through want of instruction and warning, the plaintiff is entitled to damages.

The plaintiff's husband was not directly instructed by the defendant company or by any one in superintendence as to the proper method of executing the work he was engaged in at the time of the accident, nor was he directly warned as to the probable consequence in case of pulling out the wrong pin. But he was working in the yard for a long time, in the neighbourhood of others who were performing this service from day to day, and the proper method to be employed to lower the pile of lumber, and the effect of pulling a pin in an adjoining compartment while standing in the compartment, were so obvious that it would not be unreasonable to infer that he knew just what ought to be done and how to do it with safety to himself, before he ever engaged in this service for the company. But there is more than this. He had on several occasions, before the day of the accident, been engaged in the same work, and had been shewn how to do it by a fellow-labourer, and had, at least upon one occasion, been warned by this man, Howe, of the danger involved in pulling out the pin in the compartment he was standing in; and his answer at the time would indicate that he fully appreciated the risk involved. He had, too, on the day of the accident, in conjunction with Foucault, but each taking his own part of the work, already successfully let down three piles of lumber and apparently understood just how to do it.

I am forced to the conclusion that, at the time of the casualty, the deceased understood how to perform the work in which he was engaged, with safety to himself; that he knew that the pin he should then pull was the pin near him in compartment number 5; that he appreciated the danger involved in pulling the pin in compartment number 6, in which he was then standing; that he thoughtlessly and inadvertently—but not through want of knowledge—pulled the pin in number 6 instead of number 5, and that this was the cause of his death.

The action will be dismissed; and, as the defendants are not entirely blameless, it will be dismissed without costs, but with liberty to the defendants, if they desire to do so, to appeal on the question of costs.