

**MEMORIAL SITTING FOR
THE HONOURABLE JUSTICE BRADLEY HARLE GILES
AUCKLAND HIGH COURT, 5 MAY 1999***

Right Hon. Chief Justice, Sir Thomas Eichelbaum:

At the very time of his appointment as a Judge of this Court was announced – for him a pinnacle of a distinguished legal career – Brad Giles learned that he was suffering from cancer.

There followed a two year struggle. To say that it was courageous would scarcely do justice. It was inspirational, it was epic and throughout he threw himself into his judicial work with an unquenchable zest and energy.

Justice Giles worked as a Judge virtually without concession to his illness. He did so with a fierce and fearless determination to contribute as much as he could to the judicial task, and to obtain as much as he could from his time on the bench which he prized so highly. His ability to cut to the core of issues, his wide knowledge of the law, his instinct for the just result and his passion for justice enabled him to maintain a constant output of the highest quality. A measure of his commitment and ability was that in the space of some eighteen months he issued no fewer than eleven judgments assessed as worthy of inclusion in the New Zealand Law Reports, surely a record for a new first instance Judge. A week before his death, in his bed at home, he had books spread out trying to complete one last judgment. A few days before that, although obviously at personal cost, he attended the Judges' Annual Meeting at Rotorua, took a full part and spoke, with his usual strength and conviction, on issues in which he had taken special interest.

Justice Giles was open with his colleagues about the progress of his illness and we watched and supported him with admiration and sadness as he burned like a meteor across the judicial firmament. A career of

* The following is an edited transcript of three of the eulogies delivered at the Memorial Sitting.

huge potential has been tragically cut short.

Today all the judiciary join in acknowledging Brad's inspiring example, in mourning his passing, and in extending to Pru, Stuart, and Natasha, to his mother, brothers and sisters, and his wider family, our deepest sympathy.

Hon. Justice Anderson:

In attempting to compose a tribute to Justice Giles I was at first perplexed by the strength of the impression he made as a Judge, on me and his other colleagues. His tenure had been so sadly brief and one does not have the opportunity to observe another trial Judge in court. As a barrister he had gained the admiration of the judiciary with his incisive analysis and the clarity of his reasoning. These were qualities it was known he would bring to the Bench, and he did. Yet there was much more to it than that.

I recalled some writing of the great twentieth-century Japanese novelist, Yukio Mishima, concerning a Judge who had climbed the tower of a Court building at Osaka. Standing on what he considered as the height reserved for justice he surveyed the city below and thought:¹

... to stand upon a high place, to encompass human nature in a single view, from the upper reaches to the lower depths – there certainly was something to it. To possess an affinity, not with phenomena, but with the principles of law – there was something to it. Just as the groom smells of stables, so [he] ... had become permeated with the aroma of justice.

Justice Giles was such a man. He personified the prime judicial qualities – upright in his public service and private life; learned in the law; entirely fair; ever diligent; so profoundly courageous. All his colleagues deeply admired and appreciated his fortitude and candour in his personal and judicial dealings with them.

Our chambers were adjacent. Often as I passed his door I would see his slight, tenacious frame surrounded by books and files.

¹ Y Mishima *Homba* (tr M Gallaher *Runaway Horses* (Secker & Warburg, London, 1973) 21-22).

Sometimes he would call by to discuss a point; or to praise an outstanding judgment by, say, Lord Steyn whose acute understanding of the law, Brad said, made him feel very humble. Sometimes I would visit his Chambers which evoked with tangible things his personality and achievements – the gifts of gratitude from personal litigants in countries of the Pacific; the Royal Commissions to the rank of Queen’s Counsel and the office of High Court Justice; the certificates of admission as a barrister in overseas Courts; the pictures of the University of Michigan which accorded him the rare honour of the Helen L DeRoy Fellowship which has been bestowed upon only a handful of scholars including Chief Justice Rhenquist and former Associate Justice Potter Stewart, both of the Supreme Court of the United States.

The other day I returned to his Chambers, being deeply moved by nostalgia and respect. A whimsical bear in barrister’s robes was still propped against the wall by Brad’s desk, but now it seemed to slump forlornly. The magnificent book end models of the Assyrian winged lions were standing, as always, silently resolute near his large work table; on the wall a painting with a deeply religious theme continued to proclaim the earnestness of his faith; and in the painting outside his Chambers, Garth Tapper’s earnest barristers were conducting business as usual in the old main foyer. These paintings, secular and spiritual, still seemed linked together by the memory of our judicial brother, our dear and respected friend.

Farewell the Honourable Justice Giles. Haere. Haere.

Tom Broadmore, President of MLAANZ:

Brad was probably the first New Zealand lawyer to undertake any formal study in maritime law, at Michigan University. He made the topic his own, and helped it attain recognition as a specialist area of the law, important for a nation so dependent on foreign trade. Those of us who also practise in that area cheerfully acknowledged his pre-eminence. After his elevation to the Bench he seized with alacrity any opportunity to gather maritime cases to himself – even those commenced in Wellington. In his judgments he continued to

demonstrate the same care and thoughtfulness, combined with speed and pragmatism, which we had come to expect from him in practice: a combination of talents ideally suited to an environment where the cost of delays to ships and their cargoes demand fast, sound and practical solutions.

Brad contributed both to the learning of maritime law, and to its practice, in a number of ways. He wrote extensively on maritime topics, particularly in the *New Zealand Law Review* of which he was the shipping law editor; and he was the New Zealand correspondent for the *Lloyd's Maritime and Commercial Law Quarterly*. He was selected to write the chapter on maritime law in *The Laws of New Zealand*, although that task has since devolved to Paul David, his former colleague at Russell McVeagh. He played a leading role in the recent revision of the Admiralty Rules and their inclusion in the High Court Rules. He frequently presented papers and led seminars on maritime topics.

Brad was a foundation member of the New Zealand Branch of our Association when it was established in 1977. Despite his apparent discomfort with committees, he was a member of the inaugural committee. From that time onwards, he and Pru were welcome participants in our annual conference and other activities. He became known and respected by many members of the maritime community on both sides of the Tasman. He also maintained close links with maritime lawyers internationally, particularly in the United States. The maritime community was one in which he always seemed relaxed and at home.

Our members were delighted at the honour shown him when he was appointed a Judge of this Court. Similarly we were distressed at news of his illness. Since he passed away, many members throughout Australia and New Zealand have expressed their sorrow to me, and their distress that the next stage of his life, which had started with such promise, should be so soon cut short.

Over the years we came to know Pru, and to enjoy her cheerful and positive company. On behalf of all members of the Association, I offer her and her family our deepest sympathy.