

ants' encroachments on the beach at Coney Island to be public nuisances, "purprestures," a term defined by LITTLETON as "a clandestine encroachment on property, upon land or water, that should be common or public." The Court adds:

The public has the right to pass over the foreshore between mean high-water mark and mean low-water mark, at any point, and at all times of day or night, on foot or in vehicles, and to do so on dry ground, except when the state of the tide makes this impossible.

He directs, therefore, that the nuisances be abated and payment for "privileges" for use of the beach at Coney Island be no longer exacted. His decision is of importance, since it puts on notice owners of resorts and private developments along the seashore of this State that abutting beaches shall be considered to be public highways.

THE RIGHT TO BATHE IN THE SEA.

Attorney General CARMODY and his Deputy, Mr. WILLIAM A. McQUAID, are to be congratulated on winning the case for the People, just decided against the Steeplechase Park Company, and others, at Coney Island. The suit, brought at the instance of the Bureau of Municipal Research, hinged upon this contention of the Attorney General:

That it is illegal for a private individual to inclose a bathing beach, and to exclude the public therefrom unless they pay a fee for the exercise of a right which is inherently theirs, and that such a use of the beach is illegal and unauthorized.

The defendants claimed a right to exclude the public from the beach at Coney Island, abutting their property. One of them showed title to a conveyance in fee to land extending out into the Atlantic Ocean; the rest of the defendants had no express grant to any part of the beach. The plaintiffs introduced photographs of amusement devices erected on the boundary lines of the resort property, extending across the beach into deep water on which barbed wire had been strung, and bearing signs "Private Property," "Keep Off," "No Trespassing." On the approach to the pier known as "Til-you's Walk," entering Steeplechase Park, gatemen were stationed, who refused admission to all who failed to present purchased tickets.

Deputy McQUAID, citing many judicial decisions of this State and of the Federal Courts, including the United States Supreme Court, maintained that the sovereignty of the State "cannot be surrendered, alienated, or delegated, except for some public purpose," over the foreshore or littoral extending between low and high water mark, on any part of the seacoast. It belongs to the public and is construed as part of the ocean, as "land under water." Consonant with these citations, Judge BENEDICT declares the defend-