

Button's day in court

John Button's 38-year fight to clear his name rests now with three judges.

Chief Justice David Malcolm, Justice Henry Wallwork and Justice Neville Owen heard his argument this week. They will decide over the next few weeks whether his conviction should be set aside. The shy, but smiling, man who is still officially branded a killer was back in the court

house where he was convicted and sent to jail for killing his 17-year-old fiancée Rosemary Anderson. But this time he was backed by his wife, children and many friends. They included Sally Cooke and her son Tony – the widow and son of Eric Cooke, the

mass murderer who confessed as he went to the gallows in 1964 that he had done the crime that sent Mr Button to jail for five years. Mrs Cooke said she was not upset. "I am happy to be here for John Button," she said. Other supporters in-

cluded Mosman Park journalist Estelle Blackburn, who has spent six years helping Mr Button and writing his story in her book Broken Lives. Bret Christian, editor of the POST, was there, with Rusty Haight, an American expert on

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The Court of Criminal Appeal, from left, Justice Henry Wallwork, Chief Justice David Malcolm, Justice Neville Owen.



John Button, carrying grand-daughter Amy Button, heads into court with his extended family, from left, sister-in-law Margaret Collins, sister Margaret Ridge, daughter Naomi Shattock, son Gregory, wife Helen, daughter-in-law Marie, and son-in-law Gordon Shattock. Pictures by Paul McGovern.

Holdup at Red Rooster

Police say a robber with a knife threatened three young diners in the Peppermint Grove Red Rooster on Sunday night and stole their bags and wallets. The three had been celebrating with a quiet dinner after one of them had been released from hospital after treatment for a broken wrist. Police alleged a man had entered the store at 9.40pm and ordered some food. He did not have enough money to pay for it, but the attendant had accepted the order anyway. The man had gone

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Crown tries to block evidence

Large chunks of evidence will be excluded from John Button's historic appeal if the Crown gets its way.

The Crown has said it will fight against every piece of evidence in the Button appeal that it says fails to com-

ply with the law of admissibility. The case has a 38-year gap between conviction and appeal – this is believed to be the longest lapse in Australian legal history. Mr Button's lawyer, Thomas Percy QC, said that the evidence of just one of the 14 wit-

nesses heard was enough to exonerate Mr Button. This is American car crash expert Rusty Haight, who crash-tested four cars into dummy at Claremont last year (see page 7). The admissibility of Mr Haight's evidence was not challenged. The Crown called no witnesses. Simon Stone, representing the director of public prosecutions, fought tenaciously against Mr Button's lawyers this week. He told the three judges sitting as the Court of Appeal that the crown objects to the evidence of most of the witnesses produced by Mr Button's team. This includes evidence by Trevor Condren, a retired police vehicle examiner who said he did not believe that Mr Button's Simca car had hit a pedestrian. Mr Stone said: "His name does not appear under any head of appeal.

"It is as though somebody has been called in off the street. "Further and better particulars have been produced to the court, but there is no reference to this witness. "It is difficult to see how one could even entertain such evidence." Mr Percy replied that documents relating to Mr Condren had been lodged with the Crown for some time. "He has not been plucked off the street," Mr Percy said. Mr Stone continued: "This man was available in 1963. "The fresh evidence is said to be from the man from America, Mr Haight, and his Show-ground tests. "How this retired gentleman fits into this, I do not know. "Also, the doctor who testified that life was extinct. "There are no grounds or particulars to which the doctor can relate.

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Here's where we go

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'Evidence is strong in Button's favour'

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Mr Percy said: "It must be conceded that Cooke was persuaded to retract his original confession to the Rosemary Anderson death; but he did restore it, with changes."

In 1964, Cooke had been described scathingly by three appeal court judges as a liar caught in a web of his own deceit.

However, since then a significant amount of new evidence had been gathered to show that the original findings against Mr Button had been incorrect.

Mr Percy said it could be argued there could reasonably have been a different verdict and a retrial ordered.

He said the original conviction was unsafe and should be set aside.

Mr Percy said: "Much has been made of Cooke trying to prolong his life by the Anderson and Beamish confessions.

"Significantly, though unknown to Button's lawyers, in November, 1963, Cooke told his lawyer, Desmond Heenan, not to appeal his conviction.

"These facts cast his confessions in an altogether different light.

"The gallows confession takes on critical importance."

Mr Percy said Cooke's other serious crimes, in particular the hit and runs, also took on added cogency.

The degree of detail Cooke had given could now be verified largely through the investigative work done by Estelle Blackburn in her book, Broken Lives.

"The circumstances confirm entirely the facts and esoteric knowledge possessed by Cooke," he said.

Damage

The third major area of evidence involved the damage, or lack of damage, to Mr Button's car.

Mr Percy said the issue was whether the Simca could have caused Miss Anderson's death given it had minimal damage.

There had never been any dispute between the defence and Crown that the car had only slight damage.

Mr Button had damaged the car several weeks earlier in a collision in the city with a Ford Prefect.

Photographs of those two cars together showed correspond-



Former police vehicle examiner Trevor Condren doubted that John Button's car had hit a pedestrian.

ing protrusions and dents.

When Cooke confessed to the killing, he said he had run down Miss Anderson from behind with a Holden he had stolen from King's Park and later rammied into a tree in King's Park.

Mr Percy said it had never been in dispute that a car had been stolen and rammied, precisely as Cooke had said.

The Holden had been repaired but it had never been examined in relation to Miss Anderson's death.

Retired police vehicle examiner Trevor Condren said he had never considered the damage to the Simca consistent with having collided with a pedestrian.

There had been no

blood, skin, hair or clothing fabric on the car.

He said he had told some of the four CIB detectives involved in the case: "This vehicle did not hit a pedestrian." But he could not remember which officer he had told.

He had never given his opinion in court because he had not been asked for it.

Mr Condren agreed with crown lawyer Simon Stone that there had been other police officers more expert than he who had given evidence at the Button trial and appeal in the 1960s.

Asked why he had not given his opinion to his immediate boss, he said: "Because it was an opinion of mine against four senior CIB officers."

Crash test dummy

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ven into Miss Anderson.

He said that police at the original trial had ruled out the Cooke confession because the Holden had a visor and they said that would have caught and held Miss Anderson on the front of the car.

But his tests with a similar Holden showed how a body would rotate over the bonnet, hit the visor and continue.

Chief Justice David Malcolm said: "Do you mean a rotating somersault?"

Mr Haight said: "Yes, sir."

Crown prosecutor Simon Stone vigorously challenged Mr Haight's comments about the Button car.

Mr Stone said there had been damage to the car and there was blood on it.

Mr Haight replied: "That damage was from a car-to-car crash, not a pedestrian strike."

He said photographs

of damage to Mr Button's Simca showed it did not have the type of damage that would be caused in a crash with a pedestrian.

Mr Stone asked several times why Mr Haight had not measured the size or location of damage on the Simcas during the crash tests.

Mr Haight said he had not done that because there was no point. The damage on Mr Button's car had not been measured so there was nothing to compare crash test damage measurements to - if they had been taken.

Mr Stone quoted from the old court documents that a police examiner said there was a dent "about" the middle of the Simca bonnet and "approximately 10 inches across".

Mr Haight said: "Sir I do not consider the terms 'about' and 'approximately' to be objective measurements which can be compared with real measurements."

He said he relied completely on hard factual information; he did not try to analyse statements by witnesses or rely on subjective information.

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car crashes flown in to give special evidence for Mr Button.

Tom Percy QC, Jon Davies and their staff lined up against the Crown team of Simon Stone and Amanda Forrest.

Mr Percy outlined the argument:

• Cooke had confessed repeatedly to several people;

• Cooke had attacked several other women running them down in hit-run crashes - in exactly the same way as Rosemary Anderson was run down; and

• Expert evidence would show that John Button's car in 1963 had not been damaged in the way it would have been if it had hit Miss Anderson and caused the injuries;

Pictures of victim

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Dr Turner said there had been extensive lacerations and abrasions to parts of the body suggesting she'd been taken along a road.

He said he had been told she had been involved in a hit-run.

In his opinion, she had been struck by a

Crown tries to block evidence

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"I cannot see how

been hit in one incident.

Cooke confessed to

He said Mr Button's team was setting a high