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# High Court Ends Cities' Immunity From Rights Suits

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City governments and city officials may be sued if they violate someone's constitutional rights, the Supreme Court ruled today.

Overruling a 17-year-old decision, the justices took away the absolute immunity of local governments to damage suits in civil rights cases.

A law Congress passed in 1871 to deal with Ku Klux Klan violence in the South permits such lawsuits, the court declared in its 7-2 decision.

"There can be no doubt that (the law) was intended to provide a remedy, to be broadly construed, against all forms of official violation of federally protected rights," Justice William J. Brennan Jr. wrote for the majority.

The dissenters complained that the ruling could bring financial disaster to "municipalities and their limited treasuries."

The dissenters were Chief Justice Warren E. Burger and Justice William H. Rehnquist. They said it was "all but inevitable" that Congress would act to overturn today's ruling.

**ALTHOUGH THE** decision dealt directly only with city governments and their officials, it appeared likely that the theory on which the court relied would later be applied to county governments, too.

The ruling, however, probably will not be applied to state governments because the 11th Amendment gives them immunity to lawsuits in federal courts.

Today's ruling came in a test case in which a group of female teachers in New York City had challenged a policy forcing them to take maternity leave when they became pregnant.

That policy has since been changed, but the teachers who challenged it sued for damages to cover for salaries they would have received had they not been forced to take maternity leave.

*Court rules states can set welfare limits. Page A-9.*

The new ruling, a sweeping revision of civil rights law, actually had three specific parts to it:

- A city government itself may be sued directly for violating someone's constitutional rights under an official
- See COURT, A-9

## COURT

**Continued From A-1**  
policy. Such a policy could be challenged if it was written into law or regulations, or even if it was an established official custom.

- A city government official responsible for carrying out official policy may be sued personally for violating someone's rights.

- If a city official violated someone's rights, but did so without carrying out an official city policy, the official could be sued, but the local government could not be.

**THE SUPREME COURT** had laid down the law of absolute immunity for municipal governments and their officials in the 1961 ruling in a case titled *Monroe vs. Pape*, a civil rights case involving actions by the Chicago police.

Even though the court declared then that city governments and their officials were immune to lawsuits, the court has repeatedly allowed civil rights cases — such as desegregation lawsuits — to be filed against local school boards. It had done so, how-

ever, without expressly overruling the decision involving *Monroe vs. Pape*.

Today, though, the court went the whole distance and decided that civil rights damage cases could be filed against all forms of city government where official policies violate someone's constitutional rights.

The 1871 law involved in today's ruling was passed by Congress to provide legal remedies for violations of the rights that Congress had created in the 14th Amendment.

The 14th Amendment became a part of the Constitution in 1868, three years after the year of the Civil War.

In general, it guarantees everyone "the equal protection of the laws" and the right to enjoy "the privileges or immunities of citizens."

**OVER THE YEARS**, the Supreme Court has interpreted that amendment to include nearly all of the specific rights that are protected by the Bill of Rights — that is, the first 10 amendments.

Under today's decision, any official violation of any of those rights could lead to lawsuits in which the complaining party could demand money damages or court orders requiring officials to take some action or to refrain from taking some action.

The court said it was wrong 17 years ago in reading the 1871 law as providing absolute immunity because it then had misread the debates in Congress when the law was

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The court said it was wrong 17 years ago in reading the 1871 law as providing absolute immunity because it then had misread the debates in Congress when the law was passed.

It now understands those debates, the court declared, to stand for the principle that Congress may not directly order city governments to adopt a policy, but it may subject them to liability in court if they refuse to protect federal constitutional rights.

The opinion by Brennan was supported in full by Justices Harry A. Blackmun, Thurgood Marshall, Lewis F. Powell Jr., Potter Stewart and Byron R. White.

Justice John Paul Stevens went along with the decision, but quarreled with some of the language of the opinion that he said was not necessary to decide the case.

Rehnquist wrote the dissenting opinion which he and the chief justice signed.

The dissenters argued that Congress had expressly rejected the concept that a city government could be sued.

They complained: "None of the members of this court can foresee the practical consequences of today's removal of protection" from municipal governments and their officials.