

ably, overloaded it both with passengers and goods. The barge was to sail from Gravesend to London, but in the course of the passage a gale of wind sprung up which so frightened one of the passengers that he seized a large hogshead of wine and pushed it overboard. This barrel was not his property, and he was subsequently sued for trespass. His defence was that in the circumstances it was necessary to lighten the barge to save the passengers and the craft herself. It does not transpire whether the plaintiff, who was the owner of the jettisoned goods, was on board at the time. Possibly if he had been he would not have brought the action. However that may have been, the court decided in favour of the defendant, holding that, as the act was done for the safety of the passengers, he was not liable: (see *Mouse's case*, 1698, 12 Co Rep. 63).

In the last-mentioned case the court seems to have taken the view that the act of the defendant was in fact necessary to save the passengers. It seems quite clear, however, that such a justification for trespass may be sufficient where it is a question of saving property only. In a case where a member of a volunteer fire brigade had sought forcibly to enter a burning house which was already in the rightful possession of another brigade, Mr. Justice Kennedy (as he then was) said: "I can conceive circumstances under which such an act might be justifiable; as, for instance, if it were necessary in order to save life, or perhaps also if there were an insufficient force on the premises for the purposes of extinguishing the fire, or if the duty of the persons employed in doing so were being neglected, and danger to life or property was the result:" (see *Carter v. Thomas* (1893), 1 Q.B. 673, at p. 678).

There are a larger number of maritime cases which shew that danger to property alone may justify trespass. In maritime cases no doubt there is usually the additional element of danger to life. But the comparatively recent case of *Cope v. Sharpe* (No. 2) (106 L.T. Rep. 56; (1912), 1 K.B. 496), to which we shall have occasion to allude more fully, has put the matter