

HIGH COURT OF AUSTRALIA.]

MILLARD

APPELLANT ;

AND

THE COMMISSIONER OF PATENTS

RESPONDENT.

Patent—Application—Invention—Subject matter—Patents Act 1903-1909 (No. 21 of 1903—No. 17 of 1909), sec. 46. H. C. OF A.
1918.

The Commissioner of Patents having refused to accept an application for a patent for “Improvements in dressmakers’ pattern outfits” on the ground that no invention and no patentable subject matter was disclosed, on appeal to the High Court,

Held, that the decision of the Commissioner was right.

MELBOURNE,
Feb. 26.

Barton,
Gavan Duffy
and Rich JJ.

APPEAL from the Commissioner of Patents.

An application was made by Hannah Gardner Millard for a patent for “Improvements in dressmakers’ pattern outfits.” The complete specification, so far as is material, was as follows :—“This invention relates to pattern outfits for dressmakers, the chief object being to facilitate the identification of the various pieces of the pattern and simplify the fitting together of the pieces of the dress-goods after the latter have been cut out. The improved outfit is such that the tyro can scarcely go astray, but can begin the putting together of the garment pieces at the proper point and from these continue in the proper sequence of the steps to the completion of the work in the easiest manner and quickest way.

“According to this invention the outfit comprises a paper or other pattern composed of a number of pieces marked or perforated with characters in sequence indicating the order in which the pieces

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are used in making a garment, and an instruction sheet or chart bearing illustrations of the different stages of the work and indicating the order or sequence of steps to be followed in assembling the pattern-pieces to make the garment.

“The identifying marks or characters may be formed by perforations in the pattern-pieces in the order or sequence in which the pieces are to be used in putting the garment together. Thus, the piece to be used first is marked ‘1,’ and the second ‘2,’ and so on. The pattern-pieces and illustrations on the instruction sheet or chart may be provided with corresponding characters, perforations, notches, or other markings to indicate the order in which the pattern-pieces are assembled and the various meeting edges and the like. Moreover, the instruction chart or sheet may bear words of instruction or explanation to aid the user in understanding the procedure. The sheet may also contain figures illustrating the finishing features of the work, as for example, making belts, French tacks, tailors’ tacks, &c.”

Drawings were then set out with letterpress explaining them, and then followed the claims, which were as follows :—

“1. A dressmakers’ pattern outfit, comprising a paper or other pattern composed of a number of pieces marked or perforated with characters in sequence indicating the order in which the pieces are used in making the garment, and an instruction sheet or chart bearing illustrations of the different stages of the work and indicating the order or sequence of steps to be followed in assembling the pattern-pieces to make the garment, for the purpose specified.

“2. A dressmakers’ pattern outfit in which the aforesaid pattern-pieces and illustrations on the instruction sheet or chart are provided with the corresponding characters, perforations, notches or other markings to indicate the order in which the pattern-pieces are assembled and the various meeting edges and the like, for the purpose specified.

“3. A dressmakers’ pattern outfit as hereinbefore described in which the instruction sheet or chart bears perspective or other views or figures of the different stages of the work, one or more of which is or are provided with a statement or statements in words

explanatory of what is to be done at, or in reaching, the stage or stages represented, for the purpose specified. H. C. OF A.
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“4. A dressmakers’ pattern outfit substantially as hereinbefore described with the reference to the accompanying drawings for the purpose specified.”

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The Commissioner of Patents refused to accept the application and specification, holding that the specification disclosed no invention and no patentable subject matter.

From that decision the applicant appealed to the High Court.

Schutt, for the appellant. If there is any doubt as to whether the alleged invention is subject matter for a patent or not, the patent should be granted and the question of its validity left to the future. See *Hickton’s Patent Syndicate v. Patents and Machine Improvements Co.* (1). A thing of this sort is patentable (*Hollinrake v. Truswell* (2)). [Counsel also referred to *Frost on Patents*, 4th ed., p. 40: *McDonald v. Commissioner of Patents* (3); *Caldwell v. Commissioner of Patents* (4).]

Starke, for the respondent, was not called on.

The judgment of the COURT, which was delivered by BARTON J., was as follows:—

There is not a germ of invention disclosed here, and therefore the appeal will be dismissed with costs.

Appeal dismissed with costs.

Solicitors for the appellant, *Plante & Henty*.

Solicitor for the respondent, *Gordon H. Castle*, Crown Solicitor for the Commonwealth.

B. L.

(1) 26 R.P.C., 339.
(2) (1894) 3 Ch., 420.

(3) 15 C.L.R., 713, at p. 718.
(4) 22 C.L.R., 187.