



## ON THE FRONT COVER

JACK GILES, Q.C.

*By William S. Berardino, Q.C.*

Throughout his 48 years in private law practice, Jack Giles, who appears on this month's cover of the *Advocate*, has been actively involved in virtually every aspect of our profession. He has debated former Prime Minister Kim Campbell at the Stephen Leacock Debate in Toronto. In the same city he debated Mr. Justice Ian Binnie on the subject of bans and freedom of expression. He was counsel for the City of Athens in the case of *Athens v. Socrates*, in a demonstration appeal at Cambridge University. He was counsel for Canada in the Supreme Court of the United States in a co-operative demonstration appeal before judges of the Supreme Court of the United States and the Supreme Court of Canada as part of the U.S.–Canadian Legal Exchange Program. He has written prolifically on legal subjects, including articles with titles such as “The New Reach of Equity”, “The Context of Legal Change”, “The Jurisdiction of British Columbia Courts to Determine Cases with a Foreign Element” and “Disgorgement Damages For Torts”. He has contributed generously to Continuing Legal Education by instructing at courses and participating in demonstrations. He has been the leading Canadian representative at the American College of Trial Lawyers and chaired the committee that presented to the governments of the United States and Canada the convention for the reciprocal enforcement of judgments between the two countries. He has attended a legion of legal gatherings and introduced many of the leading dignitaries of our time, including the Lord Chief Justice of England, Lord Bingham of Cornhill, the late Honourable William Rehnquist, former Chief Justice of the Supreme Court of the United States, and Justice Ruth Bader Ginsberg of the Supreme Court of the United States. He was co-founder and seventh president of the Lawyer's Inn and one of the lawyers instrumental in establishing the Sopinka Cup, a national trial moot competition in memory of his friend, the late Mr. Justice John Sopinka. But most of all in those 48 years of practice, Jack Giles has provided leadership for the profession by the example of the manner and style in which he has conducted his cases.

It is difficult to contemplate any other lawyer having cases of such volume and variety. The majority are either reported or documented in reasons for judgment or labour arbitration awards, and in many Giles appeared as counsel at all three levels of court—trial, court of appeal and Supreme Court of Canada. They cover almost every subject matter of the law. His practice has included cases in the following areas of the law (or touching on the following subject matter): labour on behalf of unions as well as employers; family; aboriginal; administrative; constitutional (division of powers as well as *Charter*); government (national, provincial, regional and municipal); intellectual property; contracts; torts; product liability including the asbestos and tobacco litigation; various class actions; shareholders' rights; securities; senior financing and debt; natural resources; pipelines; railways; elections; human rights; major corporate litigation; personal injury; defamation; injunctions; charging orders; breach of confidence; professional disciplinary matters (for and against architects, engineers, lawyers, doctors, accountants); conflicts of laws; international law; aviation disasters; wills; trusts; estates; marketing boards; corporate takeovers; pensions; judicial review; letters rogatory; arbitration as arbitrator and umpire as well as counsel; taxation; gaming; creditors' remedies; bankruptcy; landlord and tenant; real property; media freedom; construction; telecommunications; cable networks; white collar crimes; false advertising and breach of fiduciary duty.

Jack Giles began his professional career in the spring of 1959, when he joined Farris & Company as an articled student. He stayed on and was later asked to join the partnership in 1967. I recall the Farris offices of the 1960s. They were in the Standard Bank Building at 510 West Hastings Street. The reception area was a law library. There were two tiers of law reports all around, and a wonderful fireplace where tea and scones were often served. In those early days, Giles was entirely occupied as the junior lawyer to Senator John W.D. Farris, Q.C. The senator was not only a forceful advocate but also a towering national legal figure of his time. One evening in the early spring of the 1960s, the telephone rang at the Giles home. It was the senator, then in his mid-eighties. The appeal in the case of *Moore v. Pacific Irrigation* was to be argued the next day. The senator said that his doctor had forbidden him to attend court. Jack would have to argue the appeal. He did, and he won. He was now off and running.

In so many ways Jack Giles reveals a preference for the past. He has often said that he is a great admirer of tradition. This attachment is not rooted in any reluctance to change (Giles is thoroughly computerized both in and out of the courtroom), but rather rests on his conviction that certain principles that have been tested and proven to work properly over time should not lightly be discarded. Thus he spoke out publicly and wrote opposing the initiative in the profession that would have lawyers and chartered accountants joined in the same firms, because this would ultimately undermine the confidences and privileges that historically have protected the interests of clients. And similarly, at the time of the initial push for national firms, Jack thought that most of us rather liked ourselves as we were and should not be so inclined to quickly alter our identities.

His disdain for verbosity is reflected in all of his legal briefs. When receiving a lengthy written submission from the opposite side, he has been heard to say: "This submission by its very length insures itself against the risk of ever being read by the court." And he has a great dislike for the long and rambling submission that amounts to nothing more than a resuscitation of the evidence. For Giles, it is paramount to focus on demonstrating the manner in which the evidence supports findings of fact necessary to your case. He is a great believer in clearly identifying the important findings of fact and then moving on to persuade the judge why it is reasonable to make such findings. His submissions are cast in point form. Sentences always have a subject and predicate and are short, and he prefers the active verbs to anything "dry and dusty".

Giles approaches his cases in a very conservative way. He does not quickly identify the best arguments supporting his case. He begins by analyzing all the arguments, including the points that might be proffered against his client's interests. He has said many times that to properly prepare a case it is necessary to ensure that all of the pastures have been ploughed beforehand, because if you are faced in the courtroom with having to walk through an unfamiliar field there is a high probability you will step into something very soft.

Once Giles settles on the argument that best serves his case, he has developed a penchant of becoming a true believer. This is surely the reason why he delivers his submissions inside the courtroom with such fine style and with great conviction. At a trial or at appeal he controls the scene with a delivery that is polished, reasonable and logical and that attracts and retains the attention of the court. It is never lengthy. In sports parlance, as a courtroom lawyer Giles is an impact player.

His father served in the Canadian Armed Forces overseas during the war years. His grammar school education was at Our Lady of Bower, a Catholic convent near the town of Naas in Ireland. He later attended Ampleforth Public School in Yorkshire, England. From all I have come to know, it seems clear that during those early years Giles came to appreciate that he had a special flair for language and writing. Oral presentation, I am told, was another matter. His proficiency in this area is an art acquired through constant practice and rehearsal. One of his closest and dearest friends was the late Peter Butler, Q.C., also a great barrister of our time. Butler said of Giles that he spends much of his time rehearsing "impromptu submissions". And it was Butler who loved to tell the story of the secretary at Farris on her very first day of work who heard rumblings from Giles's office and peered in the door to inquire if Mr. Giles wanted something. Giles turned and said, "Please don't interrupt me while I am addressing the Court of Appeal."

On January 4, 1964, at the St. Andrew's Cathedral in Victoria, Jack Giles married Virginia Grant. They have three children: Graham, now 41; David, 38; and Peter, 35; and three grandsons.

Many will recall a very special afternoon at Victoria in June 2000. It was a formal occasion at Government House. Jack, in the front row, was all smiles, radiant and clapping, for it was a moment of very special pride. On that day Ginny received the award of the Order of British Columbia for her work as founder of

the Avalon Society, which operates centres for chemically dependent women in Vancouver and the North Shore, and which is visited by approximately 1,800 women each month. Jack and Ginny's mutual love and devotion to each other and their family have been without question the hallmark of his life.

Jack has always been a judicial romantic. So, now at age 70, what lies ahead for Jack Giles? Whatever the course, you can be assured he will bring a small boy's energy and glee to his work, for he continues to exhibit and maintain all those great oft-quoted canine virtues, fidelity (to Ginny and his family), vigilance (for his work and his cases) and a love of the chase—wherever the chase may lead.

### Postscript

I recently tracked Jack down holidaying on Salt Spring Island in order to have him read over a draft of what I have written above. Jack's initial response was that he didn't want to review the draft. He thought I should just send it in. I insisted and he relented, saying: "I'll only suggest corrections in respect of factual errors." When I finished reading it over to him, Jack said: "All of that is fine, but I now feel somewhat like the widow at the Irish wake, who after the eulogy turned to her son and said, 'I think they've got the wrong guy. You'd better check the coffin.'"



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