insurer is not liable for a total loss.[11] On the other hand, in those states where there is a valued policy law, a provision of this type is generally inoperative.[12]

In some instances, instead of insuring the building, the policy insures the rent or income which the building usually produces. Here a refusal by the city officials to issue a permit to rebuild, in pursuance of a municipal ordinance, will not increase the liability of the insurer. The insurer is liable only for income losses during the time it would have taken to replace the building if such an ordinance did not exist.[13] Thus, there are two distinct rules of damages. If the building itself is insured, the operation of the ordinance increases the liability of the insurer unless the policy contains a provision to the contrary and, as stated, such limitation is effective only in the absence of a valued policy statute. But if rents are insured, the liability of the insurer is not increased by local legislation.

M. C.

TAXATION—DELINQUENT TAXES—LIENS—VALIDITY OF STATUTE—GENERAL OR SPECIAL LEGISLATION—[Missouri].—Suit upon an agreed state of facts[1] by a delinquent taxpayer owning real estate in the City of St. Louis, to enjoin the Collector of Revenue of the city from proceeding by suit, under the provision of House Bill 677, 60th General Assembly, to enforce the state's lien for general real estate taxes on delinquent tax bills charged

---

sec. 8; N. D. Comp. Laws (1913) secs. 6609, 6623; Ohio Gen. Code (1926) sec. 9583; S. C. Code (1932) secs. 7977, 7980; S. D. Comp. Laws (1929) sec. 1458; Tenn. Code (1932) sec. 6174; Tex. Vernon's Stats. (1936) 4929; Wash. Pierce's Code (1933) sec. 3013; W. Va. Code (1931) c. 33, art. 4, sec. 9; Wis. Stats. (1937) sec. 203.21.

11. Hewins v. London Assurance Corp. (1903) 184 Mass. 177, 68 N. E. 62; McCready v. Hartford Fire Ins. Co. (1901) 61 App. Div. 583, 70 N. Y. S. 778; The Midwood Sanatorium v. Firemen's Fund Ins. Co. of San Francisco (1933) 261 N. Y. 381, 185 N. E. 674.

12. New Orleans Real Estate Mortgage & Securities Co. v. Teutonia Ins. Co. (1911) 128 La. 45, 54 So. 466; Palatine Ins. Co. v. Nunn (1911) 99 Miss. 493, 55 So. 44; Dinneen v. American Ins. Co. (1915) 98 Neb. 97, 152 N. W. 307, L. R. A. 1915E 618, Ann. Cas. 1917B 1246. Contra: Gouin v. Northwestern Nat'l Ins. Co. (1927) 145 Wash. 199, 259 Pac. 387, in which, however, the court failed to notice the existence or effect of a valued policy law, Wash. Code (1933) sec. 3013.

13. Amusement Syndicate Co. v. Prussian Nat'l Ins. Co. (1911) 85 Kan. 367, 116 Pac. 620; First Investment Co. v. Vulcan Underwriters (D. C. D. Ore. 1927) 33 F. (2d) 785. But see Palatine Ins. Co. v. O'Brien (1908) 107 Md. 341, 68 Atl. 484, 16 L. R. A. (N. S.) 1055.

1. The more important facts are: (1) Percentage of sales in St. Louis and St. Louis County are two per cent and eight per cent, respectively, whereas average percentage for other counties is thirty-eight per cent. (2) City of St. Louis invested $199,454.02 at sales held under Jones-Munger Law in 1936, 1937 and 1938, for the purchase of property being offered a third time to protect liens for state, city and school taxes against said property. (3) General real estate markets in St. Louis and St. Louis County vary to a great extent from those in other counties of the state. (4) There is a greater demand for insuring titles to real estate in St. Louis and St. Louis County than in most other counties of the state.

against property for the years 1934 through 1938 inclusive. *Held*, injunction denied. The repeal of certain sections of prior act and enactment of substitute sections classifying delinquent taxpayers on the basis of density of population of the area in which their property is situated held valid. The latter is not an arbitrary basis.[2]

In 1933 the 57th General Assembly adopted the Jones-Munger Act[3] in the belief that a summary sale of land subject to delinquent taxes would afford an effective check to the rapidly increasing amount of delinquent taxes.[4] The act provided that the collector of revenue was authorized to offer for sale lands without first reducing the delinquent tax to judgment.[5] If the amount did not equal the delinquent taxes with penalty, interest and costs, a second offering ws required the following year.[6] If this offer failed to realize the sum above required, a third offering the ensuing year was authorized at which sale the land was sold to the highest bidder.[7]

As adopted, the Jones-Munger Act was a failure.[8] Owing to the small amounts offered at the authorized sales, the cities of St. Louis and Kansas City were obliged to protect their interest by bidding in numerous properties.[9] The result was a demand for repeal of the act at least so far as metropolitan areas were concerned.[10] House Bill 677 embodies the desired changes by authorizing collection of delinquent taxes by suit in the metropolitan areas leaving the provisions authorizing summary procedure by the collector applicable to the rural areas.[11]

The plaintiff in the instant action contended: (1) that the House Bill violated section 28, art. IV of the Missouri Constitution, in that it contained more than one subject as clearly expressed in its title; and (2) that the act constituted local and special legislation in so far as classification and diversity of remedy based on different population densities was arbitrary and not applicable to all persons and places concerned.

The court decided upon plaintiff's first contention that the title was

---

2. Hull v. Bauman (Mo. 1939) 131 S. W. (2d) 721.
3. Laws of Missouri, 1933, 425.
4. St. Louis Post-Dispatch, April 27, 1939, p. 10A.
5. Laws of Missouri, 1933, 432, sec. 9953.
6. Ibid., 432.
7. Ibid., 432, sec. 9953a.
8. St. Louis Post-Dispatch, February 16, 1939, p. 6B; St. Louis Globe Democrat, April 27, 1939, p. 9A.
9. St. Louis Post-Dispatch, February 16, 1939, p. 6B: Members of the House Ways and Means Committee were informed that unpaid back taxes, as of February, 1939, totaled more than $12,000,000 in St. Louis and about $7,000,000 in Kansas City. Also, St. Louis Star-Times, February 16, 1939, p. 28.
10. As early as 1937 repeal bills were introduced into the 59th General Assembly and passed by both houses, but the bills were vetoed by Governor Lloyd C. Stark. Journal of the House, 59th General Assembly of the State of Missouri, 1937, 1342-1346. St. Louis Globe-Democrat, March 15, 1939, p. 3A; St. Louis Post-Dispatch, April 20, 1939, p. 11C; St. Louis Globe Democrat, June 3, 939, p. 2A. An amendment strengthening the application of the act in rural areas was also adopted. Laws of Missouri, 1939, 850-853.
11. Laws of Missouri, 1939, 878.

general, dealing with "delinquent taxes," that it was an amendment to the Jones-Munger Act, and that each section of House Bill 677 dealt exclusively with the subject-matter of that act. This was sufficient.[12]

Upon plaintiff's second contention, the court ruled that House Bill 677 dealing with St. Louis and St. Louis County[13] was to be read with House Bill 555 dealing with Kansas City and Jackson County.[14] In arriving at this conclusion, the court depended not upon the area or class now affected by its operation, but rather upon whether: (A) the classification was left open and permitted other poltical subdivisions to come within its purview if and when they should qualify;[15] and (B) whether the classification was based upon a "similarity of situation or condition with respect to the feature which renders the law appropriate and applicable."[16] With respect to A the principle is well established that laws having reference to cities or counties of specified population are general.[17] With regard to B the court justifies the reasonableness of the classification[18] by the pitiful failure in St. Louis and St. Louis County of the operation of the Jones-Munger Law.[19]

---

12. It will be noted that the title to the Jones-Munger Law (Laws of Missouri, 1933, 425), amended by the present act, states that it is a bill to repeal certain sections of art. IX, c. 59, of R. S. Mo., 1929, entitled "Taxation & Revenue," and relating to "Delinquent & Back Taxes"; that the amendatory act (House Bill 677) states that said bill is one "relating to the same subject matter." It is perfectly apparent that the "subject matter" referred to is that of "Delinquent and Back Taxes," with which the new act deals. The general purpose of the law, therefore, deals with the subject matter expressed and unless the particulars stated in the title of the original law are restrictive of the general purpose, the title of the amendatory law need not state its own particulars. See: Graves v. Purcell (1935) 337 Mo. 574, 85 S. W. 543. In State ex rel. Van Brown v. Shepard (1881) 74 Mo. 310 it was held that where the title to an act set forth that the act provided for the collection of delinquent state taxes, it was broad enough to cover provision relating to the collection of city taxes by the state. Accord: Ward v. Board of Equalization (1896) 135 Mo. 309, 36 S. W. 648; Becker v. Wellston Sewer District (1933) 332 Mo. 547, 87 S. W. (2d) 147; State ex inf. Crain v. Moore (1936) 339 Mo. 492, 99 S. W. (2d) 17.

13. Laws of Missouri, 1939, 878.

14. Laws of Missouri, 1939, 873. Instant decision, by inference, upholds this bill. St. Louis Post-Dispatch, September 21, 1939, p. 3A.

15. In State ex rel. Zoological Board v. City of St. Louis (1928) 318 Mo. 910, 1 S. W. (2d) 1021 it was stated: "This court has frequently held that laws having reference to cities of a specified population are general in their nature. Citations to verify this holding seem superfluous, or as those given to similes put it, are like 'carrying coals to Newcastle.'" Accord: Vrooman v. City of St. Louis (1935) 337 Mo. 933, 88 S. W. (2d) 189; State ex rel. Crain v. Moore (1936) 339 Mo. 492, 99 S. W. (2d) 17.

16 State ex inf. Barrett v. Hedrick (1922) 294 Mo. 21, 241 S. W. 402; supra, note 2.

17. Supra, note 15.

18. In State ex inf. Barrett v. Hedrick (1922) 294 Mo. 21, 74, 241 S. W. 402 the court said: "The basis of sound legislative classification is similarity of situation or condition with respect to the feature which renders the law appropriate and applicable." To same effect, see: State ex rel. Holloway v. Knight (1929) 323 Mo. 1241, 21 S. W. (2d) 767.

19. Supra, note 2; St. Louis Post-Dispatch, February 16, 1939, p. 6B; St. Louis Globe-Democrat, April 27, 1939, p. 9A.

It is pertinent to inquire whether the conclusion arrived at by the Missouri Supreme Court is based upon sound principles of constitutional law. The court is sustained upon the question of notice from the statute's title by numerous Missouri decisions.[20] More doubtful is the decision validating the classification of all delinquent taxpayers on the basis of densities of population. The courts in Alabama,[21] Georgia,[22] Oklahoma,[23] Nevada,[24] South Carolina,[25] Tennessee[26] and Wisconsin,[27] have condemned such delinquent tax laws as special and local legislation.

The Supreme Court of Missouri has adopted a pragmatic approach to the solution of the delinquent tax problem based on factual results under the sales held in conformity with the original act. If the agreed statement of facts is true, the original act failed of its purpose in the metropolitan areas, leaving taxes unpaid and creating no vendible tax title in the purchaser. Whether the repeal of the act will achieve the end desired, only practical application can tell. As for the decision, it appears open to serious question both upon orthodox principle of statutory construction and because of its probable consequences. S. R. S.

TORTS—DEFAMATION BY RADIO—LIABILITY OF BROADCASTING COMPANY—[Federal].—A radio broadcasting company leased its facilities to an advertising corporation for programs featuring a widely known entertainer as the principal performer. The actor, while conducting an interview one night, suddenly departed from the prepared and approved script and interpolated a defamatory extemporaneous remark concerning the plaintiff hotel. Defendant company had no opportunity to prevent the interjection. Plaintiff hotel brought action in trespass against the broadcasting company for defamation to recover damages for injury to plaintiff company's reputation and business. *Held,* a broadcasting company that leases its time and facilities to another, whose agents carry on the program, is not liable for an interjected defamatory remark where it appears that it had exercised due care in selection of the lessee, and had edited the script.[1]

In general, the rule of absolute liability applies to the publication of defamatory material.[2] The publisher acts at his peril.[3] This rule has

20. Supra, note 12.
21. Bridges v. McWilliams (1934) 228 Ala. 47, 152 So. 457.
22. Atlantic & F. R. Co. v. Wright (1891) 87 Ga. 487, 13 S. E. 578.
23. Board of Commissioners v. Hammerly (1922) 85 Okla. 53, 204 Pac. 445.
24. State of Nevada v. Consolidated Virginia Mining Co. (1882) 16 Nev. 432.
25. Webster v. Williams (1937) 183 S. C. 368, 191 S. E. 51.
26. State v. Collier (1932) 165 Tenn. 28, 52 S. W. (2d) 361.
27. Pedro v. Grootemaat (1921) 174 Wis. 412, 183 N. W. 153.

1. Summit Hotel Co. v. National Broadcasting Co. (Pa. 1939) 8 A. (2d) 302.
2. Peck v. Tribune Co. (1909) 214 U. S. 185; Thorley v. Lord Kerry (1812) 4 Taunt. 355; Keller, Federal Control of Defamation by Radio (1936) 12 Notre Dame Lawyer 134, 162.
3. Peck v. Tribune Co. (1909) 214 U. S. 185.