

Few cases in the history of the Court have been cited more frequently than Monroe v. Pape, 365 U.S. 167 (1961), decided less than two decades ago. Focusing new light on § 1983, the decision offered wider access to the federal courts to redress wrongs far beyond those contemplated in 1871. It enlarged the concept of "color of law", and made clear that exhaustion of state remedies was not a precondition to the federal remedy. But Monroe curiously exempted local government entities from liability at the same time it opened wide the courthouse door to suits against officers and employees of such entities - even when they had acted pursuant to express authorization. The illogic of this result, and the unsoundness of the historical reason asserted by the Monroe Court in support of it, have been well demonstrated by the Court's opinion today.

Yet, the seriousness of overruling a portion of so famous a decision where the Congress by its inaction apparently has accepted that portion, prompts me to write.