

My Grandfather, Ron Castan

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A thirty-seat plane sat on the runway, its propellers spinning hypnotically in the darkness. The engine roared, a deafening thunder that threatened to blow my six-year-old body away. As my grandfather and I sat in the tiny gate lounge, fluorescent lights flickering above, I held his hand tighter, excited yet intimidated by the adventure we were about to embark on.

This is one of the few precious memories I have of my grandfather, Ron Castan, the famous barrister and champion of Aboriginal land rights. I retain only sparse recollections of him, fleeting vignettes of our time together. It's not surprising that I can't recall more; after all, he passed away 13 years ago when I was just 7 years old. Ron was only 59 years old when surgical complications ended his life abruptly and unexpectedly; yet despite his absence, he remains a central figure in my life, a constant source of inspiration and guidance. There is no doubt that my choice to study law was influenced by his career, and I often find myself assessing my own actions with him in mind, wondering if he would have been proud of the direction I am taking.

But while I wish I could say I knew Ron Castan, I don't think that would be entirely honest. I feel deeply connected to the idea of him, as much as to the man himself. It seems that the true memories I retain of him are like a single grain of sand, sitting in the centre of an oyster. Alone, they are almost

invisible. But over the past 13 years, the endless stories I have heard, pictures I have seen and things I have read, combined with my own imagination have surrounded and enveloped the grain, growing into a revered and idealised impression of Ron Castan, a shining pearl in my eyes.

I have arrived at a sobering point in my life this year. Moving out of high school and into university, for the first time, my life is now my own. I like to imagine Ron arriving at the same point in his life, and wonder how quickly he decided that he would spend his life pursuing the lofty aims of justice and equality. Was he like any other student or was there always something more to him? Ron has always been a presence in my life, yet I know so little about him. It is sad to accept that I will never know Ron in any adult way, but moving into adulthood, I long to develop a deeper, more complex impression of my grandfather. So then I am left with one essential question: who was Ron Castan? I wish to understand the essence of this man who, despite his absence, is such a profoundly influential figure in my life.

There is only one logical starting point when discussing Ron Castan. One achievement for which he will be remembered above all others. He fought and won a legal case that turned 200 years of Australian history on its head. Ron was Senior Counsel for the plaintiffs in the Mabo case.¹ This is the landmark Australian legal case that, as far as I understood as a child, 'gave land rights to the Aboriginal people'. The case was obviously a much more complex beast, but at its essence the decision led to a rebuttal of the legal fiction that Australia was *terra nullius* or 'no-mans land' before colonisation, and recognised that Aboriginal people could claim native title over their traditional land under Australian common law. If history chooses to remember Ron Castan, it will likely be for Mabo, and so without explaining his role in this triumph, his story would be incomplete. But while I believe Mabo lies at the start of Ron's story, it is certainly not the endpoint. In a sense,

to see beyond Mabo when looking at Ron's life, his role in its success must first be explored.

From the time of colonisation up until the decision in Mabo, Indigenous Australians had absolutely no legal right to ownership of the land on which they had lived for thousands of years. Yet before the First Fleet arrived in 1788, hundreds of culturally and linguistically distinct Indigenous groups had existed, each with an extremely strong connection to the land of Australia. At the risk of descending into cliché, it is necessary to recognise not only that Indigenous people have lived on this land for tens of thousands of years, but also that their traditional culture is intimately intertwined with the Australian landscape.

The Mabo case itself was a 'test case' in which a few individuals launched legal action in order to bring about a change to a broader legal principle. The plaintiffs, Eddie Mabo, Dave Passi and James Rice, fought for the right to ownership over their specific land in the Torres Strait, but in doing so they hoped that it would lead to a broader recognition that Indigenous Australians had a legal right to ownership over their traditional lands. While the plaintiffs were essential to the case's success, equally so were Ron and his legal team — Bryan Keon-Cohen, Greg McIntyre and Barbara Hocking — who developed the innovative legal arguments presented to the courts. Ron spent 10 years working on the Mabo case, eventually convincing the High Court of Australia that it should overturn deeply entrenched and inherently discriminatory legal assumptions about the Indigenous people of Australia.

Bryan Keon-Cohen's account of the Mabo case² details the seemingly endless and insurmountable setbacks faced as the Queensland government did all it could to ensure that the plaintiffs would not gain any form of legal entitlement to land. This included the enactment of legislation attempting to extinguish any Indigenous land rights that may be found to exist. This legislation, *The Queensland Coast Islands Declaratory Act 1985 (Qld)*, was declared invalid by the High Court in

Mabo (No 1)³ as it was found to be inconsistent with the *Racial Discrimination Act*.⁴ While there were many points at which the Mabo case seemed set to fail, it never did and finally, on 3 June 1992, the judgment for Mabo (No 2) was handed down in favour of the plaintiffs, granting Aboriginal people the possibility of gaining legal rights over their traditional lands for the first time since colonisation.

The Mabo case was a legal and symbolic win for Aboriginal and Torres Strait Islanders, reminding non-Indigenous Australians that their country was not ‘terra nullius’ before colonisation. I cannot help but see the legal system with a touch of idealism when I see the change that Ron was able to contribute to, through the use of the courts. Senator Aden Ridgeway called Ron the ‘Great White Warrior against racism’ and this reflects the fact that Mabo did not constitute Ron’s sole involvement with the Aboriginal people of Australia. In fact, Ron had already co-founded the Victorian Aboriginal Legal Service in 1973 and the Koorie Heritage Trust in 1985. After the Mabo decision was handed down, Ron involved himself in ensuring that the legislative response would provide an effective means for Aboriginal people to make native title claims, playing a prominent role in the development of the *Native Title Act*.⁵ Ron was also involved in the Wik case,⁶ in which the High Court found that native title and pastoral leases could co-exist in certain circumstances, which significantly extended the possible scope of native title. Through his work, Ron developed close friendships with Indigenous activists and leaders, and continued to be involved with Indigenous communities for the rest of his life.

I am deeply inspired by Ron’s work on the Mabo case, but as I have researched his life, it has become clear that while it was his most public achievement, it was far from his only success. Ron appeared in 60 High Court cases throughout his career as a barrister. This included many landmark test cases that have had a significant impact on Australian law, including the Tasmanian dams case⁷ and *Koowarta v Bjelke-Petersen*,⁸ both

of which concerned the limits of the power of the Federal government under the Australian Constitution. Reading through the list of his High Court appearances, it is overwhelming to consider how influential Ron's career was on the law of this nation. Many of these cases were not profitable, yet throughout his career, it seems Ron fought cases that he believed needed to be fought. As High Court Justice Michael Kirby asked in a memorial speech about Ron: 'Why did he not just take the highly profitable path of the commercial silk, with fat briefs packed with trust deeds and conveyances in vellum?'⁹ I wondered where Ron found the drive to pursue justice through the imperfect legal system. To find the answer to Justice Kirby's question, it is necessary to look past what Ron did and instead attempt to learn more about who he was.

Thirteen years ago, my grandfather arrived at my house, suitcase in hand. He bundled me into the car and before I had a chance to question it, we were aboard the smallest plane I had ever seen and approaching South Australia to travel with my grandmother, Nellie. As we drove through the Flinders Ranges in a well-worn four-wheel drive, it was immediately clear that we had arrived somewhere profoundly different to my home. The dusty red earth and twisted native trees were so different to the freshly cut lawns of Melbourne. It was clearly not where I belonged.

Arriving at Wilpena Pound, we were greeted by a ranger, the first Aboriginal man I had ever seen. I could not help but be intimidated, if only because he was so different to anyone I had met before. He introduced me to his daughter, a small Aboriginal girl named Jess. I was fascinated by her; she seemed so comfortable where I felt so out of place, walking barefoot along the sand while my feet remained stubbornly cocooned in my socks and runners. We struck up a friendship and played together, drawing in the dust and climbing along the rocks. Thinking back, it was the first time I felt out of place in Australia. In Wilpena Pound, Jess was at home.

I am so grateful Ron chose to take me on that trip; he could not have known how little time we had left together. He made me feel safe as we drove across a foreign part of our nation that seemed another world to my younger self, and he now remains in my memory as a figure of strength and wisdom. But I know that there was more to Ron. To those who knew him best, his legacy does not linger in the abstract. They carry endless stories, anecdotes and history, remembering Ron in vivid colour. They remember a man who, had he still been here, would have had so much more to say. But knowing that those words will never be spoken, I instead began interviewing the people closest to him. By speaking to his friends, family and colleagues, I wanted to discover more about my grandfather and hopefully develop a closer connection to him in the process.

I sat with Ron's brother, George Castan, at his kitchen table as we prepared to discuss my grandfather. I have always felt a particular affinity to George. Something about him reminds me of Ron. I listened intently as he began to tell me about growing up with Ron and their brother Noel, who passed away in 1998. Both of their parents were first-generation immigrants who met in Australia. Annia, their mother, emigrated from Russia as a young woman while Mossie, their father, arrived in Australia from Israel, although he too was originally Russian. George explained that his father was a highly intelligent man, whose intellect meant he should have lived the life of an academic. Yet, as George lamented, Mossie's lack of formal education meant he was unable to pursue any scholarly ambitions. Annia was a loving and kind woman whom I recall adoring as a small child, enthralled by the endless artistic projects that she knitted and sowed.

George recounted how as a child, Ron was difficult to care for, misbehaving and throwing relentless tantrums until Annia, at her wits end, took him to see a child psychologist. After talking to him, the psychologist turned to Annia and

simply advised that if she wanted Ron to stop throwing tantrums, then she shouldn't treat him like a child, but as an adult. As soon as she did, his unruliness disappeared and she and Ron ended up having a close relationship for the rest of their lives.

Ron was highly intelligent and keen to learn throughout high school. George spoke of joking with his brothers that Ron got the brains and Noel got the looks but he was left empty handed. In reality, the relationship between Ron and his brothers was nothing short of remarkable. As part of the Smorgon family, they grew up surrounded by a growing business encompassing a large group of relatives. Yet, Mossie created a strong impression in his boys that they were first and foremost Castans, and that as brothers they should always act as a team. It seems that they lived their lives by this mantra, supporting each other in whatever endeavours they undertook. In George's words: 'We always considered ourselves partners, we always considered ourselves equal and our father had always drummed that into us.' While all the brothers were at one point involved in the family business, they each led very different lives. George became prominently involved in the Smorgon business, while Noel co-founded a successful travel agency, and Ron remained committed to forging a professional career. Although they each embarked on different careers, their support for each other did not falter and they always remained a unit, just as their father had hoped.

During my research, I was consistently pointed in the direction of three men: Ron Merkel, Jack Fajgenbaum and Alan Goldberg. They were Ron's inner circle of friends, and as I sat with each of them, I eagerly absorbed the stream of anecdotes that flowed. While they were all successful lawyers, their relationship with Ron completely transcended the professional, and each had stories to tell that contributed to a more holistic image of him. It was made clear by Ron's friends that he was highly intelligent in his youth. Alan Goldberg

recounted the development of a study group that he, Jack Fajgenbaum and Ron Castan attended while at Melbourne University. Moving from house to house each week, they would begin the night by studying law, but would inevitably become engrossed in discussions of philosophy and religion. Their tangential conversations can't have been detrimental to their studies, as the three boys eventually graduated as the top three students in Law, with Ron receiving the Supreme Court prize as the top student.

Yet for all his intelligence, everyone was keen to point out that Ron was devoid of pretentiousness or arrogance. He may have been a serious student, but he was not one to boast about his abilities or show off his mental prowess. What further emerged was that as a young man, Ron was far from self-assured. In fact, his friends recalled him regularly becoming ill from nervousness before exams. Even more surprisingly, Ron was completely uncomfortable with public speaking while at university. He told Alan that he would never be a barrister because when he stood up to talk, he became nervous, stammered and broke out in a cold sweat.

Ron Merkel was younger than Ron Castan and graduated a few years behind him, but they had developed a strong friendship through childhood. Merkel vividly recalled being 11 years old and going for bike rides to Frankston with another friend, Russell Rockman, and the 13-year-old Ron Castan. The two boys began to call Ron 'Pop' because, in Merkel's words: 'Even at 13 he was very responsible and very serious and our parents felt that as long as we were in the company of Ron, we couldn't be in too much trouble.' As they grew up, 'Pop' remained an apt description and the name stuck for many years.

While riding to Frankston had seemed an exciting escapade to the three small boys, as they grew older, they began to embark on adventures of a larger scale. In 1961, a university program allowed them to travel to India. While

exploring Delhi, they came across a group of Buddhist monks and Russel Rockman, who was fascinated by Tibetan culture and Buddhism, began to ask difficult questions. Eventually, one of the monks, unable to provide an answer, suggested that they should ask the Dalai Lama himself. As Merkel joked, it was akin to suggesting that they should ask the President of the United States to answer a question about the operation of the Constitution. Yet the monk had made his offer in earnest and proceeded to provide directions. The next morning, three Australian university students boarded a train to Dharamsala, preparing to meet His Holiness the Dalai Lama. To reach his home, they climbed up a steep path of steps and arrived puffing and out of breath. As they reached the top, the Dalai Lama took one look at them and burst into laughter. Still in his late twenties and not yet a cultural icon in the Western world, he welcomed them into his home, where Rockman asked his questions and the four had a long discussion about Tibet. This encounter had a significant impact on Ron Castan's life and he remained a friend of the Dalai Lama and a supporter of Tibet into adulthood. I believe Ron became interested in the Dalai Lama, not because of his venerated status, but because he saw a man who spoke with passion about protecting the interests of his people and ensuring that they received justice. The Dalai Lama was not afraid to live by what he believed in, and I think that would have inspired Ron throughout his life.

Though Ron may have been considered a conservative 'Pop' by his friends, he was not afraid of adventure. It seems that many opportunities, like developing a friendship with the Dalai Lama, emerged over his lifetime because of his willingness to engage with the unfamiliar and approach everything with a cautious, but open, mind.

Ron spent a significant portion of his life pursuing what could be considered unattainable goals of justice, fairness and equality. Through his support for the Aboriginal people and

many other groups, it could be argued that he was attempting to rectify fundamental inequities that are inherent in human society. I posed the question to each of Ron's friends as to whether they considered him to be an idealist, but none seemed to believe the term was an appropriate fit. In fact, it was made clear that Ron was not a moralist, but rather a pragmatist. He simply wished to use his legal skills to provide help where possible. Merkel explained that Ron 'recognised human beings for having their virtues and their frailties' and wanted to work within that framework to bring about practical change.

Alan provided an example that conveyed Ron's commitment to practicality. In 1985, Ron and Alan, both being Jewish, were dismayed to find that a publication released by the Council for Civil Liberties, called 'Your Rights', included content that challenged the veracity of the Holocaust. The text was otherwise a legitimate resource about civil liberties, but the head of the Council had decided to include a section making claims that the Holocaust had been exaggerated or fabricated. Ron and Alan found it abhorrent that a book purporting to support civil liberties could contain something so factually baseless. Ron's wife, Nellie, had lost most of her family in the Holocaust so the statements made would have been not only false but also personally offensive. In response, Ron and Alan decided to challenge the head of the Council in the courts and, needing both a client and a lawyer to run the case, they flipped a coin to decide who would take on which role. The result was that Ron became the client and, while being cross-examined, he clearly illustrated his stance by stating that he simply wanted the book to be represented honestly. Alan recalled Ron saying to the court: 'Let me give you an analogy. You can't put rat poison in Kellogg's Cornflakes and call it Kellogg's Cornflakes. So you can't put Holocaust denial into this book and call it civil liberties.' He had managed to cut through to the heart of the issue with a

simple but potent image. While Ron and Alan didn't achieve an outcome in their favour in court, the case was a success in that it prompted significant negative media attention directed towards the head of the Council and led to him stepping down from his role.

As illustrated by Ron and Alan's endeavour, an overlap between Ron's work colleagues and personal friends had inevitably existed throughout his career. However, this intersection reached its peak in 1983 when Ron Castan, Ron Merkel and Alan Goldberg, along with Ray Finkelstein, Cliff Pannam and John Middleton moved into new chambers together. Although not all these barristers were Jewish, Aicken Chambers became informally known as the Golan Heights, and it was there that these six men spent years developing their careers.

Ron worked on many of his major cases during his time in Aicken Chambers and when interviewing his long-time secretary, Glenda McNaught, I started to develop a sense of the way Ron operated in his work life. The overarching impression from Glenda was that Ron was willing to stand by his opinion even if it was not what others wanted to hear. In the early days of his career, Ron engaged in a lot of taxation work and was very successful. However, he developed the opinion that the government would soon close many of the legal loopholes currently being used to reduce tax and advised his clients as such. Most clients were reluctant to believe him and, rather than follow his advice, found other lawyers with different opinions. Unwilling to budge, Ron watched many of his tax clients disappear in rapid succession. In retrospect, it became clear that his prediction of legislative change was correct and many people would likely have been better off if they had trusted Ron's judgment. It seems that for Ron, losing his clients was preferable to giving them advice that contradicted his genuine professional opinion.

Ron was willing to stand by his views not only within his legal practice, but also in relation to broader political issues. Glenda recounted how in 1985 when the Australian government proposed the introduction of an identification card for every citizen, the potential privacy issues alarmed Ron considerably. He became a vocal opponent of the 'Australia Card' because he believed that it would provide the government with an unacceptable level of knowledge about its citizens. Glenda recalled Ron bursting into the office and announcing that he would not be taking any new briefs as he was going to begin campaigning against the introduction of the card. He devoted significant time and resources to explaining the privacy implications to Australians in order to sway public opinion. He appeared on radio programs and gathered supporters to take out advertisements in the newspaper. As it happened, the Australia Card was never implemented. It seems that when Ron was passionate about a subject, he was willing to throw his weight behind the issue and become a force to be reckoned with.

Ron's ability to pinpoint the essence of an issue in a clear and accessible way extended into his personal life as well. According to Bernard Marin, Ron's long-time accountant and friend, this characteristic of Ron could be summed up in a single word — 'wise'. Bernard explained how Ron's wisdom stemmed from the fact that he could provide incredibly useful advice without coming across as arrogant or conceited. He could approach an issue with unprecedented clarity, but would never patronise the person he was advising.

I think that Ron's ability to listen and provide empowering, rather than condescending, advice would also have contributed to his adeptness in engaging with Aboriginal communities. As Mick Dodson, one of Ron's close friends and a prominent indigenous Australian leader, wrote: 'He fearlessly and frankly put his opinions, but always respected our needs and right to make our own decisions. Invariably we made

better decisions because of his wise counsel.’¹⁰ Without this nuanced ability, much of the success Ron had in collaborating with Indigenous communities may not have been possible.

This reflection on Ron Castan contains a gaping hole so far, a colossal missing piece that is essential to his story. The most important and personal element of Ron’s life was no doubt his family. Ron’s wife, Nellie, and his children, Melissa, Lindy and Steven, are absolutely central to a holistic understanding of him. Speaking to them, it quickly became apparent that attempting to encapsulate an image of a husband or a father through words is somewhat of a futile endeavour. For them, Ron was not defined by a neat set of values or a few overarching characteristics. He was simply Ron.

At first glance, it seems that Nellie and Ron were very different to one another; she is eccentric, boisterous and the quintessential extravert. But her love of art, flowers and Kewpie dolls perfectly counter-balanced Ron’s polished shoes, neatly combed hair and Buddy Holly glasses, complimenting his more serious demeanour. Beyond their superficial differences, Ron and Nellie were alike where it mattered. They lived by a very similar value system, sharing a strong belief that everyone deserved a chance at justice. And while Ron may have had the legal expertise to create change, Nellie’s frankness and optimism always reminded him to focus not only on the legalistic challenges, but also on the practical outcome he was attempting to achieve.

Nellie was only 19 when she married Ron, who was 23 and had just finished his law degree. On graduation, he received a scholarship to study at Harvard University for a year. In 1963, it was not socially acceptable for a couple to travel together without marrying, but as Nellie told me with a cheeky smile, Ron was worried that if he left for a year without her, she would be taken by the time he returned. So instead Ron asked her to marry him and they began an adventure together that would span 36 years. Nellie recounted that

at the beginning of their year in the United States, the international scholarship students sat around a table with the Dean of Harvard Law School, who asked that each person give a short explanation of their ambitions. After hearing the grandiose aspirations of most around the table, it was Ron's turn. Nellie laughed as she recounted his response: 'When I graduate, I'd like to become a lawyer and contribute to social justice in Australia, but failing that I can always become a butcher.' While he must have been speaking with more than a hint of irony, Nellie explained that he was not entirely joking, as he always would have been proud to return to the Smorgon family business, which had its roots in the meat industry.

Nellie expressed a belief that no matter what Ron achieved throughout his life, he would have felt lucky regardless. As a baby, Ron had a bowel obstruction and doctors were quite certain that he wouldn't live. His parents were sent home from the hospital with the advice that they should make another baby. Ron survived, but had consistent health issues throughout his life because of the scar tissue from the original operation, and it was this issue that eventually ended his life prematurely. Ron felt fortunate to have lived past his first year and so Nellie explained he viewed each day that he lived as a privilege rather than a right.

Ron and Nellie grew up in Melbourne, but upon returning from America, they moved to Sydney so that Ron could take a job as an in-house tax lawyer for an accountancy firm. It was in Sydney that Nellie and Ron began their family with the birth of their first child, Melissa. However, Ron wished to become a barrister in Melbourne and so he and Nellie moved home before Lindy and Steven entered the world. Ron and Nellie had a traditional household, in the sense that Ron worked long hours while Nellie looked after their children. Steven explained that Ron was a loving, yet firm figure in his life. He explained that though Ron could never understand rock music, fashionable clothing or anything 'cool', he was an

incredibly supportive father who invested an immense amount of time and energy into ensuring his children's wellbeing.

Yet despite the old-fashioned elements of Ron's demeanour, he and Nellie were never short of adventurous spirit. They travelled all over the world with their children, taking them to Bali in 1976 and cycling in China in 1981, both of which were not the developed tourist destinations that they are today. It seems as if they wanted to ensure that their children were exposed to people unlike themselves as much as possible, to make sure they understood that the world was bigger than their suburb of Kew, or Melbourne, or Australia.

Melissa is now a human rights law scholar and lecturer, having clearly followed a path influenced by her upbringing. I asked her whether she thought her work has been overtly influenced by Ron's career. She explained that growing up, Ron and Nellie didn't preach their views, but that by being exposed to years of dinnertime conversations about land rights and equality, she and her siblings developed similar values by osmosis. My mother, Lindy, explained that it was clear Ron didn't see the people he helped as a project to be started and finished. He developed close bonds with the Indigenous activists he collaborated with, maintaining friendships long after the outcome of land rights cases had been decided. 'There was a humanity to the way [Ron] saw individuals,' Lindy explained, and it seems that this humanity had more of an impact on his children's values than anything he could have attempted to teach through words.

Deeply infused into Ron's family life was his Judaism and Jewish identity. While he may not have been religious, he felt a strong connection to the Jewish people and Israel, maintaining a fervent hatred for anti-Semitism. Yet he was equally patriotic towards Australia, as illustrated, according to Lindy, by his singing of the national anthem with enthusiastic, if tone-deaf, pride. In a speech entitled 'Land, Memory and Reconciliation',¹¹ Ron provided an insight into how the Jewish and Australian

elements of his identity influenced his passion for reconciliation with the Aboriginal people. Ron explained that in 1971, as a junior barrister, he fought a land rights case in Lae, Papua New Guinea, a place in which local land laws recognised native title. It suddenly occurred to him that there was no reason why the common law should not recognise traditional ownership of land in Australia as well. Being Jewish, Ron had lamented the devastation of the Holocaust throughout his life, but after his experience in Lae, he began to question the integrity of exclaiming 'Never Again!' about the Holocaust if he took no action to rectify the irreparable damage caused to the Indigenous people of the nation he identified with so strongly. I feel that no words of mine could do justice to Ron's insightful reflection and so I will instead let his words speak for themselves:

What was the meaning of my determination to do my part never to permit a future destruction of the Jewish people, if I just stood by and participated in the bounty and opportunity of the Australia nation? What would that mean without doing something to expose and expunge the legal lie which lay at the foundation of the dispossession, disempowerment and attempted destruction of an oppressed group of fellow Australians? This was not a mere matter of legal technicality. At the heart of the legal fiction of terra nullius lies an obnoxious racism, which involves treating Aboriginal people as less than human. The ultimate denial of the inherent humanity of one's fellow human beings consists of saying that those persons, although manifestly physically present and alive, are not worth of being treated as 'people' at all — they are no more than part of the flora and fauna of the land...

Those in Australia who bleat about 'Black Armbands', and complain about guilt being imposed on an innocent present generation have missed the point. The only way for present day Germans to deal with Hitler and the Holocaust is to acknowledge that shame, and for the most part they have done so. The

only way for Australians to deal with our history is to do as Sir William Deane did in his judgment in Mabo to acknowledge the most shameful episodes in Australia's history....

The answer to the holocaust deniers and to those who use terms like 'Black Armband' is to write more books, give more talks, fight more native title cases in the courts, tell more stories of the Stolen Generation, teach more courses in schools and universities and build more monuments and statues of indigenous freedom fighters so that the cult of disremembering can never take hold again.

From these words, it is clear that Ron's determination to fight in the courts to rectify the injustice caused to Indigenous Australians stemmed from an earnest belief that it was the right thing to do. Ron was driven to reflect his beliefs in actions and it seems that he saw the law as the perfect tool to allow him to do so. Lindy explained that '[Ron] didn't just have relationships with people, he had a relationship with law', and I believe Ron's passion for the law emerged from the empowering realisation that in the right circumstances, words can alter the foundations of society and positively impact on people's lives. Looking back to Ron's most public achievement, it appears that his work on Mabo was symptomatic of his broader approach to life. Mabo can, in some respects, be viewed as the most visible and influential manifestation of Ron's overarching determination to achieve practical justice. I believe Ron's passion for the law can be best understood by looking to one of his most memorable pieces of advice: 'Work within the tent, not outside it.' Ron succeeded in achieving significant change because he not only worked within the tent of the law, but also loved working inside it. The potent combination of his skills and passion made Ron an unstoppable force and it is this that enabled him to triumph throughout his professional and personal life.

There is only one element of Ron's life that has left me with no one to interview, one part of him that I will never know more about. There is no one to ask about Ron as a grandfather because, as the oldest grandchild, there is no one who knows much more than I. In writing this piece, I have learnt so much about Ron Castan from so many perspectives, but the one perspective that I want most is one I can never have — my own. As I spoke to those who knew Ron in a professional or personal capacity, I began to realise that the aim I had set in writing this piece was, in a sense, unattainable. The more I have learnt about Ron, the more complex and nuanced my impression of him has become. But, ultimately, it is still an impression, an approximation. The brushstrokes of the portrait I am attempting to paint of my grandfather may become ever smaller and more detailed, but I cannot bring the picture to life. It is sad to know that I will never have a conversation with him again, ask him questions about an assignment at university or shake his hand at my graduation. Yet I am honoured to have learnt so much more about this man who deeply inspires me. As I think back on my visit to the Flinders Ranges, I cannot help but consider why Ron took me on that trip. Perhaps it was the beginning of his attempt to instill in me the same values that he infused into the lives of his own children. Perhaps he wished to plant the seed of an understanding that we are not the original Australians. Perhaps he simply wanted to spend time with his grandchild.

As I sifted through documents during my research, I came across a letter sent to Ron's family and friends after his death by Father Frank Brennan. Halfway through the letter, two inconspicuous sentences caught my eye. They read: '[Ron] and I once dined with my father in chambers. He beamed with pride and joy as he spoke of the pending arrival of his first grandchild.' Somehow, reading these sentences made me feel more connected to Ron than everything else I have read or

heard. They reminded me that I was, in fact, a part of his life and he a part of mine. Without any other choice, I will be satisfied to carry the impression I now have of this man throughout my life, content with the knowledge that through this process I have learnt more than I otherwise ever could have known about my grandfather, Ron Castan.

Endnotes

- 1 *Mabo v Queensland (No 2)* (1992) 175 CLR 1.
- 2 B Keon-Cohen, *Mabo in the courts: Islander tradition to native title: a memoir*, 1st edn, Australian Scholarly Publishing, Melbourne, 2011.
- 3 *Mabo v Queensland* (1988) 166 CLR 186.
- 4 *Racial Discrimination Act 1975* (Cth).
- 5 *Native Title Act 1993* (Cth).
- 6 *Wik Peoples v State of Queensland* (Pastoral Leases case) (1996) 187 CLR 1.
- 7 *Commonwealth v Tasmania* (1983) 158 CLR 1.
- 8 *Koowarta v Bjelke-Petersen* (1982) 153 CLR 168.
- 9 M Kirby, 'Ron Castan Remembered' (Speech delivered at Memorial Dinner, Koorie Heritage Trust, 15 November 1999).
- 10 M Dodson, 'Tribute to a Close Friend and Colleague', *The Australian*, 27 October 1999, p. 16.
- 11 One of his last published speeches, R Castan, 'Land, Memory and Reconciliation', (1999) 11 *Without Prejudice* 3-10, delivered by his daughter, Melissa, to a forum organised by the Koori Research Centre and the Australian Centre for Jewish Civilisation at Monash University in October 1998.



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