

THE 'JEWISH RACE' CLAUSE IN AUSTRALIAN IMMIGRATION FORMS, 1939: REASONABLE OR RACIST?

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For any non-British person intending to come to Australia as an immigrant in 1939, a permit to land in the country had to be obtained from the Australian Government. In order to obtain one of these, an official Government form had to be procured, filled out and returned to Canberra for processing as to the desirability or otherwise of the applicant. In this paper I wish to examine the way in which the Government used the wording on its application forms to regulate the entry of Jews from Europe during 1939.

An immigration application was filled out on one of two official Government forms. Form number 40 was headed 'Application for Admission of Relative or Friend to Australia', and was filled out and submitted to the Department of the Interior in Canberra by a person resident in Australia who was guaranteeing the maintenance of the migrant to be introduced. The migrant would be permitted to come to Australia upon satisfying a migration officer that he or she (but usually he) was of acceptable health and character standards, and that, upon landing, he was in possession of at least £50 (Australian) as landing capital.

The second form, Form number 47, was a more general 'Application for Permit to Enter Australia', and this was to be filled in by all intending migrants who were not guaranteed by a person resident in Australia. The amount of landing capital required by these people was, from 1936, set at *at least* £200 (Australian), but as 1939 progressed the migration authorities began to take the term 'at least' to mean almost any figure over £200. I have seen instances where £1,000 and £2,000 and even £5,000 and £10,000 were set for individual cases of Jews wishing to enter Australia.

It has already been shown in a number of studies that the Department of the Interior was anti-Semitic and discriminatory in its execution of existing policy and proposals for the future. It successfully managed to adapt the landing permit system, which had been developed as a safeguard over immigration for economic reasons during the Depression, into a tool for the exclusion of immigrants on racial grounds. To discerning observers, the bias became obvious as 1939 progressed. Many people, Jewish and non-Jewish alike, began to question the foundations of the Government's refugee policy, and, although there was never agitation for a wholesale revision of the Government's selection procedure, there were public statements made which voiced severe criticism of the landing permit system. One of the most caustic of these came from Dr. Leon Jona, the President of the Australian Zionist Federation at its National Conference in Melbourne on 5 March 1939. While keeping his comments general, there was little doubt as to the direction in which they were being steered:

It is pathetic, indeed, and tragic to a degree to note the efforts of great countries with millions of population to keep out a few thousand of these unfortunate expatriates who wander through months of anxiety and distress for a permit to enter some haven of refuge, there to begin a life over again.

When the history of the Jewish people of the early decades of the 20th century comes to be written, it will be found that the greatest curse of the Jewish people was not the tyrants and their murderous

henchmen, but the permit system, which prevented these refugees, driven from one land, from entering another — one of the most cruel and vicious inventions of this generation.¹

Jona was to be in for more disappointment. The following month, it was announced that the Department of the Interior had amended the wording of the application forms required to be filled in by all applicants for immigration and guarantors resident in Australia. Henceforth, every application for admission to Australia, regardless of the applicant's country of origin, would be required to state whether or not the applicant was 'of Jewish race'. The furore caused by this forced the Department to retreat from its set position — the only occasion on which outside pressure had this effect throughout the entire Nazi period.

It is not altogether clear when this new type of application form was actually introduced. Michael Blakeney refers to 'immigration documents from as early as May 1938' which obliged intending immigrants to state whether or not they were 'of Jewish race',² but this is clearly too early to be considered in view of the nature of subsequent correspondence which took place in mid-1939. The Minister for Immigration (A.A. Calwell) ten years later (May 1949) stated that the practice originated 'during the pre-War years' and 'was approved by the Hon. J.E. McEwen, then Minister for the Interior'.³ The available evidence would suggest that the move to have all immigration applicants declare whether or not they were Jewish took place in March or early April 1939.⁴

The timing of the introduction of this new form is important in that it represents yet another example of Departmental anti-Semitism at a time when Europe's Jews were more dependent on an unbiased and non-discriminatory attitude from the Department than ever before. Inspector Roland S. Browne of the Commonwealth Investigation Branch was firm in his condemnation of the move, and clearly charged the Department of the Interior with unjustifiable discrimination. He declared that it may even have been unconstitutional, and suggested that, if the Department wanted to elicit certain information from the applicants, it should have asked what the race of the person in question was. The form was certain, moreover, to 'raise a controversy as to what is the Jewish race', as, he wrote, even 'Eminent scientists hold that the Jewish race is a myth'.⁵ Browne sought to know whether Australia was about to accept Hitler's definition of a Jew, which would be nonsensical if only for the reason that there are 'thousands of mixed marriages among the refugees, and the Jews are as mixed a crowd as the English'. It was, to Browne,

an amazing and disquieting departure, for a Government form, and the question is impossible to answer in a great number of cases, that is answered with any degree of authority. . . .

If such discrimination is to be shown, will the Department go a step further and logically define what is the Jewish race?

I should think even the most ardent Nazi will praise the author of this form, who, modest in the fame which his work brings, may desire to add a new line such as 'Roman Catholic or not', or 'Salvation Army or not'.⁶

As an officer of the law, Browne believed that 'the wording of the form is bound to invite strong criticism on the purest democratic and ethical grounds', and, although he thought the Department of the Interior had its reasons for wanting to know the race to which an intending migrant belonged, 'one can only ponder over the mentality which inspired the wording as it is'. His letter to the Director of the Investigation Branch concluded with the hope, 'for the sake of Australia's good name', that the form would be immediately withdrawn, as 'it is monstrous, offensive, quite absurd and provocative'.⁷

The Director of the Commonwealth Investigation Branch, H.E. Jones, took up the matter with the Department of the Interior at once, and had a reply from the Head of

COMMONWEALTH OF AUSTRALIA.

APPLICATION FOR PERMIT TO ENTER AUSTRALIA.

(Immigration Act 1901-1935).

NOTES.—(1) If the applicant is residing in the British Isles or Europe this form should be forwarded to—
 The Official Secretary,
 Australia House,
 Strand,
 London,
 England.

If the applicant resides elsewhere the form should be forwarded to—
 The Secretary,
 Department of the Interior,
 Canberra,
 Australia.

(2) This Application must be filled up in the English language, and the Certificate from a qualified medical practitioner, police officer or other public official, if not in English, must be accompanied by a certified translation in that language.

Full Name—
 Surname to be
 stated in block
 letters.
 Address.

I,
 of do hereby
 make application for permission to enter Australia, and in support of the application submit the
 following information, which I declare to be true :—

- (1) Full name.....
- (2) Nationality.....
- (3) Race (State whether Jewish or not).....
- (4) I was born at..... on the day of
 19
- (5) Marital status (single, married, widowed or divorced).....
- (6) I shall be accompanied by the following members of my family :—

If unaccompanied
 by wife and children
 state "Travelling
 Unaccompanied."

—	Name.	Sex.	Date of Birth.	Birthplace.
Wife
Children

- (7) My last place of permanent residence was.....
- (8) My present occupation is.....
- (9) My proposed occupation in Australia is.....

Standard Form No. 47 before amendment.

(Source: Australian Archives, CRS A434, file 49/3/7034, 'Admi. of German Jews — Cabinet Decision Re (1933-1936)').

COMMONWEALTH OF AUSTRALIA.

APPLICATION FOR PERMIT TO ENTER AUSTRALIA.

(Immigration Act 1901-1935).

NOTE.—This Application must be filled up in the English language.

TO THE SECRETARY,
DEPARTMENT OF THE INTERIOR,
CANBERRA,
AUSTRALIA.

I, of

Address do hereby make application for permission to enter Australia, and in support of the same submit the following particulars :—

- (1) Full name.....
- (2) Nationality..... Race.....
- (3) I was born at..... on the..... day of..... 19.....
Marital status (single, married, widowed or divorced).....
- (4) I shall be accompanied by the following members of my family :—

If unaccompanied by wife and children state "Traveling Unaccompanied."

	Name.	Sex.	Age Next Birthday.	Birthplace.
Wife
Children

- (5) My last place of permanent residence was.....
- (6) My present occupation is.....
- (7) My proposed occupation in Australia is.....
- (8) The amount of money in English currency which I undertake to bring with me to Australia is.....
- (9) I attach a certificate by a qualified medical practitioner as to the mental and physical health of myself and the members of my family.
- (10) Neither I nor any member of my family has ever been in prison or in a mental hospital. (To be supported by a certificate from a police officer or other public official.)
- (11) The European languages in which I can read and write fluently are.....
- (12) The names and addresses of friends and/or relatives in Australia are :—

Full Name.	Address.	Relationship.
.....
.....

- (13) My intended place of residence in Australia is (if known).....
- (14) I attach two photographs of myself and the members of my family who will accompany me.

Signature of Applicant.....

Dated at..... day of..... 19.....

WARNING.—Any person whose admission has been authorized may be prevented from landing on arrival if it is found that he has given misleading information in his application.

By Authority: G. F. JENNINGS, Commonwealth Government Printer, Canberra.

COMMONWEALTH OF AUSTRALIA.

Immigration Act 1901-1935.

APPLICATION FOR ADMISSION OF RELATIVE OR FRIEND TO AUSTRALIA.

(NOTE.—A separate form should be used for each person. In the case of a married man who will be accompanied by his wife and/or minor children, their names may be included on this form.)

THE SECRETARY,
DEPARTMENT OF THE INTERIOR,
CANBERRA.

I,
(Insert full name: surname in BLOCK letters.)

of
(Full postal address.)

desire permission to introduce to Australia the following person who is of
nationality and ⁽¹⁾ is of Jewish race.

Name. State whether "Mr.", "Mrs.", "Miss" or "Master". (Write surname in BLOCK letters)	Date of Birth.	Birthplace. (Town and Country.)	Present Address.	Present Occupation.	Relationship to Applicant. (State whether "Brother", "Sister", &c., or merely "Friend.")

- The nominee ⁽¹⁾ is personally known to me.
⁽¹⁾ is not personally known to me.
I have known the nominee for years.
- ⁽²⁾ I have made this application at the request of
..... of
- The nominee will engage in the following occupation in Australia:—

Name of Nominee.	Intended Occupation.	Name and Address of Employer. (If nominee will be engaged in business on his own account full particulars should be inserted in this column.)	Weekly Rate of Pay.

Standard Form No. 40 as amended for use before protests from Australian Jewish Welfare Society.
(Source: Australian Archives, CRS A445, file 235/5/9, 'Alleged Discrimination against Admission of Jews [question of Jewish or not on Dep. I. Forms]).

the Immigration Branch, A.R. Peters, within a week. This showed that a rethink had already taken place in the Department. Jones was informed by Peters that

Exception has been taken by some members of the Jewish community to the use of the words 'Jewish race' and it is, therefore, desired that the words 'of' and 'race' should be crossed out on the forms already distributed, so that the phrase reads simply 'is/is not Jewish'.

If inquiry is made as to how a nominee should be described who is of Christian faith, but Jewish extraction, the reply could be to the effect that such person could be shown as 'not Jewish'.⁸

Peters commented that it was desired to bring the new forms into operation forthwith, and invited Jones to 'kindly issue the necessary instructions to your Inspectors and request them to withdraw from use stocks of the form hitherto used'.⁹

The exception taken by 'some members of the Jewish community' had been transmitted to Peters from no less a source than the Australian Jewish Welfare Society. In a letter dated 21 April, Frank Silverman, the Secretary of the Society, acknowledged that the wording used on the form 'greatly facilitates the working of the Department in determining those applicants who would come under the category of Jewish refugees and be included in the special quota' of fifteen thousand announced by Minister John McEwen on 1 December 1938.¹⁰ At the same time, though, he noted that the Society had

received numerous protests from members of the Australian Jewish Community in Victoria and New South Wales, who have taken great exception to the words 'JEWISH RACE'. They are most emphatic in their protests and wish to point out that they are BRITISH SUBJECTS of JEWISH FAITH, and that the word 'RACE' especially, is most obnoxious to them.¹¹

The Department immediately backed down, and in a subsequent letter of 27 April the Departmental Secretary, J.A. Carrodus, informed Silverman that 'in view of the objection taken to the use of the phrase "JEWISH RACE", it will be arranged for the word "RACE" to be deleted and the form amended to read simply "is/is not Jewish"'.¹² This was sufficient for the Australian Jewish Welfare Society, which neither broached the subject again nor demonstrated any objection to the continued employment of an official categorisation which was, irrespective of the word 'race', nonetheless still discriminatory.

Opposition came from another sector, however, that of the Victorian Refugee Immigration Appeals Committee (VRIAC). This body had been established by the Australian Council of Civil Liberties in league with the Trade Union Movement¹³ as a watchdog organisation overseeing the rights of refugees, and had as long ago as February 1938 been bringing to the attention of the Minister individual cases or those which had been rejected without apparent reason.¹⁴ When news of the new Form 40 reached VRIAC, a vigorous exchange of correspondence began between the Honorary Secretary, Marjorie Coppel, and the Department of the Interior. In her first letter, dated 4 May, Coppel noted that VRIAC had been made aware that the new Form 40 was to be replaced and that the insertion of the racial clause was due to a mistake. On behalf of the Committee, she wrote 'We hope that this is so'.¹⁵ Of equal concern was that 'no discrimination as to race or religion will be introduced in any way into Form 40'. The issue of who was to be classed as being of Jewish race was important here:

As the distinction between Jewish and non-Jewish members of the Australian community is solely a religious distinction, we cannot understand any Government Department imposing a different significance to the term 'Jew', when it deals with persons coming into the community. On the other hand, discrimination on a religious basis would be repugnant to the spirit of religious tolerance on which our constitution is based.

It was a very important point, but the Department, in replying to VRIAC, tried to play it down by reassuring the Committee that its fears were groundless. On 14

May, Carrodus wrote back that only the AJWS had disapproved of the word 'race', and that, as no objection was taken to the Jewish clause remaining on the form at all, the form was simply amended by the omission of the word 'race'. He went on to state that 'no discrimination is shown against an intending immigrant merely because of his religion', though in the case of refugees certain information was necessary which intending migrants had not hitherto been required to give. Such information was mainly for 'statistical purposes'.¹⁶

VRIAC was far from convinced that this reply was good enough. A letter from Coppel to Carrodus dated 25 May stated that the Committee did not feel 'that its protest against the racial or religious discrimination, involved in this new departure [that is, the revised Form 40], has been satisfactorily met'.¹⁷ Coppel informed Carrodus that VRIAC was not making its protest 'particularly on behalf of the Jews', but rather 'for the interests of the community, which we do not think are served by a discrimination of this sort'. She then requested that her letters be placed before the Minister, with the comment that 'If the Government persists in this discrimination, our Committee feels that such a vital matter concerning refugee immigration should be brought before the public'.¹⁸ By way of closing, she sought the definition of the term 'Jewish' according to which the Department operated. This, among other things, was included in the Departmental response which followed.

The main thrust of this definition was that the term 'Jewish' was intended to apply to 'persons who would ordinarily describe themselves as being Jews, and not to persons who may be of partly Jewish blood and who could be classed, for example, as non-Aryan Christians'.¹⁹ A.R. Peters, who drafted this definition, was very wary in his use of words beyond this. 'It is appreciated', he wrote,

that there are a number of points to be taken into consideration, but the broad distinction as to whether an intending migrant would class himself as Jewish or non-Jewish will serve the immediate purpose of the Department, as further inquiries can be made if it is considered necessary to obtain more precise information in any individual case.²⁰

In an aside to Carrodus, Peters appended the comment that 'It is a bit of a poser to define what exactly we mean by "Jewish", . . . but I hope my evasive attempt will suffice for the present'. Cryptically, he included the remark that 'we don't want to confine the term merely to persons of Jewish blood and faith'.²¹ Precisely what he meant by this is unclear, for if a person did not necessarily need to satisfy the criteria of blood *or* faith, it was by no means certain as to what *would* qualify him thus. Perhaps Peters had easily perceptible cultural differences in mind. If so, this was a case of Peters leaving the Department's options open to a far wider degree than could normally be justified.

Marjorie Coppel persisted in her quest for satisfaction from the Department over Form 40. In another letter to Carrodus on 23 June, she speculatively asserted that 'surely the Department is taking into consideration in granting permits not only the absorptive capacity of the refugee but also the information as to whether or not the refugee is a Jew'.²² In its subsequent reply, the Department was not to offer a comment on this, but other remarks by Coppel enabled the Department to begin a new (and ultimately successful) defence. Coppel concluded her letter with the words

This Committee is not concerned with the numbers, whether great or small, of Jews admitted under the quota. It is only concerned that there should be no discrimination on the grounds of race or religion against the refugee and that the sole criterion of admissibility should be absorptive capacity.²³

This was the opportunity Interior needed to bury the can of worms the Form 40 issue had become. In a letter which was determined to agree with Coppel's final point, Peters drafted a considerable number of circumstances under which an

immigrant may be permitted entry to Australia. All these ultimately fed back to the issue of maintenance guarantees, the financial standing of the guarantors, the degree of capital possessed by a non-guaranteed applicant, and the nature of the industry or occupation in which an immigrant proposed to seek employment.²⁴ This did not remove the offending clause in Form 40, but it did serve to eliminate Coppel's scepticism over whether or not the Government was operating a discriminatory policy, especially when, as a final parting shot, the letter made the declaration that

The Government has placed a quota on the number of refugees that may be admitted within three years, i.e. 15,000. The Department is working on a basis of roughly 5,000 per annum. Within the limits of the 5,000 there is no discrimination on the grounds of religion.²⁵

Coppel was convinced. A letter of acknowledgement and thanks that the issue had been explained and clarified in such detail followed for Carrodus on 11 July,²⁶ and the issue concerning Form 40 was effectively closed until raised again by Henry B. Gullett, in a Question to the House, ten years later, in 1949.²⁷

It received a brief airing in London in September and October, 1939, however, when Ronald Kidd, the Secretary of the British National Council for Civil Liberties, drew the matter to the attention of Cyril Picciotto of the British Board of Deputies. Unaware that the matter had been resolved to the satisfaction of those in Australia, the question was raised as to whether or not there was 'the possibility of some kind of discrimination against Jews'.²⁸ The discussion which then took place between the Board of Deputies and the London-based Jewish Refugees Committee (JRC) indicates that the policy of the Australian Government had successfully been able to pull the wool over prying eyes. The JRC believed that the Australian Government did not 'have any wish to discriminate against Jewish people', and that there was nothing improper in the Australian Government requiring Jews 'to register as Jews' for the purpose of the quota.²⁹ A later comment from the Board of Deputies suggested that 'it may be inferred that the discrimination, if any, was in this case in favour of the refugee rather than against him'.³⁰ By this stage, however, the matter was of purely academic merit, as the outbreak of War on 3 September had brought to an end all immigration into Australia.

This was the first suggestion, from any source, that the Australian Government might actually be trying to help the Jewish refugees through the 'Jewish race' clause in its immigration forms. The reasoning was as follows: if each Jewish applicant stated his Jewishness, the Government would be able to more easily identify him and thus facilitate his entry in accordance with the declared quota of 15,000 refugees over three years from 1 January 1939. Until this time, there had been no accurate monitoring of how many applications from Germany and Austria had been from Jews, though the Government was operating from a working figure of perhaps 90 per cent. Now, it would be able to tell precisely who was and who was not Jewish, and thus help Jews to come into Australia more easily.

That, at least, was the logic which would justify the insertion of a 'Jewish race' clause. The Government's motives must, however, be viewed more sceptically, especially the motives of the Department of the Interior which drew up the form and put it into operation. It can be seen as a simple case of bureaucratic racism designed to identify Jews for the purpose of exclusion rather than admission. The Department was in 1939 under pressure, certainly, but the pressure was more along the lines of how to restrict Jewish entry than facilitate it. Until the introduction of this new form, there was no fixed way of ascertaining whether an applicant was Jewish or not. The new Form 40 and Form 47, as we have seen, now required *every*

immigration applicant — from Europe, from the USA, or from European territories abroad — to state whether he was 'of Jewish race'. This would give the Department accurate figures of how many Jews, from any source, were applying to come in, and intensify or relax its restrictive energies accordingly.

Given that, was there any acceptable defence for the introduction of the new Form 40 and Form 47 in 1939? I do not think so. It cannot be accepted that the Department of the Interior was acting reasonably, and it must be concluded that it tried to camouflage an obviously racist and discriminatory tactic through deliberate subterfuge. The whole issue was one which yet again demonstrated the ignominy of the Australian Government's attitude toward the refugee problem. Equally disturbing — as if it was not bad enough in 1939 — is that the 'Jewish race' clause was to remain on Australian immigration forms until November 1952, long after Australia had been actively pursuing a vigorous and healthy immigration programme.

NOTES

1. ZFANZ Papers (Melbourne), Presidential address delivered by Dr. J. Leon Jona at the opening of the Eighth Zionist Conference at Melbourne, Sunday, 5 March 1939.
2. Michael Blakeney, *Australia and the Jewish Refugees 1933-48*, Sydney, Croom Helm Australia, 1985, p.140.
3. AA A445, File 235/5/9, 'Alleged Discrimination against Admission of Jews [question of Jewish or not on Dep. I Forms]', Department of Immigration Answer to House of Representatives Question asked by Henry B. Gullett (Henty, Vic.) prepared on 19 May 1949.
4. Suzanne D. Rutland has also concluded that the new form dated from April 1939, based on evidence in the *Australian Jewish Herald* of 20 April 1939 and 4 May 1939. See Suzanne D. Rutland, 'The Jewish Community in New South Wales 1914-1939', MA (Hons) thesis, University of Sydney, 1979, p.205.
5. AA A367, file C3075, 'Miscellaneous: Admission of Aliens, Forms, Instructions, etc.', Inspector Roland S. Browne to Director, Commonwealth Investigation Branch, 19 April 1939.
6. *Ibid.*
7. *Ibid.*
8. *Ibid.*, Interior memorandum (*Applications by Persons Resident in Australia for the Admission of Alien Relatives or Friends — Form No. 40*) prepared by A.R. Peters, addressed to Director, Commonwealth Investigation Branch, 26 April 1939.
9. *Ibid.*
10. AA A445, file 235/5/9, 'Alleged Discrimination against Admission of Jews [question of Jewish or not on Dep. I Forms]', Frank Silverman to A.R. Peters, 21 April 1939.
11. *Ibid.*
12. *Ibid.*, J.A. Carrodus to Frank Silverman, 27 April 1939.
13. Fitzpatrick Papers, ANL, Series 1, Box 3, 'NSW Committee Correspondence File, 1938-39', Brian Fitzpatrick to R. Dixon, Esq. (Sydney), 12 May 1939.
14. *Ibid.*, Series 1, Box 2, 'Correspondence file, 1939', Brian Fitzpatrick to J.M. Alexander, Esq., 18 February 1939.
15. AA A659, File 39/4641, 'Victorian Refugee Immigration Appeals Committee', Marjorie J. Coppel to J.A. Carrodus, 4 May 1939.
16. *Ibid.*, Carrodus to Coppel, 15 May 1939.
17. *Ibid.*, Coppel to Carrodus, 215 May 1939.
18. *Ibid.*
19. *Ibid.*, draft reply to Coppel prepared by A.R. Peters dated 14 June 1939. Approved for transmission by J.A. Carrodus in handwritten minute, 15 June 1939.
20. *Ibid.*
21. *Ibid.*, handwritten minute by A.R. Peters to Carrodus, 14 June 1939.
22. *Ibid.*, Coppel to Carrodus, 23 June 1939.
23. *Ibid.*
24. *Ibid.*, draft reply to Coppel prepared by A.R. Peters, dated 7 July 1939. Presumably approved by J.A. Carrodus for transmission under his name on the same date.
25. *Ibid.*

26. *Ibid.*, Coppel to Carrodus, 11 July 1939.
27. See n.3, above.
28. Board of Deputies of British Jews Archives, file E1/13/1, Ronald Kidd (Secretary, National Council for Civil Liberties) to Cyril Picciotto (Board of Deputies), 25 September 1939.
29. *Ibid.*, Overseas Settlement Department, Jewish Refugee Committee, to A.G. Brotman (Secretary, Board of Deputies), 12 October 1939.
30. *Ibid.*, Secretary of Board of Deputies to Ronald Kidd, 15 October 1939.