75-1914 Monell
(Notes for Special Conference 3/6)

1. The cases exempting municipalities:

   (1) Monell - violation was contrary to state policy (law); not pursuant to it.
   The Monell Court argues for vicarious liability. Sherman amendment mentioned in a note. The Court, in effect, rejected vicarious liability.

2. Moor v. County of Alameda - reiterates the Monell language as to immunity of municipalities.
   Suit was brought under 1983 & 1988 for deprivation of civil rights. Deputy Sheriff fired a shotgun at demonstrators. It did not challenge Monell. They sought to avoid it by a theory that §1983 imposed vicarious liability. Again this was rejected.

3. City of Kenosha did involve an alleged Court injury by official action. (Denial of renewal of liquor license)
   We relied on Monell to deny both injunctive & monetary relief.
(2) Case allowing 1983 suit

In Fleet, Chesterfield County School Bd. v. Tinker (Senate Bill
- Damage claim)
Back pay & damages allowed.

Remarson suit vs School Bd.
from Brown to Milholland

Green specifically denied
relief vs School Bd.

(3) Policy or General Consideration

Where the injury is caused
by the municipal entity - an a
policy choice or pursuant to ordinance or regulation - there is no Q of
vicarious liability.

It makes sense practical to
to allow suit vs the individuals
rather than the City or Board that authorized the conduct.
(3) State Sovereignty

Two lines of cases that cannot be reconciled.

We should make a choice — duty to harmonize.

Seeing the individuals — who in turn are indemnified — in a faction that should not be preserved.

Need not overrule Merrick or Mott. Confine to facts.

Konaske would have to be overruled.

Result: Municipal entities would be excused for court wrongs authorized. There should be no vicarious liability. (A city should not indemnify officers who violated the law as in Monroe.)

Of course, showing this will sometimes be difficult. But their in our business.