

The difficulty of giving verbal expression to the delimitation of foreshore rights is doubtless considerable, for definition is ever an ill-fitting garment. The first consideration of litigants may pretty frequently be expressed in the following question: To what extent can we with legal security remove our neighbour's landmark?

The ownership of lands contiguous to a shifting foreshore has been the cause of many legal decisions, for the law in Great Britain in this connection appears to rest largely on custom. In the case of *Scratton v. Brown*, it was held that the frontier of a freehold held under grants from the Crown advances or recedes with the corresponding accretion or erosion of the foreshore. In the case of *Rex v. Lord Yarborough*, it was decided that "accretion, if gradual, belongs to the owner of the adjoining property". In the case of *Lowe v. Govett*, the decision was: "A piece of land covered with land and sea weed, and overflowed by extraordinary spring tides, but not by the mean ordinary tides, belongs to the adjoining owner, and that without the exercise of any acts of ownership". Grounds upon which claim to ownership has been founded are numerous, but the legal issue in this respect is somewhat wide of the present discussion. The latest decision would appear to be summed thus, in the case *Attorney-General v. Emerson*: "A subject can only establish a title to any part of the foreshore, either by proving an express grant thereof from the Crown, or by giving evidence from which such a grant, though not capable of being produced, can be presumed".

The rights of the public to wander at will over the sea beach, and to use the foreshore for walking, riding, driving, drying nets, hauling up boats, bathing, and sport, have given rise to much litigation. In the case quoted above (*Pierson v. Burnham*, U.D.C.), it was held that to assume the rights of the public over a shore to be similar to those over a highway dedicated to public use was unreasonable and untenable; that because an owner of waste land adjoining a foreshore and occasionally overflowed allowed the public to wander at will over the same, he thereby created no public right. If it were attempted to establish such a right, the only result would be that