

can recover if he himself is negligent, as to whether there is absolute liability or only conditional liability upon the community, as to the definition of a mob. It is to the variations of these statutes we will look next.

All of the statutes provide for the recovery of property damage. Four states have enacted statutes which include recovery not only for property damage but for personal injury as well.⁹ In Connecticut, the statute provides that:

"* * * each city and borough shall be liable for all injuries to person or property including injuries causing death when such injuries are caused by an act of violence of any person or persons while a member of or acting in concert with any mob, riotous assembly or assembly of persons engaged in disturbing the public peace * * *."¹⁰

The Illinois statute provides for recovery for "any person suffering material damage to property, injury to person or death as a result of mob action."¹¹ The Kansas statute provides that:

"* * * all incorporated cities and towns shall be liable for all damages that may occur in consequence of the action of mobs within their corporate limits whether such action shall be the destruction of property or injury to life or limb."¹²

The Wisconsin statute provides that the county is liable for injury to person or property by a mob or riot therein.¹³

Several states provide for only partial recovery of any damage which may be incurred.¹⁴ Statutes enacted in the states of Maine,¹⁵ Massachusetts,¹⁶ and Rhode Island,¹⁷ provide that the municipality shall be liable to indemnify the owner for property damage caused by a "riotous, tumultuous assemblage of persons" to the amount of three quarters of the value of the property so destroyed.

Many states condition recovery on the basis of whether or not the injured party was a participant in the riot and whether or not the injured party is free from any fault in connection therewith or whether or not the injured party was negligent in failing to notify the authorities to take preventive measures. The Illinois statute prohibits recovery if the injured party was a "participant" in the mob that produced the harm.¹⁸ The New Jersey statute provides that if the "claimant's negligence" contributed to destruction, he is barred from recovering. In addition, if claimant did not exercise all diligence to prevent the injury and if claimant had time to notify the authorities of impending mischief and failed to do so, he is barred from recovering.¹⁹ The New Hampshire²⁰ and South Carolina²¹ statutes bar recovery by a claimant if the destruction of his property was caused by his "illegal or improper conduct." The Pennsylvania statute provides that the claimant cannot recover if he is guilty of "illegal or improper conduct" or if he fails to inform the authorities—if he has sufficient time to do so—that a mob is forming which is likely to cause mischief.²² The statute of the state of Wisconsin prohibits recovery unless the claimant exercised all diligence to prevent the injury and notified the mayor or sheriff.²³ Rhode Island prohibits recovery unless the owner used all reasonable diligence to prevent the destruction or damage to the property by an unlawful assemblage and to procure the conviction of the offenders.²⁴

Some states provide for recovery only if the municipality or the police authority of the municipality is derelict and negligent in its duty to prevent any mob violence and to protect the property of its citizens. The Connecticut statute provides for recovery if the city or the police of the city "have not exercised reasonable care and diligence in the prevention or suppression of a mob, riotous assembly, or an assembly engaged in disturbing the public peace."²⁵ The Mary-

⁹ Conn. Gen. Stat. Rev. Sec. 7-108 (1958); Ill. Ann. Stat. Ch. 24 Sec. 1-4-8 (1965); Kan. Gen. Stat. Ann. Sec. 12-201 (1949); Wis. Stat. Sec. 66.091 (1961).

¹⁰ Conn. Gen. Stat. Rev. Sec. 7-108 (1958).

¹¹ Ill. Ann. Stat. Ch. 24 Sec. 1-4-8 (1965).

¹² Kan. Gen. Stat. Ann. Sec. 12-201 (1949).

¹³ Wis. Stat. Sec. 66.091 (1961).

¹⁴ Me. Rev. Stat. Ann. Ch. 136, Sec. 8 (1954); Mass. Ann. Laws Ch. 269, Sec. 8 (1956); R.I. Gen. Laws Ann. Sec. 45-15-13 (1956).

¹⁵ Me. Rev. Stat. Ann. Ch. 136, Sec. 8 (1954).

¹⁶ Mass. Ann. Laws Ch. 269, Sec. 8 (1956).

¹⁷ R.I. Gen. Laws Ann. Sec. 45-15-13 (1956).

¹⁸ Ill. Ann. Stat. Ch. 24 Sec. 1-4-8 (1965).

¹⁹ N.J. Stat. Ann. Secs. 2A: 48-3 (1952).

²⁰ N.H. Rev. Stat. Ann. Sec. 31: 54 (1955).

²¹ S.C. Code Ann. Sec. 16-108 (1962).

²² Pa. Stat. Ann. Tit. 16, Sec. 11822 (1956).

²³ Wis. Stat. Sec. 66.092 (1961).

²⁴ R.I. Gen. Laws Ann. Sec. 45-15-13 (1956).

²⁵ Conn. Gen. Stat. Rev. Sec. 7-108 (1958).