

Australian Dictionary of Biography

Spender, Sir Percy Claude (1897–1989)

by **David Lowe**

Sir Percy Claude Spender (1897-1985), barrister, politician and diplomat, was born on 5 October 1897 at Darlinghurst, Sydney, fifth of six children of South Australian-born Frank Henry Spender, locksmith, and his wife Mary, née Murray, from New South Wales. Percy had an unsettled childhood. His mother died in 1902 and his father remarried, to a widow who had a daughter; another two children were born into the family. Educated at Darlinghurst primary schools and Fort Street Model School (from 1911 Fort Street Boys' High School), Percy preferred rugby to his academic subjects and failed to matriculate. While he was working as a clerk for the Sydney City Council, his headmaster A. J. Kilgour successfully coached him for the University of Sydney entrance exam. Studying part time, Spender graduated BA (1918) and LL.B (1922), with first-class honours and the university medal in law. On 20 September 1918 he enlisted in the Australian Imperial Force but was discharged on 18 November. Later he worked at the Newtown Court of Petty Sessions and at the New South Wales Crown Solicitor's Office.



Percy Spender, 1949

[National Archives of Australia, A1200:L12797](#)

On 10 May 1923 Spender was admitted to the New South Wales Bar. Although he had no family connections to the legal profession he became successful by working the State's southern circuits. On 6 April 1925 at St Mary Magdalene Church of England, Coraki, he married Jean Maud Henderson, later a crime-fiction writer. The Spenders lived in a large house at Turramurra, Sydney, and Percy set up chambers in Phillip Street, alongside Norman Smith, Sir Daniel Levy and (Sir) Jack Cassidy. Conscious of his short stature—5 ft 5 ins (165 cm)—he compensated by adapting his legal office so that a visitor had to walk a long distance to reach his desk. His baby-blue eyes, handsome face and trimmed moustache, however, assisted his rise in Sydney's social circles. In 1935 he was appointed KC, the youngest, at that time, in the British Empire. With (Sir) Gordon Wallace he published *Company Law and Practice* (1937), a large textbook based on the New South Wales 1936 Companies Act. Engaging in Sydney's postwar land-buying spree he became financially successful through investment purchases and by lending money to people who had mortgaged properties during the Depression. In 1934 the Spenders moved to the prosperous eastern suburb of Woollahra and often featured in the society columns of Sydney newspapers. They also owned a house at Palm Beach, where Percy relished surfing.

Becoming interested in State politics during the Depression when New South Wales Premier Jack Lang introduced 'the Lang Plan', in 1932 Spender almost stood as a candidate for the recently formed United Australia Party in the seat of Neutral Bay, but withdrew in favour of another UAP-endorsed candidate. In 1937 he contested the Federal seat of Warringah as an Independent, winning a stunning victory over the incumbent UAP member and minister for defence, Sir (Robert) Archdale Parkhill. Campaigning on the lack of preparedness for Australia's defence and the need for youth in government, Spender won on Australian Labor Party preferences.

Spender's rise in Federal politics over the next four years was circuitous rather than meteoric. Joining the UAP parliamentary party in 1938, he was passed over for ministerial positions in the jostling that followed the death of Prime Minister Joseph Lyons and the succession of (Sir) Robert Menzies, and amid competing demands from the States on the breakdown of coalition with the Country Party. Appointed minister assisting the treasurer (Menzies), he became acting-treasurer in November 1939, then treasurer from March to October 1940. He advocated high wartime taxes and spending, and allowed a talented young group of economists to apply Keynesian ideas to Australia's circumstances. Progressive, and supportive of State-directed planning, he flagged industrialisation and population growth as the engines of Australia's postwar economy.

Minister for the army for twelve months in 1940-41, Spender invited Australian generals to communicate directly with him and challenged British reassurances about the defences of Singapore. In April 1941, in the wake of the capture of more than 5000 Australian troops in the disastrous Greek campaign and fearful of an opportunistic march through South-East Asia by the Japanese, he argued, months before others joined him, that manpower needed to be shifted to a full-war footing. In Opposition from late 1941 he remained a member (1940-45) of the bipartisan Advisory War Council but was expelled from the UAP in 1944 after his party decreed that its members could no longer serve on the council. He published *Australia's Foreign Policy: The Next Phase* (1944) and next year joined the newly created Liberal Party of Australia.

Even before 1939 Spender had been voicing his outspoken views on the inadequacy of Australia's defence preparations. Having enjoyed four cruise trips with his wife through the South Pacific and South-East Asian region during the Bar's summer vacations, he sensed stirring changes and had a growing conviction that the Royal Navy would not be able to defend Australia. During the war he became increasingly worried about naval threats from Japan and China and, having visited Hawaii, he was convinced that Australia should establish a closer alliance with the United States of America. He recommended a postwar union between the British Empire and the USA, drawing inspiration from President Franklin D. Roosevelt's 'Four Freedoms' as a guide for the democracies. Realising that air travel had dissolved distances, he concurred with what Henry Luce, the editor of *Time*, called 'one world . . . indivisible'.

Spender became minister for external affairs and minister for external territories in Menzies' 1949 government. Although the minister for only sixteen months, he instigated and helped to implement the Colombo Plan—called initially the 'Spender Plan'—and also negotiated with the US envoy, John Foster Dulles, the terms of the Australia-New Zealand-United States treaty. He represented Australia at the treaty signing ceremony at San Francisco in September 1951. Travelling widely, he had a highly developed sense of geopolitics and of change in the Asia-Pacific region. As a Cold War realist he argued that the Soviet Union posed a global threat and believed that a Soviet setback in Europe would increase

the prospect of communist interest in Asia. He was a leading figure in the Liberal Party's plan to outlaw the Communist Party of Australia. Vice-president (1950-51) of the fifth General Assembly of the United Nations, he instructed (Sir) Keith Shann, against Menzies' wishes, to vote for a resolution condemning Chinese aggression in Korea.

Appointed ambassador to the USA in March 1951, Spender behaved as if he were still minister and endeavoured to 'put flesh on the bones of ANZUS'. He disregarded instructions from Canberra, testing the patience of Menzies and of the minister for external affairs, R. G. (Baron) Casey. Continuously trying to align Australian policy with American thinking in foreign, economic and defence policy, he was eventually reined in by Menzies, who remained attached to the concept of Britain's leadership in world affairs. He was vice-president (1952-56) of the Australian delegation at the UN and briefly served as president during Australia's membership of the Security Council in 1956.

Spender's diplomacy in UN contexts contrasted with the earlier international liberalism of H. V. Evatt. It reflected a blend of fierce protection of national interests, underpinned by a realist's appreciation of where power lay in the world, and an international lawyer's hope that one day the rule of law, as expressed in the UN Charter, could assume a greater importance in the conduct of international affairs. Some of his biggest campaigns in the UN assemblies had addressed the scope of UN involvement in the affairs of colonial powers, which turned on interpretation of Article 2(7) of the Charter—the 'domestic jurisdiction' clause. In seeking to limit the UN's jurisdiction, he defended Australia's restrictive immigration policy and its administration of the Territory of Papua and New Guinea; he also supported the Netherlands' retention of West New Guinea, arguing that the Dutch would serve the interests of the Indigenous people better than an Indonesian assumption of sovereignty. Sensitive to the sudden addition to the UN of twenty-three new members, many of which were former colonies in Africa or Asia, he countered what he assumed would be an Afro-Asian bloc voting against Australia on colonial issues by seeking votes in other countries. In 1955 he made the first official Australian tour of twelve Latin-American countries.

Spender's maverick status among his colleagues often caused him trouble. Although he was not part of the plotting to topple Menzies in 1941, his desire to become leader tended to overshadow his political achievements and his reputation for innovative thinking. Among his enemies was Labor firebrand Eddie Ward, who took delight in baiting Spender in parliament, generating rumours about the extent to which he would go to achieve political and financial success. The most adventurous (and erroneous) of the rumours appeared in the notorious 'Document J', penned by the communist journalist Rupert Lockwood and used in the Royal Commission on Espionage, 1954-55. According to Lockwood, Spender had anticipated a successful 1941 Japanese invasion of Australia and was prepared to serve in a 'Vichy'-like government in occupation. Although some parliamentarians thought that he had been banished to Washington, DC, for challenging Menzies' leadership in 1950, Spender in fact accepted the position because he realised that his chance of becoming prime minister had been thwarted.

Appointed KBE (1952) and KCVO (1957), Spender successfully secured votes in the UN to be elected in 1958 to the International Court of Justice, The Hague. In 1964-67 he was president of the court. His judgements generally reflected a conservative approach to international law and his commitment to the sanctity of treaties. A strong advocate of nations submitting international disputes to the court, he nevertheless gave precedence to treaty law and judicial procedure in political considerations that emerged in disputes. He attracted international attention in 1966 when he cast the deciding vote in a well-publicised case brought by Ethiopia and Liberia against South Africa's refusal to report to the General

Assembly on its mandate over South-West Africa (Namibia); the judgement favoured South Africa by establishing that the court did not have jurisdiction to hear the case, at a time when world opinion was turning sharply against the apartheid policy.

Retiring from the court in 1967, Spender returned to Sydney. In 1969 he published *Exercises in Diplomacy*, an account of his involvement in the formation of ANZUS and the Colombo Plan. Continuing to offer legal opinions, he argued that the Commonwealth had the right to prevent the Queensland government from mining on the Great Barrier Reef. He published his memoirs, *Politics and a Man*, in 1972. His wife died in 1970 and on 4 October 1975 at St Mark's Church of England, Darling Point, he married Averil Watkins Trenerry, née McLeod; they separated in 1976 and later divorced. He often travelled overseas and was a director of an Italian insurance company. The recipient of honorary doctorates from ten universities, in 1976 he was appointed to the Grande Ufficiale Order of Merit, Republic of Italy. In March 1983, aged 85, he married Eileen Esdaile (Congreve) in Honolulu, Hawaii.

Quick-witted and versatile in conversations, legal and social, Spender was independent and assertive, with great determination of purpose. His son John described him as 'constitutionally incapable of resisting a challenge'. Survived by his wife and the two sons of his first marriage, he died on 3 May 1985 at his home at Darling Point and was cremated. A bronze bust of Sir Percy by Alex Kolozsy (1981) is held at the National Portrait Gallery, Canberra.

Select Bibliography

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Related Entries in NCB Sites

- [Stanner, William Edward](#) (employee) 
- [Watt, Alan Stewart](#) (work colleague) 
- [Plimsoll, James](#) (work colleague) 
- [Levy, Daniel](#) (colleague) 

- **Casey, Richard Gavin Gardiner** (colleague) 
- **Cassidy, Jack Evelyn** (colleague) 
- **Menzies, Robert Gordon** (colleague) 
- **Wallace, Gordon** (colleague) 
- **Shann, Keith Charles Owen** (colleague) 
- **Kilgour, Alexander James** (teacher) 
- **Parkhill, Robert Archdale** (political adversary) 
- **Ward, Edward John** (political adversary) 
- **Gollan, Ross Francis** (political adversary) 

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