#### THE TERRITORY. ision Afecting Riperian

INION BY JUDGE ALLTN

sequence to my mind, for if I am right to the fore so a line of the fore so I am sight to the facts as I assume them to be the conclusion necessarily follows:

a 8. Barlow and J. W. Pinkerton at Robert Wingate. The temposinjunction was dissolved. Follows:

mplainants allege that they are worse of lot 6 in block 9 according to a certain plat of Tacoma city the respondent is the owner of lot dask that the respondent be reined from driving piles to conclusion of the soundary of lot 7 and of prients where so is that the respondent be reined from driving piles to conclusion of the soundary of lot 7 and of prients where so is the soundary of lot 6 and between said lot and waters of Puget Sound. A temposity of the lift, alleges that he is the success of the bill, alleges that he is the success of the had commenced the construct of a wharf as alleged and that it wholly below the ordinary life wholly below the ordinary life wholly below the ordinary life of complainant to lot 6 and the soundary of lot 7 has all fronts and abutts on said Sound; the head commenced the construction of the life wholly below the ordinary life wholly below the ordinary life of complainant to lot 6 and the soundary of lot 7 has all fronts and abutts on which his lot had fronts and abutts on which his lot had commenced the construction of a wharf as alleged and that it wholly below the ordinary life of complainant to lot 6 and the soundary of lot 6 and the soundary life of complainant to lot 6 and the soundary life of complainant to lot 6 and the soundary life of li

broing is the strict of the option."

Compared Let 6 in lack 2 secondary to a vertical paid 7 among the content of the 1 strict of the content of the content of the 1 strict of the content of the content of the 1 strict of the

under title derived from the United States hold only to the stream;" 4th Wallace 287.

The tide lands extending beyond such tide mark are reserved, as has been quoted, to the states respectively. They are held by the United States in the nature of a trust for the future state to be conveyed to the state when it becomes one. The shore line is all that can be acquired by the patentee, and when he has sold to the shore line he has sold all he may sell and convey regardless of how far he may choose to plat and map out upon such tide lands, which are thus reserved as stated. It follows that the line of high tide upon lot 7 is the limit of private ownership, subject to certain wharfage privileges hereinafter referred to.

It is contended that an alley having been platted outside of respondent's lot 7, the grantee can only take to such alley. That by thus platting such alley the grantor reserves to himself privilege of wharfage etc. I am not unaware of decisions in Rhode Island a few others sustaining this doctrine, but I do not believe this to be the weight of authority or sound in principle as applied to this case. Had the but I do not believe this to be the weight of authority or sound in principle as applied to this case. Had the alley an actual existence and had it been known and used as an alley or public way, the contention would be stronger, but it was existent only in imagination. The common waters ebbed and flowed over it; it was entirely outside of the line of ownership of him who was plotting it, and if this can be countenanced, I know no good reason to stop the march out of any wilful trespasser upon this trust property.

wilful trespasser upon this trust property.

The owner of an abutting water front hat certain rights or privileges of wharfage. These I shall now refer to, but I cannot conceive that because he is given such privilege he may go out beyond his legal boundaries and his ownership and lay out and dispose of blocks and alleys on the very property that the government itself could not lay out or sell. This act of assuming ownership and disposition over property beyond his title was a wholly void and vain thing. By it no one acquired any rights and by it no one lost any. It necessarily follows that the right of wharfage, which is given to the abutting owner, was not reserved by this void act.

At common law a riparian proprie-

ting owner, was not reserved by this void act.

At common law a riparian proprietor has the right to establish wharves out into the streams from his land abutting thereon, so long as he does not obstruct navigation or create a nuisance. Our code, section 3271, has partially adopted the same rule for this Territory as follows:

"Any person owning land adjoining any navigable water or water courses within or bordering on this territory, may erect upon his own land any wharf or wharves, and may extend them so far into said water or water occurses as the convenience of shipping may require, provided he shall at all times leave sufficient room for the ordinary purposes of navigation."

It therefore follows that the owner of lots abutting upon the stream and extending to the mark of ordinary high tide, has the right of docks and wharfage, and this is the improvement the respondent is attempting to carry out.

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