

***The Good Lawyer* by Professor Adrian Evans**

Book launch at Monash Law Chambers, Lonsdale St Melbourne, 12/11/2014

Launch speech by

Michael McGarvie, Legal Services Commissioner and CEO, Legal Services Board

At the commencement of my first term as Legal Services Commissioner and CEO of the Legal Services Board in 2009, Adrian Evans was very welcoming of me into the world of regulation and lawyers' ethics. Early days he included me in seminars and round table discussions and also invited me to speak to his students. In 2011, when Adrian was Associate Dean at the Law Faculty at Monash, I attended the launch of his earlier book, *Assessing Lawyers' Ethics – a Practitioners' Guide*. That book was motivated by the need to assess, describe and publicise ethical failure in order to give lawyers confidence in behaving ethically. In 2014 Adrian Evans is Professor of Law at Monash. I am delighted to have been asked to actually launch his new book, *The Good Lawyer*.

This book analyses what it takes to be a good lawyer and where the fault lines might be found. Halfway through the book the author makes a profound point: the need for you to be a better lawyer will never be satisfied. Better lawyering, the author argues, is best done by good lawyers, but a lawyer's goodness can be nurtured and developed.

This book offers a method for understanding general morality in legal practice - it assists in differentiating between general morality and the duty-based approaches of virtue ethics, or

between morality and other ethical schools of thought. The book sets up Christine Parker's four legal and ethical types: (1) moral activism; (2) zealous advocacy; (3) responsible lawyering; and (4) the relationship of care. It then places those types onto a platform made up of three major systems of ethical thought: Kantian principles (individual autonomy with correct processes is primary - irrespective of consequences); consequential ethics (greatest good for greatest number); and virtue ethics (character of actor transcends outcome of acts). With each case study Professor Evans sets up an analysis of that case in the light of those three different ethical principles. This injects fun and interest when reading the same example from three different angles – or considering four personality types alongside three ethical philosophies.

Chapter 5 is also intriguing. It's the place where lawyers' truthfulness and deception is canvassed. In his subtly challenging way, Evans presents us with the fact that for lawyers, the moral challenge is to increase our truth-telling and reduce our deception. Evans confronts us with the fact that the relationship between conduct rules, general morality and actual case examples of good lawyering is very complicated. Rather than hunting down the poorly recorded instances of good works, Evans uses the very detailed examples of ethical failure by lawyers to make his point about good lawyers.

Evans uses examples of both active and passive deceit and explains Mullins' case (fail to reveal); Meek's case (rank demotion concealed by expert witness) and the James Hardie case (big law firm's advice to shift to the Netherlands). Then Evans asks: is knowing the deceptive consequence of silence the same as active or passive deceit?

Professor Evans also covers the important cases of AWB (lawyers advising deceit) and McGee (South Australian DPP in hit-and-run concealment). These cases epitomise the erosion of the public's long-held view that there should be a privileged role given to lawyers in the community.

Evans' main concern is for the next generation of lawyer leaders. This is a book for them. Fully aware of the high incidence of depression and burn-out amongst lawyers, Evans suggests the need to "vaccinate" law students against depression and apathy. His solution is to inject them with ethical awareness and wash them with justice.

A "good lawyer" for Evans is one who stays engaged with practice, seeks justice and avoids exhaustion or disillusion. Better lawyers, Evans argues, need an exciting, compassionate and justice-focused workplace where character development, judgment and resilience are prioritised and where ethics is valued, not just as a creed to live by, but is valued as a business strategy itself.

This, to Professor Evans, is the space in which you will find ... The Good Lawyer.

So, with that light bulb shining from within his lotus flower on the front cover ... I formally launch this book.