permitted defendants, and may be said to have licensed them by parol, to continue to manufacture his invention.

But on what terms? Not on those of the agreement of 1892, although at first sight it might seem so from his letter of 19th April, 1892. Something must have passed between the parties, the effect of which we can only infer from the correspondence of January-February, 1895. The agreement of 1892 is not referred to, but quite a different one, namely, an agreement to pay $200 for royalties for the year ending 31st December, 1894. Not only is the yearly period for which the royalty was paid different, viz., January to December, instead of June to May, but the amount payable and paid for that year was $200, instead of $300, as it would have been under the agreement of 1892. Again, for the year 1895 we find in the subsequent correspondence the admission that the royalty was $300, and was payable at the end of December, instead of May. There is no evidence that the agreement between the parties, whatever it may have been, or whenever made, contained any other terms than a license or permission on plaintiff's part to manufacture his invention, and on defendants' part to pay him the sums of $200 and $300 as royalties for the years 1894 and 1895 respectively. These terms so far correspond with those in the proposed agreement of 1894, but plaintiff's express and continued repudiation of that agreement precludes us from holding that it was ever accepted so as to make the other terms therein expressed binding on defendants. The Chief Justice does not so hold, and indeed upon the evidence could not have done so, but treats the words "our agreement" in the letter of 31st January, 1895, as referring to an agreement with plaintiff that he should receive from defendants the same royalties that Gottwalls & Co. had agreed to pay under the agreement of 1892. As I have pointed out, this can hardly be so, the periods for which they were paid, and, as to the first year at all events, the amount, being different.

As, however, defendants continued in 1896 and subsequent years to manufacture plaintiff's invention, I think that, if nothing else had occurred, it would not be difficult to infer that this was done under his continued license and assent, and that the sum paid for royalty for 1895 might properly be regarded as the measure of what defendants should pay for those years, except 1899, which was not a full year. In this way the result would not be different from that which has been reached in the Court below.

Defendants, however, contend that in the fall of 1896 they gave notice to plaintiff that they would no longer pay