

ZELMAN COWEN

1919-2011

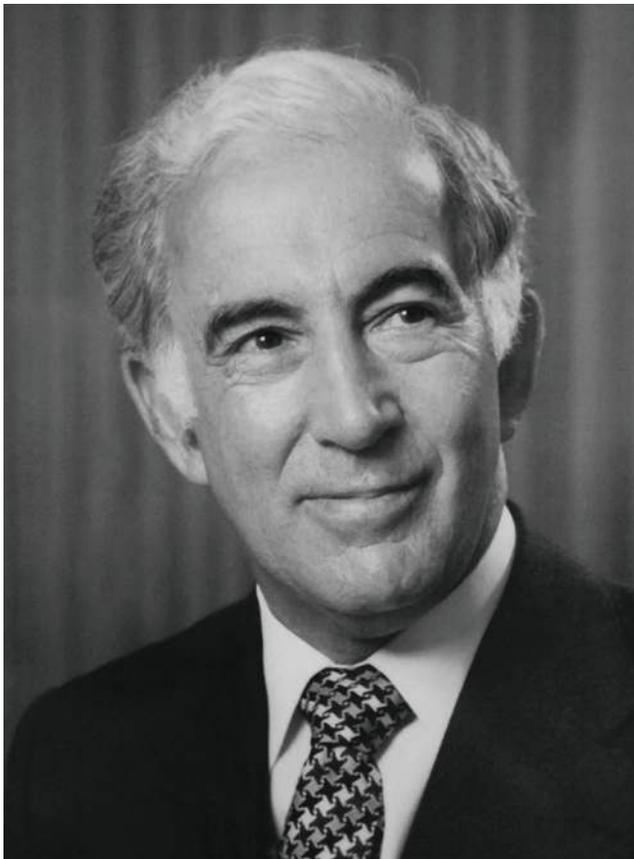


Photo: Courtesy of Government House Canberra

SIR Zelman Cowen was born in Melbourne on 7 October 1919, the day of the death of the important founder of the Commonwealth of Australia, Alfred Deakin. He sometimes suggested, by no means in jest, that this provided a personal link for him to the establishment of the Australian nation. He was the only son of Bernard Cohen and his wife Sara. He was named after his paternal grandfather, Solomon, who used the Yiddish form of that name, Zelman. A few years after his birth, his father adopted the family name of Cowen.

After a time at a local school, Cowen won a scholarship to Scotch College, Melbourne, where he graduated as Dux in 1935. At school, he wrote an essay on the grave dangers presented by the newly ascendant Nazis in Germany, with their strong anti-Semitic policies.

On his graduation from the Law School of the University of Melbourne, he won the Supreme Court Prize as the top student. He was then elected to a Rhodes Scholarship but deferred this on the advent of war and enlisted in the RAN. He was serving in Darwin in 1942 at the time of the Japanese attacks. Later he joined General Douglas MacArthur's staff in Brisbane and eventually witnessed the end of hostilities.

In 1945, Cowen entered Oxford University with his wife under a dispensation allowed to Rhodes Scholars because of the war. Earlier that year he had married Anna Wittner, with whom he was to have four children. They became a partnership of intellect, culture and wit, Anna sometimes softening the ego that was a feature, probably inevitable, of such a brilliant man.

Having won the Vinerian Scholarship at Oxford as the top graduate with the degree in civil law, he was recruited by Oriel College as a lecturer. There he wrote his doctoral thesis, a biography of Sir Isaac Isaacs. Isaacs, also Jewish, was a hero of Cowen's. He had served on the High Court of Australia, including as Chief Justice, and became the first native-born Governor-General of Australia, reportedly over royal objections.

In 1950, Cowen returned to Melbourne and to the chair of public law at this University. Soon after his return he took up the post of Dean of Law. Creatively, he began broadcasting news commentaries, mostly on legal topics. These included the attempts of the Menzies Government to dissolve the Australian Communist Party. This venture proved a great enhancement to his career as a public intellectual, as the nation worked its way through the adoption of the legislation, its disallowance by the High Court and the rejection by the electors of a constitutional referendum to overturn that decision.

From 1967 to 1970, Cowen served in Armidale as the Vice-Chancellor of the University of New England. However, he was quickly invited to accept the post of Vice-Chancellor at the University of Queensland and he returned to Brisbane for that purpose. This was a period of student unrest occasioned by the Vietnam War and authoritarian features of government of Sir Joh Bjelke-Petersen. Cowen continued throughout this time to broadcast and lecture widely on subjects of national and international concern. In 1969, he delivered the ABC Boyer Lectures on the erosion of privacy (The Private Man). These lectures were to prove extremely influential in alerting the Australian community to issues presented to society by new technology and by the need for law reform to keep pace.

It was at this time that he became seen as a 'safe pair of hands' for many national bodies. He was Chairman of the Australian Vice-Chancellors' Committee in 1977. Between 1976 and 1977 he served as a part-time Commissioner of the Australian Law Reform Commission. This was where he became involved with the present writer in issues of law reform: including the law on privacy and the law on human tissue transplantation.

In the midst of this busy life, Prime Minister Malcolm Fraser called Sir Zelman and Lady Cowen to accept their greatest challenge. This was to replace Sir John Kerr on his retirement from the office of Governor-General of Australia. The latter's dismissal of the Whitlam Government in November 1975 had caused a constitutional disturbance. Even those who accepted the existence of the power to act as Kerr did, questioned the way the power had been exercised. Cowen faced a very large challenge to restore respect to the office and to bring calm to the nation. Adopting a phrase used by Nehru in India, he described his function as offering 'a touch of healing'. This phrase was later to become the title for his collected vice regal speeches, which the writer helped to edit.

Having served five years as Governor-General, Cowen retired to general acclaim. He immediately departed from Australia, returning to his old college Oriel at Oxford as Provost and served there between 1982 and 1990. Whilst at Oriel in 1983, he assumed the part time post as Chairman of the Press Council of Britain. His only relevant background was his writing and interest in privacy and public affairs. He was to prove a stalwart defender of voluntary self-control by the media, as distinct from enforceable legal control. He enjoyed success in the new role, largely because he was charming and an outsider. He returned to Australia in 1990. Soon afterwards, he was diagnosed as suffering from Parkinson's disease. This notwithstanding, with the support of Lady Cowen, he continued in a busy life almost to the end.

When, in the 1990s, the controversy of whether Australia should become a republic was raised by Prime Minister Paul Keating, leading eventually to a referendum in 1999, Cowen was at first silent. However, later he threw in his support behind the notion, a step that other past and present holders of the national vice regal office refrained from taking. Throughout his life, Cowen was intellectually engaged with the issues of the times. For him, the republic was simply the latest of these. He was realistic enough to accept that an appointment (as distinct from election) of a President was unlikely to be accepted by the Australian electors. Although favouring the current constitutional arrangement for appointment, he thought an elected presidency was a price worth paying. Some constitutional monarchists were critical of this intervention in the controversy.

In 2006, Cowen's copiously illustrated memoir, *A Public Life*, was launched. It demonstrated what had long been obvious. Zelman Cowen was a scholar of sparkling brilliance. But he lived in the real world, engaged in its problems. He was fascinated by its technologies and communicated its controversies to the professions and the public alike. Save for his late engagement with the issue of an Australian republic, he was generally content to raise questions in a vigorous way, rather than to press his solutions on others.

The foregoing outline of his extraordinary career omits many details of areas of service, including with overseas universities, legal publications, sporting bodies, musical institutions, civil society associations, learned academies, as well as trusts, foundations and institutions in Israel with which he became associated. He was elected an Honorary Fellow of the Australian Academy of the Humanities in 1980.

Cowen received every civil honour on offer in Australia in his lifetime and some from overseas. Conferred on him were twenty honorary degrees and countless honorary fellowships. He loved this recognition. But he always remained approachable, intrigued by what he could learn from a conversation, realistic and basically quiet and democratic in demeanour and attitude. He did Australia a great service in rebuilding respect for the symbolic office of Governor-General. Like every other person in leadership positions in Australia he had his critics, for tall poppies have not been popular since convict days. In a large national field of poppies, his was amongst the tallest. But he never forgot that he was a scholar made good and an academician with his heart remaining always in the humanities and their civilising mission.

Sir Zelman Cowen died 8 December 2011, aged 92.

- MICHAEL KIRBY