fendants a letter in which, after referring to the original agreement with Gottwalls, and the subsequent reduction of the minimum royalty payable, he says, "please inform me if you desire to continue the manufacture of my file-holders under the existing contract, which gives you exclusive right or license as covered by the Canadian patent." The letter was not answered, and nothing further passed between the parties until shortly before the commencement of the action. Defendants continued to manufacture, but rendered no accounts and paid nothing more on account of royalties.

The first difficulty in this case is to ascertain what was the real contract, if any, between the parties. When defendants came into existence as a corporation in June, 1893, there was no privity of contract between them and plaintiff in respect of the agreements of June, 1892, and 7th February, 1893, between Gottwalls and Gottwalls & Co. and plaintiff. They were not bound thereby, nor could they, by any dealings or contracts between themselves and their predecessors, adopt or ratify those agreements. The facts may shew that a new contract has been made between the parties directly upon similar or different terms, and it is to evidence of this kind that plaintiff must appeal.

It can hardly be necessary now to cite authority for this, but the cases of Howard v. Patent Ivory Manufacturing Co., 38 Ch. D. 156, and Bagot Pneumatic Tire Co. v. Clipper Pneumatic Tire Co., [1902] 1 Ch. 146, mentioned in the judgment below, and the recent case of Natal Land and Colonization Co. v. Pauline Colliery Syndicate, [1904] A. C. 120, may be referred to.

Defendants may have thought that they were bound by the contract of 1892, and their attempt to get plaintiff to accept the contract proposed by them in March, 1894, perhaps shews that they were under that impression. But they were not in fact liable upon it, and had done nothing from which a new contract in similar terms could be inferred. They had at most paid, as may be inferred, all that plaintiff claimed under it up to the end of 1893. But this would not bind them to pay royalties under it in the future, even though, under the mistaken assumption that they held plaintiff's license, they continued to manufacture his invention until March, 1894, when an agreement between plaintiff and defendants was proposed by the latter. Up to this time there was, as I have said, no agreement between the parties, though both of them perhaps, and certainly plaintiff, supposed that the agreement of 1892 was binding on them. Plaintiff refused to enter into the new agreement, but he