

the document that was not actually submitted to the solicitor and those that were, provided the former was really intended to be submitted to him."

"Le juge Manisty ajoutait :

"As to the documents that were actually submitted to the solicitor I entirely agree. As to the other document I have some doubt; but the distinction is perhaps rather subtle, and I am not prepared to differ from my Lord and my brother Mellor. With regard to the statement of facts by the chairman, it would be monstrous that such a statement, made for the purpose of being laid before the company's solicitor, and actually laid before him, should not be privileged. What can be the difference between asking to see such a statement and asking what oral instructions were given to a solicitor? The same principle also applies, to the other set of documents that were submitted to the plaintiff's solicitor."

"La cause fut portée en appel, et voici comment s'expriment les juges en appel :

*Bret, J.* — "The question depends upon what is the principle to be extracted from *Anderson vs Bank of British Columbia*. The facts of that case do not apply to the present, but the judgment lays down the rule upon which we ought to act. James, L. J., laid down a rule; he says — (Looking at the dicta, and the judgments cited, they may possibly all be based upon this, which is an intelligible principle, that as you have no right to see your adversary's brief, you have no right to see that which comes into existence merely as the materials for the brief.) — Now reading that passage, it is clear that if a party seeks to inspect a document which comes into existence merely as the materials for the brief, or that which is equivalent to the brief, then the document cannot be seen, for it is privileged.