

other Lords Justices, but the decision of the majority of the court is clearly more in accord with the authorities, and certainly more in accord with the dictates of justice than the opposing view. The majority held that, on the findings of the jury, the defendant was entitled to judgment. The basis of their Lordships' decision was that where there is imminent danger to property and it is reasonably necessary to interfere, interference is justifiable.

The judgment of the late Lord Justice Kennedy is particularly illuminating. He took the case of a house on fire, where the direction of wind creates an imminent danger for the occupant of the adjoining house, and he, to prevent the danger, pours water on the burning house. Then the wind changes, so that, as events turn out, the discharge of water into the burning house was not really actually necessary to preserve the adjoining building. His Lordship indicated that in such a case an action for damage caused by the water could not be maintained. After reviewing the authorities, the same learned Lord Justice said: "These cases do shew that the law requires, in order to make good a defence in an action of trespass for interference with the property of another for the purpose of averting an imminent danger, that the defendant shall prove that such a danger existed actually and not merely in the belief of the defendant. They do not shew that, even if the existence of such an imminent danger as to vindicate the reasonableness of the interference in order to preserve property exposed to the danger is proved, the defence must still fail, unless it is also proved that the interference was, in the circumstances, as they eventually happened, actually necessary—that is to say, that the property sought to be preserved must, but for the interference complained of, have suffered injury or destruction."

We have given the words of Lord Justice Kennedy in the last-mentioned case at some length, as they seem to give the true effect of all the prior cases. It only remains to add that his Lordship and Lord Justice Buckley (as he then was) set up as