

Foreword

I am honoured and grateful to have the opportunity to associate myself with the publication of the volumes *Letters to Australia*, talks given on national radio in Australia by my former professor, Julius Stone. He held the position of Challis Professor of International Law and Jurisprudence at the University of Sydney, for 30 years from March 1942. This first publication of 185 commentaries, in two volumes, commences with 13 delivered over a period of two months in the middle of 1942 when the war was going badly for the Allies, when the Wehrmacht controlled Europe from the Atlantic to Stalingrad, and Singapore had fallen to the Japanese the month before. The remaining 172 talks in this series start in July 1945 with the 'Birth of the United Nations' and continue through to October 1948 when Professor Stone took up a visiting professorship in the United States. On his return to Sydney in early 1950 he resumed the weekly commentaries, which concluded in 1972, some 13 years before his death at the age of 78 years.

What is quite remarkable about these broadcasts is that they were conceived and written thousands of miles away from the centre of the war and of subsequent global political developments. Stone's sources were the newspapers, weekly publications and radio and, no doubt, correspondence with his wide range of friends. He had no large research staff to assist him. We must all be grateful to his most talented children, Michael, Jonathan and Eleanor for their years of work in finding the texts and in organising them in such a creative manner in the two volumes presented here. I must add how sad I am that he did not have, at his time, access to the modern technology that would have given him the global platform that he deserved. It was only at the very beginning of the 1980s, long after his broadcasts ceased, that computers, internet, cellphones and all the related technologies and applications started their enormous and continuing development. There is no doubt that, had such technology been available, he would have been recognised as the larger global figure that he deserved to be.

As I read through the talks in these volumes, I came to appreciate what a privilege Australian listeners had in receiving a regular series of insights of such remarkable quality. Stone had the capacity first to identify important issues, and

then to give a historical and philosophical background, and, where necessary, a full description of the chosen subject from relevant and often opposing points of view. Quite often, with all due modesty, he projected future scenarios and advised his audience on how they might prepare for and deal with events, if they were to unfold as he described. He assumed that his listeners were looking not just for headlines or a superficial analysis, but for an understanding of issues, the chance to evaluate them and, in some cases, to act on them.

I must add a personal note that all the time he was writing, he was first and foremost a professor who cared for his students. I was one who needed a great deal of guidance in my early years at university, which commenced upon his return from his first sabbatical leave overseas. I shall always be grateful to him and to his wife Reka, who guided me in full measure. He created in all his students, not only an understanding of the law—for he was an outstanding teacher—but a sense of global issues and of the importance of the law to civilised peoples and societies. The publication of *The Province and Function of Law* in 1946, and of *Legal Controls of International Conflict* in 1954 confirmed the extraordinary breadth of his knowledge. For his students, these massive works were, on publication, a great set of texts for the study of law. For a selected few of us, before publication, there was a chance to see a master at work and to assist in the tasks of checking footnotes and sources and, on occasions, the opportunity to debate him about his conclusions and thoughts. He published 27 books in all, and I, like many others, had their lives changed by his interests and by the standards he set. Without any doubt he was the greatest influence on my life of all my teachers and professors, and he opened the way for me to see my challenge and my opportunity to contribute at a global level.

But I must return to the broadcasts themselves. As I mentioned earlier, these volumes starts with 13 wartime talks from 1942, delivered within a two-month period in the middle of the year, when the war was going badly for the Allies in both Europe and the Pacific. His first offering commences with the words:

We in the British Commonwealth stand unbowed today alongside three other great peoples, those of the United States, Soviet Russia and China . . . We are fighting because if we allow the Nazi and fascist and Shintoist ideas of human life to prevail, then the ideas we always cherished must die for centuries.

These initial broadcasts proceeded in a positive and encouraging tone, building on a mass of historical and philosophical references and comparisons to convey the message that democratic principles must give us confidence in ourselves and guide us to victory. The remainder of the series starts in mid-1945, and runs for a little over three years, starting with comments on the birth of the United Nations, and of prior important events in the League of Nations. Stone traces the establishment of UN history beginning with San Francisco Charter and analyses and comments upon many of the international agreements that followed.

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As the 1940s progressed, the talks addressed such postwar subjects as disarmament and nuclear weapons, which were such a thorn in the side of Stalin who, alone of the Great Power leaders, was not informed of their existence. Stone addresses developments in the global power structure and identifies the trends and events and changing relations between the Western powers and the Soviet Union, as well as the adjustment of the United States to its peacetime responsibilities. It is hard for me to imagine how, in such short broadcasts, he is able to explain and to project likely paths of future development. A look at the index to these lectures discloses the range of issues addressed—the economic and political future of Europe, disarmament and the control of nuclear weapons, the relations among the Great Powers, UK—Commonwealth relations, war crimes and the evolution of the Cold War.

Volume 2 starts with a series of broadcasts on decolonisation. There follow observations on selected countries and regions. Here we find a remarkable set of commentaries on events in individual nations, starting with countries in Europe and concluding with broadcasts on the Americas. I found particularly interesting his observations on the national leaders of the times—Churchill, Attlee, Stalin, Roosevelt, Chiang Kai-shek, the special importance of Australia's Dr HV Evatt at the United Nations, as well as the contribution of Prime Minister Menzies. Nor does Stone ignore local issues such as the development of Australia's own foreign and colonial policy, especially the increased importance of an independent Asian policy. Finally he offers us a relevant collection of his thoughts on the jurisprudence of international relations, which demonstrate that he took his audience seriously. As someone who has spent many years in the international arena, I can only marvel at the breadth of his knowledge of the world both past and present, and the issues facing individual countries and regions.

I have to comment on one more of his observations, made in his next to last talk in this decade, in which, before anyone else at that time, he addresses the rapidly growing populations in Asia, notably in India and China, and calls for a greater sense of equality between the self-important 'white' peoples and the 'non-white' peoples, for reasons both of equity (the sharing of resources) and of peace (to reduce the potential for conflict). Sadly he has not been with us during these recent decades to assist us in coming to terms with this transition.

I was only 15 years old when Stone and his family embarked in 1948 for their voyage to the United States. When he returned, as we shall discover in subsequent volumes in this series, he was able to bring to his public fresh ideas based on his new experiences and his conversations with leaders and friends and colleagues of different nationalities and backgrounds. I was about to enter university at the time of his return, and I am forever grateful to him for the knowledge he conveyed, for the excitement he elicited, for the international outlook he projected, and for the sense of global participation he felt for himself and offered to his students and radio audience. More than anyone else at that time, he gave Australians a feeling that they were part of the world and could, and should, seek to influence events.

Letters to Australia: Volume 1

He certainly changed my life and aspirations . . . I can never thank him enough.

*James D Wolfensohn AO, KBE
New York, July 2014*

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Nineteen forty-two was a dreadful year. Hitler had overrun all of Europe, his armies were deep in Russia. Japan controlled most of the Pacific, coming as close to Australia as New Guinea, its submarines shelling Sydney Harbour. To the small band of us—fewer than 5000 in number—who had arrived as refugees from Central Europe, Australia was a haven. Any prejudice we encountered, we felt, was directed more at our foreignness than our religion. If the only price to pay for safety from oppression was being called a ‘reffo’, one could live with that. At the time it had not yet become apparent that we had been granted rescue not just from oppression but from annihilation of an unprecedented scope.

Australia appeared to be relatively free of the deep-seated European kind of anti-Semitism—hadn’t Sir John Monash been AIF commander-in-chief and Sir Isaac Isaacs Governor-General? But then the Julius Stone affair hit the scene. It was hard at the time, as it is now, to discount this component in the news stories and letters-to-the editor of *The Sydney Morning Herald*. As the record shows, Julius Stones’ struggle with the University of Sydney and its law school was intense and protracted. To the general anxiety about the trend of world affairs, here was an added local contribution to a dire outlook.

True, Sydney University was a small and, for Australia, very elite institution beyond the reach of most of us, and an internecine fracas within the professoriate should ordinarily have been of little concern. But Julius Stone was not just a law professor. He was *the* Julius Stone, whose radio commentaries on the ABC were the week’s highlights. In those days before television and the internet, radio was the information lifeline, not least the rebroadcasts of the BBC short-wave news bulletins. When our radio-listening privileges, which in a fit of misplaced patriotism branding us ‘enemy aliens’ had been suspended in 1940, were restored, 2BL, one of the ABC flagship stations, just a little to the right of 2FC on the dial, became our intellectual home.

Stone spoke for only a few minutes, but we eagerly looked forward to his talks. They helped enlarge the perspective and develop a viewpoint needed to understand and encompass the threatening changes in the world, beyond the limited

range and shallow depth of information and explanation available in Sydney at the time. As one reads their transcript now, the clear and succinct phrasing stands out. Encyclopaedic knowledge and balance of judgment, undiminished by 70 years' of further history, remain relevant now as then.

The very first broadcast here reprinted illustrates. These days Churchill and Stalin are iconic figures, one admired the other despised. The Cold War, however, was a decade and more in the future when the first broadcasts went over the air in 1942. The Churchill of the time was not the statesman and orator, but an opponent of appeasement and a welcome and needed replacement of British Prime Minister Neville Chamberlain. The Soviet Union, built on premises that had wide political, intellectual, even moral, appeal, was an ally in the all-out fight against fascism; the Ribbentrop–Molotov Pact was seen not as a betrayal but a clever strategic move to buy time. Facile equating of Nazism and communism as equally totalitarian, common now that Stalin's regime has been unmasked, was a viewpoint by no means universally shared.

Rereading the essays now, I realise how much the teaching of Julius Stone moulded my interpretation of the current events of the time and in turn helped develop a critical frame through which to view world events as they unfolded over the remainder of the 20th century.

Here are two examples. We celebrated the victory in World War II in two stages—VE Day, victory in Europe, and VJ Day, victory over Japan. The jubilation is still in my mind: cheering, not necessarily sober throngs on the boards of the 'toast-rack' Bondi trams—no thought of conductors trying to climb over them to collect the two-pence or three-pence fares. But that was in the streets. Elsewhere, at the Potsdam Conference, at the founding of the United Nations in San Francisco, there was a great deal of diplomatic activity at which, as it turned out, the switches for the postwar re-alignment were being set. This could not be easily garnered from the conventional news coverage. But what was going on was pretty obvious to Julius Stone, with his vast knowledge of and insight into international affairs, and hence to those of us who faithfully listened to his commentaries. The broadcasts of 1945, a contemporaneous interpretation of the meagre information publicly available, are still a better guide of how and why World War II segued into the Cold War than most learned texts.

For the second example we can look to a variety of references to Palestine, well before the state of Israel became a reality in 1948. Current actualities of the Palestinian problem and of the dialogue between Israeli and diaspora Jews gain enormously by being viewed through the prism of Stone's documentation of the reluctance of many governments, not only British, in the 1930s and 1940s, to actively facilitate refuge for victims of Hitlerism. Stone pointed out in 1945, well before the issue became acute, that Palestine's 10,000 square mile territory ('little larger than my own home county of Yorkshire') was a minuscule portion of the 'one million square miles of territory . . . more than the combined size of England France, Germany, Italy and Spain' that 'Arab nationalism and the Arab league have, as a result

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of Allied generosity after the last war . . . to realise their aspirations.' That was before the discovery of vast oil resources tilted the equation even further.

We should all be grateful to the family for making Julius Stone's broadcast available. They are evidence of how a perspicacious and insightful mind, an ability to analyse situations, crystallise ideas and formulate them for clear communication, and not least, the wisdom of the Australian Broadcasting Commission in opening their microphone, can influence a segment of a whole continent to develop an analytical stance in world affairs.

*Gerald Westheimer, AM, FRS
Berkeley, December 2013*

Preface

The essays in these volumes of *Letters to Australia* were written by the Australian jurist, Julius Stone, one of the formidable intellects of the 20th century. Given as broadcasts over the Australian Broadcasting Commission (the ABC), they trace great events of the mid-20th century, and tell much of Australia's role in that world and that era. Their intellectual power, and the range of time and events which they cover, make them unique in this country and beyond.

A scholar and teacher of jurisprudence and international law, Julius Stone had the ability to tell a story that every broadcaster and teacher needs. He could dwell on a paradox, create a tension, and cut quickly to his theme. He was aware of his own intellect, yet aware also that he was but a commentator on events which transcended the individual. He knew that no commentator could be free of his own identity; yet he strove to see every conflict, every tension, from both sides.

In his time, one outlet for those with the urge to comment was provided by the ABC's radio broadcasts—five, ten or 15-minute slots called *News Commentary* or *Weekly Commentary* or *Notes on the News*. Julius was one of many commentators to whom the ABC gave voice; he was one of the longest-serving (along with HD Black, another University of Sydney man), and likely the most prolific.

We came across the typescripts of our father's broadcasts in 2006, some 20 years after his death, in the National Library of Australia where they had been placed by Zena Sachs, and in the National Archives, placed there by the ABC. As they tumbled out of storage boxes, we recognised the broadcasts we had heard as children, and recalled our father's voice talking of things we did not understand, while our mother shushed us loyally. We knew that he had published many monographs and articles that were already in the world's libraries.¹ So, we asked ourselves whether publication of these essays, once broadcast but long archived, would contribute to the history of human life and ideas. And, when we read them, the answer was clear.

¹ A bibliography can be found in Leonie Star's biography, *Julius Stone: An Intellectual Life* (Melbourne, Oxford University Press, 1992), and at <http://sydney.edu.au/law/jurisprudence/juliusstone.shtml#bio>.

We all have memories of the broadcasts—children’s memories of his pleasure when strangers newly met recognised his voice from the radio; of our mother’s occasional anxiety when she missed hearing one; of being with him when he dropped yet another manuscript off at the ABC studio. None of us understood then—perhaps we still don’t—the energy he brought and the urge he felt to write them, broadcasting sometimes twice a day, often three times a week, on top of his major books and influential teaching. It was partly a belief in himself, but more a reaction to the horror of his times, a determination that, if the individual human intellect could contribute to the battle against this evil, he must commit his mind to the task.

The decades of the broadcasts were the decades of our father’s service as Challis Professor of International Law and Jurisprudence at the University of Sydney, the long prime of his intellectual life. The essays from the 1940s span World War II and its complex aftermath; the shift of power from Britain and Europe to the US and USSR; the beginnings of the Cold War and of McCarthyism in the US; the birth of the United Nations; the first moves to European union, and the stirrings of the fundamentalist violence that is so large a part of today’s conflicts. We tend to forget, in the newness of the 21st century, how much of today’s international scene was determined by World War II and its aftermath, by the 1940s.

Another 400-odd broadcasts, from the 1950s, 1960s and early 1970s – ending in 1972 with an essay on the beginning of the end of the war in Vietnam – will be published in future volumes, to complete this opus. These essays were written, of course, in a temporal sequence; the organisation of the 1940s volumes into themes is our construct, guided by themes which their author explored as broadcast followed broadcast, year followed year. We hope it will be of value to the reader. The talks were edited by all three of us; we have changed nothing of their content. Their style too is their author’s, with a very occasional intervention for the sake of clarity, and for consistency in abbreviations and titles. Only a handful of talks were omitted, because their manuscripts were incomplete in ways we could not remedy.

Thanks are due to many who have helped this project. Each page of the old, typed manuscripts, many annotated in Julius’ handwriting, was photographed in the National Library or Archives and then transcribed into conventional digital files. This work was done with great care and dedication by Ms Charean Adams. The project was undertaken under the auspices of the Julius Stone Institute of the Faculty of Law, University of Sydney; the Institute and its Director, Dr Kevin Walton, provided valued support throughout. Warm thanks are owed to the Wolfensohn Foundation for generous, financial support and to two distinguished men, James Wolfensohn and Gerald Westheimer, who can well recall the 1940s and have contributed Forewords rich with their memories and insights.

We are grateful, too, to Sydney University Press, particularly Susan Murray-Smith and Agata Mrva-Montoya, for their skilled editorial and publication work. The broadcasts were not about Sydney University, but they are of the University, and it is fitting that these volumes are published by the University’s Press.

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*Jonathan Stone
Eleanor (Stone) Sebel
Michael Stone
Sydney, August 2014*

Dedication

Zena Sachs served a unique role in the intellectual reconstruction of Australia, in the decades following World War II. Julius Stone met Zena when both worked for the Prime Minister's Committee for National Morale during World War II, beginning in 1942. In 1947, Zena took a position as secretary to Julius, at the University of Sydney, after enrolling to study law at the University in 1946. Julius encouraged her to complete the degree and she was admitted to the New South Wales bar in 1950, one of just six women in her graduating class, and later became a founding member of the Women's Lawyers' Association of NSW.¹ After graduation, Zena was appointed as a Graduate Assistant in Julius' Department of International Law and Jurisprudence at the University of Sydney, and remained with him through to his retirement in 1972, and then through his productive post-retirement years at the University of New South Wales.

Zena's judgement, legal training and personal commitment gave strength to Julius' scholarly work through long, often tumultuous decades. Her personal warmth made her a friend to generations of students and colleagues. She understood Julius' drive to achieve an encyclopaedic understanding of the nature of justice, both among individuals (jurisprudence) and among nations (international law). She and Julius were part of an effort of postwar thinkers to make sense of a world which, despite the spread of education and the growth of knowledge, had descended into the most awful of wars, and the most horrendous of genocides. Julius' work—his writing, teaching and advocacy—was enormously strengthened by Zena's understanding, work and loyalty.

After Julius' death in 1985, Zena ensured the orderly archiving of his papers in the National Library of Australia. Those archives, and material placed in the National Archives by the Australian Broadcasting Commission, made these volumes possible. Almost every manuscript of these talks bears her holograph corrections,

¹ An obituary of Zena can be found at the Society's website: <http://womenlawyersnsw.org.au/sites/default/files/newsletters/20112709/Zena%20Sachs%20obituary.pdf> and a too-brief interview with her can be found at <http://www.sydneymarchives.info/images/stories/zenasachsexcerpt.mp3>.

or was typed by her from Julius' unruly script. She remained my friend, and a friend of all Julius' family, until her own death in 2011. I discussed the *Letters to Australia* project with her at an early stage (we have been working on it since 2006), and she warmly encouraged it. I talked with her of our wish to dedicate these volumes to her, and showed her this dedication (bar the last few sentences). She was delighted with the plan.

We—Michael and Eleanor and I—salute her memory.

Jonathan Stone
Sydney, July 2014