

CAVEATS.

Canada.

In Canada any intending applicant who has not perfected his invention, and is in fear of being despoiled of his idea, may file in the Patent Office a description of his invention so far, with or without plans at his own will; and the Commissioner, on payment of the prescribed fee, is required to cause the document, which is called a caveat, to be preserved in secrecy, with the exception of delivering copies of the same whenever required by the said applicant or by any judicial tribunal; but the secrecy of the document is to cease when the applicant obtains a patent for the invention. If application be made by any other person for a patent for any invention with which such caveat may in any respect interfere, the Commissioner is required to give notice by mail of such application to the person who has filed the caveat, and such last-mentioned person must within three months from the date of mailing such notice, if he wishes to avail himself of his caveat, file his petition and take the other steps necessary on an application for a patent; and if in the opinion of the Commissioner the applications are conflicting they will be referred to arbitration. Unless the person filing a caveat makes application within one year from the filing thereof for a patent the Commissioner is relieved from the obligation of giving notice, and the caveat then remains as a simple matter of proof as to novelty or priority of invention if required.

South Australia.

Very similar provisions as regards the filing of caveats and the sending of notices of any conflicting application to the person filing the caveat are contained in the South Australian Patent Act.

Report of the Commissioners appointed by the United States Government in 1898 on "caveats."

As the above provisions relating to "caveats" have been taken from the patent law of the United States, it may be of interest to the colonial Premiers to know that the Commissioners appointed in 1898 to revise the statutes relating to patents, trade and other marks, and trade and commercial names, on page 23 of their report say that they are clearly of opinion that the statute providing for the filing of caveats should be repealed. The reasons which have led them to this conclusion are set out in the following passage on page 22 of their report, viz. :—

"The very-general opinion of those most familiar with patent practice, as expressed to us, is that the caveat is practically of no use to inventors. Many attorneys of long experience in patent matters have assured us that they always advise their clients not to file caveats. The preparation of a caveat, if it be prepared with care and skill, involves considerable expense, hardly less than the preparation of an application. The filing of a caveat necessarily implies the subsequent filing of an application, with the result that the inventor is put to practically a double expense without practical advantage.

"If foreigners are permitted to file caveats, as it would seem must be done if our citizens are permitted to do so, the result will be the introduction of a class of evidence which has always been considered open to very serious objection, and has never been permitted to be introduced in any proceeding before the Patent Office, or before the Courts in patent matters—namely, evidence of acts performed in a foreign country. If foreigners are permitted to establish conception of an invention in a foreign country by filing a caveat—and a caveat has practically no other effect than that of establishing conception of the invention described therein on the date on which it was filed—it would seem to be necessary to permit evidence to be introduced of the reduction of the invention to practice, as by construction of a machine, in the foreign country."

PROVISIONAL PROTECTION.

No great differences exist in regard to provisional protection. Such differences as occur relate chiefly to the period of protection. In Newfoundland the nature of the protection, and in Cape Colony the character of the specification which must be filed with the application, are exceptional.

Newfoundland.

In Newfoundland every applicant for a patent is required with his petition to deliver into the office of the Colonial Secretary "a written description of his invention, and of the manner of using or process of compounding the same," in accordance with detailed instructions contained in the Act; and after the expiration of one week, and until the expiration of six months from the date of the delivery of this description, the applicant has the like privileges and rights as if a patent had been sealed to him on the date of such delivery.

New South Wales.

In New South Wales any person claiming to be the author or designer of any invention, or his agent or assignee, may obtain a certificate entitling him to provisional protection for his invention on payment of £2 and on depositing with the Minister of Justice a petition addressed to the Governor and a provisional specification in the prescribed form. This certificate is in force for twelve months, and becomes null and void if before the date of the expiration thereof its lawful holder fails to make application for a patent.

Queensland, New Zealand, Victoria, Western Australia, Tasmania.

In Queensland, New Zealand, Victoria, Western Australia, and Tasmania the law relating to provisional and complete specifications resembles that of the United Kingdom (1) in leaving it to the option of the applicant whether his application shall be accompanied with a provisional or a complete specification; (2) in the provisional protection which, after the acceptance of an application, is accorded to him during the period before the date of the application and the sealing of the patent, which protection enables him to use and publish the invention during this interval without