

ADDRESS ON PRESENTATION OF GRAHAM HILL AWARD TO CATHERINE LESLIE

Distinguished guests, ladies and gentlemen:

It will come as no surprise to everyone who knows her that Catherine should have been selected to receive the Graham Hill Award.

Graham himself, of course, would have heartily approved.

Catherine is now Special Counsel in the office of the Australian Government Solicitor, familiar by its acronym “the AGS”. She is in charge of all tax litigation for the AGS throughout Australia. For many years previously she had the more immediate role of instructing solicitor, with direct conduct of matters, or senior solicitor with a supervisory and participatory role in tax matters. It was through having her as instructing or opposing solicitor in objection appeals that the counsel and judges present came to know – and admire – her.

The conferral of the award on Catherine shows that it is not merely available to those like inaugural recipient Justice Darryl Davies and last year’s recipient, Professor Lee Burns, who come from the highest ranks of the judiciary and academia. It shows that it can go to anyone who achieves a standard of excellence in what has been called the tax profession.

That profession is a broad church. It encompasses a wide variety of professionals. There are those at the coalface preparing and assessing returns and those – especially in the solicitor’s branch of the profession – who advise on the effect of tax laws and commercial transactions; there are those like Professor Lee Burns who analyse legislation and policy to allow them to instruct students and give advice to governments; there are counsel like us who argue about what it all means; and, finally, there are those like Justice Davies – and Graham Hill himself – who are the ultimate arbiters of interpretation and application of our tax laws.

Then there are those like Catherine, the quality of whose work ensures the integrity of the whole complex organism of which we are part. It is an organism which supports not only the infrastructure of government services on which we rely but also the whole liberal democratic social system which we enjoy.

The AGS is, of course, the main provider of legal services to the government. It or its predecessor, the Commonwealth Crown Solicitor, has done so since Federation. As counsel like myself can verify, there is no other body with anything like the knowledge of legal issues affecting government or with a corporate memory anywhere near as profound and wide ranging as that possessed by the AGS. This is reflected in the differing experiences to which we, as counsel, can testify between occasions when we are briefed by the AGS for a government department and occasions when we are briefed direct. It has to be said that the latter experience, and the result, is almost always less satisfactory than when the AGS is involved.

Apart from the particular expertise which has been developed by the AGS in the areas of constitutional and public law, and the contribution this makes to the quality of instructions received and, usually anyhow, to the ultimate outcome, there is a particular feature of litigation to which the government is a party which makes the involvement of the AGS peculiarly appropriate. Unlike an ordinary party to litigation the government must be a model litigant. Catherine understands what this means. So a government department with the benefit of her advice will not run the risk of being admonished by a court for failing to discharge its obligation or perhaps the greater risk of too readily bowing to pressure from a private litigant. From my own point of view, as a citizen, as well as a lawyer, I am reassured by the presence in the significant role which Catherine performs of someone like her who can counsel adherence to proper standards while at the same time being ready to warn against too ready an acquiescence to aggressive opponents.

There are many experienced practitioners in the office of the AGS. What impressed those consulted for the purpose of determining the Graham Hill Award's recipient this year was the quietly formidable way Catherine performs, and has performed, her sometimes difficult role. Bitter conflicts arise in preparing for and conducting litigation. Here Catherine has gained the respect not only of those instructed by her, but also of those to whom she has been opposed. This is because so often Catherine knows not just what **could** be done or **could** be argued in law, but also what stance it would be wise and responsible to maintain. Indeed, the word sensible is the word which most readily comes to mind to describe Catherine and the way she approaches everything. For me, that word "sensible", applied to anyone, is the ultimate accolade – it means grounded, reasonable, wise.

I said earlier that Graham Hill would have approved this choice. I know this because I once drove four and half thousand kilometres across Australia with Graham over a period of only a few days, camping in the dark each night. It was one of those memorable journeys. A lot gets discussed in the course of such a long journey. Graham was always discreet, but I remember his commenting round the campfire on Catherine's way with directions hearings and his identifying that special mixture of diffidence and firmness, tempered by a sense of what was fair and reasonable, which many of us have experienced.

That Catherine was and is a hard worker goes without saying; but it is a good thing nevertheless to say. Certainly, the pejorative expression "public service" hours could never be applied to the hours she keeps. Catherine also has a unique ability to diffuse tense situations and to smooth over problems created and waves made by those with more sensitive egos than her own.

Most of Catherine's professional career has been associated with tax matters. She passed with distinction in the undergraduate course in taxation conducted by the late Professor Ross Parsons and commenced to do tax work with the then Commonwealth Crown Solicitor within three years of commencing employment with that office in 1979. She became a principal legal officer in 1987. In this role she was responsible for mentoring a number of those who are now senior executive lawyers involved in the AGS' tax section, as well as lawyers who have moved on to other positions in government service and in the private profession.

She progressed to become a member of the Senior Executive Service and was given a team leader supervisory role in 2001 until her appointment in 2007 to her existing position.

Catherine first briefed Graham Hill in a tax matter in 1984, just after Graham had been appointed a silk. The case, *Foley v Tectran Corporation* involved an appeal to the NSW Court of Appeal. Catherine had personally typed the appeal documents late on a Friday evening – typical of her never flagging willingness to get the essential work done.

I am told by Steve McMillan, an old friend of Graham's and friend and former workmate of Catherine's, that Justice Samuels, presiding over the Court of Appeal list, informed Graham that "justice awaits you next door", indicating the President's Court where Justice Kirby, an old classmate of Graham's, was presiding. Indeed, justice **did** await him. The Commissioner's appeal succeeded. This was only one of many cases for which Catherine was responsible, in which the Commissioner was successful, including such notable cases as *John v FC of T*, *Hart v FC of T* and *Macquarie Finance v FC of T*.

Everyone who knows her will be delighted that Catherine is receiving this award, probably no one more than her father, who is with us this evening. I don't know much about Catherine's life outside the law - and outside the law covers a big territory - but I know she loves music and especially jazz. This year marks the fiftieth anniversary of the recording of the most famous and influential of all jazz albums – "Kind of Blue". Miles Davis, Bill Evans, John Coltrane and their team have been role models for a whole generation of musicians. I am very glad to think that Catherine Leslie will be a role model to future generations of our profession.

John Durack
31 March 2009