
BOOK REVIEWS

Who Killed Rosemary Anderson?



BROKEN LIVES

By Estelle Blackburn

(Stellar Publishing Pty Ltd 1998 pp 410 \$24.95)

DESPITE its status as the capital city of Western Australia, Perth in the year 1960 was much more akin to a large country town than a bustling metropolis. Even today long-term residents reminisce about the 'good old days' when people could leave their houses unlocked, sleep on front verandahs on hot summer nights and walk the streets without fear. But in the early 1960s all this was to change.

This book begins by chronicling the life and crimes of Eric Edgar Cooke. During the period 1958 to 1963, Cooke was, on his own admission, responsible for causing the deaths of five Perth residents, causing serious injury to nearly a dozen others and committing innumerable burglaries and car thefts. Ultimately Cooke found a place in Western Australian history as the last person to die on the gallows of Fremantle gaol.

But this book is not just a chronicle of Cooke's activities. Before he was apprehended, two men were charged and convicted of offences to which Cooke later confessed. The first and perhaps better known of these was a hearing and speech impaired youth named Darryl Raymond Beamish who was sentenced to death (later commuted to life imprisonment) for the wilful murder of Jillian Brewer in 1959. Subsequent to his apprehension in 1963, Cooke confessed to this murder, and declared that Beamish was innocent. As a result the then Minister of Justice referred Beamish's conviction to the Court of Criminal Appeal; however, after hearing evidence from Cooke, the court concluded that there were no grounds to set aside the conviction and dismissed the appeal. The Beamish case was the subject of much controversy and gave rise to intense legal debate.¹

1. See D Payne 'The Beamish Case' (1966) 7 UWAL Rev 576; P Brett 'The Beamish Case: A Rejoinder' (1967) 8 UWAL Rev 115.

The second matter, which forms much of the content of this book, relates to the conviction for manslaughter of John Button who was sentenced to 10 years' imprisonment for causing the death of his girlfriend, Rosemary Anderson, by deliberately running her down with his car. Subsequent to his arrest on an unrelated matter, Cooke confessed to this running down and to five other hitherto unsolved hit-and-run cases involving young female victims. John Button has always maintained his innocence of the crime of which he was convicted, the author of this book, Estelle Blackburn, putting forward the view that Button has been the victim of a serious miscarriage of justice.

The circumstances surrounding the death of Rosemary Anderson can be shortly stated. On 9 February 1963, John Button celebrated his nineteenth birthday at home with his 17 year old girlfriend, Rosemary. A dispute arose between the young couple and Anderson left the Button residence to walk to her own home some distance away. Anxious to reconcile the dispute, Button followed in his car, attempting to persuade her to get into the vehicle. On his version of events, she refused to do so, and continued on foot until she passed out of his sight under a nearby subway beneath the Perth-Fremantle railway line. Button claimed that, after pausing to smoke a cigarette, he drove under the subway and there he found Anderson lying unconscious and seriously injured on the side of the road. He drove her to a nearby doctor's surgery from where she was later transported by ambulance to Royal Perth hospital. Some hours later she succumbed to her injuries and died.

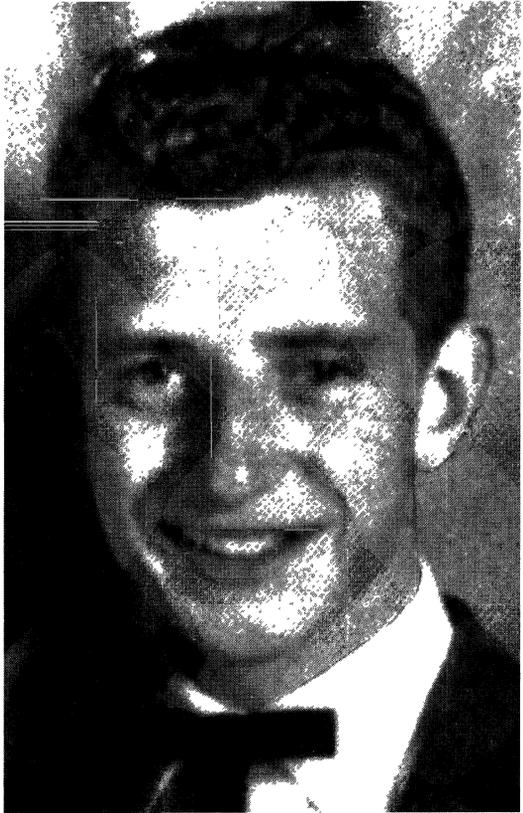
Button was first spoken to by the police at the doctor's surgery and later taken to CIB Headquarters in Perth for questioning. In an initial statement he denied running down Anderson; however, a full confession was made after the police informed him of her death.

Ms Blackburn embarks on a detailed examination of the evidence adduced at Button's trial for wilful murder, including the contention that Button's car had sustained front-end damage in a traffic accident some weeks prior to the death of Anderson (and not by running down Anderson, as the prosecution claimed). The interrogation methods of the police are also scrutinised, and whilst no allegations are made of physical violence being used to gain the confession, it is suggested (pp 197-198) that the questioning techniques were so robust that Button felt compelled to make a false confession in order to remove himself from the situation he was in.

At the trial the circumstances surrounding the making of the confession were subject to a *voir dire* and subsequently to the scrutiny of the jury. Ms Blackburn implies (p 241) that had the confession been ruled inadmissible the Crown case would have collapsed. In order to give credence to her criticism of the admission of the confession, the author cites the recent High Court decision in *McKinney v*

*Judge*² as authority for the proposition that 'a charge should not proceed if the only evidence against a suspect was a challenged confession obtained by agents of the State' (p 381). This is a misstatement of the law, as *McKinney v Judge* simply requires that in a situation where (a) the making of the confession by the accused is not corroborated and (b) the confession is the only, or substantially the only, evidence against the accused, then the trial judge must warn the jury of the danger of convicting on the evidence of the disputed confession.

Other evidence, albeit circumstantial, was available at the Button trial and even if a *McKinney* type warning had been required by law at that time it would still have been open to the jury to return the



John Button

verdict they did.³ In any event the story does not end there. In September 1963 the people of Perth breathed a collective sigh of relief when police announced the arrest of Cooke, captured by two constables whilst he was endeavouring to retrieve a rifle used in the murder of one John Sturkey. In the days that followed Cooke confessed to a number of other murders as well as to numerous assaults and burglaries. Included in this litany of offences were admissions to five previously unsolved hit-and-run cases, as well as to the murder of Jillian Brewer and the running down of Rosemary Anderson. One can well imagine the consternation these latter confessions must have caused, bearing in mind that Beamish and Button respectively had been tried and convicted of those crimes.

2. (1991) 171 CLR 468.

3. Whilst Button was indicted for the wilful murder of Anderson, the jury returned a verdict of manslaughter.



Eric Edgar Cooke

From all accounts, Cooke, if not insane, was certainly suffering from some form of personality disorder, his background and life history being thoroughly documented by the author who is clearly convinced that the wrong man was jailed for the death of Anderson. Cooke, however, retracted his confession to this crime following inquiries by the police. Ms Blackburn goes into considerable detail in documenting these inquiries and attempts to throw doubt on the conclusion reached by the police, namely that Cooke was lying and Button was indeed guilty.

An alternative to Ms Blackburn's hypothesis is that Cooke did in fact make false confessions to the police regarding

the deaths of Rosemary Anderson and Jillian Brewer for reasons which only he could know. Aside from his appearance before the Court of Criminal Appeal in the Beamish matter (at which time his evidence was rejected as that of a liar) the only time his credibility and veracity were tested was at his own trial for the wilful murder of John Sturkey. Upon conviction being obtained for that offence, the Crown declined to proceed with any other charges, including those which arose from the five hit-and-run accidents. As a result, despite the willingness of Ms Blackburn to attribute those crimes to Cooke, we cannot be certain that he was guilty of them.

No matter what opinion the reader forms as to the culpability of Button in the death of Rosemary Anderson, this book indirectly raises more general issues which are worthy of consideration. First, persons suspected of having committed criminal offences in Western Australia still have no absolute right to seek legal advice prior to being questioned by the police. The reluctance of governments to fund duty-solicitor schemes to assist such persons not only leaves them vulnerable to impropriety on the part of police officers, but it also deprives the police themselves of protection from false allegations of improper conduct. Secondly, those who actively propose the reintroduction of the death penalty must surely take cases

such as this into account, for if an inquiry is to be held into the Button case (the possibility having been raised in State parliament), the most important witness is no longer with us, having ended his life on the gallows.

In the course of her research, Estelle Blackburn was given access to the police files relating to the Button case, as well as to other original source material. In reading her book one cannot resist making a comparison with the works of other writers who have conducted similar inquiries to expose cases where the criminal justice system has failed. Prime examples are Ludovic Kennedy's work on the Lindbergh kidnapping⁴ and David Yallop's investigation of the Craig-Bentley case⁵ in the United Kingdom. The writings of these authors provide a yardstick by which to evaluate investigative writing of this genre.

It is obvious that Ms Blackburn has been meticulous in her research; however, it must be borne in mind that she did not approach her task with the detachment that characterises authors such as Kennedy and Yallop. To her credit she makes no secret of the fact that her interest in the case arose from a social meeting with Button's brother and it is obvious from the contents of the book that she formed a strong relationship with Button and his family. It is also significant that the author states: 'At points where I have found conflicting evidence I have chosen the version that I find to be most acceptable' (p 2). Whilst her honesty in this regard is to be commended, this statement should put the reader on notice that discussion of alternative points of view may be lacking.

Whilst *Broken Lives* is not in the same league as Kennedy's or Yallop's books, as a work of investigative journalism it is certainly an important contribution to the history of Perth. It demonstrates how a small metropolitan community can be influenced by the fear of crime and, more significantly, it points to the difficulties which the criminal justice system can often face in determining the truth. From this perspective it is certainly worth reading.

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4. L Kennedy *The Airman and the Carpenter* (Glasgow: Fontana, 1986).

5. D Yallop *To Encourage the Others* (London: WH Allen, 1971).

* Photographs courtesy of *The West Australian*.