

violence statute. In a scholarly opinion, Judge Robson pointed out that "one of the objects of the statute is to impose sanctions against the citizens of the community when they participate in or allow the condition to arise that we find in the instant case."

In the specific case, several thousand persons had assembled around the project in question between 9:00 and 11:00 p.m. Members of the mob stopped cars and opened their doors to find out whether there were any Negroes in them. The plaintiff was stopped at the intersection of 103rd and Halsted Street. The members of the crowd started throwing bricks at the car and its occupants. One of them struck the plaintiff on the right side of the skull and another struck a woman occupant of the automobile. The plaintiff was rendered unconscious and was bleeding profusely. The lower court had directed a verdict against the plaintiff apparently on the theory that the mob involved was not attempting to exercise correctional powers or regulative powers and that the victim was not supposed to have been guilty of a violation of the law. In words which seem strikingly prophetic, Judge Robson said:

"It is with this historical and legislative background that we consider the issue in this case. Involved is a social problem inherent in our system of society and far-reaching in importance. Our people are of varied religious, ethnic, economic and cultural backgrounds. We have assumed world leadership in the establishment of a system of government wherein the incidents of birth and life have not been permitted to determine the rights of citizens before the law. No group or segment of a community has the right to dictate by force or by other unlawful means who shall or shall not live within the community. The unlawful assembly of people gathered together in the instant case apparently believed that the duly constituted authorities in admitting colored tenants into the housing project were harming the community. Allowing these tenants to remain in the project, they believed, would be detrimental to the value of the community property and ultimately affect the way of life in the community. They therefore undertook to prevent the entrance of Negroes into their community. In so doing they were not acting to promote their individual interests but what they wrongfully assumed to be a collective or community interest. They thus supplanted the legally constituted officers of the community, and it was in the pursuit of this unlawful arrogation of authority that the plaintiff was injured. This we consider to be the distinguishing feature of this case."¹⁷

He rejected the narrow interpretation of the *Anderson* case which turned on the requirement that the mob must be arrogating to themselves the powers given to the state and its municipalities and went on to say:

"We believe, however, when we consider the historical and legislative background, that this interpretation is too narrow and restrictive and that for this court to adopt it would render the statute impotent. We believe a more logical interpretation of the statute would allow recovery under the Act in those cases where it is shown that the unlawful crowd of people was assembled for the purpose of carrying out what it believed was its collective or community interest, and in the execution of that purpose took over the powers lawfully delegated to and vested in the local authorities in order to exercise such powers correctionally and summarily over the plaintiff."¹⁸

It should, of course, be noted that the present statute does not require that the mob be assembled for the purpose of offering violence to the person or property of someone supposed to have been guilty of a violation of the law or for the purpose of exercising correctional powers or regulative powers by violence without lawful authority. Instead, as indicated, our present statute makes the municipality liable when a person is injured by the use of force or violence disturbing the public peace by a mob consisting of 20 or more persons acting together and without authority of law.

There have been no cases decided under the present mob violence statute, but it seems clear that the statute, particularly as bolstered by the reasoning of the *Staton* case, makes the municipality absolutely liable for personal injury or property damage resulting from the use of force or violence disturbing the public peace by a group of 20 or more persons. Although the *Harvey* case makes possible an argument that the 5,000 population classification renders the statute invalid, this classification is at least reasonably related to the ability to provide police protection. It is thus likely that, when tested by our Supreme Court,

¹⁷ 8 Ill. App. 2d 47, 55.

¹⁸ 8 Ill. App. 2d 47, 58.