

**Andrew McFarlane**

**Doctor of Civil Law**

**Durham Cathedral, 29 June 2018**

Sir Andrew McFarlane is one of Durham University's most accomplished law graduates. His road to success is not a straight line, but a story of opportunities with Durham playing a key role – and important lessons for our students graduating today.

Sir Andrew's early ambition was not for the courtroom, but the stage and he has long held a passion for the theatre. As a young student, he recalls his acting and interest in debating helped pave the way to becoming a barrister. A courtroom trial can be kind of theatre, too.

Two things led him to Durham. The first is he was from the Midlands and he wanted to move far away from it with Durham fitting this bill nicely. The second is Sir Andrew recalls he did not choose Durham so much as Durham chose him, as the only one of the universities he applied to that had the good sense and foresight to recognise his talents and offer him a place.

At matriculation, the then Vice-Chancellor, Sir Derman Christopherson, made a deep impression on the young McFarlane that 'Durham is different' in the quality of the education and experience.

Sir Andrew certainly excelled at the experience part. He was active debating in the Durham Union Society, recalling a memorable debate on the press and fake news concerning the curious circumstances of John Stonehouse most remembered not for being a former Labour MP, but for unsuccessfully faking his own death. Initially thought to be Lord Lucan, who had disappeared two weeks earlier, Stonehouse was arrested in Australia. Durham Union Society never shying away from a good debate then or since invited him to speak – which he did – between capture and trial.

He was also active in student politics serving as Treasurer, then Chairman of Council and finally President of the Durham Students' Union. During this time, Sir Andrew

says he learned a lot about running a large organisation and responsibilities in running an office as a young man that came so useful in his later years.

Of course, there was his main interest as a law student in the early 1970s – not for the library, but the stage. Sir Andrew regularly took part in various student productions. After an early trip with fellow students to perform at the Edinburgh Fringe Festival with his group DUST (Durham University Sensible Thespians), they saw that Durham lacked a review group like at Bristol or Oxford. So they started one at Durham – and no doubt better.

Sir Andrew took interest in his law studies as well and found inspiration in key members of the Durham University's then much smaller Department of Law. One former teacher was Leo Blair, a former barrister at the Bar in Newcastle who became a part-time criminal law lecturer after his wife died so he could look after his children.

Sir Andrew recalls the 9am Friday lecture in 1974 following a General Election when Blair stopped talking about *mens rea* and instead said "oh heck, what an awful result" dismayed that Labour's Harold Wilson had defeated Edward Heath. No one could have guessed that the next Labour Prime Minister would be Blair's son Tony two decades later.

A second memorable figure was Professor Bernie Smythe, described a plain speaking Londoner and former Met police officer who specialised in property law with a particular gift at making the difficult concepts accessible.

While also having an opportunity to study Family Law while at University, Sir Andrew recalls Durham then as a much smaller place where you able to get to know everyone and they got to know you. One fellow graduate he got to know from his year was Jill Black, who joined the UK Supreme Court this past October.

Leaving with a talent in Property Law and Trusts Law, he began his 1<sup>st</sup> pupillage at a Chancery set at Lincoln's Inn. He then soon returned to the midlands at a common law set specialising in about everything and happily so for another five or six years.

But something happened that soon changed the course of his career. A solicitor that had often worked with his set came to him with adoption cases from Birmingham City Council. While he had been exposed to some Family Law during his Durham studies,

it had not really grabbed his attention as an area of law to really devote himself. But once an actor, always an interest in human stories, it was the profound human interest of providing a family for children forever that became profoundly interesting.

One issue was the lack of a solid, practical text of real use for family lawyers as the law began to grow and become more complex. His planned small paperback with the late David Hershman QC entitled *Children Law and Practice* became the most widely regarded text on the law governing children in England and Wales published on the day that the 1989 Children's Act enactment in 1991 and a major breakthrough establishing Sir Andrew as one of the leading figures in this field.

Sir Andrew has been of service to the Church. Not only is he the President of the Clergy Disciplines Tribunals dealing with naughty vicars, but he is also known for processing down the Nave of Worcester Cathedral wearing what he described as "the big time Bling that adorns Her Majesty's Lords Justices of Appeal" on Christmas Eve. His task was not to adjudicate on any disciplinary matter, but to carry the pooper-scooper in case his donkey, used in the annual Nativity Service, were to have an accident in that sacred place.

During his illustrious career, Sir Andrew first called to the Bar in 1977, became a Queen's Counsel in 1998 and appointed a Recorder in 1995. He was appointed to the High Court of Justice (Family Division) in 2005 and then as a Lord Justice of Appeal in 2011. Next month, Sir Andrew will become the next President of the Family Division taking over from Sir James Munby, where he has already been vocal about concerns the need to improve the performance of the family justice system.

Sir Andrew has remained tireless ambassador for his former department (now Durham Law School), his college (Collingwood) and Experience Durham devoted to our students now as much as ever. But today we return to the place of his matriculation to reaffirm that yes Durham is different and it is even better thanks to your devotion, your service and support for all we endeavour to do.

Chancellor, I present Sir Andrew McFarlane to receive the degree of Doctor of Civil Law, *honoris causa*.

© Professor Thom Brooks, Durham University. Not to be reproduced without permission