

"Stand up and be counted " - Julius Stone and the tipping point for Australia, her Jews and Israelⁱ

Although Zionist activity took root in Australia in the 1920's, the Australian Jewish community as it stood during World War II was fundamentally British in origin and British in outlook. Zionism became a legitimate topic of debate within Australian Jewry, but the idea of Jewish self-determination was no unifying force for Australian Jewry despite the formation of the Australian Zionist Federation in 1927 by Rabbi Israel Brodie of the Melbourne Hebrew congregation with Sir John Monash as its Honorary President.ⁱⁱ Zionism was supported by the late Rabbi Falk of the Great Synagogue, Temple Beth Israel's Rabbi Sanger and Dr Aaron Patkin. Most other leading Rabbis, however, were opposed to Zionism. These included Rabbis Cohen, Danglow and Landau.

Communal leaders, well-heeled and with access to all levels of government such as Sir Archie Michaelis and Sir Samuel Cohen, were opponents of Zionist activity. Cohen, in August 1938, one month after the Evian conference wrote:

We know no other country. Our thoughts are British through and through ... nothing would be more damaging to the preservation of the freedom we are all privileged to enjoy, than to allow hordes of refugee European peoples to flock to this land.ⁱⁱⁱ

But it was a former Governor-General and High Court Justice, Sir Isaac Isaacs, who led the public attacks on Zionist activity.

And it was in late 1943, that the then newly arrived English Jewish academic, Julius Stone, took on the then conventional wisdom of Australian Jewry espoused by the late Sir Isaac Isaacs.

Isaacs subscribed fervently to the view that the creation of a Jewish state would render Australian Jews second-class, 'tolerated aliens'.

In Sir Isaac Isaac's view, Jews were a religious grouping rather than a nationality, and engaging in support for Jewish nationalist activity would lead inevitably to increased Antisemitism. Extremist activity in Palestine, such as the bombing of the King David Hotel, as well as escalating attacks on Britain over its apparent intransigence on the issue of immigration into Palestine (including the notorious Exodus incident), seemed to confirm Isaacs' claims, most of which were made in lengthy letters to the Jewish and general press in the early 1940s.

In November 1943, he published a series of articles, some of them pamphlet length, in the "Hebrew Standard", the Jewish Weekly as it then was in Sydney. They culminated in the issues of October 28, November 4 and November 11, 1943, and having appeared in the Hebrew Standard, received significant publicity in the general press.

A specific target of Sir Isaac Isaacs's attacks was the holding of a "White Paper Protest Meeting" sponsored by the Melbourne Jewish Youth Council. Isaacs feared the recognition of a Jewish Commonwealth or even the expansion of a Jewish national home because he regarded it as a threat to the status of British Jewry as citizens having equality of rights with non-Jewish citizens of the British Empire.

In terms redolent of attempts today to silence the Jewish voice by referring to it disparagingly as the "Jewish Lobby", Isaacs had attacked publicly what he termed the "World Zionist Body". The general press took delight in publishing points made by Isaacs, noting that he was a Jew who opposed the expansionist activities of the Jewish activities of the Jewish agency for Israel.

Although the Zionist leaders held public meetings, which attracted considerable numbers, the tipping point for their political success in Australia flowed from the power and intellectual force of Professor Julius Stone's very public engagement with Isaacs. Stone created the countervailing force to the then conventional Jewish leadership position.

Stone, who had come from Oxford and Harvard, drew immediate respect. The vociferousness of his engagement with Isaacs drew unrivalled attention. And his position as the Challis Professor of Law at Sydney University drew respect for the positions that he took.

When Stone attacked Isaacs, the Bulletin seized upon the correspondence, for the purpose of attacking reports of Jewish gunrunning into Palestine.

The Stone - Isaacs debate raged until January 1944. Stone attacked Isaacs for trying to be more British than the British. Stone made the point that whilst various Arab tribes had been given self-determination, for example, in Iraq and Trans-Jordan, the policy of the British White Paper of 1939 was to preserve Arab self-determination at the expense of Jewish self determination.

He quoted the Archbishop of Canterbury, William Temple, as follows:

The situation of the Jews is unique and yet has lasted for many centuries. They are a people conscious of close and real unity, and yet they have no motherland. Other peoples have survived and maintained their identity when there was no national State to which they could be loyal; but there was always a homeland inhabited by the people who remembered their days of independence and hoped for its restoration. For the Jews there has been no such homeland. Their eyes might turn Palestine; but though there were Jews among the population there, they did not form the bulk of it. The Jews as a people have been homeless.

They have lived among other peoples of the earth, and have been loyal citizens of the nations which have made them welcome, but if their hosts turn

against them they have no remedy. In early periods this has happened from time to time. In our own days it has happened on a scale without parallel. The sufferings are appalling and entirely undeserved. It should be our aim to assist them in all ways in our power; for their need is desperate.^{iv}

Stone pointed out rather vigorously that the position of the Arabs was that the Middle East should remain solely Arab, and that continued residence of Jews in Palestine was a matter of privilege to be granted or not granted under Arab rule. In that regard seven decades has brought little change. Both Fatah and Hamas today reject the proposition that Jewish settlement in Palestine has any legitimacy. That Arab view, of course, prevailed in the 1939 British White Paper, which Isaacs supported.

Stone contrasted that Arab position with the position of the Zionist leadership which was that, Arabs and others, as well as Jews, would be respected in a Jewish homeland.

Stone wrote a magnificent postscript on the Palestine White Paper at the conclusion of his booklet. He pointed out that it was the "comradeship of Jewish settlers on the land" that "introduced the mass of Arabs to the possibility of a juster and more comfortable lot".^v He noted, without irony, that the 1939 White Paper was introduced under a government led by Neville Chamberlain. That 1939 White Paper is often, without disclosure, a key source document for those who argue for a one-state solution in Palestine.

Having praised Churchill's succession to Chamberlain, Stone pointed out the following:

Moreover, as long ago as 1920, Winston Churchill estimated that Palestine could receive eventually between three and four million immigrants before it became as densely populated as it was even in the time of Jesus.^{vi}

The White Paper had placed an absolute limit of 75,000 Jews to be admitted into Palestine.

No doubt deliberately sidestepping Stone's remonstrance, Isaacs argued that Zionists "support the principle of exclusive political supremacy of Palestine inhabitants of the Jewish faith over the other inhabitants of that country."^{vii} This argument of course continues today in various attacks upon Israeli Government policies that allocate more resources per capita to Jewish citizens than to non-Jewish citizens. It is also used to attack Israeli policies designed to prevent the use of border crossings and roads for acts of terror against Israeli citizens, but which subject Arab residents of the West Bank and Gaza to stringent security controls.

Stone retorted in a strident tone. He calculated that readers of his letters and pamphlets in the general public would pay more attention to stridency than to the

measured tone of the academic writer. The following quote exemplifies the choice of tone that Stone made when engaging Isaacs:

The great indignation that has been expressed against you by your Jewish fellow citizens, and the questions suggested by them as to your motives are understandable. For with no evidence save that of your own imagination, you have suggested that they will act towards their fellow men as Nazis would act, contrary to the Jewish ethic which you and they share, contrary to the lessons of 2,000 years of sufferings, contrary indeed to plain commonsense and self interest. For, however many Jews enter Palestine, they will still be in a small minority vis-à-vis the powerful independent Arab States which surround it; and there will still be millions of Jews throughout other states dependent for their status and safety on the maintenance of ethical standards between man and man.^{viii}

In his attacks, Stone pointed out:

Non-Jews may be tempted, because of your own judicial eminence, to regard your views on matters relating to Jews and political theory as carrying the authority of that eminence.^{ix}

Yet, Stone was not naturally aggressive.

To Stone, the concept of self-determination of a people grew from the progressive idea that human rights would be advanced by giving power through group rights to those in society whose individual power was limited. Stone argued that society progressed when individuals could exercise power through group rights. He argued that Isaacs' portrayal of Jews as loyal British subjects who simply had a separate religion missed a fundamental aspect of the Jewish ethos. Stone wrote:

But it was precisely this suppression of all group life except that of his own gang which based Hitler's attacks on all liberal movements, trade unions, Churches and on the Jews. It is precisely the Nazi denial of freedom of culture and spirit within and across political frontiers which set back the European clock many centuries. Does Sir Isaac regard Czechs or Poles who are citizens of the United States as bad Americans because they feel a special bond with their fellows in Europe and a duty to aid them in their struggle for liberty and justice? Or did he so regard Irish-Americans or Irish-Australians who felt up to a generation ago a special interest in the fate of the Irish people of Ireland?

The source of these strange errors in Sir Isaacs position is disclosed by his own admission that he recognises only one meaning of the word 'nationality' a meaning which totally identifies it with citizenship.^x

Stone insisted that his approach, and not that of Isaacs, was one mandated by Jewish faith. It was also no doubt motivated by Stone's reference to what then was thought to be the "massacre of 3-4 million Jews in Europe."^{xi}

Stone's influence on the views of the HV Evatt was a crucial one in the development of not only of Australian policy towards the proposed new Jewish state, but also towards those Australian Jewish leaders who had opposed political Zionism.

As Dr Daniel Mandel records in his book: "HV Evatt and the Establishment of Israel: the Undercover Zionist":

Influencing Evatt in favour of Zionism, however, was problematic: the Chief Foe of Zionism happened to be not merely a prominent Jew, but Sir Isaac Isaacs, Australia's most distinguished living Jew and a preeminent figure in Australian jurisprudence. Evatt had great regard for Isaac's approach to law; their positions on constitutional questions often coincided and each frequently consulted the other.

To get around Isaacs when appealing to Evatt on Jewish affairs was a tall order.^{xii}

Evatt of course followed Isaacs onto the High Court.

Initially unimpressed, Evatt took note when "Stand up and be counted!" was published in January 1944 in bound booklet form. The publication of Stone's booklet was funded by Horace Newman and Max Freilich who were among the founding fathers of the NSW Jewish Board of Deputies. Encouraged by them, Stone sent it to Evatt, and they sent copies to Evatt and others in Government also.

Stone prefaced the booklet with a beautiful quote from Justice Louis Brandeis: "The false doctrine that nation and nationality must be made co-extensive is the cause of some of our greatest tragedies." In a book entitled "The Jewish Problem, How to Solve It" published in 1915, Brandeis had exhorted every Jew in America to "stand up be counted – counted with us – or prove himself wittingly or unwittingly of the few who against their own people".

Evatt was an admirer of the Harvard scholarship of Brandeis and Felix Frankfurter, whom Stone quote liberally, indeed with reference to Stone's own years at Harvard. Now Evatt sat up and took notice. Australian Zionist leaders began to secure access and gradually weaned Evatt from his conversations with Sir Isaac Isaacs. The rest, of course, is history.

Stone's engagement with Isaacs was a tipping point for Australian Jewry away from being inward looking, to being actively Zionist, insistent upon Jewish self-determination and accepting collective responsibility for the battered state of World Jewry after the War. Stone espoused the concept of One House of Israel, with a shared history, a shared suffering and shared responsibility in a way that frontally challenged the then communal leadership.

Throughout his outstanding scholarly life he would patiently explain to generations of students that the search for equality, like Isaacs clamour for equality under British rule, was a confusion of means and ends. When international law sought to prevent discrimination and its often horrible consequences, there was really an issue of deeper justice involved. It was not enough that one should treat each of one's neighbours with an equal amount of respect if one did not accord to all of those neighbours that element of dignity for which human beings seeking the "just" society clamoured. This was a topic that Stone not only lectured on to his many law students, but also willingly, most years that he was based in Australia, he led seminars for young Jewish student leaders. An impassioned Zionist, for Stone the proposition that Jews might have equal rights within the British Commonwealth, and yet not have the right of self determination accorded to other peoples on earth seemed utterly incongruous.^{xiii}

Stone debated Isaacs publicly and passionately. He carried Australian Jewry with him. He also provided the intellectual and scholarly grounding for HV Evatt's advocacy for the establishment of the State of Israel at the United Nations.

Yet when challenged as being biased because of his passion for Israel, Stone asserted that his writings demonstrated not bias towards Israel but bias towards justice.

I was in the last "Justice" class that Stone ever taught. For a student of Stone, it was never enough to answer the question "how?" without critically analysing "why."

i

Endnotes:

David D. Knoll AM.

A student in the last class taught by the late Professor Julius Stone OBE, AO, QC, David Knoll AM is a Past President of the NSW Jewish Board of Deputies, a Councillor of the ECAJ, and a Commissioner of the Community Relations Commission for a multicultural NSW, and a committed member of Emanuel Synagogue.

ii

Brodie subsequently became Chief Rabbi of the British Commonwealth.

iii

Truth (Sydney), 7 August 1938, cited in B. Hooper, "Australian Reaction to German Persecution of Jews and Refugee Assimilation," MA Thesis, History Department, Australian National University 1972."

iv

Julius Stone: "Stand up and be counted!" (2nd impression, 1945) at 36 quoting from the "Hebrew Standard" January 14, 1943.

v

Id at 75.

vi

Id at 78.

vii

Id at 47.

viii

Id at 47-48.

ix

Id at 57.

x

Ibid at 17

xi

Ibid at 24

xii

D. Mandel: "HV Evatt and the Establishment of Israel: the Undercover Zionist" at 56.

xiii

Julius Stone: "Stand up and be counted!" (2nd impression, 1945, at p. 16).