

**Graham Hill Award 2008
31 March 2009, Sydney**

Address by Michael D'Ascenzo¹

An Officer of the Court

Those of us who had the privilege of knowing Graham Hill recognise his vast contribution to tax jurisprudence. We also recognise his willingness to give of himself in sharing his thoughts and providing guidance to others whether it be through his academic work, his support of tax professional and tax teaching bodies, his work with judges in other countries, and at a personal level. We remain indebted to him.

I think that Graham would be pleased with the choices made by the committee for this prestigious award given in his memory. It is given to those that have made a significant contribution to improving administration, policy, practice, teaching or understanding of revenue law in Australia.

Recipients such as Daryl Davies, Lee Burns and now Catherine Leslie have made their contribution in different ways.

Catherine has been part of AGS tax practice in Sydney for as long as I can remember (and I can remember a long way back!).

Catherine I understand, studied Tax at Sydney University and having completed her tax subjects is reputed to have said, "Thank God I never have to do that again!".

As it turned out Catherine joined the tax practice in AGS in the early 1980s and is now its longest serving member. She instructed Graham Hill before he was elevated to the bench and has also instructed many other senior members of the bar who continue to hold her in high regard.

She has been involved in challenging iterations of tax avoidance from the bottom of the harbour days in *John's* case to the arrangements more recently found wanting in *CPH & Hart*. Other notable cases include *ERA*, where the High Court granted special leave on the basis of the application prepared in part by Catherine, as well as *Macquarie Finance* and *Saga Holidays*. The latter case reflects in no small measure, views on statutory interpretation previously clarified by Graham Hill in *HP Mercantile*.

What has been conspicuous about Catherine's approach to her work has been the balance she brings to her role. Always professional, she has always seen herself as an officer of the Court. She understands that litigation is not a game – rather important rights and responsibilities hang in the balance not just for litigants but also for the community. This is because litigation can help clarify the law. So Catherine's role in the litigation process helps to provide certainty about Australia's revenue laws.

¹ Commissioner of Taxation

In relation to tax, a constitutional requirement is that tax should not be arbitrary or unjust. Justice is protected by the rights people have to have substantive tax matters reviewed by the courts. This is why the ATO strives to be a model litigant.

This is also the reason why the ATO has as one of its corporate values 'the rule of Law'. It is about distinguishing what we in Australia take for granted from those countries which by law or practice (usually the latter) allow for the arbitrary and the unjust imposition and collection of tax.

The work that Catherine Leslie does in ensuring that matters are litigated in a way conducive to the administration of justice underpins a society's respect for the rights of its citizens and the citizen's respect for that society.

Well done Catherine!