a grave nuisance existed. Then the Provincial Board of Health conducted an investigation and found to the same effect. The undisputed evidence shewed that the garbage of a city having a population of about 20,000 had been deposited since the 15th April, 1918, on the surface of Campbell's land; that it was not covered with earth nor treated so as to prevent decomposition or the giving off of offensive odours; and that Campbell's hogs were allowed to feed upon this garbage, adding their excrement to the mass. That these conditions created a nuisance was beyond reasonable doubt.

On this appeal the appellants produced a number of affidavits challenging the correctness of the finding of a nuisance by the Provincial Board of Health. Had these affidavits been before Hodgins, J.A., he would not have been justified in attaching any weight to them; and, therefore, the appellants were not prejudiced by that learned Judge's refusal to enlarge the application made to him.

The question of nuisance had been determined by the Provincial Board of Health; affidavits supporting the finding of the Board were inadmissible, and, it might be assumed, had no weight with the learned Judge.

It was shewn that the contract between the city corporation and the contractor for collection and disposal of garbage had been terminated, and that the garbage was now disposed of by incineration; also that since the 16th November, 1918, no garbage had been deposited on Campbell's land. These facts were not brought to the attention of Hodgins, J.A. The depositing of garbage having ceased, the order of the learned Judge might properly be varied by extending until the 1st April next the time in which to abate the nuisance, with the right to the appellants to apply for a further extension.

The second clause of the order appealed against should be amended by adding words preventing the feeding of hogs on the garbage so as to cause a nuisance.

For the city corporation it was contended that the Riverside company was an independent contractor, and therefore the city corporation was not liable for the nuisance caused by the disposal of the garbage. The contract did not provide for its disposal, but simply for its collection and cartage to a point outside of the city. Whilst in the contractor's hands, the garbage remained the property of the city corporation; and, in the absence of express instructions, the contractor had, as agent or servant of the corporation, implied authority to dispose of it, and its disposal was made by the Riverside company not qua contractor but qua agent or servant of the corporation, whereby the latter became liable for its wrongful disposal: Dalton v. Angus (1881), 6 App. Cas. 740; Robinson v. Beaconsfield Rural District Council, [1911] 2 Ch. 188.