

When we say "a general impression", a general impression by whom? How do you present evidence of that? Are you satisfied that the judge sitting on the bench is capable of determining what the general impression would be of those who read that?

It seems to me a fantastic way of doing it.

Senator Molson: Would this cover the kind of advertising that deals with "Whiter, lighter, stronger," and that kind of thing, where the general impression is not the same as the literal meaning?

The Chairman: It could, but you may consider both the general impression of the judge and the literal meaning.

Senator Molson: But the literal meaning in some of those ads is zero.

Mr. Hemens: Is it the general impression of one person or is it the impression of the general public?

The Chairman: Surely, it is not limited to the impression of one person?

Senator Cook: How do you test that?

The Chairman: They would not use the word "general."

Senator Cook: They could not test the general impression of one person.

The Chairman: If you paraded to the stand 20 people who said, "Our general impression of those words is such-and-such", the Crown would then call 30 people to say the opposite, and on the balance of numbers the general impression might be determined.

Senator Flynn: You would have to call a lot of witnesses who had read the advertising, and they would say, "This led me to buy the thing. I thought it would be like this or that." I know we would enter into a long debate.

Senator Molson: The survey method suggested by Mr. Bruce is generally accepted, if it is a properly planned survey.

Mr. Hemens: If you conclude, senator—and it might not be fair to conclude—that this is a replacement for a credulous man, you may come to the conclusion that it is my general impression.

Senator Desruisseaux: I was thinking possibly beyond the scope of this, about what would be the repercussion—if for instance, Westinghouse or CGE advertise in the U.S.A. and that advertising is called here misleading advertising—on your advertising in Canada, in the magazines, over radio and on television.

Mr. Bruce: In our particular case, I would not think very much. Certainly, we are not a big advertiser. I do not know of a case where such a conflict has arisen. We attempt to keep our advertising different from that in the United States. We do not see the thing in the same way as they do in the United States. Westinghouse

advertising tends to be institutional rather than related directly to the product.

Senator Desruisseaux: That may be the case with some companies, but not with others.

Mr. Bruce: If we found that happening, certainly we would hold consultations. It would be important that we did not get into any trouble in Canada because of what they were saying in the United States.

The Chairman: I am looking at the headings which appear in your table of contents. They appear to be clear in connection with the point that you are attempting to make. Would you like to add anything more to those headings, other than those with which we have dealt so far?

Mr. Bruce: I feel that we have covered the important matters.

Mr. Hemens: In all fairness, we should add one thing which came to our attention latterly. It is on page 11 of the brief, under the heading "Solicitor-Client Privilege."

We have talked with the Department of Justice. The statement is made here:

... the Department of Justice has recently taken the position that the defence of privilege attaching to communications between solicitor and client is not available under this section.

We now believe that impression to be incorrect. However, our view remains that solicitor-client privilege exists.

The Chairman: It is your view that the statement to the effect that the Department of Justice has taken a position is not correct?

Mr. Hemens: We think it is not correct.

Senator Cook: It is only fair to say that whatever position they take, it is for the courts to decide.

Senator Connolly: Are you telling us that you thought originally that the Department of Justice would not recognize the solicitor-client privilege, and you now think you are wrong in that?

Mr. Hemens: We received information which we think was incorrect.

Senator Macnaughton: But you are not sure.

Mr. Hemens: We spoke to the deputy minister, who stated that they do and will recognize the solicitor-client privilege.

The Chairman: Where I have found they do is where the statute says they must.

We shall meet at 3.30 this afternoon. The minister will appear to deal with the point raised in our discussion of the National Parks Bill.