

# SIR FRANCIS THEODORE BURT

## AC KCMG QC

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by PW Nichols

The purpose of this article is not to describe the public career of Sir Francis Theodore Page Burt (which is summarised in reference work such as *Who's Who* and *Debrett's Handbook*), but to give some insight to his abilities and qualities which, although responsible for his public career, may not be as well known as they should be.

And they are very important qualities. After all, to change the course of the legal profession in a State, to create a Bar where one had never existed and to provide leadership for the chambers that were established, are outstanding achievements that required peculiar qualities.

Sir Francis Burt is a lineal descendant in the direct male line of the former Chief Justice of Western Australia, Sir Archibald Burt, but the family, and his family in particular, occupied themselves for most of the generations between them with agriculture. After the usual chrysalis period, Sir Francis soon distinguished himself at the recently-founded Law School of The University of Western Australia and made it apparent that his interests, at least, were those of his ancestor.

The Second World War made it necessary for him to occupy himself with his country's concerns. He joined the navy as a Writer 1 (the navy makes a distinction of literacy, awarding its holders a particular uniform) was obliged to spend some time waiting for an expected overseas assignment. During that time, he completed an LL.M. thesis, an annotated *Industrial Arbitration Act*, which became the definitive reprint of that statute and was still in use until the end of the sixties. In a law school that had few graduates, much less people who did original research, and at a time when preoccupation with other matters might have been expected, in writing that thesis Sir Francis Burt did a piece of research which was typical of his way of doing things: it was *useful*, it showed *leadership* and it showed *originality*. These qualities emerged continuously in the course of his career.

After a short stint in the navy, Sir Francis managed to be recycled into the Royal Australian Air Force, in aircrew, which led him to see active service in Britain. After the war, he returned to legal practice becoming a partner in Joseph Muir & Williams. He also served as a part time lecturer in law at The University of Western Australia. It was during this time as a partner in Joseph Muir & Williams that Sir Francis took silk in 1959.

Not long after that event, Sir Francis took the extraordinary step of leaving his firm and commencing practice exclusively as a barrister.

Let there be no mistake, it was an extraordinary step. When you consider it, everything was against such a fundamental change in the way the profession was organised. Historically, there had been few people in Western Australia who had specialised in advocacy, and the profession was dominated by a few large solicitors' firms – Mazza, Wallwork, Torre and Talbot was the only firm to establish itself permanently in 30 years. The legal profession in Western Australia was largely poverty-stricken (now it is heading in that direction again, but at least we have had the experience of temporary wealth in between). What was there

that introduction of an old institution that had never existed in this State could offer? How would it succeed? Sir Francis had the wisdom and vision to recognise that a Bar would only develop in Western Australia if it served, but did not divide, the legal profession which, unlike its counterparts in other States, was entirely fused.

He saw that the past had something unique to offer the community, and that an old institution could be adapted to meet the evolving demands of society. No social institution endures for long unless it has a clear sense of direction and performs its particular task better than alternatives. To start such an institution requires special qualities, of leadership, of inventiveness and adaptability, and in the case of this institution, the ability to make highly individual personalities work together harmoniously to a common purpose. Sir Francis Burt employed all these gifts in establishing and guiding the development of the Bar.

As an advocate, Sir Francis was renowned for his exceptional legal knowledge, perception and an ability to reduce each problem, no matter how difficult and complex, to its essence.

As a judge, those qualities were even more evident, producing a style characterised by an economy of language (whether written or spoken) and an intensity of meaning. He delighted in debate, always recognised the importance of principle in decision-making and rightly had high expectations of all counsel who appeared before him. He had the ability to expose the strength or weakness (especially the latter!) of almost every case in no more than 3 questions, invariably posed within minutes of counsel first rising to his feet.

To those who have had the privilege of knowing Sir Francis personally, he has been a friendly, witty companion, direct in his personal dealings and fond of incisive remarks, but ever courteous.

Every generation needs leaders and, in the law, our generation has been fortunate indeed to have had such an outstanding leader as Sir Francis Burt.