



DPP

Commonwealth Director of Public Prosecutions

Damian Bugg QC

3 September 2001

Between June 1993 and January 1994 Messrs Fuller, Cummings and Johnson were charged with offences under the Criminal Law Consolidation Act and the Companies (SA) Code together with the common law charge of conspiracy to defraud. The events the subject of the charges occurred in the late 1980's.

Messrs Fuller and Cummings were committed for trial on these charges in June 1995.

Mr Johnson has at all material times resided overseas. His extradition from the UK was sought in 1994. While a magistrate ordered his extradition in 1996 Mr Johnson has resisted being extradited to Australia through a series of court challenges in both Australia and the UK.

Following an application by Messrs Fuller and Cummings, in 1997 the proceedings against them were stayed until adequate funding was provided for their defence. In December 1999 the Commonwealth established a special fund to provide legal aid in large and expensive cases. Since late last year the SA Legal Services Commission has been conducting a tender process to provide legal aid to Messrs Fuller and Cummings.

Counsel briefed by this Office to present the case has recently interviewed in the UK a number of key witnesses in the case. During that process it became apparent that the recollection of those witnesses had declined due to the passage of time. This together with the unavailability of another key witness and other relevant matters has lead to the conclusion that it is no longer possible to say, in accordance with the Prosecution Policy of the Commonwealth, that there is a reasonable prospect of success.

In these circumstances, after consultation with the NCA and State authorities, I have decided to discontinue these proceedings against Messrs Fuller, Cummings and Johnson.