

First Supplement to Memorandum 2016-5

Government Interruption of Communication Service (Discussion of Issues)

After releasing Memorandum 2016-5,¹ the staff consulted with First Amendment scholar, Professor Ashutosh A. Bhagwat, of UC Davis School of Law. Professor Bhagwat reviewed the memorandum and provided some informal feedback on its content. He indicated that the analysis in the memorandum makes sense and that he completely agrees with the memorandum's final conclusions.

He also made two suggestions for possible improvements to the analysis, to make it more complete (without affecting the ultimate conclusions):

- (1) He suggested citing *Thomas v. Chicago Park District*² for the proposition that a prior restraint must be content-based. The staff agrees that *Thomas* provides good authority on that point.
- (2) He suggested that the analysis include an express reference to the First Amendment's assembly clause and discussion of the hybrid nature of public assembly, which involves both speech and conduct.

Those are excellent suggestions. The staff intends to address them in any future discussion of these matters (i.e., in the narrative portion of the Commission's tentative and final recommendations in this study). **The staff greatly appreciates Professor Bhagwat's assistance.**

Respectfully submitted,

Brian Hebert
Executive Director

1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

2. 534 U.S. 316 (2002).