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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U.S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

OWEN *v.* CITY OF INDEPENDENCE, MISSOURI, ET

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE
EIGHTH CIRCUIT

No. 78-1779. Argued January 8, 1980—Decided April —, 1980

After the City Council of respondent city moved that reports of an investigation of the city police department be released to the news media and turned over to the prosecutor for presentation to the grand jury and that the City Manager take appropriate action against the persons involved in the wrongful activities brought out in the investigative reports, the City Manager discharged petitioner from his position as Chief of Police. No reason was given for the dismissal and petitioner received only a written notice stating that the dismissal was made pursuant to a specified provision of the city charter. Subsequently, petitioner brought suit in Federal District Court under 42 U. S. C. § 1983 against the city, the respondent City Manager, and the respondent members of the City Council in their official capacities, alleging that he was discharged without notice of reasons and without a hearing in violation of his constitutional rights to procedural and substantive due process, and seeking declaratory and injunctive relief. The District Court, after a bench trial, entered judgment for respondents. The Court of Appeals ultimately affirmed, holding that although the city had violated petitioner's rights under the Fourteenth Amendment, nevertheless all the respondents, including the city, were entitled to qualified immunity from liability based on the good faith of the city officials involved.

Held: A municipality has no immunity from liability under § 1983 flowing from its constitutional violations and may not assert the good faith of its officers as a defense to such liability. Pp. 12-34.

(a) By its terms, § 1983 "creates a species of tort liability that on its face admits of no immunities." *Imbler v. Pachtman*, 242 U. S. 409, 417. Its language is absolute and unqualified, and no mention is made of any privileges, immunities, or defenses that may be asserted. Rather, the statute imposes liability upon "every person" (held in *Monell v.*

Page proof of syllabus as approved.

Lineup included.
— Lineup still to be added. Please send lineup to Print Shop when available and a copy to me.

Another copy of page proof of syllabus as approved to show—

— Lineup, which has now been added.
— Additional changes in syllabus.

HENRY C. LIND
Reporter of Decisions.

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New York City Dept. of Social Services, 436 U. S. 658, to encompass municipal corporations) who, under color of state law or custom, "subjects, or causes to be subjected, any citizen of the United States . . . to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws." And this expansive sweep of § 1983's language is confirmed by its legislative history. Pp. 12-13.

(b) Where an immunity was well established at common law and where its rationale was compatible with the purposes of § 1983, the statute has been construed to incorporate that immunity. But there is no tradition of immunity for municipal corporations, and neither history nor policy supports a construction of § 1983 that would justify the qualified immunity accorded respondent city by the Court of Appeals. Pp. 14-21.

(c) The application and rationale underlying both the doctrine whereby a municipality was held immune from tort liability with respect to its "governmental" functions but not for its "proprietary" functions, and the doctrine whereby a municipality was immunized for its "discretionary" or "legislative" activities but not for those which were "ministerial" in nature, demonstrate that neither of these common-law doctrines could have been intended to limit a municipality's liability under § 1983. The principle of sovereign immunity from which a municipality's immunity for "governmental" functions derives cannot serve as the basis for the qualified privilege respondent city claims under § 1983, since sovereign immunity insulates a municipality from unconscionable suits altogether, the presence or absence of good faith being irrelevant, and since the municipality's "governmental" immunity is abrogated by the sovereign's enactment of a statute such as § 1983 making it amenable to suit. And the doctrine granting a municipality immunity for "discretionary" functions, which doctrine merely prevented courts from substituting their own judgment on matters within the lawful discretion of the municipality, cannot serve as the foundation for a good-faith immunity under § 1983, since a municipality has no "discretion" to violate the Federal Constitution. Pp. 21-26.

(d) Rejection of a construction of § 1983 that would accord municipalities a qualified immunity for their good-faith constitutional violations is compelled both by the purpose of § 1983 to provide protection to those persons wronged by the abuse of governmental authority and to deter future constitutional violations, and by considerations of public policy. In view of the qualified immunity enjoyed by most government officials, many victims of municipal malfeasance would be left remediless if the city were also allowed to assert a good-faith defense. The concerns that justified decisions conferring qualified immunities on various

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government officials—the injustice, particularly in the absence of bad faith, of subjecting the official to liability, and the danger that the threat of such liability would deter the official's willingness to execute his office effectively—are less compelling, if not wholly inapplicable, when the liability of the municipal entity is at issue. Pp. 27-33.

589 F. 2d 335, reversed.

BRENNAN, J., delivered the opinion of the Court, in which WHITE, MARSHALL, BLACKMUN, and STEVENS, JJ., joined. POWELL, J., filed a dissenting opinion, in which BURGER, C. J., and STEWART and REHNQUIST, JJ., joined.