

United States Supreme Court in *Chicago v. Sturgess*,³ in which the Court stated:

"The law in question is a valid exercise of the police power of the State of Illinois. It rests upon the duty of the State to protect its citizens in the enjoyment of and the possession of their acquisitions. It is but a recognition of the obligation of the State to preserve social order in the property of the citizen against the violence of a riot or a mob. The State is the creator of subordinate municipal governments. It vests in them the police powers essential to the preservation of law and order. It imposes upon them the duty of protecting property situated within their limits from the violence of such public breaches of the peace as are mobs or riots. This duty and obligation thus entrusted to the local subordinate government is by this enactment emphasized and enforced by imposing upon the local community absolute liability for property losses resulting from the violence of such public tumults. The policy of imposing liability upon the civil subdivision of government exercising delegated police power is familiar to every student of the common law. We find it recognized in the beginning of the police system of the Anglo-Saxon people. Thus, 'the hundred' a very early form of civil subdivision was held answerable for robberies committed within the division. By a series of statutes, beginning possibly in 1285 in the Statutes of Westminster . . . we may find a continuous recognition of the principle that a civil subdivision entrusted with the duty of protecting property in its midst has police power to discharge the function and may be made answerable not only for negligence affirmably shown, but absolutely as not having afforded protection adequate to the obligation. Statutes of a similar character have been enacted by several of the states and held valid exertions of the police powers."

The court in *Darlington v. New York*⁴ said that the policy of the law respecting mob statutes has been well stated:

"* * * to make good at the public expense the losses of those who may be so unfortunate, as without their own fault, to be injured in their property by acts of lawless violence of a particular kind which is the general duty of the government to prevent, and further and principally, we may suppose, to make it the interest of every person liable to contribute to the public expenses, to discourage lawlessness and violence in maintaining the empire of the laws established, to reserve public quiet and social order."

In *Anderson v. Chicago*,⁵ the court held that the purpose of the Illinois Riot Damage Act is toward the suppression of mob violence, to impose upon the municipalities to which the state has delegated police power the responsibility of protecting their residents against unlawful exercise by unauthorized groups of persons of powers delegated. And in *Northern Insurance Company v. Milwaukee*⁶ the court held that the statute imposing liability upon a municipality for injury to personal property by a mob or riot therein imposed absolute liability upon the municipality.

Ohio has a statute⁷ which makes counties liable for assault upon or lynching of a person by a mob. However, by an 1861 decision, *Western College v. Cleveland*,⁸ the City of Cleveland was held responsible neither for the destruction of property by a riotous assemblage of persons nor for the officers' neglect in not preserving the peace by preventing such destruction. This case still appears to be the law in Ohio despite a recent decision handed down in the Municipal Court of Cleveland in which the plaintiff recovered for injuries sustained as a result of mob violence as he attempted to report a robbery. This case did not apply to property damage and will probably be appealed. Whether this case will extend the municipality's liability for damage caused by riots and mob violence in the absence of statute is questionable at this time.

STATUTORY ENACTMENTS

An analysis of the various statutes which have been enacted up to this time reveals that they vary considerably as to the extent of recovery, as to whether personal injury as well as property damage is compensable, as to whether one

71; Pa. Stat. Ann. Tit. 16, Sec. 11821 (1956); R.I. Gen. Laws Ann. Sec. 45-15-13 (1956); S.C. Code Ann. Sec. 16-107 (1962); Wis. Stat. Sec. 66.091 (1961).

³ 222 U.S. 313 (1911).

⁴ 31 N.Y. 164 (1865).

⁵ 313 Ill. App. 616; 40 N.E. 2d 601 (1942).

⁶ 227 Wis. 124, 277 N.W. 149 (1938).

⁷ Ohio Rev. Code Sec. 3761.01 (1964).

⁸ 12 Ohio St. 375 (1861).