DECISIONS IN COMMERCIAL LAW.

SCHILLINGER v. UNITED STATES.—Government is not liable for unauthorized wrongs inflicted by its officers on the citizen, though occurring while engaged in the discharge of official duties. When a contractor, in the execution of his contract, uses any patented tool, machine or process, and the Government accepts the work done under such contract, it cannot be said to have appropriated and be in possession of any property of the patentee in such a sense that the patentee may waive tort and sue as on an implied promise. This is a judgment of the United States Supreme Court.

WARREN v. KEEP.—According to the Supreme Court of the United States, where a patent is for a particular part of a machine, the profits recovered must be due to the particular invention secured by the patent in suit. Where a patent of invention is sold separately the patentee is entitled to damages arising from the manufacture and sale of the entire article. The rule requiring that the profits arising from the patent features must be separated from those arising from the unpatented features, has little application in a case where every feature is patented.

GARFIELD v. CITY OF TORONTO.—In June, 1892, an excessively heavy rain fell in Toronto, in consequence of which the sewers of the city became overcharged and backed up their contents into the cellars of several houses and stores, doing considerable damage. This was an action brought against the corporation for damages for negligence whereby the plaintiff's premises, on Queen street west, were flooded by means of the defendant's sewers being so overcharged. The city pleaded, "act of God," in that the rain storm was so excessive as to be beyond what they were called upon to provide for, and the Court of Appeal has given effect to this contention, thereby relieving the city of Toronto from liability for damages under the circumstances.

BARNES v. DOMINION GRANGE MUTUAL INSURANCE ASSOCIATION.—The plaintiff's testator applied to the defendants in writing for an insurance against loss by fire, and undertook in writing to hold himself liable to pay to the defendants such amounts as might be required, not to exceed $46.50, and signed a promissory note in favor of the defendants for $15.25. The defendant's agent gave him a written provisional receipt for his undertaking for $46.50, "being the premium for an insurance," etc. The receipt contained a condition to the effect that unless the insured received a policy within fifty days, with or without a written notice of cancellation, the insurance and all liability of the defendants should absolutely be determined. No policy was sent within the time limited, nor was any notice of cancellation given within that time, nor until, by letter, two days before a fire occurred on the insured premises. Held by the Court of Appeal, that the application, undertaking note, and receipt, constituted a contract of fire insurance within the provisions of the Insurance Act, which could be terminated only in the manner prescribed by the 19th of the conditions set forth in sec. 114, that is, when by post, by giving seven days' notice, and thus the contract was still subsisting at the time of the fire.

CLARKSON v. MCMASTER & CO.—The defendants had obtained a chattel mortgage in this case from one of their clients covering stock-in-trade, but did not register it. Subsequently the client made an assignment to E. R. C. Clarkson for the benefit of creditors, and other creditors commenced actions on behalf of themselves and other creditors, against the clients, to recover debts due them as simple contract creditors. Before the assignment and before the suit brought by the simple contract creditors, McMaster & Co. took possession of the goods under their unregistered chattel mortgage and sold them, whereupon Clarkson, after an assignment of the same goods to him as assignee for creditors, brought action for direction that McMaster & Co. should account to him for the proceeds of the goods so sold, and Judge McMahon directed them so to account. An appeal was taken to the Court of Appeal, where the question of the validity of the unregistered chattel mortgage came up. In 1892 the local legislature endeavored to extend the rights of assignees in insolvency, and creditors sueing on behalf of themselves and other creditors, so as to exclude the right of a chattel mortgagee under an unregistered mortgage to cure the defect of want of registration by taking possession, but according to the Court of Appeal the legislature has not done so effectually. Their judgment, just delivered, is to the effect that McMaster & Co.'s mortgage was validated by the taking of possession before the assignment to the plaintiff Clarkson, and before the action brought by the other plaintiffs as simple contract creditors sueing on behalf of themselves and other creditors. The difficulties that always arise where unregistered mortgages crop up in this way, do not seem to have been yet removed.