

other. If it were necessary to rest the case upon the last, much might be said for defendants' contention that they were not obliged to provide any safeguards to the elevator itself beyond that which the factory inspector had approved of as sufficient, after inspection and examination of it. When that safeguard was applied, it was of course sufficient, consisting as it did of doors or gates intended when closed to be fastened with a latch, and in that condition would necessarily prevent any one from falling into the elevator opening, or passing into the elevator until opened again for the purpose of being used. The doors did not shut automatically, and it was contended that some additional device should have been employed, such as automatic bars, which would have guarded the opening in case the doors were temporarily left open, either by neglect or because the elevator was to be immediately re-entered by the person who had just used it. It had not occurred to the inspector that any additional safeguard of this kind was required, and he thought that with ordinary care it was safe enough.

In the view we take of the case, it is not necessary to decide whether compliance with the directions of the inspector under the Factories Act is sufficient to absolve defendants from negligence which they might otherwise be open to have imputed to them under the provisions of the Workmen's Compensation Act, in respect to the absence or insufficiency of a guard, because the other ground on which the jury found against defendants arises out of the manner in which the elevator was used in the factory, which created a danger against which the safeguard approved by the inspector was not intended to, and did not, provide. . . . The only way in which notice would be given of the withdrawal or sending up of the elevator . . . was the rattling or shaking of the hoisting rope; no other signal or warning was provided for. The jury might well have come to the conclusion . . . that the arrangement of the whole apparatus was defective in the absence of some better provision for signalling its movements to those who had been using it and were immediately about to use it again. The findings of the jury absolve the plaintiff of negligence, and if he was not aware that the elevator had been hauled down, such a result cannot be said to be wrong. It cannot be ruled as a matter of law that plaintiff was negligent in not having shut the doors when he stepped out of the elevator or in not having looked behind him. . . .

Appeal dismissed with costs.