

plaintiffs were liable, but his decision was reversed by a Divisional Court (Avory and Lush, JJ.), on the ground that, in the circumstances, there was no evidence of negligence on the part of the plaintiffs in leaving the lorry unattended, and, even assuming that was negligence, there was no evidence that it caused the damage.

PAYMENT INTO COURT DENYING LIABILITY—ACTION OF NEGLIGENCE—ADMISSION OF NEGLIGENCE—DENIAL OF DAMAGE—COSTS.

*Mundy v. London County Council* (1916) 1 K.B. 159. The plaintiff in this case claimed damages for injury to a horse caused by the defendant's servant. The defendants admitted negligence, but denied the damage, but paid into Court a sum of money which they alleged was sufficient to satisfy the plaintiff's damage, if any, and costs. The plaintiff recovered the amount paid into Court and no more. The County Court Judge who tried the action held that the notice was a sham notice and gave the plaintiff the full costs of the action; but a Divisional Court (Avory and Lush, JJ.) held that, damage being the gist of the action, the notice admitting negligence but denying damage was a proper notice denying liability, and that the defendant should have the costs of the action subsequent to the payment into Court.

NUISANCE—HIGHWAY—SHEEP STRAYING ON HIGHWAY—DAMAGE TO VEHICLE USING HIGHWAY CAUSED BY STRAY SHEEP.

*Heath's Garage v. Hodges* (1916) 1 K.B. 206. In this case the plaintiff's motor car was being driven along a highway, in the daylight, at the rate of 16 or 20 miles an hour. The driver saw in front of him about twenty sheep unattended; he put on his brakes and almost immediately two sheep which had got separated from the others jumped from the bank and one of them ran in front of the car, which, in consequence, was overturned and damaged. The sheep had escaped through a defective hedge, and the owner had been fined for permitting them to stray on the highway, under the Highways Act, 1884. The County Court Judge found as a fact that sheep have almost a mania for rejoining the flock when they get separated and are perfectly regardless of intervening traffic; and he gave judgment in favour of the plaintiffs; but the Divisional Court (Avory and Lush, JJ.) reversed his decision, holding that, even if the defendant were guilty of negligence in allowing the sheep to stray