have passed through the post offices of the United States if the objections to them which the respondent practically invited the Canadian post office officials to raise had really existed. It is plain, I think, from the testimony of Mr. Ellis, that he, after sleeping over the matter, rued the bargain he had made, and at once set about to find means by which the respondent could escape from the obligation it had entered into.

In addition to the reasons which, as I have stated, lead me to the conclusion that the defence of the respondent fails, I am inclined to think that the respondent relied upon Mr. Ellis's judgment as to the envelopes shewn to him answering the representations that are said to have been made to him. They were large manufacturers of envelopes, and presumably understood the postal regulations of Canada as well if not better than the appellant's vice-president, who was a resident of the United States, and Mr. Ellis examined the envelopes 7, a, b, c, and d, and was competent to judge whether, when the envelope was sealed, the flap could be withdrawn without tearing or destroying the envelope. Even the learned Chief Justice, who is not an expert, was able to form an opinion, an erroneous one, I, with great respect, think, upon the matter, by the ocular demonstrations which were made during the progress of the trial.

For these reasons I am of opinion that this defence fails.

It was apparently argued at the trial, as it was before us, although it is not set up in the statement of defence, that by having on the 10th August, 1911, given to M. V. Dawson & Co., of Montreal, an exclusive license for the manufacturing and sale of the patented envelope for part of the territory covered by the license to the respondent, the appellant had acquiesced in the position taken by the respondent, and was, therefore, not entitled to claim damages for the breach of the agreement of the respondent to pay the royalties.

That contention is clearly not well-founded. Before the dealing with Dawson & Co., the respondent had repudiated the agreement, and it was the right of the appellant, as it did, to treat the repudiation as a wrongful putting an end to the contract, and at once to bring an action as on a breach of it, and to cover such damages as would have arisen from the non-performance of the contract at the appointed time, subject to abatement in respect of any circumstances which might have afforded the appellant the means of mitigating its loss; and the agreement with Dawson & Co. was but the availing itself of that