

allegations made about CS and he was asked to review the material and consider whether the CPS had acted appropriately. He concluded that Mr Watson's Advices, on the law as it stood at the time, "could not be faulted" [Exhibit GM/5].

101. In summary Peter Watson had concluded that;
- i. the evidence presented to him passed the evidential test (that there was a realistic prospect of a conviction); but,
 - ii. that CS would be entitled to rely on "the doctrine of legitimate expectation";
 - iii. this expectation had been strengthened by the period of 27 years (since CS had been informed of the decision in 1970); and
 - iv. that CS would likely succeed in any application for a stay by reason of an abuse of the process.

102. Whilst Mr Watson appeared to regard ii/iii. and iv. as separate considerations in his Advice, the correct position is that CS would have been entitled to argue that to prosecute him in 1998/99 would have amounted to an abuse of the process of the court, and that the proceedings should have been stayed on the basis of the combined effect of his "legitimate expectation" for some 27 years that he would not be so prosecuted, and of the delay. However, this analysis does not alter the effect of his advice.

103. In this respect, in the light of the Court of Appeal authorities representing the law at that time (in 1998/99, and as I have summarised at paragraphs 80-84 and 87-91 above) not only would there have been the argument available to CS that there had been a "breach of promise" (the 1970 decision) but also that there had been a delay of 32-37 years since the incidents that caused him (it would have been argued) irreparable and unfair prejudice. The combination of these factors would have made the argument stronger, on the law at that time.

104. Mr Watson brought to bear his judgment on the evidence and factual matrix presented to him in 1998/99, as would be expected of a Crown Prosecutor in his position. However it would have been unusual at that time for a Crown Prosecutor to make a decision to institute proceedings or not in this case, based largely on an assessment made by him of the likely success of any application to stay the proceedings, before such an argument could be fully litigated before a Judge. It is right however to point out that Mr Watson was presented in 1998/99 with an unusual factual matrix that would, on the law at that time, have been in CS's favour.