

to the size of the building and the supply of some old materials at the request of the owner with the view of lessening the expense. But these changes did not affect the other parts of the contract. There still remained the substantial bargain that a barn was to be built according to the plans and specifications and to be completed by the 1st of October, for the total price of \$7,000. The blank parts of the writing as to the architect effectively carried out that change. The other changes were in legal effect the making of a new contract, manifested by the writing as to what was not changed, and by the oral concord as to what was to be changed in size and old materials.

Probably the legal effect was that the building as diminished was to be built at the same price, \$7,000, as no stipulation was made for a reduction; and this aspect of the case is rightly and aptly pleaded in the defence. For extras beyond what is provided for or implied in the plans and specifications the defendant would be liable, and this he admits. But I am inclined to think that in estimating the value of these the account should be taken having some regard to the lessening of the expense to the contractor occasioned by the reduction in size and the value of the materials supplied by the owner. However, the defendant makes no demur to paying \$7,000 for the barn and extras as found upon proper investigation. . . .

The contract to build a place on a man's own land in the same year does not require to be in writing, but, being in writing, it may be changed, varied, or modified by parol without displacing its essential significance. Unless the change is of such a revolutionary character as to provide for a totally different structure, the ruling terms as to price, etc. remain intact. No difficulty arises here as to the outcome of the plaintiff's work when compared with the original plans and specifications. The Master in his final judgment has found upon the evidence that the barn as it stands is substantially in accord with the writings and drawings. With that I quite agree. The variations are of minor character and easily distinguishable and to be dealt with as extras if the cost be thereby increased.

It may be well to refer now to the law applicable to this contract. The general proposition is stated in Halsbury's Laws of England, vol. 3, at p. 180 (sub tit. Building Contracts) thus: "When the contract is not required by statute to be in writing, but has actually been reduced to writing, the parties may at any time waive, dissolve, or annul it or in any manner add to, subtract from, vary, or qualify the terms by parol agreement." This contract has in its body a good provision (third) for the