

and an action for debt could not lie. The magistrate has no jurisdiction to try the action, and I cannot find that an appeal will give this Court jurisdiction. There is certainly no implied contract to buy the ox tongue on part of defendant. If this could prevail there would be no limit as to jurisdiction a justice of the peace could not go. I must allow the appeal and dismiss the action. Costs will follow event.

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### NOVA SCOTIA.

SUPREME COURT.

NOVEMBER 18TH, 1910.

#### ZWICKER v. LAHAVE STEAMSHIP COMPANY.

*Crown Grant — Water Lot — Trespass — Public Harbour — Navigation.*

D. F. Matheson, K.C., for plaintiff.

J. A. McLean, K.C., and J. W. Margeson, for defendants.

TOWNSHEND, C.J.:—The plaintiff, owner of a lot of land on the LaHave river, obtained from the provincial government a grant of a water lot in front of his land covered by water. The defendant company is a lessee of Getson's wharf adjoining the plaintiff's water lot, which wharf the company use in carrying on their business. In coming to the Getson's wharf the steamers cross the water lot, and in mooring to it portions of the steamers project across on to the water lot. The plaintiff either with the intention of preventing this, or as he says intending to build a wharf on his own water lot put down on the boundary line in the water a number of stakes. The company's steamers either accidentally or designedly in coming to Getson's wharf broke down these stakes, claiming they were an illegal obstruction to navigation. It is for this trespass and for the projections of the steamers on to his lot this action has been commenced, and in my mind there can be no doubt both parties did these acts in assertion of what they believed to be their legal rights.

The defendant has proved that Getson's Cove, where this water lot is situated, is a public harbour so declared by an Order-in-Council in pursuance of the statute. No license