much profit to them all, or else would be contributing losses with them, lightening their burdens.

The McGaffanay successful litigation made a final and to further efforts to make a success of the process with all the gain that that meant to those who had speculated in it: and then there was the usual rush for cover as was to be expected.

I cannot find that the appellants' subscription was procured by fraud; and, if I could, I could not but find also that his conduct proves an election, after discovery of it, not to avoid the contract. Approbation not reprobation.

Much reliance was placed, for the appellant in argument, upon the character of the patent which the patentee had, but which the company by inaction lost, but I cannot believe that the character of the patent was in any way a substantial factor in the transaction by which the appellant acquired his shares, or indeed weighed at all as an inducement to any subscriber. This is merely a defensive plank picked up out of the wreckage caused by the McGaffanay litigation. If the machine would only do continuously that which it does so well for a short time, the rush of all these subscribers would be not to get out of, but to get more, into the company.

And so I am unable to say that the learned referee was wrong on either point; on the contrary I agree with him.

The appeal must be dismissed; but, exercising my discretion in that respect, I make no order as to the costs of it.

HON. MR. JUSTICE MIDDLETON. APRIL 8TH, 1913.

CITY OF TORONTO v. WILLIAM J. HILL.

4 O. W. N. 1076.

Statute — Construction of — City and Suburbs Plans Act — 2 Geo. V., c. 43—Rule against Retroactivity.

MIDDLETON, J., *held*, that the City and Suburbs Plans Act, 2 Geo. V., c. 43, did not apply to plans in existence at the date of its coming into force.

Action for an injunction to restrain defendant, the Registrar of the county of York, from registering certain plans. By consent of counsel the motion was turned into a motion for judgment.