

the statute will be sustained. In fact, an argument could well be made that since the doctrine of sovereign immunity no longer applies, absent statutory immunity, recovery for mob violence would be possible even without a statute, although in such instance, negligence or nonfeasance on the part of the municipality might be required.

CONCLUSION

Based on the foregoing, it must be concluded that at a time when mob violence has become too common an occurrence, the law in Illinois clearly makes the municipality liable for property damage and personal injury, regardless of the best efforts of the community to preserve peace and order. The argument that the community should assume the loss of the innocent individual who was the victim of mob action still remains compelling although the other reasons advanced in support of the mob violence statute may seem unrealistic. It is not likely that these statutes have deterred riot participation through fear of increased taxes nor does the record suggest that police protection would in any way be diminished if the municipality was not liable for riot damage. It is apparent that municipal officials, particularly in the smaller communities that lack large police forces, must give serious attention to the possibility that an unexpected riot or other mob action may produce liability well beyond the financial resources of the community.

It may well be that the existence of the mob violence statute in its present form will cause municipal officials to be extremely reluctant about permitting protest marches, parades and other types of controversial public demonstrations which may trigger violence. It would be ironic indeed if the mob violence statute, which has now been amended and construed to produce municipal liability without fault, in an effort to protect the innocent victim of mob violence, should become the excuse for municipal reluctance to sanction public demonstrations and other gatherings intended to promote individual rights.

Yet anyone familiar with the fact that most of our suburban communities at least are woefully undermanned and under-equipped as far as police departments are concerned must recognize that the mob violence statute can produce terrific burdens and cause even sympathetic public officials to go slow in granting permits for parades or the use of public facilities for controversial activities.

It would also seem that some governmental unit of greater financial resources should be required to stand behind the municipality if liability for mob violence is to be continued in its present form. Perhaps the ultimate liability should lie with the State of Illinois with some sort of contribution from local government if there is to be full recovery for damages sustained through mob violence.

Many municipalities have liability insurance to protect them against claims of all kinds. In fact, the Tort Immunity Act³⁹ specifically provides that a local public entity may contract for insurance against any loss or liability which may be imposed upon it under this Act. Most general liability insurance policies presently do include coverage against liability for mob damage. Yet it is highly likely that in view of the present conditions, many insurance carriers will be unwilling to write such insurance. This will be particularly true if there should be a flurry of lawsuits resulting from recent mob damage in Chicago. At the very least, the State should share the liability if the local government is unable to secure insurance.

On balance, however, it seems inconsistent that the legislature has seen fit to grant a wide range of tort immunity to local governments, while at the same time imposing the possibility of extensive liability through the mob violence statute. Recognizing that there may well be an overriding public interest in the maintenance of some form of municipal liability for mob damage, it would seem that the statute should at least be amended to impose liability on the municipality only if there was negligence or nonfeasance on the part of the municipality in providing police protection.

For those of us who represent municipalities, a realistic view of the present status of the law in this field would suggest steps which should be taken in order to protect the municipality against such liability and to mitigate such damages as may accrue. They would include the following:

1. *Make certain that the police departments are specifically trained to deal with mob violence and riot control.*—The problem of police training is always an im-

³⁹ Ill. Rev. Stat. 1965, Ch. 85, § 9-103.