

ing and afterwards received the benefit of the work, the contractor may recover compensation although he is unable to secure a writing because the principal contractor has absconded and the superintendent refuses to give the writing. So, where the city building inspectors have ordered a change in the works, and the architect prepared a sketch of the same and handed it to the contractor, who told the subcontractor to make the change and go ahead with the work, and such subcontractor did so, with the knowledge and acquiescence of the owner, the owner is liable therefor.

Where the owner has ordered the work and agreed to pay for it, the contractor who has performed the same may recover therefor notwithstanding such a stipulation in the contract. Other cases allow a recovery where the extra work is agreed to by the owner, nothing being said as to an express promise to pay, and it is not clear that the word 'agree' is used as including such promise.

It is when the extra work or alterations are merely ordered by the owner that the dispute comes as to whether the contractor may recover therefor. A recovery is denied by some courts where the work is merely ordered, while others allow a recovery. Others, while allowing recovery upon the oral order of the owner, require that the nature and expense of the extra work performed in obedience to the verbal order of the owner and the circumstances attending the order and its execution be sufficient to establish that the parties contemplated and expected that such work should be done and paid for.

So, where the owner has orally ordered work, and, upon receiving a statement therefor, makes a partial payment and acknowledges a balance due according to the statement, he is liable for the work ordered done.

Some of the cases which allow a recovery upon the oral order of the owner seem to require a benefit to the owner from the extra work or alterations in order that there may be a recovery, but that a benefit to the owner is not sufficient to entitle the contractor to recover for work orally ordered done by the owner has been held in at least one case where the owner received a benefit from the extra work.