



Judge Brian Donovan

By Mary Moloney

His Honour, Judge Brian Donovan, was born in Middleton-on-Sea in Sussex, England, where his father was a doctor and a member of the Royal College of Obstetricians and Gynaecologists. The family had left Sydney in 1939 so that his father could obtain his fellowship.

Enlisting in the Royal Air Force when World War II broke out, his father was later awarded the first Military Cross (RAF) for his role in the Dunkirk evacuation.

The Donovan family returned to Australia in August 1945, when Judge Donovan had just turned two. He attended Riverview Preparatory School (Campion Hall) at Point Piper. He boarded at Riverview from 1954 – 1960, a period that he describes as not particularly enjoyable, not so much because of school, but because of his ill health. He was, and is, an asthmatic.

Judge Donovan describes his asthma as a challenge, and 'a good preparation for life'. It has helped to make him resilient and determined, characteristics that have stood him in good stead in his legal career.

He studied arts/law at Sydney University, and was initially unsure as to whether to pursue a legal or an acting career. Having developed an abiding passion for theatre, opera and art, he was involved with the Genesian Theatre while at university, acted

alongside John Bell at the Union Theatre in 1961 (now the Footbridge Theatre), and is currently the director of the Genesian Theatre.

In 1967 he graduated and took up his articles of clerkship with L Rundle & Co solicitors, working in general practice. He then practised criminal law under the tutorship of Mr Barrie Perriman. Although he enjoyed his work, he continued his association with the arts. He was a member of the Board of the Australian Opera from 1968 to 1975, leaving the law for a time to work with the Australian Opera Company as a trainee stage director. He returned to the law in 1974, practising as a solicitor briefly before going to the Bar.

His legal career blossomed: he was involved in a number of notable cases, including:

- Assisting Counsel to the Royal Commission Inquiry into the Chelmsford Hospital;
- *Tame v New South Wales*; [2002] HCA 35; and
- *Rufo v Hosking* [2002] NSWSC 1041.

He took silk in July 1988, and became a judge of the NSW District Court on 11 April 2005. With life at the Bench less stressful than at the Bar, his Honour now has more free time to engage in other pursuits. These include theatre, acting, directing, tapestry, painting, visiting art galleries at home and abroad and golf – at

which he professes to be so bad that he doesn't have a handicap!

A strong proponent of courtesy in court ("politeness is a touchstone of civilisation"), Judge Donovan aims to create a court environment in which people feel comfortable; this he believes brings out the best in people and is more likely to ensure that justice is done.

He has expressed support for a hybrid of the inquisitorial and adversarial judicial systems so that, for example, a judge may adjourn a trial to enable further evidence to be obtained where it is clear that omissions in the evidence tendered could lead to an unsatisfactory outcome.

He is also concerned that our society is focusing more on retribution than on rehabilitation and caring for those who fall outside the mainstream, saying: "Justice in any society comes not just from the courts but from how society treats its citizens. Courts are part of that, reflecting both justice and community attitudes."

Judge Donovan is married and has two daughters and a step-daughter. ■

Mary Moloney is a solicitor and director at Stacks Goudkamp in Sydney and an accredited specialist in PI law.

PHONE (02) 9223 6155

EMAIL mary@stacksgoudkamp.com.au