that they felt it had little impact and in any case the impact would be difficult to measure. Our experience suggests that the release of records after a reasonable period of time does not constitute an invasion of privacy. Nor does it appear that knowledge of the eventual availability of schedules, a fact which has been well publicized by archival, historical, genealogical and religious organizations for over 20 years, affects the willingness of the people to cooperate and furnish information.

The fact that census records are made available after 72 years is no secret to the American people. Since 1941 over one-half million rolls of census microfilm have been sold to universities, city libraries, historical societies, State archives and libraries, genealogical societies, and individuals, making knowledge of the availability of census records and their use very widespread.

The Bureau suggested in testimony before the House on this same bill that the Privacy Act required enumerators to notify individual respondents to the 1980 and future censuses that in 75 years answers to the questions being asked may be made available by the National Archives for research purposes, and that this required notification would have an adverse impact on response rates. Technically, the Privacy Act does not require any such individual notification and we will be glad to provide backup on this point if the committee so desires. Although technically not required under the act, we would not presume to argue with the Bureau's position that they have an obligation to inform each individual of the eventual disposition of the census records. We wonder, however, why this obligation did not manifest itself during the 1960 and 1970 censuses when the agreement providing for eventual transfer and availability was already in effect. We would also like to point out that any notification that the Bureau feels is required, would be required, irrespective of whether or not the bill before this committee is enacted.

#### PRIVACY ACT NOT AT ISSUE

Moreover, I would like to point out that the view often expressed that the release of census data after a reasonable period is not within the spirit and intent of the Privacy Act is simply not supported by the facts.

The act specifically provides for such uses, and in doing so recognizes the very balance—privacy on the one hand, and the public's right to access to its Government's records on the other—that I have been discussing. The records comprising the National Archives of the United States are a unique body of records—less than 3 percent of the total records created each year are designated as permanently valuable, and thus become a part of the Archives. These records are the Nation's memory and her citizens must be afforded the right to make use of them. The preservation of these records alone is not enough.

Ultimately they must be used or their preservation is meaningless. Our history being a history of men and women, and our Government's

records and documentation of the interaction of the Government with its citizens, it is a rare record indeed that does not contain some information about an individual. If the census records were to be closed because they contain information about individuals, how many other historically valuable records would be subject to the same special treatment?

#### RESTRICTED ACCESS TO CENSUS RECORDS A DANGEROUS PRECEDENT

It seems to us that in addition to removing a specific set of valuable records from the realm of historical research, the closing of census records would set a very dangerous precedent thwarting the original legislation creating the National Archives, and the Federal Records Act that insures that all records are eventually made available.

Finally, based on our long experience with records of a sensitive nature, we believe that the bill under consideration provides for a reasonable period of time to pass, and for reasonable safeguards before records are made available to qualified researchers, and in so doing protects individuals privacy while at the same time insuring that this invaluable documentation can eventually be used for important research.

Consequently, we strongly advocate the balanced approach which we have carefully followed for years, and which H.R. 10686, if enacted, will elevate to statute.

I must express my feeling, however, that it is unfortunate that it has apparently become necessary in the case of population census records to enact specific legislation to reinforce and insure continuation of a sensible and well thought out policy based upon recognized legal authority.

#### STATEMENT OF SUPPORT FOR S. 3279 AND H.R. 10686

However, if specific legislation directed at population census records is necessary we, the General Services Administration and its National Archives and Records Service, encourage early passage of the bill. It would be detrimental to the interests of economists, genealogists, historians, political scientists, and the thousands of individuals who use these records annually to continue this controversy longer, and a clear statement of congressional intent in support of the principles I have discussed will resolve the issue once and for all.

That concludes my formal remarks. If you have any questions, I will be happy to try to answer them.

Senator Moss. Thank you, Mr. O'Neill.

#### PERSONAL RECORDS MAINTAINED BY THE NATIONAL ARCHIVES

You mentioned that the Archives maintained other kinds of personal records which are generally available after 75 years.

Could you tell me to what kinds of records you are referring?

Mr. O'NEILL. These would include, for example, pension records, which are another very valuable source of historical research. They would include the census records, of course, and would include passenger lists on individuals arriving at places like New York, Philadelphia. Boston. New Orleans.

Again these are enumerations of individuals and families, and where they originated in Europe, for the most part.

Senator Moss. 75 years is sort of the accepted length of time, although the agreement goes to 72 years, I understand?

Mr. O'NEILL. That is correct. Substantively they are the same.

Senator Moss. If this bill were enacted, it would extend that agreement from 72 to 75 years?

Mr. O'NEILL. Yes.

#### LEGISLATION REQUIRED TO ABROGATE THE 1952 AGREEMENT

Senator Moss. Since you are proceeding under this 72-year policy, it would require new legislation to lock up the records, and prevent their being made available, would it not?

Mr. O'NEILL. That is correct, Mr. Chairman.

Senator Moss. Do you have records that under the 72-year policy have not been made available yet?

Mr. O'NEILL. You mean census records?

Senator Moss. Census records.

Mr. O'NEILL. Well, the 1910 census, of course, and subsequent censuses through 1950, which are the census records we have.

Presumably the 1910 census records will be made available under present policy in 1982, or if this legislation is passed, in 1985.

#### ABUSE OF CENSUS INFORMATION UNLIKELY

Senator Moss. Quite apart from complaints about access to census schedules, are you aware of any instances in which individual names have been published, or otherwise disseminated to the possible detriment of those people?

Mr. O'NEILL. No, Mr. Chairman, I am not. This is something we have given a great deal of attention to.

As I indicated in my statement, the use of this material is very, very extensive, and it has been extensive for a great many years. I am not aware of such an occurrence. We received letters too, and they are very voluminous, but they are all in the other direction.

Senator Moss. Director Barabba was quite concerned that when a person requests the name of a particular family or individual, he gets a sheet with additional names on it.

Is this an unavoidable thing, and is there evidence of misuse in this manner of responding?

Mr. O'NEILL. I know of no evidence of misuse, but again I could not guarantee it. I think we are dealing with probabilities here rather than metaphysical absolutes.

The paper records, the schedules themselves on which enumerators listed the information, were destroyed, and this was done with the permission of National Archives after they have been microfilmed. So the record copy that comes to the National Archives is a microfilm.

Individuals who come, and who meet our criteria for access to the 1900 census, are permitted to use those particular films pertaining to their research. There is no way that one can say "only look at the top line on the film."

For one thing, we do not know that what the man is looking for is on the top line. The individual really has access to what is on each given frame of film.

In order to obtain a copy for genealogical purposes, and that is the most frequent use, it has to go through a microreader printer. It may be technically feasible to block out portions of the page, I would be happy to look into that.

Frankly, it seems to me to be extremely expensive, and probably very impractical, considering the volume of researchers and the relatively limited size of National Archives staff. It would cost a great deal of money.

#### REGULATIONS FOR THE RELEASE OF THE 1900 CENSUS

Senator Moss. The Director suggested that you publish in the Federal Register and solicit public comment on your policies and regulations governing access to census records.

Is there any reason why that could not be done if this legislation is enacted?

Mr. O'NEILL. No reason whatsoever.

I think what Mr. Barabba was referring to was last fall when we made alterations in our regulations and procedures for handling the 1900 census, changes which we felt we were compelled to make to be consistent with the letter as well as the spirit of the Freedom of Information Act. At that time we felt we were soliciting the views of the principle critic by soliciting the views of the Bureau of the Census.

We did write to the Bureau, and asked their views in advance of putting these regulations into effect.

The Bureau, for reasons of its own, declined to give a substantive comment on them. Our regulations were published in the Federal Register.

I think Mr. Barabba's point was that they were not published for comment.

We would have no problem on this.

#### SALE OF MICROFILMED CENSUS RECORDS

Senator Moss. What has been your experience on the sale of complete censuses to private institutions?

Mr. O'NEILL. Our experience is largely limited to pre-1900 censuses. The one census in greatest demand has traditionally been the 1880 census.

My recollection is that we have sold or distributed in this way something like 500-odd sets of the 1880 census. These go essentially to libraries and genealogical societies. Individual rolls may go to individuals who are working on their own particular family history. There is great interest in it, Mr. Chairman.

Senator Moss. Would that policy continue essentially the same if this legislation were enacted?

Mr. O'NEILL. I think we would want to consider very, very carefully all the ramifications of such a distribution of the census material in order to see that some guarantees, to prevent misuse of material, would be built into it.

We would certainly consider it, though.

Senator Moss. Thank you very much, Mr. O'Neill and Mrs. Weiher.

We appreciate your appearance and your testimony which clarifies the problem which must be resolved on this matter.

Mr. O'NEILL. Thank you.

Senator Moss. We have one more witness, Dr. R. Christian Johnson, Center for Population Research, Georgetown University.

We would be glad to have you come forward, Dr. Johnson.

I understand you will be able to summarize this for us.

We will put the entire statement in the record so we have it in full.

**STATEMENT OF DR. R. CHRISTIAN JOHNSON, RESEARCH ASSOCIATE, CENTER FOR POPULATION RESEARCH, GEORGETOWN UNIVERSITY, WASHINGTON, D.C.**

Dr. JOHNSON. Thank you, Mr. Chairman.

I appreciate the invitation to appear before you and give my testimony.

I am a demographer, historian, and social scientist.

I am, by all means, an interested party with respect to this legislation.

I have had an opportunity to consider the matter of confidentiality as well as the matter of the substance of the research possibilities contained in the manuscript census schedules.

Confidentiality is not a matter with which historians are unconcerned. In the case of demographers and social scientists, the confidentiality of the research which they do on human subjects is very carefully and tightly regulated. It is necessary if one is to do research on any human subjects to take the most extreme caution that rights and confidentiality and privacy of these subjects is respected.

I am testifying here as an individual and not on behalf of any organization to which I may belong.

First, I would like to discuss the importance of the census data for social science researchers, and then turn to issues of confidentiality.

**CENSUSES VALUABLE TO THE SOCIAL SCIENCES**

The various publications of the Census Bureau, based on the decennial census of population taken since 1790, have had unquestioned value for those in Government, academic, and business life. In addition, the Bureau has performed special enumerations to the benefit of local governments, agencies of the Federal Government, and scholars.

The 1/100 and 1/1,000 public use samples of the 1960 and 1970 censuses have been extremely valuable to social scientists, among others, and plans are underway to construct further samples of the 1940 and 1950 censuses.

My own research is involved in the design of the sampling for such efforts. Eventually, I would hope that public use samples of the censuses from 1800-1880, 1900, and 1910-30 will also be made. None of these public use samples of the censuses from 1910-50 will include identification of specific individuals in the households included in the samples furnished to those outside the Bureau of the Census.

The Bureau presumably would retain the names of the individuals in order to provide data linkage services to scholars, again with no



identification of individuals to anyone outside the Bureau. The samples thus made available will be of enormous assistance to scholars in demography, history, and the social sciences, helping them describe the changing character of the American population, its fertility, mortality, and migration, as well as other social and economic characteristics.

Understanding of the early 20th century mass immigration, of the Great Depression, of the Second World War, of the baby boom, and the economic recovery after the war, of the great events of the 1960's and 1970's waits in part for the release of the relevant censuses.

Samples lacking identifiers will greatly aid such understanding. Custom research, in cooperation with the Bureau of the Census, will make possible other research, but only the eventual release of the full schedules will enable the kinds of work now being done on 19th century censuses to be continued for the 20th century.

Data from the past censuses, excluding special surveys conducted by the various levels of government and by individual and organized survey researchers, is all we will ever have relevant to American society at any time but the moving present. It is a permanent record of the American people, or at least as many of them as diligent enumerators could reach. Not only historians, genealogists, and demographers, but a wide range of social scientists employ this data.

As special surveys become increasingly expensive and as sources for research funding increasingly hard to obtain, social scientists generally are going to have to use census data to test their hypotheses.

I would like to remark that the use of the census data is increasing. We are not just speaking to present situation, but the anticipated situation in the future. It does not look as though any kind of labor intensive research is going to become any less expensive. Such activities are becoming much more expensive, and the cost is rising much more than the general cost of living.

#### RELEASE OF IDENTIFIABLE CENSUS RECORDS NEEDED

Given the availability of data gleaned of names and specific identifications, as is true of public use samples, and given the willingness of the Bureau of the Census to do special enumerations for researchers, there is still a need to have eventual release of the entire manuscript census of population, including the names of individuals.

The basis for this need is really twofold. First, much research must be done first on a pilot basis that precludes the precise information the Bureau must have to do a special tabulation and, second, the services of the Bureau are not and cannot be free.

There is a "Catch 22" in requiring researchers to specify exactly what they want, when they cannot know what they want until they are able to work with the raw data. Thus, although cooperation between researchers and the Bureau personnel is often possible and helpful, such cooperation cannot provide for either exploratory research or pilot projects which do not feature an already developed research design.

How important is the research which cannot be done without eventually opening the census?

Most such research is concerned with linking census data to data of other kinds which includes the names of individuals. Some research attempting to trace individuals from one decennial census to the next requires longitudinal data. These attempts have not been very successful, and the tracing of aggregations of individuals will undoubtedly achieve the objectives of longitudinal research.

Still, two data sets collected at the same time, such as membership lists of organizations and the census enumeration, can be merged only if names are available.

#### SPECIAL TABULATIONS TOO EXPENSIVE

A great deal of valuable research depends on linking census data, such as age, occupation, household structure, place of birth/residence, race, and sex, with other characteristics. None of this research could be done if post-1900 censuses were closed, unless the researcher had funds to pay for special tabulations.

The second case, the cost factor, is of major concern to those whose research is not funded by grants from foundations, universities, or the agencies of the Federal Government. Historians are often recipients of small grants that do little more than pay their salaries while doing research, if they are able to get grants at all.

Funds for extraordinary expenses, such as paying for special tabulations, are just simply not available at the present time.

Historians typically use student assistants, graduate students, and their own labor and money in order to do historical research.

As a historian over the past several years, I have found it necessary on more than one occasion to simply pay out of pocket for my research expenses, although at the present time I am funded for my research.

There is no economic basis for the suggestion that historians perform the kind of analysis they now do with the 1900 and earlier manuscript census schedules by means of special tabulation requests. The funding situation is better for social scientists other than historians. But again, there are many more scholars than would have the kind of funding necessary to pay the Bureau to do special tabulations.

Availability of public use samples will greatly help some historians whose work does not require the names of individuals, but again such research as could be done without identifiers is only a fraction of all the research which would be both necessary and helpful.

#### CONFIDENTIALITY MORE THAN ADEQUATELY PROTECTED

I would like to comment on the possibility that confidentiality could be protected more with the present legislation, especially with H.R. 10686, than is, in fact, the case with the confidentiality currently protected under any present or contemplated regulations for the protection of human subjects.

I would like to observe here that whatever past transgressions have been made, at the present time there are very stringent protections of living human subjects. However stringent any protection is at present, the protection granted individuals under H.R. 10686 is by far the most stringent of any of my knowledge.

Protection for confidentiality in private situations is total for the expected lifetime of individuals who would respond to the request of the census for information.

I would like to elaborate on that for a minute.

At the present time, whether you are talking about a special survey of census, or any kind of a search, the respondent is the person with whom confidentiality is kept. A respondent for the census taker is almost entirely composed of adults. These adults, you can expect, would be in the neighborhood of 20, 30, 40 years of age.

Seventy-five years after the census was taken, one can expect that these people would be 95, 105, 115 years old, if they were still living.

In my conclusion, I will refer to this again.

#### CONFIDENTIALITY NOT INHERITABLE

I think the confidentiality question has to be very carefully considered. The fact that the census has so raised the question indicates the level of their concern, which I believe is a proper concern. I would comment that the crux of the whole matter is a question of whether we are talking about the confidentiality of living persons or a hypothetical confidentiality which attaches to the deceased.

It is quite true that heirs may have an interest in the doings and statements of their ancestors. However, it is not true that at present in any discussion of confidentiality that the heirs have had some special right to this information or that there have been any procedures at all develop to adjudicate the competing interest of heirs.

Now, if, in fact, we are to hold to the heirability of confidentiality after several generations, there could be hundreds of heirs, some of whom might want to see information released, others might not want to see it released at all. Some heirs might want the information for themselves, and some might not want it for other heirs. In fact, to sort out competing interest involved would be simply impossible.

This is not even to get into the question of whether the heirs could be located after several generations for the purposes of giving their consent.

I might add in cases where confidentiality exists between physician and patient, for example, if the patient dies, the physician may very well tell the children what the patient died of. But again the physician must keep confidence with the patient. That confidence is often with respect to the family.

If you do not want your physician to tell your children what is the matter with you, the physician has an obligation not to do so.

I would suggest then that the pending legislation, especially the House bill, more adequately protect confidentiality than is the case now with any other occasion to consider the matter of confidentiality.

#### MUCH CENSUS INFORMATION AVAILABLE FROM OTHER SOURCES

I would like to also mention just very briefly that it is possible to obtain information contained in the census from other sources. Now, the kind of question that has been most discussed in terms of its being a hot question is the question of the religion of the American people.

Now, in some censuses in the past, this question was asked, but currently it is not asked because it is considered very sensitive. Among the most sensitive of our citizens with respect to this kind of question about religion are those citizens who are considering the possibility that, at some future date, a less democratic government than the one we have now might conceivably decide to round up and confine all citizens of a particular religion. They are afraid if such a list existed that it some day might be used.

I just might say with respect to that very extreme possibility, there are other records which are open right now that indicate the religion of a respondent. Most of our citizens who profess a religion tend to be married in church or synagogue or through officiation of some religious person.

Now, this information on a marriage certificate is filed with the vital registration bureau in several States. This information could be obtained by someone who is determined to do so.

Similarly, information as to a person's occupation, their race, and much other information in the census schedules is part of the public record. Matters of race and birth, for example, are all contained on birth records which are readily available.

If you really wanted to know if a person was of a certain race, you would not go to the census, at least not in the 20th century. In the 19th century, the States did not keep much track of the people, and the 19th century censuses would be a good place to look for such information. They are already open. We are now talking about the 20th century.

The 20th century vital registration is such if a person really wanted to know about a particular individual, he would not go to the census, he would go to the vital registration.

Finally, then, I would like to turn to some of the issues which, in my opinion, are very real and which deserve the attention, if not of this committee, at least of other agencies in the Government and of the general public.

#### CENSUS RECORDS NOT THE CRUX OF THE PRIVACY PROBLEM

First of all, I think that the census is doing and has done an incredibly good job in protecting confidentiality of those who respond to the enumerator. I think also that the requests which are made to the census for information, coming from other Federal agencies, as has been mentioned, are really the crux of the confidentiality question.

Again, very few Federal agencies are interested in information about dead people.

I think their concern is with the living.

I would like to pose a hypothetical example to show you a little more of what I am talking about.

For example, if Patty Hearst would escape now, and would be still at large during the 1980 census, and the enumerator came to the apartment where she was, and she was interviewed and gave her name as Patty Hearst and said her occupation was that of an urban guerrilla, I am sure the information would be of considerable interest to the law enforcement agencies of the country.

I think that, under the present circumstances, you could expect that the census enumerator would keep that information completely confidential, that it would be safe for Miss Hearst to answer, and her concern as to whether she should answer would bear directly on the question of whether the law enforcement agencies would have access to the information.

I think that in all cases, whether we are talking about just simple privacy or whether we are talking about individuals who are being sought by law enforcement agencies, the real crux is whether the FBI will get the information, not whether some historian will be able to look at it some 75 years down the stream.

#### ENUMERATION OF ILLEGAL ALIENS

I think in cases where the census is useful to law enforcement agencies, those are exactly the areas where there is at present an under-enumeration of the individuals who could potentially be enumerated.

When we study the enumerations, we find that certain groups in our society are not fully represented in the census.

Just one example of such group is Spanish-surnamed Americans. At the present time, there is a great deal of concern about illegal aliens, aliens who are not legally in the United States.

I would suggest that the enumeration of such persons would be greatly assisted if such persons were completely sure that their answers would not in any way disadvantage their friends, relatives, acquaintances, or others of the same ethnic group.

I think the cooperation with the census is very definitely conditioned on people's expected outcome for that cooperation. If people feel that they cooperate with the census and then tomorrow the census publishes information, even information about large geographical areas, and somehow this information helps the Bureau of Immigration to round up people, who admittedly are lawbreakers and do not belong in the United States or are aliens, then individuals may not cooperate. Cooperation, if it is thought that this will disadvantage not just individuals but the groups to which individuals belong, may make individuals a little reluctant to cooperate, and I think this is really the area where there is a serious problem with completeness of enumeration. I think that this is the area to which the census itself is paying attention, and I think the problem deserves even more attention.

I would suggest that this is the problem rather than the eventual release of information.

I would just like to summarize and conclude my testimony.

#### CONCLUSION

In summary, I believe that valuable research in history and the other social sciences can be done without specific identification of individuals, yet I also believe that much valuable research could never be done for the 20th century, as it has for the 19th, if the 20th century censuses were to remain closed.

State and local vital registration, open to the public, makes much individual information in the census public knowledge in any case.

Additionally, recent censuses have omitted entirely some of the sensitive questions, such as that regarding insanity of household members. Reliance on heirs to release data is impossible, especially after several generations have passed.

One could never locate them, nor get them to agree among themselves if they could be located.

Promises of confidentiality, made to respondents who are over 20 years of age at the time of the census, can be presumed ended some 75 years later when the very youngest respondents would have to be over 95 years old, if still alive.

I might just add that since the censuses taken at the present time are compiled from machine readable data, it would be entirely possible for the Social Security Administration to inform the census, Bureau of the Census, of those individuals who are still alive and are over 100 years of age, and since we are talking after 1960, not about microfilm but machine readable data on computer tape, it would be entirely possible to protect without question confidentiality for any person who was still alive.

This possibility does not exist for 1950 and earlier when data is preserved on microfilm and is not presently machine readable. If data is on microfilm, it means you cannot use microfilm without the possibility that you would inspect households containing someone who could be living.

Again, after 75 years have elapsed, it is unlikely that any respondent would be alive.

The release of the 1910 census in 1985, taking into account the increasing number of the aged, would still only expose 1 living American in over 12,000, or 0.0078 percent, to possible, but not even likely, exposure of their answers to questions 75 years earlier.

One can see that this would not be true for the 50-year wait, which would, in my opinion, violate confidentiality for a significant number of people.

The best course, then, for confidentiality, privacy, and our need to do research on our own society would be to adopt H.R. 10686.

I would be more than happy to answer questions or provide any other information which may be desired.

Senator Moss. Thank you, Dr. Johnson. We appreciate that.

#### THE PROBLEM OF ETHNIC UNDERCOUNTS

You pointed out certain groups are disproportionately underreported in the census, such as blacks, Spanish-speaking Americans, the poor, and others.

As a social scientist, could you elaborate on the reasons for that in your judgment?

Dr. JOHNSON. There are two basic reasons.

One of them is that the individuals who are most mobile in our society, move around a lot, tend to stay in different kinds of housing than do other people. That is to say, if the enumerator were to call on a hotel for transients or were to mail questionnaires to a hotel for transients, it would be rather difficult to assure that everyone who were actually living at the hotel, checking in this week, checking out next week, got their mail or got called on.

I think when people organize themselves in households in one-family dwellings, it is not difficult to call on them or send mail to them. For anyone who is a transient, it is automatically difficult to do.

I think, secondly, that those people who are living, not so much as transients, but who are living with other people, are often underenumerated.

For example, when you have unemployed persons between the ages of 15 and 25, they tend to—even if they do not leave a city—tend to change residence within the city a great deal.

So, just in terms of the physical location of people, some of these groups are very hard to reach.

In terms of cooperation with the census, people are very suspicious of the Government, sometimes to the extent that they have reason to be.

Now, with regard to welfare regulations, Bureau of Immigration, law enforcement agencies, I think it is not difficult at all to think of even law-abiding individuals having the feeling that they do not really want very much information known by the authorities. The more disadvantaged you are, the more poor, the more presumptively discriminated against, whatever, the less likely you are to want any information to come out. And again when people are not well known to the person who answers the door, or who fills out the form, information is often lacking.

So, for example, if a person is a lodger or an occasional dweller in a household, the assumption may be very easy that this person has been enumerated elsewhere, or we do not really know the information, or we just forgot to put it down, and these circumstances multiply.

I think this is some of the basis for the underenumeration. Some people will outright refuse to answer questions as a matter of principle, feeling that it is none of the census taker's business.

I think this feeling is widespread among more highly educated segments of the population.

Yet I think you can see from enumeration results that college educated Americans are not noticeably less represented in the enumeration than others. I think refusal to answer on the basis of "none of your business" is a relatively small component of total underenumeration.

I think the mechanical thing of getting to people, which the census certainly works on, is another factor. I think the crucial area that deserves a lot of attention is the feeling on the part of some individuals that an answer will be to their disadvantage.

#### CENSUS RECORDS ARE A UNIQUE RESEARCH RESOURCE

Senator Moss. I was intrigued by your statement that the census is the only source of data which presents a picture of the entire country at a single point in time.

What significance does that have for research purposes?

Dr. JOHNSON. I like to use an example. It is perhaps familiar to you as a Senator from Utah.

The Church of Jesus Christ of Latter Day Saints maintain genealogical records which are just staggering in their immensity.

Anybody who has done research in the area is just overwhelmed by the immensity of these records. Yet, genealogical records are not a

record at any point in time—that is to say there are events relative at all different times, all put together in a family tree.

Similarly, if more than several people fill out information on the same ancestor, well the sheets for these people—well, each one that is filled out is kept in the record.

So for a researcher who would want to know how many people are born during any given year, so you can compile birth rate, genealogical information as it stands cannot really be used, because there are all sorts of births recorded.

Now, I have a research project underway in which I am going to take a sample of those people enumerated in the 1880 census in the State of Utah. Now, with the names that I get from that sample, I could then easily look up the names of genealogical records, and thus splice into records and determine how many people, for example, were born in a given year who were, say, for example, members of the Church of Jesus Christ of the Latter Day Saints, and also those who were not members, those who had this occupation, and those who had that.

By cutting into genealogical records it is possible to use them in ways that are not presently possible.

So the census, if you are interested in information on an individual, you might go elsewhere. But if you are interested in what the United States was like in, say, 1880 or 1900 or 1910, the census is the only conceivable source of answer to that kind of question.

#### ADVANCES IN RESEARCH METHODS USING CENSUS DATA

Senator Moss. How rapidly is research methodology developing?

In other words, is it possible to predict all or most of the research uses for census records, say, 10 or 25 years from now?

Dr. JOHNSON. Well, it would be very difficult. I would like to mention just one technological advance for anyone who has worked with microfilm, it is just a stunning change.

To the present time most research with microfilm was done on machines that have hand cranks, just sort of get the microfilm, and you get it scratched as people use it. It is difficult to sit at these machines, hard to see. Equipment has been radically improved in the last couple of years.

So, for example, now it is possible to get microfilm in cassettes. You put a cassette into a machine and automatically advance, your hand never touches the film, the film never gets scratched. It is possible to manipulate the film so that an electric eye will count the frames of film as they go by so you can even tell where you have been on the microfilm, return to the same place.

Just technology of microfilm handling has changed to make it possible to do things that would have been incredibly difficult in previous times.

My current research is connected with the question of procedures for sampling materials that is contained on the microfilm, and putting it into machine readable form.

Technology for doing this has just been available in the last couple of years. So one of the barriers to research on the census is the immensity of the data. So far most of the research on the census has been applicable to small local areas.



Someone, for example, may look at everybody who lived in a given town in a given time, but as technology makes it possible, people are going to want to characterize the experience of the entire country.

So, for example, historians who use literary sources have been able to characterize the history of our country. Those historians who make use of quantitative data such as can be made available through the census, have been able to do only very local histories.

It is going to be possible in a couple of years for those two kinds of historians to work together to construct a much better picture of what, in fact, has been the historical course of our society.

I think we are on the verge of some very exciting research, and research which will actually go beyond historians to include other social scientists as well.

When you began to make available quantitative data which economists and sociologists have often wished they could collect, when this data becomes available as samples of the previous manuscript censuses are made machine readable, put into a form that can be used with a computer, vast numbers of social scientists are going to want access to this information.

Again, if you are concerned to keep it absolutely confidential forever, this could never happen.

That is to say, that the potential could just simply never be realized.

It is true some research could be done, but actually very little of it would be possible.

Senator Moss. Thank you very much, Dr. Johnson. We certainly appreciate your testimony and your description of the possibilities of research using data of this kind that we have been discussing in this bill.

Dr. JOHNSON. Thank you.

Senator Moss. That completes our list of witnesses.

I understand Mr. Barabba wants to clarify a minor point.

Mr. BARABBA. If I might, Senator, Mr. Johnson left the impression perhaps that in the machine readable age of the 1980's, that we would be able to get a list of centenarians from the Social Security Administration, and match it against a list of names in the 1980 census, and therefore not release those particular records. The name of the individual is never put into the computer in the census. That is not made machine readable.

In addition to that, the impression was left that we ask for social security number, which we also do not ask for.

Senator Moss. Thank you. I am glad that is clarified for the record. That is very good of you to give us that information.

That completes our hearing this morning. Unless there are further matters called to our attention, we will start with the markup of the bill shortly.

Thank you all very much for coming.

This hearing of the Subcommittee on Census and Statistics is adjourned.

[Whereupon, at 12:21 p.m., the subcommittee adjourned subject to the call of the Chair.]

[Prepared statement of Dr. Johnson and correspondence received from interested parties follow:]

Statement of  
R. Christian Johnson, Ph.D.  
Research Associate  
Center for Population Research  
The Kennedy Institute  
Georgetown University  
(Affiliation given for identification purposes only)

Before the  
Senate Post Office and Civil Service Committee

August 2, 1976

I am a demographer, historian, and social scientist. I received my Bachelor's degree in chemistry and philology, my master's degree in the history of science, and my doctorate in American history at the University of Wisconsin. I have completed the training course in demography during two years of postdoctoral work at the Office of Population Research at Princeton University, and have also visited at the Center for Population Studies at Harvard University and the Carolina Population Center at the University of North Carolina. I am currently a research associate at the Center for Population Research of the Kennedy Institute, Georgetown University. My research has included the history of the oral contraceptive pill, historical comparisons between those arrested for middle class crime and the population of New York City, as enumerated by the federal census, and most recently, the design of procedures for generating machine-readable, computerized Public Use Samples of the households enumerated in the manuscript census schedules. My future research will depend heavily on the manuscript census schedules, both those presently released to scholars (1790-1900) and those whose release at some future date is anticipated. I expect to participate in research which would require the cooperation of the Bureau of the Census and also in research where such cooperation would be difficult and

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where the availability of the microfilmed manuscript census schedules directly to scholars would be of great assistance. I have had the opportunity to consider the matter of confidentiality in the course of my professional work, including both in the conduct of my research and in the preparation of grant applications calling for information on the human subjects of such research. This is the basis for my interest in the legislation now before this committee. I am testifying as an individual and not on behalf of any organization to which I may belong. First, I would like to discuss the importance of the census data to social science researchers and then turn to issues of confidentiality.

The various publications of the Census Bureau, based on the decennial censuses of population taken since 1790, have had unquestioned value for those in government, academic, and business life. In addition, the Bureau has performed special enumerations to the benefit of local governments, agencies of the federal government, and scholars. The 1/100 and 1/1000 Public Use Samples of the 1960 and 1970 censuses have been extremely valuable to social scientists, among others, and plans are underway to construct further samples of the 1940 and 1950 censuses. My own research is involved in the design of the sampling procedures for such efforts. Eventually, I would hope that Public Use Samples of the censuses from 1800-1880, 1900, and 1910-1930 will also be made. None of these Public Use Samples of the censuses from 1910 through 1950 will include identification of specific individuals in the households included in the samples furnished to those outside the Bureau of the Census. The Bureau presumably would retain the names of the individuals in order to provide data linkage services to scholars, again with no identification of individuals to anyone outside the Bureau. The samples thus made available will be of enormous assistance to scholars in demography, history, and the social

-3-

where the availability of the microfilmed manuscript census schedules directly to scholars would be of great assistance. I have had the opportunity to consider the matter of confidentiality in the course of my professional work, including both in the conduct of my research and in the preparation of grant applications calling for information on the human subjects of such research. This is the basis for my interest in the legislation now before this committee. I am testifying as an individual and not on behalf of any organization to which I may belong. First, I would like to discuss the importance of the census data to social science researchers and then turn to issues of confidentiality.

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sciences, helping them describe the changing character of the American population, its fertility, mortality, and migration, as well as other social and economic characteristics. Understanding of the early twentieth century mass immigration, of the great depression, of the second World War, of the baby boom and the economic recovery after the war, of the great events of the 1960's and 1970's waits in part for the release of the relevant censuses. Samples lacking identifiers will greatly aid such understanding; custom research, in cooperation with the Bureau of the Census, will make possible other research; but only the eventual release of the full schedules will enable the kinds of work now being done on 19th century censuses to be continued for the 20th century.

Data from the past censuses, excluding special surveys conducted by the various levels of government and by individual and organized survey researchers, is all we will ever have relevant to American society at any time but the moving present. It is a permanent record of the American people, or at least as many of them as diligent enumerators could reach. Not only historians, genealogists, and demographers, but a wide range of social scientists employ this data. As special surveys become increasingly expensive and as sources for research funding become increasingly hard to obtain, social scientists generally are going to have to use census data to test their hypotheses. We are not talking about a few historians or a few demographers -- we are discussing the research needs of major sectors of the academic community.

Given the availability of data cleaned of names and specific identifications, as is true of Public Use Samples, and given the willingness of the Bureau of the Census to do special enumerations for research, there is still a need to have eventual release of the entire manuscript census of population, including the names of individuals. The basis for this need

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is really twofold: first, much research must be done first on a pilot basis that precludes the precise information the Bureau must have to do a special tabulation and second, the services of the Bureau are not and cannot be free.

There is a "Catch 22" in requiring researchers to specify exactly what they want, when they cannot know what they want until they are able to work with the raw data. Thus, although cooperation between researchers and the Bureau personnel is often possible and helpful, such cooperation cannot provide for either exploratory research or pilot projects which do not feature an already developed research design. How important is the research which cannot be done without eventually opening the census? Most such research is concerned with linking census data to data of other kinds which includes the names of individuals. Some research attempting to trace individuals from one decennial census to the next requires longitudinal data. These attempts have not been very successful, and the tracing of aggregations of individuals will undoubtedly achieve the objectives of longitudinal research. Still, two data sets collected at the same time, such as membership lists of organizations and the census enumeration, can be merged only if names are available. A great deal of valuable research depends on linking census data, such as age, occupation, household structure, place of birth/residence, race, and sex, with other characteristics. None of this research could be done if post-1900 censuses were closed, unless the researcher had funds to pay for special tabulations.

The second case, the cost factor, is of major concern to those whose research is not funded by grants from foundations, universities, or the agencies of the federal government. Historians are often recipients of small grants that do little more than pay their salaries while doing research, if they are able to get grants at all. Funds for extraordinary expenses, such as paying for special tabulations, are just simply not available at the present time. Historians typically use student assistants, graduate students, and their

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own labor and money in order to do historical research. There is no economic basis for the suggestion that historians perform the kind of analysis they now do with the 1900 and earlier manuscript census schedules by means of special tabulation requests. The funding situation is better for social scientists other than historians but, again, there are many more scholars than would have the kind of funding necessary to pay the Bureau to do special tabulations. Availability of Public Use Samples will greatly help some historians whose work does not require the names of individuals, but other historians will find it impossible to function should the censuses of 1910 and after be permanently closed. It is difficult to imagine that the Bureau of the Census would be able to cope with the demands on its staff if all of the research presently being done on the 1900 and earlier censuses were to be continued for 1910 and after, with the Bureau personnel serving as the agents of the researchers. Much research is dispensable, I admit, but closing the census schedules forever to scholars whose work depends on them will choke off the great majority of historical projects, similar to those now underway on earlier censuses, for the 20th century. This would be true except for the very few who could get their research funded at the necessarily high level required by special tabulations.

Historians and social scientists generally like to have data made available to them today, if not yesterday, and future delivery of information often frustrates scholars who must wait to perform desired and valuable research. Yet this condition of having to wait for the archives to open collections of papers is common for historians, and other social scientists are learning to wait as well. The 75 years specified in H.R. 10686 would not prevent, only delay, historical research. The regular and orderly decennial release of censuses in mid-decade, with the 1910 census being released in 1985, would enable scholars to anticipate and plan for the use of this data. This feature of the bill, however, has virtues which, in my opinion, totally outweigh any inconvenience to waiting scholars. The only real

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objection to opening the manuscript census schedules after 75 years has been potential violation of privacy and confidentiality; I would argue that the 75 year interval totally protects both privacy and confidentiality within reasonable limits and that 75 years, rather than 10, 50, or some other number, is uniquely suitable for the protection of individual privacy and confidentiality.

Confidentiality is ordinarily between the person who supplies information and the person(s) who receive it. Third parties may be interested in such information, may be embarrassed by it, or may even be disadvantaged by it, but confidentiality as it applies to the doctor-patient relationship or the researcher-subject relationship is a right which inheres only in the patient/subject. There is no such thing as a right of confidentiality held by a third party and, except for minors or incompetents, no third party can release confidentiality obligations on the part of the physician or researcher. If the death of the patient/subject occurs, the children or relatives of such individuals may be more interested in the information which had been held confidential than the general public or other researchers, but the information was confidential from relatives as much as strangers and, unless otherwise provided for in law, the death of an individual would not release confidentiality more for relatives than for anyone else.

The secondary use of data files, or the use of data for purposes other than those stated at the time the data was collected, has received little attention from those who have discussed the doctor-patient relationship or those whose concern has been research on human subjects, whose informed consent must be obtained prior to collection of data. A subject may consent to supply information to be used in Study X, but has that subject also given implied consent to have such information used by the same researcher for Study Y or by another researcher for Study Z? My conclusion is that secondary analysis of data by the original researcher requires



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renewed consent unless identification of individuals is removed. No researcher can ethically supply any other scholar with data containing individual names or other identification for any purpose unless renewed consent is obtained. Obviously, the only secondary analysis possible under these privacy and confidentiality requirements would be either where renewed consent was obtained or where analysis was done from a data set lacking names or other individual identifiers. This seemingly rigid prohibition would apply to the question of opening data collected for the purposes of the Bureau of the Census; barring renewed consent, only Public Use Samples and special census studies which do not reveal individual names could be done. All of the above, however, applies solely to living persons.

Literary ownership of published materials (copyrights) may be inherited on the death of the author, as may be unpublished letters, diaries, or other written materials. The manuscript census schedules, however, are not such literary material and it is not at all clear that the information provided in them can be inherited or can be said to belong to any individual other than the person in a household who actually responds to a census taker's questions or who fills out a self-enumeration form. Other individuals named in the form, like other individuals named in a diary or in a patient's discussion with a psychiatrist, do not have the same standing as does the responding individual. Consent to participate in the census or in any other survey on behalf of a household is given by the person who answers the questions, not by the other members of the household. If consent is not given by members of the household other than the respondent, confidentiality would apply only to the person who responds. Privacy similarly cannot apply to anyone other than the individual who responded to the census taker; no persons who are not slandered or libeled have a legal right not to be named by another person for publication. This does not mean that non-respondent individuals

-H-

in enumerated households have no interest in the matter or that they deserve no respect for their privacy. It only means that, as confidentiality and privacy have been treated in the past and as they are treated in every enumeration up to the present time, promises of confidentiality are made to the person who responds and, in the case of surveys, informed consent is secured from the person who responds. It would be neither possible nor appropriate to seek release of confidential data from a person other than the one who supplied it. The death of the individual, from whom confidential information has been obtained, to whom promises of confidentiality have been made, and to whom privacy is owed, does release confidentiality and the requirements of privacy under the present use of these terms. It is always possible to create new obligations of confidentiality, but no heir can give informed consent for a deceased relative and, up to the present, no heir can presume special standing to share the confidences of the deceased on a basis different from that of anyone else. Suppose, for example, that one heir decided to release information which another heir did not want released. Would they vote? Would the matter have to be decided in probate? Or does the information belong to the public, barring any extreme medical or psychiatric considerations?

The present practice of the Bureau of the Census in releasing information on application of all the living persons named in an enumerated household (or on presentation of a death certificate if a person named is deceased) does not take into consideration the promise of confidentiality uniquely made to the respondent. One would have to obtain permission from the heirs of the respondent if heritable confidentiality were to be consistently maintained. If the person who gave the information to the enumerator

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were dead of a certainty, such as provided for by a death certificate, then the promise of confidentiality would have to be released by his or her heirs if it still continued in force after the respondent's death. One can have all due consideration for the interests of the persons named by the respondent to the enumerator; still, either confidentiality ends with the death of the respondent to whom the promise of confidentiality is made (or who gives informed consent to supply the information being requested), or the heirs of the respondent and not the other persons named by the respondent have the right to release the confidential census information. I would argue here that the confidentiality of census returns ends with the death of the respondent.

Some might object that there are the interests of the children of respondents to consider and that they deserve protection of their privacy with respect to the information contained in the census schedules. Two primary factors make this objection invalid: first, children and other heirs (who may number in the hundreds after several generations) may well have conflicting interests and needs for privacy and confidentiality and second, most information contained in the manuscript census schedules is also available in public records. The first of these factors, that of a multiplicity of heirs and possible conflict among them, weighs heavily against any objection to the end of confidentiality with the death of the census respondent. One can well imagine that some heirs would want some information about an ancestor or parent kept from other heirs. The situation quickly becomes impossible and the legal implications, with endless litigation in prospect, are staggering. The second factor, that of availability of the information from other public sources, finally ends any claim the information in the manuscript census schedules might have to special status as the secrets of individuals. Vital registration

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of births, deaths, marriages, and divorces in the United States has now reached a point where one would not search the census for specific information but would turn instead to the open, public documents which are cheaper to search, easier to use, and completely open to public scrutiny. Information such as occupation and even religion (which is considered too sensitive to put to census respondents) is contained in registration documents completely open to the public from the moment they are generated. There is simply no reason why anyone bent on uncovering privacy or violating confidentiality would choose to snoop into the manuscript census schedules when it would be easier, cheaper, and more rewarding to look elsewhere. Why wait 75 years when you can have more exciting material today? Criminal convictions might be embarrassing, yet court records are public enough to make generations of heirs blush at their ancestors' transgressions. The unique feature of the manuscript census schedules which makes them valuable for social scientists is that the enumeration freezes American society at a point in time, with people grouped in households and sharing characteristics vital to an understanding of that society. The old censuses are not worth anything as secrets, but they are extremely valuable as a source of scientific data. Nineteenth century censuses are a good source for vital data of births, deaths, and marriages precisely because state registration systems for such events had not yet been perfected to the point where they were complete and reliable. The twentieth century censuses, coming, as most of them did, after states began to take careful note of vital events, just simply are not the best source for such information. And there could be no surprises at revealing a marriage reported to a census taker 100 years after it had taken place when the information had been available to the public in a state's marriage registration system.

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There are, however, confidentiality problems with the data collected by the Bureau of the Census. The Bureau is, in my opinion, properly concerned about confidentiality and does, in fact, have a problem with people refusing to cooperate with enumeration. Estimates of undercounts for blacks, Spanish-surnamed individuals, the poor, and the transient can help to point up areas where reassurances of confidentiality might make a real difference in the complete enumeration of the population. The various federal and state law enforcement agencies, county welfare departments, and administrative agencies everywhere might like to have information from the census to the detriment of people who have been enumerated. Even the publication of data showing concentration of Spanish-surnamed individuals in a geographical area could help immigration authorities. Why, then, would individuals cooperate if they anticipated that their cooperation would work to their disadvantage? Immediate pressures on the Bureau from other government agencies for information about individuals, rather than social scientists who would wait 75 years from the date of the census, pose the real dangers to confidentiality and the cooperation of the citizenry with the enumeration. What assurances of confidentiality would make a real difference to enumeration of the population?

Making it a criminal offense for any person to use census data for the purposes of administrative action regarding individuals or for criminal prosecution or investigation; making any use of such data sufficient cause to bar prosecution or administrative action deleterious to individuals; making it possible for injured individuals whose census data had been misused to sue offending officials in the federal courts; and making it perfectly clear that such was the case through media advertisement campaigns, would go a long way toward helping secure cooperation with the census enumeration. Legal assurance that no identification of individuals

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would be permitted for the lifetime of any respondent is the kind of assurance that would help enumeration. Opening to historians, the response of deceased individuals to census takers at least 75 years after a census was taken, seems most unlikely to deter cooperation with the census. Very few people fear historians, but many more fear federal and local agencies and law enforcement organizations.

Finally, another safeguard for privacy lies in the human subjects committees of universities, foundations, and granting agencies of the government such as the National Institutes of Health. No research involving living human subjects can be done without passing the barriers built into this review system. Informed consent, lack of harm or probable benefit to subjects, and contributions to knowledge and social welfare are all requirements for any research, funded or not, conducted in almost any university. It is difficult to see the need for yet more prohibitions to research when such safeguards exist for data far more damaging than that collected by the census. Any research on living respondents done at any university or funded by any agency of my acquaintance would have to secure consent of such respondents and provide assurance of either no harm or personal benefits outweighing harm. In spite of this, I would favor the additional protection of requiring research on census enumerations more recent than 75 years be done by special tabulation in the Bureau of the Census to give convincing reassurance to those who might hesitate to cooperate with the census.

In summary, I believe that valuable research in history and the other social sciences can be done without specific identification of individuals, yet I also believe that much valuable research could never be done for the twentieth century, as it has for the nineteenth, if the twentieth century censuses were to remain closed. State and local vital registration, open

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to the public, makes much individual information in the census public knowledge in any case. Additionally, recent censuses have omitted entirely some of the sensitive questions, such as that regarding insanity of household members. Reliance on heirs to release data is impossible, especially after several generations have past. One could never locate them, nor get them to agree among themselves if they could be located. Promises of confidentiality, made to respondents who are over twenty years of age at the time of the census, can be presumed ended some 75 years later when the very youngest respondents would have to be over 95 years old, if still alive. A thirty year old respondent would be over 105 years old. Only 1 out of every 30,000 Americans alive in 1973 when the 1900 census schedules were opened would have been over 25 years old in 1900 and could presumably have been a respondent to the 1900 census. The release of the 1910 census in 1985, taking into account the increasing number of the aged, would still only expose 1 living American in over 12,000 (or .0078%) to possible, but not even likely, exposure of their answers to questions 75 years earlier. One can see that this would not be true for the 50 year wait, which would, in my opinion, violate confidentiality for a significant number of people. The best course, then, for confidentiality, privacy, and our need to do research on our own society would be to adopt H.R. 10686.

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CHARLES MORGAN JR
Director
JAY A MILLER
Associate Director
HOPE EASTMAN
Associate Director

August 6, 1976

Committee on Post Office and Civil Service
Subcommittee on Census and Statistics
United States Senate
6206 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator:

H.R. 10686, which is currently before the Post Office and Civil Service Committee, provides for the transfer of census records to the National Archives fifty years after the census. As presently drafted, this bill does not adequately protect the privacy interests of the individual.

Persons are required under threat of criminal penalty to answer census questionnaires. It has been our experience that during every census period our state and national offices are flooded with calls by indignant citizens who believe that the government is asking personal questions which invade their privacy. In the past we have attempted to reassure those callers that their answers are socially necessary and would be held in strictest confidence. If H.R. 10686 is to become law without amendments to protect those essential privacy rights, the ACLU will not be able to give such assurances. Release of identifiable census data will also severely affect the ability of census taking and harm the integrity of the census.

Under the provisions of this bill, census records will be made available as soon as practicable after deposit with the Archives to persons whom the Archivist determines will utilize the materials solely for medical research. Seventy-five years after the census, these records will be available for historical and genealogical purposes.

Do the possible social gains brought about by this legislation justify the risks it places on individuals' privacy? We fear that once the Archivist has authorized the release of identifiable census data controls will be insufficient; the receiver may establish a data bank with access available to others; the receiver or a third party may damage individuals or whole classes of people by discriminatory treatment. Enforcement of the Archive

KATHLEEN MILLER, Administrative Assistant

Vertical list of names and titles on the left margin, including names like 'Morgan', 'Miller', 'Eastman', and various titles like 'Director', 'Associate Director'.



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regulations will become less effective the further the census record moves down the data user's path. Discovery of abuse then becomes more difficult. There are those who argue that the threat to privacy is insubstantial because there are no actual cases where persons have been harmed by the release of census information. This is not a valid defense for allowing such release. Rather, it is to the credit of the Census Bureau that such harm has not occurred because apparently they have not permitted the use of individually identifiable census material.

In our opinion cogent arguments have not been made to support the inclusion of genealogists or historians among persons to whom such records will be made available. Though the productive and beneficial aspect of medical research may be a more valid justification for release of census information, the real need for such information has not yet been demonstrated. For the sake of expediency we must not commit the error of opening up another level of abuse either by authorized persons under this act or by persons whom they would permit access.

We realize that striking the delicate balance between access to information and confidentiality is a difficult task. Thus, we offer the following suggestions which we feel will lessen the dangers that H.R. 10686 poses to individual privacy.

First, H.R. 10686 should specifically supercede present law which permits the Archivist to release government records after fifty years. (44 U.S.C. §2104)

Second, H.R. 10686 regulates the Archivist only. It does not limit or affect the large discretionary power of the Secretary of Commerce provided for in 13 U.S.C. §8. The Census Bureau's concern for confidentiality and its record of protecting citizens' census records has been outstanding. However, the potential threat posed in the release of this required census data must be examined. If it is advisable to prescribe a mandatory seventy-five year minimum for the protection of census records, then such a requirement should apply to all branches of government including the Commerce Department's Bureau of Census.

The last sentence of Section 10 (b) of H.R. 10686 -- information cannot be used to anyone's detriment -- is not sufficiently precise to insure the proper uses of census information. Specific limitations should be developed, such as medical researchers should be prohibited from revealing the subject's name.

Subsection (c) of H.R. 10686 is too vague, confusing and inadequate to insure necessary protections. The condition that "access to and use of information...be subject to limitation approved by the Archivist" must have a mechanism to insure compliance,

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as well as a means for enforcement. We suggest the creation of a review commission composed of the Archivist, Director of Census and others to insure compliance with limitations imposed upon medical, historical and genealogical users and to enforce these regulations by return of information, penal sanctions, or notice to the subject.

Unless H.R. 10686 is substantially amended, we urge its defeat.

Sincerely,

Kathleen Ann Miller  
Administrative Assistant

KAM:cwb

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April 6, 1976

PRESIDENT

Mr. Arthur Eck  
Senate Post Office and Civil  
Service Committee  
Room 6206, Dirksen Office Building  
Washington, D.C. 20510

Dear Mr. Eck:

Enclosed is a copy of the letter which  
Dr. Robert Hill and I sent to Representative Patricia  
Schroeder concerning H.R. 10686.

I appreciate knowing of your concern and that  
of Senator McGee about this legislation and respect-  
fully request that you keep me apprised of legislative  
development in the Senate.

Best wishes.

Sincerely,

  
Eddie N. Williams

cc: Dr. Robert Hill



## National Urban League, Inc.

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*Dr. Robert B. Hill, Director*  
 RESEARCH DEPARTMENT  
 733 Fifteenth Street, Suite 1020, Washington, D.C. 20005  
 Telephone: (202) 783-0220

March 8, 1976

The Honorable Patricia Schroeder  
 Chairperson  
 Subcommittee on Census-Population  
 Post Office and Civil Service Committee  
 1131 Longworth House Office Building  
 Washington, D.C. 20515

Dear Congresswoman Schroeder:

As chairperson and chairperson elect of the Census Bureau Advisory Committee on the Black Population for the 1980 Census, we are writing to express the opposition of our members to H.R. 10686 which, if passed, would:

1. Constitute a federal sanction of the "leaking" of private information; and
2. Discourage citizens, especially minority group and low income persons, from participating in the 1980 decennial census and thereby would adversely affect the ability of the U. S. Government to provide certain benefits to citizens, which are allocated, in part, on the basis of population.

H.R. 10686 proposes to amend Title 13 of the U. S. Code to insure that census records are transferred to the Archives 50 years after each census date and opened to research use 75 years after each census date. As amended and reported by the Subcommittee on Census and Population, House Post Office and Civil Service Committee, this legislation also would open 1920 census records for medical research

Hon. Patricia Schroeder  
March 8, 1976  
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purposes immediately. As a result, the census records of 38 million living Americans, would be available to medical researchers without regard to the confidentiality provisions of Section 9 of the census law and without the consent of the census respondents.

We are familiar with the arguments, advanced by some, to open these records to genealogists, historians, and researchers. Clearly, professionals in these fields could make effective use of census records if they were available. This, however, is not the issue. Whatever needs exist today for such records have existed all along, and we have gotten along quite well without them having been met in the manner proposed. Nor is the issue the matter of trusting the archivist not to disclose confidential information.

The real issue, which poses a clear and present danger in our view, is two-fold:

First, H.R. 10686 would require the U.S. Government to break a promise it made to the American people that their individual census records would remain confidential. Each respondent was assured that the information provided would be solely for statistical purposes and that no disclosure would be made to anyone for any reason.

If the Federal government unilaterally decides to turn its back on this commitment, it will surely risk increasing the already dangerous level of the public's lack of confidence in government and public officials. In addition, such action in today's climate of hypersensitivity about privacy and confidentiality, would be widely viewed as a federally sanctioned "leak" or release of private and confidential information.

Second, H.R. 10686 would adversely affect the rights of millions of Americans to receive and the ability of the U. S. Government to provide certain benefits which are allocated, in part, on the basis of population.

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The Census Bureau has reported an undercount in the 1970 census of 7.7% of the black population (1.88 million persons or 1 out of every 12 Black Americans) and of 1.9% of the white population. Many governmental assistance programs, including general revenue sharing and community development, apportion funds to governmental units and to communities partly on the basis of population. As a result of the population undercount, many communities and millions of citizens are being shortchanged.

One of the major reasons for the population undercount was the lack of confidence many persons had in the government's promise to keep their census records confidential. This was particularly true among minority group and low income persons. In order to overcome this problem and to assure an accurate 1980 population count on which to base assistance program allocations, the Department of Commerce has established a Census Advisory Committee on the Black Population for the 1980 Census and a Census Advisory Committee on the Spanish Origin Population for the 1980 Census.

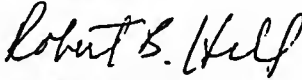
H.R. 10686 would not only undo the work of these Advisory Committees and the Census Bureau, but would exacerbate the census reporting problem by saying, in effect, the Federal Government's promise of confidentiality doesn't really mean anything. Consequently, the undercount might well be greater in 1980 than in 1970, and of course the net effect would be disastrous for the country.

We submit that the issue before Congress should be whether the Federal Government should promise confidentiality in future censuses and not whether it should now renege on its past promises.

Hon. Patricia Schroeder  
 March 8, 1976  
 Page 4

We further submit that this matter deserves a full and broad airing in the nation and in the Congress and should not be finessed through the Congress under procedures which would make a full debate impossible.

Sincerely,



Robert B. Hill  
 Director, Research Division  
 National Urban League  
 Chairman, Census Advisory Committee  
 on the Black Population for the 1980  
 Census



Eddie N. Williams  
 President, Joint Center for Political Studies  
 Chairman-elect, Census Advisory Committee  
 on the Black Population for the 1980 Census

RBH:ENW:dcs

cc: Hon. David Henderson  
 Hon. Paul Simon  
 Hon. Carl Albert  
 Hon. Yvonne Burke  
 Hon. Elliott Richardson  
 Hon. Vincent Barabba  
 Members, Census Advisory Committee

## ORGANIZATION OF AMERICAN HISTORIANS



OFFICE OF EXECUTIVE SECRETARY

112 NORTH BRYAN • BLOOMINGTON, INDIANA • 47401

TEL. NO. 812-337-7511

July 29, 1976

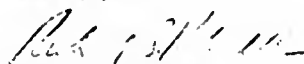
The Honorable Frank E. Moss  
 United States Senate  
 Washington, D. C. 20510

Dear Senator Moss:

I was pleased to learn that you have introduced S 3279, a companion measure to HR 10686 that passed the House on April 7th by a sizeable margin. American historians are very interested in this legislation. Population census schedules are of fundamental importance for some of the most important types of historical research being conducted at the present time. These schedules are highly significant in relation to quantitative studies in American social, political and economic history.

Thus, I hope that you will be successful in your efforts to obtain Senate passage of this measure. The Organization of American Historians stands ready to be helpful to you in this important effort.

Sincerely yours,

  
 Richard S. Kirkendall  
 Executive Secretary

RSK:cm



July 30, 1976

Senator Moss  
Chairman of Subcommittee on Census and Statistics  
U. S. Senate  
Washington, D.C.

Dear Senator Moss:

We have received a letter from Senator McGee inviting a statement giving substantive information regarding the importance of the census records availability to the genealogist, to be considered in the hearing concerning H.R. 10686 and S. 3279 to be held on Aug. 2.

One of the best sources of information that a genealogist can have is a census record. These records give the head of the household, his spouse and all living in the residence. It further gives all the birthdates, places of birth, parents of the two spouses (if there are two) birth place. The complete names of all, the ages of the children and if they attend school, and the occupations of any in the household are also included.

Taken together with information gathered from other sources you can establish places of birth, dates of birth and the relationship of those on the record. It also indicates moves that the family makes and where one might go to search for records of the parents. If you of the legislative body remove this source of information from the historians and genealogists you will greatly deter this pursuit and in many cases stop it all together as many people do not belong to churches and other institutions that keep reliable records.

It seems to us that you might better serve the privacy of the American public if you would direct your efforts toward seeing that the Census Bureau does not ask inappropriate questions which are an invasion of privacy in the first place. We sincerely hope that you will make these records available to historians and genealogists.

Sincerely,

Robert and Carol McIntosh

915 So. 15th Street  
Worland, Wyo. 82401  
July 31, 1976

AUG 6 1976

The Honorable Gale McGee  
United States Senate  
Washington, D. C. 20510

Dear Senator McGee;

Thank you sincerely for your comprehensive response <sup>dated June 21</sup> to my letter describing my views of H.R. 10686. I truly appreciate your looking at this from all angles, particularly from the viewpoint of the true purpose of the census, rather than simply from the standpoint of a few. I glean from this your sincere recognition of your responsibility as a statesman and as a representative of the people as a whole. I am encouraged that our affairs are in the hands of such responsible men.

I think the interest and support for this measure is generated not so much from a concern that census records are or will be withheld from public access as it is by an eagerness to gain access to them more easily and earlier than present laws provide.

Thank you for the opportunity offered in your letter of July 27 to elaborate on my views concerning transferring these population census records to the National Archives for their earlier eventual use by genealogists, historians, and other legitimate researchers. Of course, you must be aware that I am at a disadvantage not being aware of the full text of this bill and in reality being ignorant of the full laws presently covering census access. However, as an amateur genealogist, I would like to accept your invitation to illustrate why I would like to see the 1900 census become fully accessible to the public immediately and the 1910 by 1980, or at least earlier than presently possible.

Microfilmed copies of the census returns from 1790 through 1880 are available through the Genealogical Society Library of the Church of Jesus Christ of Latter-day Saints, the largest and most comprehensive genealogical repository in the world, and through its branches by loan, which we as genealogists sincerely and deeply appreciate. Of course, the census returns from 1790 through 1840 list only the name of the head of the household, but prove valuable research tools to follow ancestors in their movements, to locate their whereabouts, etc. The 1850 through 1880 censuses list all members of the household by name, occupation, age, etc. and so prove to be a valuable research tool, particularly since the 1850 and 1860 returns usually pre-date vital, church, and even family information. The 1880 census also has a column indicating the state or country of the father's parents' birth, as well as the mother's parents. One would often desire to search the 1890 census, but it was 99% destroyed by fire.

I might explain how a researcher uses these censuses in part. Say one knows his grandfather was born in 1873 in a certain county and state. He can then obtain a copy of that <sup>1880</sup> census for that area and search through the entire county for his grandfather listed as a 7 year old child. In this way he could obtain the names of his grandfather's brothers and sisters and his father, and his mother's given name, as well as to determine the states or countries of his great-grandfather and great-grandmother's birth on both paternal and maternal sides, if <sup>1880</sup> his grandparents were both living, as well as the states or countries of their parents' birth.

July 31, 1976

Now with the 1890 census virtually non-existent, there is a twenty year period between 1880 and 1900 where the genealogist cannot do this. Then, if needing to search the 1900 census, if he cannot go to the National Archives either in person or by agent, he must make application for this search to the Bureau of the Census on an application form. In this case he must be related (if searching for a deceased person) either as a child, brother, sister or parent. For instance, a grandchild seeking this information would be disqualified. He must also furnish the name of the person with whom the person he is seeking was residing at the time of the census. As was illustrated in the foregoing example, if he only had the name of his grandfather, this would be impossible, since he doesn't know the name of his great-grandfather and this is the purpose of his search. If he is applying for a search of the 1910 census, in addition to the above requirements he must also furnish (in the event they were residing in a city) the exact street address, or (in the event they were residing in the country) the township, precinct, district, etc. As can be readily seen, these censuses are then of little value to the genealogist who is attempting to learn this very information by searching the census. There are instances where genealogical proof can be verified by obtaining a census search, when required information can be furnished, but such searches yield little new genealogical data.

I can see that public access to the census returns of seventy years ago could conceivably embarrass or trespass upon the rights of privacy of a few individuals who may still be living, but I personally feel that this would be very unlikely that long ago. Again, when requesting a census search, one must give assurance that he is doing it for a purpose such as genealogical research. I feel that few would abuse this privilege. Genealogical research is a science and is difficult at best and hard work. Most generally the motives are genuine.

I think that censuses later than 1910 should still be under the present rules because of privacy and because most generally better records are in existence for genealogical information, such as civil registration, church records or other more complete records made closer to the time the vital event occurred.

You can see that my interest and support for H.R.10686 is the hope that the 1900 census may become at the earliest possible date as readily available as is the 1880 census on microfilm at genealogical libraries so that it may become the valuable research tool which the 1880 and previous censuses are. I am sure that the 1900 census will eventually become available, but as far as the genealogist is concerned, the earlier, the better! I have had people who I am helping with their research experience a difficult time obtaining census searches, because of not being at least a child of a deceased person, or because they do not have an agent who could go search at the National Archives in person, or because they do not have the information required to make the search.

Therefore, unless there is some unforeseen reason this bill might be detrimental to some, I would surely appreciate and urge your support of it.

Respectfully,

  
Mrs. Edward C. Horsley

3011 Pioneer Ave.  
Cheyenne, Wyoming 82001  
August 5, 1976

Honorable Gale McGee  
Senator  
Senate Office Building  
Washington, D. C.

Re: Hearing on H. R. 10696 and S. 3279

Dear Senator McGee:

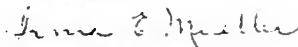
I wish to go on record in favor of opening the census records to researchers. I find it is the only way I can ascertain if my ancestors were in an area at a given time, and establish the members of the family unit.

There are other means, true, but one has to travel to the area being searched as the offices of county clerks and clerk of courts are always understaffed. After you arrive the clerks say, "Our records burned...", or "those records are not public information." By the time one secures an order to research the material many days have elapsed. Sometimes I am in the wrong county.

The film may be easily ordered from the Archives. I can view the census of my area in our local library, then pay someone to do further researching after the family is located. It saves a great deal of time and frustration.

Thank you for any consideration you may give this legislation.

Sincerely,



Irma E. Mueller

August 3, 1976

Hon. Gale W. McGee  
344 Senate Office Bldg.  
Washington, D.C. 20510

AUG 9 1976

Dear Senator McGee:

Thank you for your kind letter dated July 27, concerning H.R. 10686 and S. 3279. I received your letter only today and hope there is still time for me to make my "more detailed and specific comments" on why I believe "particular obstacles to my research could be overcome by (easier) access to the census records."

1. At the present time the 1900 Census is available to the public only under very restrictive conditions (please refer to reverse side of Bureau of Census Form BC 600 and Appendix B, Page 5 of "Availability of Census Population Records about Individuals" prepared by Bureau of Census in December 1975. I have nearly exhausted the information to be found on my families in the 1790-1890 Censuses, and I know that a search of the 1900 Census would be most fruitful for me.
2. Free access to the 1900 Census is something family genealogists have been waiting for for a long time, especially since the 1890 Census was virtually destroyed by a fire in January 1921.
3. If the 1900 Census and subsequent censuses as they become 75 years old, could be released to the public, these records could then be microfilmed by the Genealogical Society of Salt Lake City, Utah, where they would then be made available to family genealogists of every race, creed and religion without having to go through the delay of government "red tape".
4. There is also the cost to the family genealogist (like myself) to be considered. Under the present system, one must pay the Bureau of the Census \$7.50 to search for one name (not a family) in the 1900 Census and subsequent censuses. One can search a microfilm at the Genealogical Society at no cost, and the fee is only 75¢ at a Branch Genealogical Library where the film can be used by the patron for a period of two weeks.
5. Another important advantage of having these census records made available to the public is for the purpose of permanent preservation by the Genealogical Society. As you probably already know, the "master" microfilm of all records copied by the Society is safely stored in an underground granite mountain vault in Cottonwood Canyon near Salt Lake City.

Thank you for your consideration of my statement.

Sincerely,

*Mrs. George N. Stephens*  
Mrs. George N. Stephens  
1850 South Jackson  
Casper, Wyoming 82601

P.S. I wonder how many U.S. citizens have actually complained whose census records through 1890 were used for genealogical purposes. Not many, I'm sure, since most of them are deceased after 75 years.



## UTAH GENEALOGICAL ASSOCIATION

POST OFFICE BOX 2144  
SALT LAKE CITY, UTAH 84110

18 May 1976

The Honorable Frank E. Moss  
United States Senate  
Senate Office Bldg.  
Washington, D.C. 20501

My Dear Senator:

Your continued strong support is urgently requested on the census legislation now in committee. Its rapid movement out of committee and to the floor of the senate for passage is of immediate concern. Passage of this bill, along with its previous passage by the House and subsequent signing by the President, would assure access to the 1900 Federal Census. We are confident of your full support of this bill and wish to express our appreciation for your past and needed future support to realize final passage of the bill.

Full access and use of the 1900 Census is vital for effective genealogical, historical, and medical research. Its full availability and use is very important in filling the gap between the 1880 Federal Census and the beginning of vital statistics in most states. It is monumental in being the first census to provide a comprehensive index to families in recent years, to provide the month and year of birth, and to provide key information on citizenship status.

Passage of the census bill is a most important landmark objective in this Bicentennial Year. Few things today are more important to American citizenry than its heritage. Census records are an important means of studying this heritage both from the standpoint of personal, family, and medical aspects. Your opportunities for positive influence in this regards with your colleagues are obvious; and we express our best wishes and support in reaching these important objectives.

Yours very truly,

*Eldon H. Walker*

Eldon H. Walker, President  
Utah Genealogical Association

*John F. Vallentine*

John F. Vallentine, First Vice President  
Utah Genealogical Association

*Val D. Greenwood*

Val D. Greenwood, Second Vice President  
Utah Genealogical Association