

it might be, and it would seem that it should be, regarded as negligence, *per se*, for one to attempt to board it. It is impossible to draw any uniform dividing line, however, between different rates so as to create an absence of negligence on the one side and an existence thereof on the other, since there are always other elements to be considered. Among these are the physical condition of the person, whether he be vigorous and active, or, on the other hand, enfeebled or weakened by reason of age or some infirmity; the condition of the street or place at which he attempts to board the car such as whether some appreciable degree of danger is added owing to the existence of snow, ice, water, excavations, obstructions and the like; the fact of his being encumbered to a considerable extent with bundles or packages so as to impede the free exercise of his physical powers; a considerable number of persons on the platform or steps; thus rendering it difficult to obtain a position of safety; and standing forth most prominently of all in every case is the fact of whether there was any express or implied invitation to board the car so as to create the relation of carrier and passenger. In view of some one or more of these elements must the question of negligence be determined. In this connection it is also to be noted that in cities of any considerable size it is a frequent if not common practice to decrease the momentum of the car as it approaches a place where some intending male passenger is waiting, tacitly inviting him to board the car without bringing it to a full stop. Ordinarily with the car thus running at a slow rate of speed it would not be negligence to attempt to board it. If, however, under such circumstances a person apparently vigorous yet handicapped by some infirmity such as rheumatism, or the like, which is not apparent until he attempts to move should endeavour to board even a slow-moving car it might be regarded as negligence *per se*. And in any event the mere slackening of the rate of speed is not of itself an invitation to board the car. There must be some other indication on the part of those in charge of the car to accept such person as a passenger after being apprised in some way by