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UNDER/ SEC 41886  
24 JUL 1996  
CENT SEC

FROM: STEPHEN WEBB  
IPL  
24 JULY 1996

ASST SEC 25 JUL 1996  
CENT SEC

*26/7*  
*John McAuley*

*1. cc to Alexander  
to Legg*  
*2. cc to [signature]*  
*I'm very doubtful  
about the wisdom of  
deploying this analogy.*  
*JB*  
*24.7*

- cc PS/Secretary of State (L&B) - B
- PS/Michael Ancram (L&B) - B
- PS/Sir John Wheeler (L&B) - B
- PS/Baroness Denton (L&B) - B
- PS/PUS (L&B) - B
- PS/Sir David Fell - B
- Mr Thomas (L&B) - B
- Mr Legge - B
- Mr Leach (L&B) - B
- Mr Bell - B
- Mr Watkins - B
- Mr Wood (L&B) - B
- Mr Stephens - B
- Mr Hill (L&B) - B
- Mrs Collins - B
- Mr Perry - B
- Mr Beeton - B
- Mr Maccabe - B
- Ms Checksfield - B
- Mr Mapstone - B
- Mr Lamont, RID - B
- Mr Westmacott, Washington - F
- Mr Reid, BIS New York - F

C

MR STEELE - B

US EXPERIENCE OF THE "RIGHT TO MARCH": THE SKOKIE CASE

The decision to allow the Orange Order to march through the Garvaghy Road was greeted with strong criticism from the usual suspects in the US. Gerry Adams compared the decision to allowing a KKK march through Harlem. The International Unit in IPL is working on a factual comparison of the Ku Klux Klan with the Orange Order.

2. Recent discussions with Washington and an academic contact of mine have taught me that if the KKK did decide to march through Harlem, the NY police would have no right to stop them. In fact, they would certainly be obliged to protect them.

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● I attach a description of the Skokie case, and some thoughts on how we might extract advantage from it. This has been cleared with Washington.

Summary

4. The First Amendment to the US Constitution, part of the Bill of Rights, prohibits Congress from passing any law which would abridge "the right of the people peaceably to assemble". This is the constitutional basis for the right to demonstrate. Appropriate 'time, place and manner restrictions' may be placed on the right, but the authorities cannot stop a march completely.

5. Frank Collin headed the tiny National Socialist Party of America, largely based in Chicago. In 1977, the NSP was prevented from demonstrating in a mixed race area around Marquette Park by the requirement to post an insurance bond before being allowed to demonstrate. Collin decided to demonstrate in Skokie, a suburb of Chicago over 50% Jewish and whose residents included the largest number of Holocaust survivors outside New York. Collin announced his group would be in Nazi uniform, including swastikas.

6. The authorities in Skokie applied for an injunction to ban the march, and passed local ordinances requiring demonstrators to post liability insurance, and allowing authorities to ban demonstrations which would incite hatred.

7. The Illinois Appellate Court overturned the injunction against the march. Although the Court's opinion asserted that there was a virtual certainty that thousands of irate Jewish citizens would physically attack the Nazis, it held that the mere presence of hostile spectators could not justify the restraint of First Amendment activity. However, the demonstrators were not to be allowed to wear swastikas.

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8. The American Civil Liberties Union and Collin appealed this ruling too. The Illinois Supreme Court overruled the ban on swastikas. The ruling was that the demonstration could not be precluded because it may

"provoke a violent reaction by those who view it. Particularly this is true where there has been advance notice by the demonstrators ... so that ... those to whom sight of the swastika banner would be offensive are forewarned and need not view them"

9. Meanwhile, Skokie's ordinances requiring insurance bonds and banning demonstrations inciting hatred were also struck out as unwarranted restrictions on freedom of speech and assembly. Skokie appealed to the Supreme Court, which refused to hear the appeal.

10. The march did not finally take place in Skokie, because the original obstacles to the NSPA demonstrating in Chicago proper were also removed.

11. The Ku Klux Klan also regularly march through black neighbourhoods, for example in Charlotte, North Carolina.

#### Conclusion

12. I think this could be useful information for countering criticism, particularly of course from the US. I have circulated a draft end of term speech for the Secretary of State which includes a passage which might be usable.

"Like all the hardest moral questions, the issue of parades is one in which two legitimate rights turn out to be incompatible. The right to march is one protected in all democratic societies. In the US, the right is so entrenched in

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the First Amendment that the courts in one famous ruling upheld the right of American Nazis to march through a Jewish neighbourhood in Chicago in uniform wearing swastikas. In this country, however, we also recognise the reasonable expectation of communities not to feel intimidated in their own neighbourhoods. In Drumcree, these two rights clashed.

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