

Eastern Cape Bar, Makhanda

Contributed by **Julian Barker**

IN HONOUR OF ANDREW JAMES GREY LANG SC

by **Torquil John Macleod Paterson SC**,

Address to the special sitting of the Eastern Cape Division of the High Court of South Africa on Monday 24 November 2025

My Lord, on behalf of the Bar, I rise to honour one of its most esteemed members. Andrew James Grey Lang became a member of the Eastern Cape Society of Advocates on 1 December 1984 aged 54; he took silk on 22 September 1993 and retired aged 70 in 2001. He died aged 94 on 3 November 2025.

Andrew lived his life against the backdrop of a broad sweep of history. His mother was the daughter of John Fraser, to become Sir John Fraser, who was speaker of the Volksraad in Bloemfontein prior to the Anglo-Boer War and member of the Legislative Council for the Orange River Colony thereafter. Visits to the Appellate Division (later Supreme Court of Appeal) were always something of a pilgrimage for Andrew. His father, an immigrant Scot and classics master, after time at Pretoria Boys High, became the headmaster of Grey High School, Port Elizabeth, where Andrew attended school continuing all his days to be a keen old boy. He was at school during the Second World War, but his two older brothers saw active service, David being a gunner in the Western Desert, and John a signaller on a mine sweeper in the Mediterranean.

Andrew joined our bar at the uncommonly late age of 54 which meant that he brought with him the wealth of his experience. He had studied some law in his degree at Cambridge, but his South African legal exposure began as a judge's clerk in Pretoria. During that time his judge, Ramsbottom J, presided over what Andrew recalled as the very last jury trial in South Africa. A Transvaal farmer was accused of the murder of a labourer who died from injuries sustained in

a vicious assault. A jury of his peers convicted him only of assault with intent to commit grievous bodily harm. Andrew understood that the subsequent outcry at the injustice contributed towards the abolition of the jury system.

After a time in England experimenting with a possible life as an English farmer or manufacturer and getting married to Julie, Andrew came back to South Africa joining the Pretoria Bar for a short time, before serving his articles as an attorney in Johannesburg and practicing there in a leading firm. During that time, he completed his LLB through the University of the Witwatersrand.

Sharpeville was a watershed not only for the whole of South Africa but also for Andrew. In its wake, Andrew's brothers John and Colin were detained for three months under emergency regulations. Both were leading members of the Liberal Party, and John, an attorney in Johannesburg, was acting for families

of those injured in the tragedy. Colin, a medical doctor in Pretoria, treated Chief Albert Luthuli. Andrew recalls taking his mother to visit his brothers at Pretoria Central.



On a holiday during this time, he visited Rhodesia (later the Republic of Zimbabwe), which had then recently adopted a new constitution including a qualified non-racial franchise. Andrew, growing restless in Johannesburg, and bitten by the farming bug, he accepted the offer of a lease over a farm outside of Salisbury (later Harare). He left South Africa with

his wife, Julie, and two older daughters, Bridgitte and Margie, who were later to be joined by Jimmy and Paula.

The next chapter of his legal experience began when the demands of his family exceeded the returns from the farm. Andrew tells of presenting himself in his muddy farming boots to Professor Dick Christie at the University College of Rhodesia asking for a job and



Grey High School

being hired to assist in the development of a new legal department. For some years he balanced the demands of legal teaching with his farming, a balance which continued in his time among us. A measure of the esteem in which he was held in Rhodesia is that, after leaving the university, he was given the arduous duty of chairing a national commission inquiring into the marriage laws of Rhodesia, particularly concerning the grounds of divorce, the age of consent to marry, and some proprietary questions. His later years in Rhodesia were marked by the bush war in which he served as a reservist in the British South Africa Police.

Growing concerns about his family's safety and future brought Andrew back to the Eastern Cape where he took up a senior lectureship at Rhodes University. There he continued to develop his interest in Roman Law and Delict. Towards the end of his time at Rhodes, and to equip himself further in his academic career, he spent a year back in Cambridge earning an M.Phil degree in criminology. However, on his return to Rhodes, events led to his resignation and he turned to the Bar which he joined in the turbulent years marking the death throes of the apartheid state and the rise of our present Republic.

I give this survey of Andrew's life to give an appreciation of its extraordinary span, of which we had the honour of sharing only the later part.

Andrew is remembered chiefly for his oratory and it is about this that I shall speak. The litigation process we have inherited is still largely oral. Although the written word (pleadings, affidavits, notices and heads of argument) lies behind everything we do, the cutting edge is oral: the leading and cross-examination of witnesses, and argument whether at trial, in an opposed application, or on appeal, and it was in this oral element of practice that Andrew excelled.

We all bring to our public addresses our innate abilities, our life experience and our training. Andrew had the advantage over us lesser mortals. Consider his presence. Even into his sixties, he was vigorous, alert and engaging. His shock of white hair marked him with natural dignity and distinction. Many a witness withered before the removal of the spectacles and the fixed



gaze from under those bushy eyebrows. His voice, which was always clear, could be soft and confidential but in the next moment rise in surprise. Really!!

And from the storehouse of his education came his choice of words particularly when he was spontaneous and departing from notes or Heads of Argument.

Andrew loved Charles Dickens, whose quirky use of language suited his sense of humour, and it was from his restless, inquiring and retentive mind that he would regularly find an apt but singular way of expressing the mundane and so keep the entire court's attention. It was not easy to nod off with Andrew on his feet!

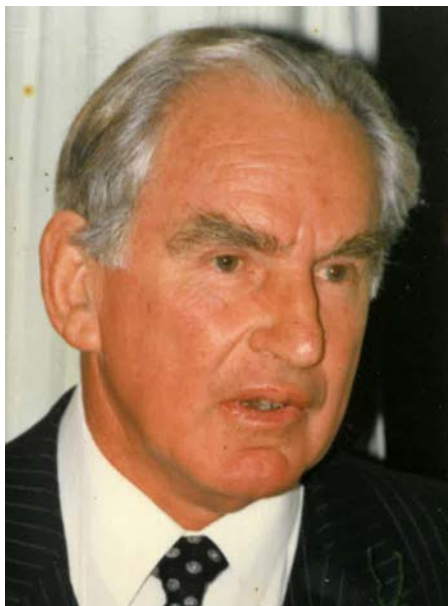
Andrew's performance began in the study, with research into the law, close study of the disputes of fact, the drafting of pleadings and heads of argument. Thereafter came the live performance, and like a leading actor or a concert musician, he revelled in the opportunity. While the concern to present his client's case was always paramount, the showman was drafted in this cause. Andrew would have relished being a jury advocate and one was aware that Andrew felt limited by the plebeian forensic demands of our present practice when he occasionally slipped the traces as a simile or sentence ran out of control.

What was it that made Andrew excel at this aspect of advocacy? One can speak of his manner of note-taking in trials, of the use of heads of argument on appeal, of the capacity to answer a question from

Andrew James Grey Lang SC handing over the divorce laws to president Wrathall from Rhodesia.

the bench without losing the thread of his presentation, but these are all just technicalities. What made Andrew so good at it was that he enjoyed it. He had reached the stage in his personal development when he had little left to prove and he simply loved expending himself in the service of his clients in the to and fro of argument in a forum he largely trusted and with which he had become thoroughly familiar. He regarded the process with the utmost seriousness, but like a sportsman keyed up for a contest, he stepped into the fray for the fulfilment of doing it in style, and afterwards, like as at a post-match party, he was able to narrate the ebb and flow of the case often focusing on the moments of humour arising from the discomfort of a witness or the opposing counsel or the engagement with the Bench. He regarded the whole process as fun. And Andrew could always find humour amidst the run-of-the-mill or the frankly tedious. A famous story, recalled often in the common room, is how, in the motion court in those days in which banks still sought provisional sentence, he inadvertently spilt water on his mortgage bond and rose to hand up his dripping liquid document!

Andrew had tremendous confidence which never came anywhere near arrogance. Indeed, there was nothing Andrew despised more than arrogance and the cant which tends to accompany



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it, whether in colleagues, particularly those visiting our village from what they perceived as more rarified climes, or in those who mistake their elevation to be on merit. Andrew’s demeanour arose not from his belief in the correctness of his opinions or even his cause, but from his confidence that he could effectively and properly communicate those opinions, and thus his client’s cause.

And I suggest that this confidence came from something even deeper than the mastery of the processes of litigation. As I have mentioned in passing, Andrew had taught Roman Law and Delict both in Rhodesia and at Rhodes. From his classicist headmaster father, from the study of Gaius and Justinian, from his personal experience of family and good citizenship and from his own natural inclination, Andrew had come to embody the virtues of the Roman ideal of the good citizen, expressed in the notion of the *bonus paterfamilias*. Having become that notional creature himself, he could naturally and easily apply this standard to his cases and to his presentation of them. His oratory became the public expression of the internal debates by which the *bonus paterfamilias* balances the competing demands of each instance and thus determines the proper course of conduct.

Consider the foundation of our law of delict – the test of *Kruger v Coetzee* 1966 (2) SA 428 (A): Would the reasonable man in these circumstances foresee the possibility of harm? Would the reasonable man take steps to prevent that harm, and what steps would he take? Did the defendant

take these steps? This test is easily stated; however, it is only the reasonable man, the *bonus paterfamilias*, who can engage in the appropriate analysis and draw the proper conclusions. Andrew, being himself the embodiment of that reasonable man, could argue either side of every case and to do so was his delight.

Take the matter of *Mkhwanazi v Van der Walt* 1995 (4) SA 589 (A). A motorist was injured in a collision with a horse which had escaped from a farmer’s paddock. A farmer will, of course, foresee that an escaped horse could cause harm on a busy road, but in the particular facts of the case what steps would that farmer reasonably take to prevent such harm? There were two gates through which the horses could pass, and the farmer ensured that these were closed and padlocked. But would the farmer also foresee that a visitor to his staff might not close a gate properly? To safeguard against that possibility would the farmer erect a grid on the access road? This is the kind of enquiry Andrew loved. In this case, Andrew was for the injured motorist, and he convinced the appeal court that the grid should have been built.

Andrew’s other great love was the law of restraint of trade. Here too competing principles require to be balanced: the need to enforce the freedom to contract,

against society’s need for freedom in the economy. Each restraint matter requires finding the point of *equipoise*, and I suggest that only the person who has internalised the balance embodied in the law can comfortably and effectively argue for and against the contending positions. One’s task is to identify all the relevant factors and to place them properly on the scales of justice. The court then has the task of determining the proper point of balance.

Andrew’s first major reported decision concerned a restraint and the appeal judgment in the matter of *Rawlins v Carvan Truck* 1993 (1) SA 537 (A) is still the leading judgment on customer connection. Rawlins was a salesman who breached a restraint claiming that, when he was employed, he brought customers to his employer and that thus the customer connection was with him and not his employer. When the salesman left his employ, Andrew brought an urgent application to enforce the restraint, which application succeeded before Van Rensburg J, and an appeal against this judgment failed. This was but the first of many restraint cases. Andrew particularly enjoyed the way the rules on the incidence of onus from *Magna Alloys* combined with the rules on the resolution of disputes of fact in application proceedings from *Plascon Evans* combined to favour the respondent/avoider.

My Lord, Andrew last argued in this forum over 24 years ago. There is a new generation of judges and practitioners who never heard his voice or knew the power of his personality. I have tried to make him come alive again in an act of reverence as befits a pupil to his former master, and to elevate his example as a shining star which can still guide new generations.

As it pleases the Court.



Andrew with his wife, Julie.



COMMEMORATING 150 YEARS OF THE EASTERN CAPE SOCIETY OF ADVOCATES

By Kerryn Watt and Sovash Chetty, Makhanda

In 1876, JG Kotzé (later knighted Sir John Gilbert Kotzé KC) embarked upon the small academic civilisation known then as Grahamstown (established in 1812). During his influential, albeit short, stay in what would one day become Makhanda, he established the Eastern Cape Society of Advocates. Now, 150 years later, the Eastern Cape Society has changed beyond comprehension, but its ethos of providing grounded and practical access to law remains the same.

Over the next year, the Eastern Cape Society will celebrate its long and storied history. It will delve into the lives and legacies of some of the greatest judges who have walked its hallowed halls. It will interrogate the judgments that altered the legal landscape — decisions whose

germination points lay in the minds and chambers of advocates of this Society. It will expand upon the historical context of the bar itself, tracing not only where we have come from, but how we have endured, adapted and, at times, resisted.

This is not a passive commemoration. It is an exercise in reflection and reckoning. The Eastern Cape Bar has existed through colonial rule, segregation, apartheid, and constitutional rebirth. It has produced jurists who shaped doctrine, challenged power, and gave content to justice in times when justice was anything but assured.

The Eastern Cape Society invites you to reflect on 150 years of a rich and deep history: on a bar forged in a small frontier town, yet influential far beyond its borders.



Litha Nodada with his supervisor, Sarah Sephton, as he signs the Eastern Cape Society's *Black Book*.

Turning to more present news. The Eastern Cape Society wishes to welcome Mr Litha Kalipile Nodada with Sarah Sephton as his supervisor. He was admitted on 3 February 2026, and has taken up chambers at St George's Chambers in Makhanda. The Society wishes him the best on what is sure to be a long and prosperous career.

A tradition dating back to 1922, when KD Graham first inscribed his name, the signing of the *Black Book* is an honour granted to those who take up membership of the Eastern Cape Society.

Lastly, two new pupils have begun their tutelage under the guidance of the bar in Makhanda. Ms Zimkhita Mazula, under Pupil Supervisor Julian Barker, was previously a Contracts Manager for various Eastern Cape governmental departments, as well as a Legal Service Manager. She is pursuing advocacy to marry her interest in commercial law and constitutional rights. Mr Mxolisi Sopiseka, under Pupil Supervisor Willem Olivier, joins us after serving as an adjudicator for the Refugee Appeals Authority of South Africa. His intense interest in justice and human rights has led him to pursue advocacy. We wish them both well on their pupillage journey. **A**

