for the injury, although his workmen were superintended in the work by the contractor(*d*).

Whether the work has been accepted in such a sense as to render the employer responsible thenceforward for the condition of the subject-matter is to be determined from the circumstances in evidence(*e*). Acts from which the assumption of a practical control over the subject-matter of the contract in its completed state is inferable will render the employer chargeable with the same measure of responsibility as a formal acceptance of the results(*f*).

76. Necessity of showing that dangerous conditions were known to the employer.—In several cases in which the rule discussed in the preceding section has been applied, it has been expressly declared or assumed by the courts that the imputation of liability is conditional upon the production of evidence which shows that the employer had either actual or constructive knowledge of the dangerous conditions which caused the injury(*a*).

(*d*) *Berberich* v. *Ebach* (1890) 131 Pa. 165, 18 Atl. 1008.

(*e*) Where the general contractor for the construction of a building has sub-let the work of building the walls, the fact that he used the walls for the purpose of doing the wood work upon the building, and paid subcontractor for the material furnished and work done by him is strong evidence to shew that he accepted the walls as a performance of the subcontract, and that the character of both work and materials was satisfactory to and sanctioned by them. *Bast* v. *Leonard* (1870) 15 Minn. 304, Gil. 235.

(*f*) On this ground one who had filled and used a standpipe for supplying water to his customers, was held liable for the flooding of the premises of an adjoining owner on the collapse of the standpipe, although the contractor was at the time trying to remedy a defect therein so as to make it acceptable to the employer. *Read* v. *East Providence Fire Dist.* (1898) 20 R. I. 574, 40 Atl. 760.

(*a*) "The Pennsylvania rule, deducible from all the cases, is, that if the employer, at the time he resumes possession of the work, from an independent contractor, knew or ought to have known, or from a careful examination could have known, that there was any defect in the work, he is responsible for any injury caused to a third person by defective construction." *First Presby. Congregation* v. *Smith* (1894) 163 Pa. 561, 26 L.R.A. 504, 43 Am. St. Rep. 808, 30 Atl. 279 (sewer); *Berberick* v. *Ebach* (1889) 131 Pa. 165, 18 Atl. 1008 (stone foundation bulged and brick wall which rested on it fell upon the adjoining premises); *Chartiers Valley Gas Co.* v. *Lynch* (1888) 118 Pa. 362, 12 Atl. 435 (rule recognized, but its applicability was denied as no constructive knowledge was shown)

In a leading California case the court, in holding that, if the injuries complained of had been occasioned after the completion of the dam by the contractors, and its acceptance by the defendants, there could be no doubt of the liability of the latter, said: "Parties for whom work contracted for is undertaken, must see to it before acceptance, that the