75-1914 Morrell (Pre-Congress notes 11/3/72)

Peto's basic argument:

1. Morwell vs Kansas misread the Sherman Amend. It was rejected because Congress did not wish to impose vicarious liability on local govts (e.g. for wrongful action violative of state or local law - as in the Morwell situation when conduct of police was violative of fed law).

2. Congress gave no indication of intent to absolve municipalities for unconstitutional action taken by responsible officials pursuant to established policy. E.g.: here Bd/Ed acted officially in adopting pregnancy policy. Thus there was "color of state" law.

3. 1983 suit should be allowed for damages vs responsible officials acting in their official capacity. Municipal Treasuries would pay, but they pay now anyway when responsible officials are sued personally.