

Lord Kerr of Tonaghmore

Through the unexpected death of Lord Kerr of Tonaghmore on 1 December 2020, Northern Ireland has lost the brightest star in its legal firmament. He was taken from his family, friends and admirers two short months after retiring from his unequalled period of service on the UK Supreme Court, just when he was at the start of the next chapter in his life and looking forward to spreading his wings in ways that were unavailable to him in his judicial capacity. His passing is a terrible blow, and he will be sorely missed by all who knew him.

Born in 1948, Brian Kerr spent his early years in Lurgan, County Armagh, and attended St Colman's College in Newry, County Down. By his own admission he 'stumbled' into a law degree at Queen's University Belfast and was called to the Bar a year after graduating, in 1970. His practice flourished, allowing him to take silk in 1983 and to become Senior Crown Counsel in 1988. He was involved in many leading cases, including appeals to the House of Lords and applications to the European Court of Human Rights.

Brian's talents as an advocate, and the reputation he gained for independence of thought, acute legal reasoning and complete integrity, made him an obvious choice for elevation to the High Court bench, to which he was appointed in 1993 aged just 44. He served in that capacity until 2004, when he succeeded Lord Carswell as the Lord Chief Justice of Northern Ireland, even though he had not first served as a Lord Justice of Appeal. He also chaired the Judicial Appointments Commission of Northern Ireland when it was first established in 2005.

In 2009 Sir Brian was to succeed Lord Carswell again, this time as a Lord of Appeal in the House of Lords, the last 'Law Lord' ever to be appointed because just four months later the Appellate Committee of the House of Lords was replaced as the UK's top court by the Supreme Court. Brian Kerr remained a Supreme Court Justice for 11 years, longer than any other holder of such a post to date. I calculate that he sat in no fewer than 283 cases during that time, delivering his own separate judgment in 112 cases.

As a lawyer and judge through almost the whole of the troubles in Northern Ireland, Brian Kerr was rigorously fair and impartial in all of his dealings. Barristers liked appearing with him, or before him, in court because he was unfailingly polite, scrupulously independent and, seemingly, perpetually cheerful. His work-rate was phenomenal, as were his dedication, loyalty and friendliness. As a judge he seemed to grow more and more liberal as he climbed the judicial ladder. In the Supreme Court he

was known for pushing the envelope on human rights issues, further even than the European Court of Human Rights was prepared to go, constrained as it is by a desire to keep pace only with ‘the European consensus’ on human rights. His dissents in the Supreme Court (almost a quarter of his judgments were at least partially dissenting) were always marked with the stamp of his distinctive humanity. He came to his conclusions based on logic and principle, never afraid to upset the applecart if doing so was in the interests of justice.

When it was announced that Lord Kerr would be retiring in the autumn of 2020, my colleague Dr Conor McCormick and myself felt it would be an appropriate time to try to compile a *Festschrift* in his honour. I am glad to say that we immediately garnered extensive support for the venture from a range of academic colleagues and secured a contract with Hart Publishing for a book due to be published towards the end of 2021, entitled *The Judicial Mind*. Brian was thrilled to learn that the project had been launched, and he kindly agreed to contribute a chapter of his own, reflecting on what others had written and on his own time on the bench. Little did Conor and I think that Brian would not live to see the book’s completion, and it is extremely sad that it will now be a book *in memoriam* and without his presence at the launch.

On behalf of legal academics who use this journal, which Lord Kerr himself was proud of because its home is his *alma mater*, I extend deepest sympathies to his widow Gillian – herself a former academic colleague at Queen’s – and to the whole family circle. Brian will long remain a model for all students of law at Queen’s to follow. He will not now be able to take up the Honorary Professorship bestowed upon him last month, but his legacy to the Law School, and to the legal system of Northern Ireland, will forever be enormous.

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2 December 2020