Act Number	Session	Bill Number	Total Number of Committee Pages	Total Number of House Pages	Total Number of Senate Pages
PA 71-209	**vetoed**	**5719**	**7**	**11**	**3**
Committee Pages: • *Judiciary 422-424* • *Judiciary 521-525*				House Pages: • *1916-1926* • *House Special Session: 411-418 [8 pages]*	Senate Pages: • *1589-1591*

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to pass. FFH

MR. SPEAKER:

Will you remark further on House Amendment Schedule "A". If not, all those in favor will indicate by saying "aye". All those opposed. The Amendment is adopted. In the opinion of the Chair it is technical. The question now before the Chamber is moved by the gentleman from the 16th...its acceptance of the Joint Committee's favorable report and passage of the Bill as amended by Senate Amendment Schedule "A", in concurrence. It's further amended by House Amendment Schedule "A". Will you remark further. If not, all those in favor will indicate by saying "aye". All those opposed. The Bill is passed as amended.

GEORGE W. HANNON, JR.:

Mr. Speaker, I wonder if we now might return to Page 7, Mr. Speaker, to Calendar No. 536, that was passed temporarily?

THE CLERK:

Calendar No. 536, Substitute for H.B. No. 5719, an Act concerning municipal liability for damages done by mobs.

ROBERT G. OLIVER:

Mr. Speaker, I move acceptance of the Joint Committee's favorable report and passage of the Bill.

MR. SPEAKER:

Question's on acceptance and passage. Will you remark.

ROBERT G. OLIVER:

Mr. Speaker, this would repeal Section 7-108 of the General Statutes, which is the provision that allows actions

against the town where the town allegedly is not exercize reasonable care or diligence to suppress riots, put down mobs. This Statute...there has never been a recovery in the State of Connecticut under this Statute against a town, but the exposure is tremendous. There are currently cases totalling 2.3 million dollars in claims against the City of Hartford alone. Insurance premiums are $50,000 a year in the case of the City of Hartford. Companion Statutes in six other States have been repealed in the last four years, including Ohio and New York...most of the big populous states. Under companion Statutes prior to repeal in Pennsylvania, Philadelphia has 1.1 million dollars worth of cases pending... Newark 10 million. In 1967 alone insurance companies paid $110,000,000 in riot losses. Most of these cases pending, I would say, in the State of Connecticut are insurance company subrogation cases. That means that this Bill is a people's taxpayers Bill, and what this simply would do is eliminate the need for the towns to spend the money on the premiums and also retain counsel and defend these claims. As I say, no one has yet recovered on one of these claims against the towns, because the towns, quite frankly, mark them as no-pay cases and use every possible procedural device to stall off trial. It's a good Bill. It will save considerable money to the various towns. It's not specifically limited only, of course, to the big cities. Any suburban municipality with a institution of higher learning might well be the beneficiary of what we do today. I think that this is a excellent Bill, long overdue, repeal. I certainly move passage.

EFH

MR. SPEAKER:

Will you remark further on the Bill.

JOHN D. MAHANEY:

Mr. Speaker, Rep. Oliver's eloquence has said it all. I would just like to add this Statute that's being repealed is an archaic one. It not longer serves any useful function, and this repealer is a good Bill and should be passed.

MR. SPEAKER:

Will you remark further on the Bill.

GERALD F. STEVENS:

Mr. Speaker, after such eloquent speeches in favor of the Bill I feel somewhat restrained to rise to say that in my considered opinion it's a poor Bill, and I would hope that it is defeated in this House today. As to it being an archaic Statute, it was passed in 1949, which is not too far removed from the present time. This particular Statute imposes what I think is a proper obligation upon any municipality in the State of Connecticut, and that is to protect the people who pay taxes and live in the cities from riots. Let's take a look at the Statute and see what kind of an obligation it imposes upon a city in Connecticut today. The pertinent part of this Statute is as follows: 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; and here is the key...if such city or borough or the police or proper authorities thereof have not exercised reasonable

care or diligence in the prevention or suppression of such mob ri- EFH
otous assembly. That means if the people that you pay your taxes to do not take reasonable protection to protect your property from a mob, you have a right to sue the city. Now, what are we paying taxes for if we don't have a right to have reasonable protection from mob damage. That's all this statute says. It doesn't make the municipality an insurer of damage against your property. If the police, if the Mayor take proper action to prevent the mob from destroying your property, then you cannot recover under the Statute. Let's take the case where we have a Mayor who might not want to offend a rioting group, and therefore holds back from sending law enforcement officials into a particular section of the city. Don't you think that the people who live in that section of the city have every right to be protected, and if they're not protected, be able to recover from the city, that did not take reasonable precautions? Now about the people who have insurances on their businesses and homes? What do you think the insurance companies are going to do once this statute is repealed? As the law works in Connecticut today, the insurance company can be subrogated to the rights of the person and have a claim against the city. If you repeal this law, and say the city has no obligation whatsoever, the insurance company has no rights to be subrogated against, and they'll do one of two things. They'll either cancel your policy, or make you pay a sky-high premium that will drive businesses out of the core cities. This is not a people's Bill. It's a bad Bill designed to protect municipal administrations

that don't want to take reasonable steps to protect the people who pay the taxes. It's a bad bill. It should be defeated, and I move that when the vote be taken, it be taken by roll call, Mr. Speaker. EFH

MR. SPEAKER:

There's a request for a roll call. All those in favor of vote being taken when it is taken by roll call indicate by saying "aye". In the opinion of the Chair, more than 20% have supported the motion to request a roll call will be ordered. The Chair will stand at ease while the Chair announces that a roll call request. The House will return to order. will you remark further.

JOHN D. MAHANEY:

Mr. Speaker, I rise once more in support of this Bill which repeals, and I repeat this archaic statute, and I quote to you from the Connecticut General Statutes as annotated, the history of this Bill, as a matter of fact, is that it was first adopted...I should say the history of this statute, is that it was first adopted in 1903 as Public Act 140, Chapter 140. And I submit to you that Mr. Oliver's remarks that there has never been a successful case brought pursuant to this Statute is proof positive, in my judgement, that all of the towns and municipalities within the State of Connecticut have been exercising reasonable care to protect not only the personal rights but the property rights of the residents and citizens of the State of Connecticut. This Statute no longer serves any useful purpose, and I submit

that the only serious objectors to the repeal of this Statute are the insurance industry in this State. EFH

MR. SPEAKER:

Will you remark further on the Bill. If not, the Chair will announce an immediate roll call. There will be an immediate roll call in the Hall of the House. While we're awaiting the return of...while we're awaiting the return of the Members for the purpose of the roll call, it will be appropriate at this time to indicate any announcements, points of personal privilege or if the Clerk has further business.

THE CLERK:

Favorable changes of reference. Substitute for H.B. No. 7001 from Judiciary, an Act concerning adding 25 probation offices to the Commission on Adult Probation. The report of the Committee is the Bill ought to pass and be referred to Appropriations.

MR. SPEAKER:

So ordered.

THE CLERK:

Change of reference favorable from Judiciary, Substitute for H.B. No. 5093, an Act concerning law clerks for judges. The report of the Committee is the Bill ought to pass and be referred to the Committee on Appropriations.

MR. SPEAKER:

Favorable change is so ordered. The House will be in order. For the benefit of the Members who have just returned to the Chamber...for the benefit of the Members who have just re-

turned to the Chamber, we refer you to Page 7 of the Calendar, EFH
Calendar No. 536, Substitute for H.B. No. 5719, in your files No. 483. The question before the Chamber is on acceptance of the Joint Committee's favorable report and passage of the Bill. The roll call that was requested by the distinguished gentleman from the 165th has been ordered. We will resume the debate. Will you remark further.

PETER W. GILLIES:

Mr. Speaker, I rise in support of this Bill. I am a little surprised at the remarks of the opposition to it. It does not seem to me that the mere fact that a municipality or town has by virtue of this Bill not been required to carry insurance to cover for mob violence, that it will then cease to offer the kinds of protections which we as taxpayers can expenct from them. I cannot believe that a police department in the City of Hartford, or Middletown, or any other major community would refuse to act for the protection of its citizens simply because of some imagined liability which may or may not exist. I think that we are chastising our law enforcement or fire protection agencies when we would even suggest such a thing. The fact of the matter is the cost of insurance to the municipalities is reaching such prohibitive rates that it becomes impossible for many communities to even consider carrying it. Many communities have found they must be self-insured and cannot afford the rates which the insurance companies are now charging. It is a prohibitive expenditure to the municipalities simply because of this kind of imposed liability. We

all understand the kinds of exposure that the municipalities are facing in this day and age, and to impose on them the heavy costs which are attendant upon the kinds of damage which may be done is imposing far too great a burden on our communities, and our money would be better spent in other areas. I urge the adoption of this Bill. EFH

MR. SPEAKER:

Will you remark further on the Bill.

ROBERT G. OLIVER:

Mr. Speaker, very briefly, I urge support of this Bill. The fear that the insurance companies will cancel policies in the so-called high risk areas you can read that into poor areas of our larger cities. It's a fear, and that's why, in the last Session of the General Assembly, we passed Connecticut's Fair Plan, machinery for that assigned risk for fire and liability insurance, property cases...I think this is the sort of a answer we should be doing. I think that that's part of the one...one of the two problems of the attack on this problem. We did that first prong last Session. It's not working as well as it should. We should beef it up this session. The second prong is to deal with the impossible exposure a town has...

MR. SPEAKER:

Excuse me, sir. Please afford the same courtesy we all appreciate receiving ourselves to the gentleman from the 104th.

ROBERT G. OLIVER:

...so that the second prong is to try to ease the im/pos-

exposure a town has. Many municipalities cannot frankly, as Mr. Gillies indicated, afford coverage. Well, in fact, most insurance companies are no longer offering this coverage. I am informed that in Hartford, the City of Hartford pays $32,400 a year for a total of a half million policy. That half a million is not on one case. It's on all claims, and it includes the cost of defense, and it's being offered, I can report, only as a courtesy because the headquarters of the company office is in the City of Hartford. And New Haven is not similarly or fortunately located...nor is the Town of Storrs...or others. I have in my possession letters from town counsels in many municipalities...Hartford, of course, Manchester, Waterbury, Meriden, East Hartford and others urging this. And I would repeat that the repeal of the Statute in no way affects or lessens the municipalities obligation to maintain law and order and peace...absolutely not. The duty is to protect the republic, to the public is the rule here, not the exception, and it has this regardless of whether or not it's actually liable for any damages incurred. The worst possible thing that could happen to a municipality is to have a section of town burned out that has happened in Newark. Not only under this...if this Bill is not passed would it be liable and possibly liable...possibly liable under the Statute to those who were burned out, but in addition it would lose the tax base and its city would be seriously crippled. So no city in its right mind; no policy chief, no governing body of a large city, a small city or any city would just be, because this Bill is passed, not do its best to maintain peace and order

EFH

in its community. I would repeat, in the 68 years this Statute has been on the books, there has been no record whatsoever, that I can come across, or could counsel find, of any situation where a plaintiff recovered. But, substantial expenses have been incurred and are increasingly being incurred defending these cases. They're not won, but they have to be defended. Finally, I would suggest that 95% of the cases pending today in the City of Hartford...95... are brought by insurance companies, subrogation cases. Those 95% can afford to be brought by the insurance companies because they can hire counsel and try them all together. The other 5% brought by individual plaintiffs perhaps who are uninsured, and I feel for them, and that's why we passed the Fair Plan machinery...those 5% will never recover because they can't afford to hire the experts and go on trial for two or three or four weeks in a case that might come up under the Statute. So I believe that it really...and I appreciate the concern of the gentleman from Milford...I believe we can better serve our municipalities and our State and our taxpayers if we pass this Bill.

EFH

MR. SPEAKER:

Will you remark further on the Bill. If not, will the staff please clear the aisles and come to the well. Members please resume their own seats. The machine will be opened. Will the Members please check the board and indicate to the Chair if your machine is not functioning or if your vote is not being recorded. The Chair will close the machine. The Clerk will take the tally.

THE CLERK: EFH

Total number voting 152. Necessary for passage 77. Yea 83. Nay 79. Absent and not voting 25.

MR. SPEAKER:

The Bill is passed.

THE CLERK:

One other matter passed temporarily. On Page 4.

CARL R. AJELLO, JR.:

Mr. Speaker, may we beg your indulgence for a couple of announcements...one of which is of immediate import.

MR. SPEAKER:

Please proceed.

ROBERT J. VICINO:

Mr. Speaker, I'd like to announce that there will be a meeting at Executive Session of the Insurance Committee in Room 417.

MR. SPEAKER:

Are there further announcements at this time?

CARL R. AJELLO, JR.:

Mr. Speaker, might I indicate to the Democratic members that there will be an important caucus on Monday immediately following the session in a room to be announced between now and then. We intend to take up matters concerning budget and revenue items, and we would ask for a full attendance.

MR. SPEAKER:

Are there further announcements? If not, the Clerk will

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we've got. The gentleman from the 118th prepared to direct the Clerk's attention, the members' attention to pending legislation?

MR. AJELLO: (118th)

Yes, Mr. Speaker. We would like initially to go to page 2 of the Calendar, the second item, Public Act, 209, House Bill 5719. AN ACT CONCERNING MUNICIPAL LIABILITY FOR DAMAGES DONE BY MOBS. In your file it is file 483.

THE SPEAKER:

The Clerk call that item.

THE CLERK:

Page 2 of the Calendar for Monday, August 2nd, 1971. Public Act. 209, House Bill 5719, AN ACT CONCERNING MUNICIPAL LIABILITY FOR DAMAGES DONE BY MOBS. File 483.

THE SPEAKER:

The gentleman from the 104th.

MR. OLIVER: (104th)

Mr. Speaker, I move reconsideration.

THE SPEAKER:

Question is on reconsideration. I suggest that rather than have debate on reconsideration that the debate be limited to repassage. We intend to call at this time and I say it is tentative, 38 items. Will you remark on reconsideration. If not, all those in favor indicate by saying AYE. Opposed. Reconsideration is granted. Will the gentleman now move repassage and each of these votes must be by roll call. Representative Oliver.

MR. OLIVER: (104th)

Mr. Speaker, I move repassage pursuant to the Constitution of the State of Connecticut.

THE SPEAKER:

Let me announce the roll call. Would you remark.

MR. OLIVER: (104th)

Mr. Speaker. It is a pleasure, perhaps brief it will be to stand at the desk of the gentleman of the 118th. I would like to speak for repassage of Public Act 209. Mr. Speaker, respectfully I may say that it appears that the Governor misunderstood the import of this bill in his veto message. He suggests that Section 7-108 of the General Statutes which this bill repeals, requires municipalities to provide fire and -police protection and to repeal it would be a mistake. Well, of course, that would be a mistake, if it in fact that statute to this bill repeals required the municipalities to provide police and fire protection. It does not do so. What this bill does, Mr. Speaker, is to take the municipalities off the liability hook for those damages done by riotous assemblies where, Mr. Speaker, the municipality has been held by a court of law to have not exercised reasonable care or diligence to put down that riotous assembly. Mr. Speaker, this is a very serious financial situation if one lawsuit were to be successful by a plaintiff under this statute, it could very well bankrupt a town. There are currently pending against the City of Hartford claims totaling in provable damages $2.3 million and this is in connection with only one summer's unrest, I might say

unfortunately. Mr. Speaker, this statute was enacted back in the 19th century. There has never been, fortunately, a case in the State in which a municipality was held liable under the statute. But during these 70 some years the municipalities have been forced to incur substantial liability insurance premiums to guard against this. It's a liability that adheres not only to small towns, I would say Mr. Speaker - not only to large cities, also to small towns, particularly towns with colleges or a large state institution in them. The City of Hartford, for example, the premium liability insurance on this totals somewhat in excess of $180,000 per year. The defense costs are even higher and the insurance companies insuring them put a total policy limitation-coverage-of only a half million dollars and there is as I indicated $2.3 million worth of claims pending. This bill in no way lessens the duty of a municipality to protect the public. That's the rule, that's what other provisions of the statute require, that's what the Constitution of the State of Connecticut requires. What this bill does is take away the jeopardy resting on the backs of all of the taxpayers, property owners of the municipalities of this state and said that the municipalites will continue to have the obligation and the obligation it should have to keep peace and order within its borders but that for default to do so it would not be the liability of the property-owners who in fact had nothing to do with that default should it occur and that in fact the insurance companies which are the plaintiffs under subrogation cases, which these cases are in fact, these insurance companies will not be able to avoid their policy

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roc

obligations by bringing expensive costly actions against the municipalities under this statute. I urge its repassage in accordance with the Constitution.

THE SPEAKER:

Further remarks. Representative Collins of the 165th.

MR. COLLINS: (165th)

Mr. Speaker, I rise in opposition to repassage of this bill. Unlike the gentleman from New Haven, I intend to make my remarks very brief on this and every other subject we take up today. The gentleman was absolutely in correct when he indicated the Governor did not have the correct reasoning or did not understand the bill. I think the Governor's veto message very clearly points it out. He indicates that there is a constitutional provision which requires the principal duty of any local government including to insure domestic tranquility, provide for defense and so on, and that that provision is implemented by Section 7-108 of the General Statutes. There was no misquote or misinterpretation of this particular veto. I would remind the members of the House that we fully debated this subject during the regular session, that we opposed the bill at this time and it is my intention to oppose it again.

THE SPEAKER:

Further remarks. Representative Mahaney of the 92nd.

MR. MAHANEY: (92nd)

Mr. Speaker, I will be very brief. I spoke in favor of passage of this bill originally. I haven't changed my mind on it.

I think this bill should be repassed. I think that what it does is actually permit insurance companies to bring subrogation suits against towns and municipalities for losses they may suffer as a result of fires, etc. for some, I should say due to some civil disorders that occur within the towns. Now my understanding of insurance is that it spreads the risk throughout a given number of people who participate through the payment of premium. Now if this is the purpose, there is no good purpose served by permitting an insurance company to collect premium on the theory that it is going to spread the risk and then turn around after having paid a claim and institute a suit against the taxpayers of the town or municipality in order to try to recover and recoup their loss. And I think another important point that urges repassage of this bill is for the protection of the cities and municipalities is the point brought out by Representative Oliver that since the inception of this statute in the early 1900's, there has never been a successful suit that has been brought against the town or municipality. I think this is important because it points up a fact that in my judgment a law is only a good law if it works. And apparently this law does not work and there is no good reason to maintain it on the books because all it does is subject the town or a municipality to the expense and to the trouble and yes, the possible exposure of recovery in a lawsuit. I urge repassage of this bill for these reasons.

THE SPEAKER:

Further remarks. Let me announce the roll call again. I

urge you to stay on the floor. Representative LaRosa from the 4th.

MR. LAROSA: (4th)

Mr. Speaker, I wish to speak in favor of repassage of this bill. As you know, Hartford is maybe one of the cities where there has been quite a bit of unrest. I think that what happens is that in Hartford we have one of the finest police and fire departments in the State of Connecticut. I think that they have done their job in trying to give domestic tranquility to the people of the City of Hartford. But I feel that this bill should be repassed because in some cases the damage that is done should not be, the expense should not be given to the people of the City of Hartford. Ifeel that this bill should be repassed.

THE SPEAKER:

Representative Sarasin from the 95th.

MR. SARASIN: (95th)

Mr. Speaker, I rise to oppose repassage of this legislation and really for the reasons that have been outlined by Representative Oliver in his attempt to engage us in a move to override. He made the comment that the purpose of the law requires the municipality to exercise reasonable care and diligence and I think that is exactly what it does and that's exactly why it should remain on the books. It does require reasonable care and it requires the same standard of care as exists for all of us as citizens or partnerships, corporations, whatever. The municipality is under no greater burden under this type of legislation than we are as individuals and that's what makes it important. An attempt

to remove this will possibly lead to an attempt to simply abandon roc the responsibilities of government and create greater havoc than we have already seen in the cities. This is important legislation to remain on the books. The fact that no lawsuit has been successful only attests to the fact that the communities hav e in fact exercised reasonable care and have in fact exercised reasonable diligence. Removal of this requirement can lead to great havoc. I oppose an attempt to override.

THE SPEAKER:

Further remarks. Representative Stolberg from the 112th.

MR. STOLBERG: (112th)

Mr. Speaker, I don't plan on voting to override all of the bills that my party may choose to do. I would hope that some of us here today, at least some of us, could vote on each bill on its merits. I think this bill indeed does stand on its merits. I think the Governor's decision to veto this bill was based on a misunderstanding. And let me speak for just one moment to the future. I don't think it is only New Haven and Hartford and Bridgeport and Waterbury that will be facing an increased vocal spontaneous and unspontaneous demonstrations in the future. Indeed I think it is very important for us to speculate on what would happen to a very small town that had to take on the type of demonstration that New Haven and Hartford have in the past. Whereas the larger cities have been able to absorb the costs, indeed a small town could be put out of business by a demonstration of that sort. I would hope that this type of

bill that takes on a state responsibility for a major problem in our society today could be passed.

THE SPEAKER:

Further remarks. If not, let me announce the roll call and urge members to stay on the floor. The motion in each case is to repass. If you are in favor of repassage of the bill, you will vote yes. If you wish to sustain or uphold the veto, vote no. The members please be seated. The machine will be opened. Has every member voted. If your vote recorded on the board in the fashion you wish. The members check the board to be sure they are recorded. The machine will be locked and the Clerk will take a tally.

THE CLERK:

Total Number Voting 145
Necessary for RePassage 119
Those Voting Yea 81
Those Voting Nay 64
Absent and Not Voting 32

THE SPEAKER:

THE BILL IS LOST.

THE SPEAKER:

The gentleman from the 118th.

MR. AJELLO: (118th)

Directing the Clerk's attention to Page 11, second from the bottom, Special Act 156, House Bill 5036, AN ACT INCREASING THE APPROPRIATION FOR SOILS MAPPING.

THE SPEAKER:

The Chair recognizes the Dean of the House. Rep. Cohen.

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in favor of passage signify by saying, "aye". Opposed, "nay". The ayes have it the bill is passed.

THE CLERK:

CAL. NO. 516. File No. 483. Favorable report of the joint committee on Judiciary. House Bill 5719. An Act Concerning Municipal Liability for Damages Done By Mobs.

SENATOR JACKSON:

Mr. President, I move acceptance of the joint committee's favorable report and passage of the bill. This bill will repeal section 107-108 of the General Statutes. Said section is the section which provides liability for damage done by mobs to a city or municipality. The bill as written, as the bill is written it is practically impossible to gain ajudgement against the municipality. What is happening is, that, suits are being brought which cost the cities a great deal to defend, without any reasonable expectation on the part of the plaintif prevailing. I believe that it would be in the best interest of the State of Connecticut as well as the cities to repeal this section.

THE CHAIR:

Will you remark further?

SENATOR MACAULEY:

Mr. President, members of the circle, I rise to oppose this bill. I feel that whatever section 708 does, at least it imposes some virtue vested of responsibility on the municipality. The repeal that we give them, complete immunity, I don't think this is a good idea. I think there are areas there may be times, when the city should be liable for its actions in mob control. True, it's a very difficult situation to prove but, there are

situations where I think, might arise in the future where the property owner the tenant or whoever else's property is destroyed should have some sort of regress against the city, if it happened to be that type of flagrant situation where directly, because of the cities, perhaps even willful refusal to act, to protect the property. People pay taxes, they expect protection.

And I think that, this bill can only do some harm in making the city in certain instances feel thatthey can simply refurse to act and refuse to afford protection.

SENATOR CALDWELL:

Mr. President, I rise to respectfully disagree from my collegue from Bridgeport, after hearing his remarks, I wonder whether or not we come from the same city.

City of Bridgeport like New Haven, Hartford, Waterbury and New Britain, have had many instances of law suits being instituted against the municipality and many of them are frivolous suits.

What happens, Mr. President, is that it is not a question of citizen having redress, because in all of the instances, of which I'm aware in the City of Bridgeport, there were insurance policies involved. These are suffragations rights by the companies against the municipalities itself. Without legislation of this type, I think that the Municipalities are in grave danger of finding themselves on the verge of bankrupcy in the event that a jury should decide that the amount of police protection that a city is able to afford its citizens, was not adequate. So for these reasons, I rise to support this, which I consider a very wothwhile measure and very necessary, for the cities and for this State.

THE CHAIR:

Will you remark further? Senator Neidtz, oh Senator we are very friend ly but you cannot sit in a Senator's seat. Please! There's no question about it, let's get on with the business, and remove yourself from the Senator's seat. Mr. Buckley. I didn't mean Senator Buckley, I meant Mr. Buckley, thank you, Senator.

Will you remark further? If not, all those in favor of passage of the bill signify by saying, aye". Opposed, "nay". The Chair is in doubt. All those in favor please, stand. All those opposed, please stand. The ayes have it. The bill is passed.

THE CLERK:

CAL. NO. 517. File No. 693. Favorable report of the joint committee on Finance. Substitute House Bill 5995. An Act Concerning the General Powers of the Tax Commissioner to Prescribe Regulations and Rulings.

SENATOR CUTILLO:

I move acceptance of the joint committee's favorable report and passage of the bill. This bill will authorize the Tax Commissioner to prescribe regulations and ruleings under all tax laws administered by him, subject to the approval of the legislative regulations review committee. The Tax Commissioner has been performing the above function, however, there was no specific statute empowering him to do so. So therefore, this bill. I move passage.

THE CHAIR:

Question is on passage. Will youremark further? If not, all those in favor signify by saying, "aye". Opposed, "nay". The bill is passed.

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We commend the formula set forward in the Bill for establishing alimony and support. We suggest further that standard actuarial tables might be established to treat this problem. We recommend an automatix payrole deduction for these payments where applicable. Training and collecting from husbands who have left the State creates a tremendous problem and adds to welfare rolls and the welfare rolls in California have increased greatly through Aid to Dependent Children because the husbands are not giving the support payments they are supposed to do and this can all be done through proper enforcement procedures. We hope that these observations will be of value to the Committee and considered in the formulation of legislation. Thank you very much.

Sen. Jackson: Would you leave that with the clerk please.

Mrs. Berry : Thank you, I would be happy to.

Sen. Jackson: Richard Shettle to be followed by James Higgins.

Mr. Shettle: Good morning ladies and gentlemen of the Committee. My name is Richard W. Shettle, I live at 168 Hubbard road in Hartford. I am also assistant corporation council for the city of Hartford. I have prepared a statement here concerning Public Act H.B. #5719 which I would recommend that this Committee act favorably upon.

H.B. #5719 - AN ACT CONCERNING MUNICIPAL LIABILITY FOR DAMAGES DONE BY MOBS.

The purpose of this revision to Section 7-108 is to remove the liability of municipalities for all injuries to persons or property when such injuries are caused by unlawful assemblies or riots.

The original intent of this Statute was to quicken public conscience and to stimulate a sentiment in favor of law and order by making each citizen and taxpayer responsible for a proportionate share of the loss from more or less spontaneous mob violence. It is submitted that a more unrealistic statement in view of present circumstances would be hard to find. This Statute, passed approximately one hundred years ago, was designed to thwart mob violence against persons suspected or accused of crime and were commonly known as anti-lynching statutes. It was not to cover those situations where municipalities face revolutionary groups using violent means.

I submit that the preservation of civil government is thought to be a greater good, even for the unforttunate citizen harmed by violent activity than compensation for his injuries from the public coffers. In a government whose power to borrow money is constitutionally circumscribed, it is thought to be prudent policy to deny to civil juries, far removed by time and space from the common peril, the unfettered power to increase the public indebtedness.

Indeed passage of this bill might well prevent serious financial difficuties for unfortunate, and probably insolated, cities.

Under this statute, claims in excess of one milion dollars have been made against municipalities in this state as a consequence of violent agitation following the assassination of Martin Luther King in April, 1968.

The Labor Day riots of 1969, in the city of Hartford alone, have resulted in claims for which suit has been brought amounting to $2,379,350.00. The riots which occured in July and August of 1970, have resulted in approximately 58 notices of claim the amount of which is still undetermined, but I will point out that the two million three hundred thousand figure mentioned above represents approximately 35 claimants.

Most of the litigation arising out of these civil disturbances has been initiated by insurance companies whose policyholders are urban businesses, against the local municipal governemnt, its mayor, chief of police, etc., under the subrogation rights they receive from their assured.

While insurance companies, after receiving their premium, may possibly recover for their losses, the members of the community, who had not caused nor participated in riots, would be forced to bear the risk, for which insurance companies had received premiums. What I am asking is that the riot victims not only pay premiums, but also a portion of their loss through increased taxes by reason of recoveries by their insurance companies from the municipalities.

To believe that municipal liability is an answer, if not the answer, to civil disturbance problems is to be short-sighted and naive. The Supreme Court of Wisconsin grasped the problem with realism when it observed:

It seems that we have reached a point where the myth that the responsibility to reimburse riot victims must be financed by the governmental unit where they occur is seen as ridiculous. If this Assembly feels that such victims should be compensated, then I would recommend that payment if any, be made from the general funds of the State of Connecticut through its State Claims Commission. Obviously, the most just and least discriminatory apportionment would occur at the federal level, but that is another problem and is begging the immediate question. Thank you very much.

Sen. Jackson: Would you leave that with the secretary, please. Mr. Higgins to be followed by Mrs, Wolf.

Mr. Higgins: Mr. Chairman, Ladies and Gentlemen of the Committee, my name is James M. Higgins, I am Assistant Attorney General of the State of Connecticut. I would like to address myself to 4 or 5 bills that are on the list this morning. The first is H.B. #5287.

H.B. #5287 - AN ACT CONCERNING SUBPOENAS.

The amendment that we would like to have favorable consideration in this Bill is that which would authorize payment of subpoena fees by the clerks or an assistant attorney general in addition to the State's Attorney and Public Defenders as the Bill now provides. The second bill I would like to speak on is H.B. #6032.

H.B. #6032 - AN ACT CONCERNING PRESUMPTION OF LEGITIMACY

The stated purpose of this Bill is to make the State a full party to actions involving legitimacy of children who are or have been beneficiaries of aid or care from the State, and to place the burden of proof of claims that a child is illegitimate on the person so claiming it. This is a Bill specifically to give the State standing in law suits involving legitimacy of children as a full party and to, in fact, codify or have this Legislature enact by Statute the long standing presumption in law of the legitimacy of children.

The third Bill I would like to address myself to is H.B.#6030.

H.B. #6030 - AN ACT CONCERNING PATERNITY PROCEEDINGS.

Now this is a Bill concerning Paternity Proceeding. I would like to present to this committee a substitute bill this morning that would add one more feature than that the bill #6030 contains. This is essentially designed - the amendment to this bill, to provide immunity to both the mother and the putative father in and prior to paternity proceedings.

February 25, 1971

Judiciary Committee
State Capitol
Hartford, Connecticut

Gentlemen:

RE: House Bill 5719
Municipal Liability for
Damage done by mobs
(Sec. 7-108)

We wish to recommend to your Committee the passage of the above-entitled bill, which pertains to municipal liability for damages incurred in riots, etc.

The purpose of this revision to Section 7-108, is to remove the liability of municipalities for all injuries to persons or property when such injuries are caused by unlawful assemblies or riots.

The development of organized groups bent on the reckless testing of the limits of civil authority, groups which seem to seek excuses for violence against persons and property, groups which often appear bent on destruction as an end in itself, confront municipalities with a novel situation for which the current law is not well designed.

Indeed the original intent of the statute was to quicken public conscience and to stimulate a sentiment in favor of law and order by making each citizen and taxpayer responsible for a proportionate share of the loss from more or less spontaneous mob violence. It is submitted that a more unrealistic statement in view of present circumstances would be hard to find. This statute, passed approximately one hundred years ago, was designed to thwart mob violence against persons suspected or accused of crime and were commonly known as anti-lynching statutes. It was not intended to cover those situations where municipalities face revolutionary groups using violent means.

The preservation of civil government is thought to be a greater good, even for the unfortunate citizen harmed by violent activity than compensation for his injuries from the public coffers. In a government whose power to borrow money is constitutionally circumscribed, it is thought to be prudent policy to deny to civil juries, far removed by time and space from the common peril, the unfettered power to increase the public indebtedness.

Indeed passage of this bill might well prevent serious financial difficulties for unfortunate, and probably isolated, cities which would suffer most from revolutionary activity using violent means.

Under this statute, claims in excess of one million dollars have been made against municipalities in this State as a consequence of the violent agitation following the assassination of Martin Luther King in April, 1968.

The Labor Day riots of 1969, in the City of Hartford alone, have resulted in claims for which suit has been brought amounting to $2,379,350.00. The riots which occurred in July and August of 1970, have resulted in approximately 58 notices of claim the amount of which is still undetermined, but I will point out that the two million three hundred thousand figure mentioned above represents only 35 claimants.

Most of the litigation arising out of these civil disturbances has been initiated by insurance companies whose policyholders are urban businesses, against the local municipal government, its mayor, chief of police, etc., under the subrogation rights they receive from their assured.

While insurance companies, after receiving their premium, may possibly recover for their losses, the members of the community, who had not caused nor participated in riots, would be forced to bear the risk, for which insurance companies had received premiums. What I am saying is that the riot victims not only pay premiums, but also a portion of their loss through increased taxes by reason of recoveries by their insurance companies from the municipality.

Root causes of disorders will not be given detailed consideration today. However, it may be useful at this point to indicate some of the different immediate causes which can be identified. First, and until recently, at least, the greatest has been racial tension. This has been building up in many of our cities for years. The eruption of violence may be "triggered" by any one of a number of incidents. The assassination of Dr. Martin Luther King resulted in disturbances in as many as 37 cities. More isolated instances, such as the arrest of a taxi driver, apparently for violating traffic rules, the raid of an after-hours drinking establishment, and the death of an AWOL soldier produced violent reactions.

A second category, which may merge into each of the others involves political demonstrations which may result in violence, whether intended or not. These have been largely concerned with expressions of dissatisfaction (to put it mildly) with the Government's policy in Viet Nam. Disturbances at the Convention of the Democratic Party in Chicago in 1968, the recent march on Washington in connection with the so-called Moratorium, various draft card burnings and the like have been too recently and extensively documented to require citation.

Finally, student demonstrations, partly for racial reasons, partly because of Viet Nam and partly due to a general revolt against educational institutions have become the "in thing". These are characterized by the forcible occupation of buildings, the detention of administrative officials, the destruction of files both of administrators and researchers and the disruption of the educational process. Again, these incidents have been fully reported in the press and their occurrence need not be supported by extensive documentation.

To believe that municipal liability is an answer, if not the answer, to civil disturbance problems is to be short-sighted and naive. The Supreme Court of Wisconsin grasped the problem with realism when it observed:

> "Clearly, a philosophy which assumes that riots will be repressed or eliminated by requiring the citizenry to absorb the cost of property damages resulting from such riots is no longer sound. In this era of "confrontation politics," "protest marches" and "civil disobedience" it is naive to think that riot statutes such as that before the court will retard such occurrences or keep them from developing into damaging riots, especially considering the spontaneity with which they occur."
>
> Interstate Fire & Casualty Co. v. City of Milwaukee
> No. 4, August Term, January 9, 1970

If it is agreed that the cities should be liable for damages resulting from civil disorders, one must reckon with the fact that municipal finances do not allow vast relief from the losses caused by riots. A massive influx of state or federal aid is necessary if the victims of the riots are to be compensated for their injuries.

Unfortunately, most cities are very much restricted with respect to methods by which revenue is to be raised. Most debt limitations are set relative to the assessed value of real property and such a restriction is burdensome in light of the unreality of many assessments and their infrequent adjustment. The shrinking tax-

base of municipal government is intensified by the movement of industry from the city to the suburbs. The people who are employed by these suburban industries will probably move to the suburbs themselves and as a result retail commerce also shifts to the suburbs.

The traditional means of collecting municipal revenue are simply inadequate, and there are not many more new taxable areas due to extensive state and federal activity. The property tax remains the largest source of revenue, but is insufficient in a number of ways. It does not enable the City to reach those for whom it is providing public services. The suburbanite who works in the city reaps the benefits of improved streets, fire and police protection, hospitals, etc.; however, his contribution to their maintenance is nothing. An increase of state and federal aid is the only thing that could be done to insure effective municipal functioning in the immediate future.

In short, the institutions and mechanisms of municipal government were designed to meet the problems that existed years and even centuries ago. They are simply inadequate to meet today's complex problems faced by the large cities.

About seven (7) years ago, there were approximately twenty (20) states that had some type of riot liability statute. Several of these have already taken steps to relieve the municipalities of this potentially impossible burden by repealing their riot statutes, namely California, Louisiana, Ohio, and Illinois. New York declared a moratorium on such claims two decades ago and Pennsylvania saw fit to limit such liability to only three counties and is now considering repealing the entire statute. There are presently only three (3) states which allow recovery for personal injury and Connecticut is one of them.

If you agree that individual's loss from a civil disorder is an indirect result of a social problem, then society as a whole should bear the burden. One may object that a citizen far from the scene of any riot would be required to bear the burden along with those more directly responsible, but if we recognize that the riots with which we are concerned stemmed from the failings of American society, then justice may be had in such an apportionment.

It seems that we have reached a point where the myth that the responsibility to reimburse riot victims must be financed by the governmental unit where they occur is seen as ridiculous. If this Assembly feels that such victims should be compensated, then I would recommend that payment, if any, be made from the general funds of the State of Connecticut through its State Claims Commission. Obviously, the most just and least discriminatory apportionment would occur at the federal level, but that is another problem and is begging the immediate question.

I respectfully ask that this Committee give serious consideration to this bill and report favorably on it, as I firmly believe that it is probably the most important piece of legislation to come before this Committee so far this Session.

Respectfully submitted,

Richard W. Shettle.
Assistant Corporation Counsel
City of Hartford