CONSTITUTIONAL LAW—DUE PROCESS—REGULATION OF ONE MAN STREET CARS.—In the case of the *City of Shreveport v. Shreveport Ry. Co.* (C. C. A. 5, 1930) 38 F. (2d) 945, an injunction was granted against the enforcement of an ordinance requiring two man street cars on the ground that the company would not get a fair return on its investment should it be denied the right to operate one man cars, and therefore the ordinance was held unreasonable and confiscatory and void under the Fourteenth Amendment. The U. S. Supreme Court denied a petition for a writ of certiorari to the U. S. Circuit Court of Appeals for the fifth circuit. (1930) 281 U. S. 763. The same ordinance which was enjoined here was held valid in *Sullivan v. City of Shreveport* (1919) 251 U. S. 169, in the absence of a showing that substitutes for the two man car would be safe and convenient for the public, and it is on this ground that the ordinance was here held invalid because of changed conditions.

Similar ordinances have been held valid as proper exercises of the police power. *City of Dayton, Ohio v. City Ry. Co.* (C. C. A. 1926) 16 F. (2d) 401; *Connecticut Co. v. City of New Haven* (1925) 130 Atl. 169; *Third Avenue Ry. Co. v. Godley et al.* (1930) 227 App. Div. 568, 238 N. Y. S. 380; *City of Shreveport v. Sullivan* (1917) 142 La. 573, 77 So. 286; *Des Moines City Ry. Co. v. Amalgamated Ass'n of Street & Electric Ry. Employees* (1927) 204 Iowa 1195, 213 N. W. 264.

The court in the instant case accepted the argument of the street railway company on the showing that modern safety devices had made the one man car as safe as the two man type. The decision of the court was also influenced by the fact that operation of the one man cars would reduce the labor costs of the company thus allowing a fair return on its investment and that the extra cost of two man cars could not be met by increased fare, for the steady decrease in the number of passengers carried showed that the traffic would not bear an increased fare.

However, the United States Supreme Court has upheld the reasonableness of a city ordinance requiring a definite type of protection to the public, even though since its enactment there had been devised safety features claimed to equal or excel the protection sought by the ordinance, if there was any reasonable ground for believing that compliance with the ordinance at the crossing in question would diminish the danger of accidents. *Nashville, Chattanooga & St. Louis Ry. v. White* (1929) 278 U. S. 456. What is a reasonable ground for such belief it has been held should be left up to the legislative body making the ordinance, for it is more familiar with the peculiar needs of the community than the court on review, the legislature is presumed to have decided on its position after considering both sides of the question, and its judgment in such matters of police power is entitled to great respect and often to complete acceptance from the judicial branch of the government. *City of Dayton v. City Ry. Co.*, above.

However, the decision of the court in the instant case seems justified on the basis of the established doctrine that an ordinance though reasonable as applied to conditions existing at the time of its adoption, may be-

come unreasonable by a change in conditions, and that a city may not impose unnecessary restrictions upon lawful occupations under the guise of protecting public interest. *Dobbins v. Los Angeles* (1904) 195 U. S. 223; *Bluefield v. Public Service Commission* (1923) 262 U. S. 679.

The court's stand in this case is further substantiated by the fact, which it points out, that of the 106 cities in this country having a larger population than Shreveport, 103 have one man cars in operation.

In deciding cases arising under such ordinances courts should be influenced on the one hand by the doctrine of the U. S. Supreme Court that if any set of facts can be found which would justify the statute as to its constitutionality, the legislature will be presumed to have had that in mind. On the other hand the court should take into consideration the diminishing returns of street railway companies due to automobiles and busses. In the last analysis each case should be decided in the light of the circumstances at the time in the particular community. M. E. S., '31.

TORTS—LIABILITY OF PROPERTY OWNER TO INVITEE.—The case of *Sinn v. Farmers' Deposit Saving Bank* (1930) 300 Pa. 85, 150 Atl. 163, goes far in extending the doctrine of tort liability of owners of real property to invitees. The plaintiff, a customer, entered the defendant bank at a time when an extortionist who had threatened to discharge a bomb, which he carried concealed in a small hand-bag, was waiting for compliance on the part of the bank's officers. The customer, ignorant of the threatened danger, was asked by a bank official to step to a more distant window. Police officers approached the bomber, who discharged the explosive and injured the plaintiff. The court affirmed a judgment for the plaintiff, holding the bank liable for failing to warn the plaintiff of the danger.

A proprietor of a business is under a duty to warn invitees of dangers or dangerous defects of which the invitee is not aware and of which the invitor knows or should know. *Montevallo Mining Co. v. Little* (1922) 208 Ala. 139, 93 So. 873. This duty applies only to defects or conditions which are in the nature of hidden dangers, traps, snares, pitfalls, and the like. 45 C. J. 837. Words a bit more broad in their connotation are found in *Bristillos v Southwestern-Portland Cement Co.* (Tex. 1919) 211 S. W. 929, where the court said: "He owes a duty to have the place in a reasonably safe condition and to give warning of latent or concealed perils," in holding an invitor liable for hidden danger to which a human force contributed. In the case of *Selinas v. Vt. State Agric. Society* (1888) 60 Vt. 249, 15 Atl. 117, the defendant was held liable where the plaintiff was upon its grounds attending a public exhibition and was struck by a third party swinging a mallet to hit a striking machine about which there was no guard.

A liability still more extensive is described in *Fredericks v. Atlantic Refining Co.* (1925) 252 Pa. 8, 127 Atl. 615, where the court said that an invitor is answerable "if he negligently permits a danger of any kind to exist which results in injury."