THE AMERICAN EAGLE.

(*District Court, N. D. Illinois.* March 3, 1884.)

MARITIME LIEN—ASSIGNMENT OF DEBT.
A maritime lien passes to an assignee of the debt.

In Admiralty.

W. G. Beale, for libelant.

Schuyler & Kremer, for respondent.

BLODGETT, J. This case comes before me at this time upon exceptions to the libel. The libel is filed by the assignee of the material-man who furnished the materials for repairing the tug, and who has assigned his claim to the libelant, who now seeks to enforce the lien of the material-man upon the tug. The exception to the libel is taken on the ground that the lien of the material-man does not accompany the claim into the hands of an assignee. It is conceded, for the purposes of this case, that the person who originally furnished the material had a statutory lien which he could have enforced in admiralty; but it is insisted that the transfer of the debt waived the lien, or, at least, that it does not inure to the benefit of the assignee to whom the debt is transferred. There is no doubt some seeming authority in support of the libelant's exception, but I think the more reliable and better considered cases are in favor of supporting the lien in behalf of the assignee, or giving him all the security which the original creditor had. In the case of *The Sarah J. Weed*, 2 Low. 555, this question is exhaustively discussed, and the authorities considered and analyzed by Judge LOWELL, who comes to the conclusion that all the rights of the original creditor come to the assignee; that the lien is a part of the indebtedness and goes with it into the hands of whoever the original creditor shall assign it to. After discussing the authorities, the judge says:

"The convincing reason is that given by Judge WARE in the case cited, that the debtor cannot be injured by an assignment, while the creditor will lose part of the benefit of his security if he cannot assign it."

The conclusion of this learned judge seems to me so satisfactory upon the question that I am content to accept his reasons without adding any of my own.

The exceptions to the libel are overruled, and the report of the commissioner confirmed.

BURNS *v.* THE SPAIN.[1]

(*District Court, E. D. New York.* March 14, 1884.)

COLLISION IN SLIP—CANAL-BOAT AND PROPELLER—CONTRADICTORY EVIDENCE.

A canal-boat, lying in the same slip with a steam-ship, fouled the screw of the steam-ship and received injuries which caused her to sink. On the part of the canal-boat it was alleged that the accident was due to the screw being put in motion before the steam-ship was unmoored, which created a current. The steam-ship denied that the screw had been put in motion, and claimed that the canal-boat had drifted with the tide against the screw. *Held*, the testimony being contradictory, that the case did not present such a preponderance of evidence in favor of the libelant as to allow it to be held that he had proven his case, and the libel was dismissed, without costs.

In Admiralty.

J. A. Hyland, for libelant.

John Chetwood, for claimants.

BENEDICT, J. The libelant's canal-boat, lying in the same slip with the steam-ship Spain, on the morning on which the steamer sailed, in May, 1882, fouled the screw of the steamer, and there received injuries which caused her to sink. The charge of the libelant is that before the steam-ship was unmoored her screw was put in motion in the slip, without notice or warning to the boats in the slip, and thereby a current created which forced the libelant's boat upon the screw while in motion. On the part of the steam-ship, it is averred that the screw of the steam-ship was not moved prior to the accident, but that the canal-boat, through negligence, drifted by the tide upon the screw, the same not being in motion, where she was injured by coming in contact with the screw at rest, and not by a blow from the screw in motion. The testimony upon the point of the inquiry, namely, whether the screw of the steam-ship was in motion on the morning in question before the canal-boat got foul of the screw, contains contradictions that I have not been able to reconcile. I am satisfied that there is misstatement or concealment on one side or the other, but the case does not present such a preponderance of evidence in favor of the libelant's account of the accident as will permit me to hold that he has proven his case. I must therefore dismiss the libel. I give no costs.

[1] Reported by R. D. & Wyllys Benedict, of the New York bar