

Sir Zelman Cowen: educational leader and healing Governor-General

**Tribute by Dr Donald Markwell,
Warden of Rhodes House, Oxford,
at the State Funeral for
The Rt Hon Sir Zelman Cowen AK
(7 October 1919 – 8 December 2011),
Temple Beth Israel, St Kilda, Melbourne,
Tuesday 13 December 2011, 11 a.m.**

In August 1940, George Paton, Professor of Jurisprudence at the University of Melbourne and a Rhodes Scholar for Victoria 14 years before, wrote a reference for a 20-year old candidate for the Rhodes Scholarship who had dreamed since boyhood of going to Oxford:

‘I have known Mr. Z. Cowen well for some years. His academic record...is one that has rarely been equalled. It is frequently the case that those who do brilliantly in Arts do not show quite the same aptitude for law, but Mr. Cowen shows the same skill in both fields. His mind is very keen and remarkably mature for one of his age. Very few could even attempt the task he is doing this year – finishing the law course and carrying a burden of University teaching as well. I have found his contributions in discussion classes very penetrating and interesting, and, although one is a poor student who can teach his mentors nothing, from Mr. Cowen I have learned a great deal.

‘He has a rounded personality, broad interests and cultivated tastes. ... He has great energy and that intellectual integrity which refuses to accept anything which has not been investigated. ...

‘... He has the assured courtesy of a much older man, and, while he has no reticence in urging his own opinions, I have found him both respectful and willing to abandon his point of view, if its weakness could be shown....

‘In short, I feel he has that quality which would benefit most from a period at Oxford. I have written many of these testimonials for the Selection Committee, but this is the first time that I can write for a candidate who has exactly that intellectual flair of which great things can be predicted.’

Zelman Cowen won the Rhodes Scholarship for Victoria that year, but was not able to take it up until 1945, after war-time service in the Navy. In Oxford, where he went with his young wife and life partner, Anna, he was appointed a permanent Fellow & Tutor in Law at Oriel College even before he topped the postgraduate Bachelor of Civil Law degree in 1947. From this base, he also did legal work in the post-war occupation of Germany, and had his first exciting exposure to law teaching in the United States.

In 1950, George Paton, as Dean of the University of Melbourne Law School, wrote to Zelman to see if he was interested in applying for the Professorship of Public Law there. He was; and the Warden of Rhodes House, Oxford, C. K. Allen, an under-stated but highly distinguished Australian lawyer, wrote from Oxford expressing – quote –

‘both pleasure and confidence in supporting [Mr. Zelman Cowen’s] application’. Noting his ‘academic record, both in Australia and at Oxford’, and that he had ‘more than amply justified his election [as a Rhodes Scholar] on all grounds, both personal and scholastic’, Warden Allen reported that – quote - ‘since he was elected a Fellow of Oriel College I have ample evidence ... that he is a successful teacher who takes great trouble with his pupils, has a shrewd judgement of them, and is much appreciated by them. He is, in my opinion, a man not only of quick and extensive legal attainment, but of genuine scholarly interests.’ He commended Zelman as a constitutional lawyer who would be a ‘co-operative colleague, ... efficient in ... administrative duties’. Oriel College, the Warden privately noted, would be ‘very sorry to lose’ this ‘excellent tutor’.

Zelman Cowen was, of course, appointed to the Chair of Public Law, and as George Paton was almost simultaneously appointed Vice-Chancellor of the University of Melbourne, the 31-year old Rhodes Scholar came home not only as Professor but also unexpectedly as Dean of the Melbourne Law School. Over the next 16 years, he truly transformed it into the modern law school, grounded in first-rate scholarship and teaching, and rich with international linkages, especially with the US universities he visited. His own inspiring teaching and encouraging mentoring are, I know, still remembered with gratitude by many law students of that time, now very senior in their profession. It was in these Melbourne years that Simon, Nick, Kate, and Ben were born. At the same time, Professor Zelman Cowen also emerged as a public figure, including through radio and later television commentaries on public and international issues, opposing the Communist Party dissolution referendum in 1951 and the Victorian hangings of the 1960s, and contributing internationally to the development of legal education and building up administrative talent in various Commonwealth countries and territories.

The early references I quoted from Sir George Paton and Sir Carleton Allen give insight into the qualities of intellect and character that led Zelman Cowen to so distinguished a career as legal scholar, author of many articles and several books, of which clearly one of his favourites was his biography of Sir Isaac Isaacs; pioneer in legal education; academic leader as Dean, and then Vice-Chancellor of the University of New England and then of the University of Queensland; tireless healing Governor-General of Australia; and then back at Oriel College, Oxford, as Provost, where he was proud to be the first Rhodes Scholar to be head of Cecil Rhodes’s own college.

In his application for the Rhodes Scholarship in 1940, the 20-year old Zelman Cowen wrote:

‘The [teaching] work as a member of the University staff has entailed fair experience in public speaking. While at Scotch College, I was a member of the School debating team, and since that time have been keenly interested in public speaking. I have found that the work [teaching] in the [University] Extension Board particularly, together with invitations I have from time to time received to address bodies, such as Public Schools and clubs has afforded invaluable experience in this very interesting work.’

It was indeed ‘invaluable experience’. As a Vice-Chancellor and Governor-General, and in other public roles, Zelman Cowen was to find speeches a powerful instrument of leadership and healing. When, as a young Rhodes Scholar from Queensland with a

shared interest in constitutional conventions, I came to know Sir Zelman in Oxford in the early 1980s, beginning one of the greatest friendships of my life, I was struck by how vividly etched, even scorched, in his mind was his speech to a large crowd in the Great Court at the University of Queensland, my much-loved alma mater, during the Springbok protests and University disruption of July 1971. For such a speech-maker to describe this as ‘the speech of my life’ reflects the tensions of those times. It also reflects that he was by nature a communicator. The late 1960s and early to mid-1970s were times of tumult and protest around the world, including at the University of Queensland, where the Vice-Chancellor had to steer the University between what was often abusive protest on the one hand and an overly assertive Premier on the other. During these troubles, Zelman and Anna Cowen showed ‘grace under pressure’ – which is a definition of courage.

Through ‘the troubles’ and beyond, Professor Cowen defended the rights and interests of students, and worked to build the University, engaging community support, including philanthropic support. Then, as before and later, he was an effective fundraiser. One important benefactor of the University of Queensland was a flamboyant grazier, Barney Joyce. When asked how he would like to be portrayed in the University’s official portrait of him, Sir Zelman replied, somewhat cheekily: ‘with my hand in Barney Joyce’s pocket’. Her Excellency the Governor-General has spoken of how, when she invited Vice-Chancellor Cowen at short notice to lecture to one of her law classes at UQ at that time, his was the best lecture she has ever heard, earning a standing ovation from the students.

Fulfilling his vision of the Vice-Chancellor as an independent public figure as well as leader within the University community, in various public addresses in Australia and overseas Vice-Chancellor Cowen spoke of how the tearing of the social fabric in countries around the world was threatening the fragile consensus – the acceptance of shared values and rules – on which what he called a ‘civil liberal society’ depended.

The 1975 constitutional crisis and responses to it greatly strained the fragile consensus about crucial aspects of governance in this country. When in 1977 Sir John Kerr indicated his intention to resign as Governor-General, the Prime Minister, Malcolm Fraser, turned for his successor to a wholly non-partisan constitutional scholar and attractive public figure who, in thought and action, had grappled more profoundly than perhaps anyone else in this country with the issues of division, consensus, communication, and healing. In using Nehru’s phrase ‘a touch of healing’ to describe what he hoped to bring to the office, Sir Zelman set the theme of his four and a half years as Governor-General. Above all, the healing was done through reaching out to community groups in all corners of the country, endless visits and countless speeches, reflecting careful research and what seemed like boundless energy. I first saw Sir Zelman Cowen, of whom of course I had known for years, when in 1978 he came back to the University of Queensland, where I was then an undergraduate, to give a major speech in the Mayne Hall, which he had been so determined and proud to build. His speeches aimed not least, in Sir Zelman’s phrase, to ‘interpret the nation to itself’. As we all know, this healing balm was a profound gift to the nation, for which we are right to remain grateful, and Sir Zelman’s approach has been a model for a number of subsequent Governor-Generals.

On going back to Oriel College in 1982 as its Provost, Sir Zelman again brought healing – healing a college hurt by the sudden departure of its previous Provost, and presiding over the harmonious resolution of what had been the divisive issue of admitting women to Oriel, the last all-male college in Oxford. His speeches to rowdy undergraduates at dinners after rowing victories were legendary, showing his own depth of engagement in the full life of the College and enabling him humorously to encourage academic as well as sporting success. Sir Zelman combined the Provostship with other roles, including as chair of the British Press Council and of the Van Leer Jerusalem Institute, as well as speaking commitments around the world.

His extensive speech-making about the role of Governor-General and other Commonwealth issues reflected the fact that, although he had written on issues of monarchy and republic since the mid-1960s, he – along with most Australians – then believed that Australia had sufficiently achieved the substance of independence and had no need to change to a republic. But within five years of coming back to Australia in 1990, he believed that Australia’s national journey and sense of itself now required that its head of state be, in words he liked, ‘one of us’ – unequivocally symbolizing Australia itself. And so in the republican debate of the mid- to late 1990s, the constitutional lawyer who had brought healing to the nation in the position of Governor-General was advocating, including in speeches over which he laboured, an Australian president chosen by special majority in the Parliament.

By that time, with strong support from Victoria University, where he was a Distinguished Visiting Professor, Sir Zelman and his team were hard at work on his memoirs, *A Public Life*. They were launched by Justice Michael Kirby on Sir Zelman and Lady Cowen’s 61st wedding anniversary, in June 2006. It is in these memoirs that one can read of many diverse interests that can barely be touched on today – music (especially Mozart), architecture, the press, his work on radio and television, adult education - and other aspects of his life, from the Jewish migrant experience of his forebears, his St Kilda boyhood and interest in ships and early aviation, and the joys of student days, through to his retirement work for Griffith Law School and the National Academy of Music, and for editorial independence at Fairfax newspapers, and much else besides. In recent days so many institutions and organisations have expressed their deep gratitude to him, and rightly so.

Both in his memoirs and in countless speeches and deeds over many decades are reflected the liberal values for which Sir Zelman Cowen was a beacon - individual liberty under law, including the rights to privacy and to free speech in a civil and tolerant society; the rule of reason, with a preference for moderation, collegial leadership and consensus-building, and even-tempered public and private discourse, with disagreement without rancour; uncompromising and scrupulous integrity; and education – in a college, a law school, or the wider university – that both broadens and sharpens the mind. In one such speech, he spoke of ‘the study and reflective and speculative thinking which lies at the heart of good teaching’ – something he exemplified, expected, and encouraged. Spending 34 of his 92 years leading educational institutions, while ceaselessly interested in broad public issues, he never lost his commitment to the interests of students, and was always delighted when any former student remembered his teaching or help that he had given.

George Paton in 1940 wrote of Zelman Cowen having ‘exactly that intellectual flair of which great things can be predicted’ – great things fulfilled beyond prediction, perhaps even beyond the prediction of his mother, who expected him to be a King’s Counsel – and of his having ‘that intellectual integrity which refuses to accept anything that has not been investigated’. For me, conversation with him was often a Socratic dialogue, an investigation – the pursuit of a topic beyond what I thought possible – marked by this experienced raconteur’s sudden bursts of humour and an anecdote or three. He brought clarity of mind, charity of spirit, and civility of expression to all he did; erudition and elegance; wisdom in judgement; energy, single-minded determination, efficiency, and dignity in action; and a remarkable capacity for friendship – intensely loyal, warm and kind friendship, expressed in the most generous hospitality by him and Lady Cowen, in conversation that encouraged as well as stretched, and in correspondence that spanned the world.

Zelman Cowen was for me and for others, not only a truly exceptional academic and public figure at home and abroad, but a uniquely special friend and mentor, and a profound and wise influence on our lives. We remember him with love and gratitude, and we will miss him more than we can say.