

is any traffic approaching. I did that. When I looked left the front part of my car was partly in the intersection of Long and Market Streets. When I saw the speed of the truck which was then in front of Viera's rum shop, I apprehended danger. I then put on my brakes. Had he been travelling at normal speed he would have been able to stop.... I stopped in the middle—right where I was—in the hope that he would have stopped. Had I gone on he would have hit me right alongside..... I do not recollect hearing truck's horn—but I saw the truck. I did not blow my horn; I was travelling very slowly."

While the speed at which Merchant's truck was travelling before the accident may not have been as high as 40 miles per hour it is apparent from the evidence as a whole (including the tyre marks on the road after the accident—and not ignoring the weight of the truck) that it was being driven at a speed of not less than 25 miles per hour and that it was not slowed down before reaching the corner.

There was no road signal or traffic line at any part of the junction of the two streets in question. The driver of the truck said he signalled that he was going straight through, down Long Street, but I am not persuaded that either driver gave any signal.

Exhibit D—to which Christian referred in his examination in chief, and about which so much has been heard in this case—is an undated notice purporting to be issued by J.R.A. Branch, Traffic Commissioner. It reads thus:—

TRAFFIC NOTICE

In the City of Saint John's all streets running North and South (except East Street) are STOP STREETS and all streets running East and West will have right of way except at their junctions with East Street when proceeding East.

This means that drivers of all vehicles when travelling along streets running North and South MUST STOP at all intersections with streets running East and West and satisfy themselves that the passage is all clear.

It is not possible to mark every corner, but drivers must observe this rule of the road at all intersections whether marked or not.

This should greatly reduce and should entirely stop the unnecessary blowing of horns at every corner in the City and eliminate collisions.

At nights when headlights are on it is unnecessary to blow horns.

The speed in the City is—

For Motor Cars	...	20 miles per hour.
For Omnibuses and Trucks	...	15 miles per hour.

J. R. A. BRANCH,
Traffic Commissioner,

According to Corporal Osborne of the Traffic Department, Police Force, the notice was published in the local newspapers and, in 1948, copies were given to drivers upon being issued with licences. A copy of "The Antigua Star" bearing date 30th October, 1948, which was put in evidence, includes a notice (also purporting to be made by J. R. A. Branch, Traffic Commissioner,) which contains the first four paragraphs of Exhibit D. But, as in the case of Exhibit D, the authority under which the newspaper notice was issued is not stated; and it would seem that some drivers respect and obey these notices while others do not.

Only a few months ago the Court of Appeal for the Windward Islands and Leeward Islands held, in CAMACHO v BYRON (*Leeward Islands Gazette*, 31st December 1953), that the Traffic Commissioner was not vested with proper authority to erect any road signal; furthermore, the notices produced in the present case would appear to be at variance with and repugnant to regulation 19 (7) of the Vehicles and Road Traffic Regulations, 1946, which provides that *every driver* "shall, when approaching turnings and cross roads.....slow down and make the appropriate traffic signal"—*drivers on the streets running east and west in the City of St. John not being excepted.*

For the purposes of this case it is unnecessary to say any more about these "Traffic Notices": the question to be decided here is not simply whether any regulations or directions, statutory or non-statutory, have been infringed by either party or his agent, but—"Whose negligence was it that substantially caused the injury?" And on looking at the matter in that way, I have not the slightest doubt that whether or not Christian did the right thing in not stopping at the junction, or in beginning to cross Long Street before looking to left as well as to right, or in not blowing his horn, or in stopping his car when he did, "the real, direct and effective cause" of this accident was the negligence of the driver of Merchant's truck: he approached the intersection of the two streets at a grossly excessive speed, all things considered, and failed to keep a proper look out for traffic along Market Street, or to keep his truck under proper control. That was "the efficient, the proximate, the decisive cause" of the collision; I do not think it can properly be said to have been caused by the negligence of both parties substantially.

In suit No. 16 of 1951 judgment will be entered for the defendant with costs. In suit No. 20 of 1951 judgment will be entered for the plaintiff for \$760 (which includes \$40 for additional expenditure incurred by the plaintiff through having to hire cars) and costs.

W. A. DATE,
Puisne Judge.

28th July, 1954.