

no payment to be made without the production of the architect's certificate." There is, as I have said, no other provision as to it in the contract, and no other document to which the contract refers, containing any provision as to it; and it may be, therefore, that the provision of the contract which the respondents invoke has no effect. It is, however, unnecessary, in the view we take as to the effect of the other provisions of the contract to which I have referred, to decide that question.

The claim for extra work and materials, so far as it is in question on the appeal, is for work done and materials supplied owing to an increase in the size of the building. The contract provides that no claim for any work in addition to that shewn in the drawings or mentioned in the specifications, unless it was sanctioned by the architect in writing previous to its having been done, shall be allowed.

There was no written sanction of the architect for the doing of the extra work and supplying the extra materials, payment for the value of which the appellant claims, and the right to recover it is, therefore, excluded by the contract.

The work was done and the materials were supplied upon the verbal order of the architect, and there is no just reason why the appellant should not be paid for it.

If the respondent company stands upon its strict right and will not pay for them, it will be proper, in the exercise of our discretion as to the costs, to deprive the company of the costs of the appeal.

The result is that the judgment must be affirmed and the appeal dismissed with costs if the respondent company elects to pay for the extras, but otherwise without costs.

We cannot part with the case without expressing regret that the litigation should have been rendered necessary by the refusal of the appellant to agree to what appears to be the reasonable deduction from the contract-price which was proposed by the respondent Herbert.