was overruled; it permitted Congress to intrude into the conduct of integral and traditional state governmental functions and could not therefore stand.[153]

League of Cities did not prove to be much of a restriction upon congressional power in subsequent decisions. First, its principle was held not to reach to state regulation of private conduct that affects interstate commerce, even as to such matters as state jurisdiction over land within its borders.[154] Second, it was held not to immunize state conduct of a business operation, that is, proprietary activity not like "traditional governmental activities."[155] Third, it was held not to preclude Congress from regulating the way states regulate private activities within the state—even though such state activity is certainly traditional governmental action—on the theory that, because Congress could displace or preempt state regulation, it may require the states to regulate in a certain way if they wish to continue to act in this field.[156] Fourth, it was held not to limit Congress when it acts in an emergency or pursuant to its war powers, so that Congress may indeed reach even traditional governmental activity.[157] Fifth, it was held not to apply at all to Congress's enforcement powers under the Thirteenth, Fourteenth, and Fifteenth Amendments.[158] Sixth, it apparently was to have no application to the exercise of Congress's spending power with conditions attached.[159] Seventh, not because of the way the Court framed the statement of its doctrinal position, which is absolutist, but because of the way it accommodated precedent and because of Justice Blackmun's concurrence, it was always open to interpretation that Congress was enabled to reach traditional governmental activities not involving employer-employee relations or is enabled to reach even these relations if the effect is "to reduce the pressures upon state

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[153] 426 U.S. at 853–55.

[154] Hodel v. Virginia Surface Mining & Recl. Ass'n, 452 U.S. 264 (1981).

[155] United Transp. Union v. Long Island R.R., 455 U.S. 678 (1982).

[156] FERC v. Mississippi, 456 U.S. 742 (1982).

[157] National League of Cities v. Usery, 426 U.S. 833, 854 n.18 (1976).

[158] Fitzpatrick v. Bitzer, 427 U.S. 445 (1976); City of Rome v. United States, 446 U.S. 156, 178–80 (1980).

[159] In Pennhurst State School & Hosp. v. Halderman, 451 U.S. 1, 17 n.13 (1981), the Court suggested rather ambiguously that *League of Cities* may restrict the federal spending power, citing its reservation of the cases in *League of Cities*, 426 U.S. 852 n.17, but citing also spending clause cases indicating a rational basis standard of review of conditioned spending. Earlier, the Court had summarily affirmed a decision holding that the spending power was not affected by the case. North Carolina ex rel. Morrow v. Califano, 445 F. Supp. 532 (E.D.N.C. 1977) (three-judge court), *aff'd*, 435 U.S. 962 (1978). No hint of such a limitation is contained in more recent decisions (to be sure, in the aftermath of *League of Cities*' demise). New York v. United States, 505 U.S. 144, 167, 171–72, 185 (1992); South Dakota v. Dole, 483 U.S. 203, 210–12 (1987).