

Lawyers and Public Service: Duty, Faith, and the ‘Good Republican’ in *The West Wing*

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ABSTRACT

Popular culture reveals much about the perceived role of lawyers in contemporary life. In this article, I draw lessons from the portrayal of lawyers in Aaron Sorkin's classic television series, *The West Wing*. As a drama centred around a Democratic presidential administration, Republicans often provide the foil. From time to time, however, the show lionizes what might be termed ‘the good Republican’. That ‘good Republican’ is most often a practicing lawyer whose desire to serve is grounded in duty or faith. In this essay, I use a trio of these characters to explore the role of lawyers in public service. At first glance, these lawyers may seem to achieve goodness through a readiness to abandon their political views, particularly Republican views – suggesting that lawyers’ beliefs are malleable if not mercenary. At a deeper level, however, these characters and their experiences vividly convey idealized but worthwhile ideals of public service as a valuable and honourable career choice, particularly for lawyers.

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I. INTRODUCTION

To the extent that popular culture provides the public with accounts of the legal profession, those accounts rarely feature lawyers practicing in government or other parts of the public service – other than criminal prosecutors. Thus there are few exemplars, positive or negative, that bring to life the challenges facing such lawyers and that contribute to the public knowledge and perception of those lawyers. Aaron Sorkin's *The West Wing* is a major exception.

While the Canadian literature on legal ethics for lawyers in public service is experiencing a time of doctrinal growth,¹ it largely lacks a pantheon of heroes and incidents that exemplify any normative aspirations or implications that it might have.² The case study perhaps most commonly referred to is the counterexample of the foreign saga of the US torture memos.³ To the extent that Canadian reality has not yet provided these examples, perhaps fiction – even emphatically American fiction – can do so.

Why should lawyers choose to engage in public service, including but not limited to the apolitical civil service? After all, these choices can have serious negative implications, financial and otherwise. These implications are perhaps starkest and easiest to convey when it comes to the rules of professional conduct regarding withdrawal from a client matter. For example, there are some limited circumstances in which lawyers *may* withdraw,⁴ and there are also some circumstances in which lawyers *must*

¹ See e.g. Andrew Flavelle Martin, “Where Are We Going? The Past and Future of Canadian Scholarship on Legal Ethics for Government Lawyers” (2021) 99:2 Can Bar Rev 322 [Martin, “Where Are We Going?”].

² But consider Ian Scott, as discussed e.g. W Brent Cotter, “Ian Scott: Renaissance Man, Consummate Advocate, Attorney General Extraordinaire” in Adam Dodek & Alice Woolley, eds, *In Search of the Ethical Lawyer* (Vancouver: UBC Press, 2015) 202. For a more complex figure, see Edgar Schmidt, discussed in Andrew Flavelle Martin, “Folk Hero or Legal Pariah? A Comment on the Legal Ethics of Edgar Schmidt and *Schmidt v Canada (Attorney General)*” (2021) 43:2 Man LJ 198.

³ See e.g. Elizabeth Sanderson, *Government Lawyering: Duties and Ethical Challenges of Government Lawyers* (Toronto: LexisNexis Canada, 2018) at 7-8. While one might criticize Sanderson for using US and UK examples to situate a Canadian book, it is unclear which if any Canadian examples were available to her. For other examples see Martin, “Where Are We Going?”, *supra* note 1 at 346, note 170.

⁴ Notably, “[i]f there has been a serious loss of confidence between the lawyer and the client”). See e.g. Federation of Law Societies of Canada, *Model Code of Professional Conduct* (Ottawa: FLSC, 2009, last amended October 2022), online: <flsc.ca> [FLSC *Model Code*], r 3.7-2 (“optional withdrawal”).

withdraw.⁵ For a lawyer in private practice, withdrawal from one client matter may have little impact on their practice or its financial viability. But a government lawyer – a full-time employee in the apolitical bureaucracy – has only one client, and so withdrawal by a government lawyer may lead to, or even require, resignation from their employment.⁶ Compliance with these ethical obligations comes with real and tangible costs.⁷

In contrast, it can be more difficult to convey the normative value and aspirations of government lawyering that offset these serious doctrinal implications and the serious personal and career stakes that can flow from them. Why should a lawyer put themselves in a position where they will often be expected to use their professional skills to advance the agenda of a government that they did not vote for and do not themselves support?

In this essay, I draw lessons from the portrayal of lawyers in Aaron Sorkin's classic television series, *The West Wing*, specifically practicing lawyers who also identify as Republicans. As a drama centred around a Democratic presidential administration, Republican characters often provide the foil. From time to time, however, the show lionizes what might be termed 'the good Republican'. I use this phrase to describe a Republican who makes the noble or appropriate choice despite political factors or political differences,⁸ although it could conversely be used to describe a

⁵ Notably, where their disagreement or disgust with the client is so great that they face a conflict of interest between the client's interests and their own interests or they are unable to meet their duty of competence (See e.g. Andrew Flavelle Martin, "Loyalty, Conscience, and Withdrawal: Are Government Lawyers Different?" (2023) 46:3 *Man LJ* 1 at 6 [Martin, "Withdrawal"], discussing Alice Woolley, *Understanding Lawyers' Ethics in Canada*, 2d ed (Toronto: LexisNexis Canada, 2016) at paras 3.19-3.20, since superseded by Alice Woolley & Amy Salzyn, *Understanding Lawyers' Ethics in Canada*, 3rd ed (Toronto: LexisNexis, 2023) at 3.02, 88-89. (Now Justice Woolley of the Court of Appeal for Alberta); *FLSC Model Code*, *supra* note 4, rr 3.4-1 ("A lawyer must not act or continue to act for a client where there is a conflict of interest, except as permitted under this Code"), 3.1-2 ("A lawyer must perform all legal services undertaken on a client's behalf to the standard of a competent lawyer"). See also r 3.7-7(c): "3.7-7 A lawyer must withdraw if... a client persists in instructing the lawyer to act contrary to professional ethics").

⁶ See e.g. Martin, "Withdrawal", *supra* note 5 at 10. These implications are similar for in-house counsel.

⁷ See e.g. Eric Pierre Boucher, "Civil Crown Counsel: Lore Masters of the Rule of Law" (2018) 12 *JPPL* 463 at 485: "[n]o one wants to have to decide between resigning with limited prospects and going along with legally suspect instructions while faced with a mortgage, one kid in daycare and another in braces."

⁸ See e.g. Nadine Strossen, "Justice Harlan's Enduring Importance for Current Civil Liberties Issues, from Marriage Equality to Dragnet NSA Surveillance" (2016-2017) 61:3&4 *NYL Sch L Rev* 331 at 334-335, quoting Roger K Newman, *Hugo Black: A*

Republican who reliably makes the ideologically Republican choice. The ‘good Republican’ on *The West Wing* is most often a practicing lawyer whose desire to pursue public service is grounded in duty or a form of faith. I thus explore two intertwined questions: Why might Sorkin have made these ‘Good Republican’ characters practicing lawyers and what lessons can be drawn from this choice and portrayal? I use a trio of these characters to explore and reflect on the role of lawyers in public service and what it might mean to be a “good” lawyer in that context. Although it is now somewhat dated, *The West Wing* provides an enduring portrayal of idealism and public service that remains worthy of thoughtful examination. Before going further, however, I situate and consider the value of *The West Wing* for my purposes.

II. *THE WEST WING* AND LEGAL ETHICS: A CANADIAN PERSPECTIVE

While I acknowledge the rich and broad tradition of media studies scholarship on law and film, I approach these questions from a different perspective, one grounded in Canadian legal ethics and the Canadian legal profession.⁹ I start from two premises. The first is that popular culture reveals much about the perceived role of lawyers and legal ethics in contemporary life.¹⁰ The second premise is that, as recognized by no less a

Biography, 2d ed (New York: Fordham University Press, 1997) [citations otherwise omitted]: “The remainder of this article focuses on a few of Justice Harlan’s path-breaking civil liberties opinions in the areas previously noted. As I always stress to my Constitutional Law students, it is noteworthy that these pioneering rulings were authored by someone who was appointed by a Republican president and generally considered a political and judicial conservative—a Republican Wall Street lawyer by background. Justice Hugo Black, a staunch Democrat, said that Harlan proved ‘that there is such a thing as a good Republican.’”

⁹ Thanks to Michele Byers on this point.

¹⁰ See e.g. Carrie Menkel-Meadow, “Can They Do That? Legal Ethics in Popular Culture: Of Characters and Acts” (2001) 48 UCLA L Rev 1305 [Menkel-Meadow, “Can They Do That?”]. See also at 1307-1308: “It is also interesting to ask why lawyers have so frequently been depicted as the repositories of professional morality, and used in critiques of morality in American culture, compared to other professionals with ethical dilemmas such as doctors, architects, police officers, and business managers, not to mention other kinds of workers (such as British butlers, or French executioners), and ordinary human beings.” See also e.g. Michael Asimow, “Preface: Pop Culture Matters” in Michael Asimow, ed, *Lawyers in Your Living Room! Law on Television* (Chicago: ABA Publishing for the American Bar Association, 2009) xix at xx-xxix: “popular culture reflects what people believe (or at least what the makers of pop culture believe that

scholar of legal ethics than Deborah Rhode, popular culture has value in legal ethics teaching.¹¹ This value often comes when pop culture lawyers do, or are tempted to do, the *wrong* thing.¹² Indeed, Rhode uses *The West Wing* (albeit an excerpt I do not consider here) as an example of that value.¹³ Thus I strive here to draw value and lessons from these fictional accounts.¹⁴

people believe).... [P]op culture serves as a powerful teacher, instructing millions of its consumers about what lawyers do and how legal institutions function"; Carrie Menkel-Meadow, "Is There an Honest Lawyer in the Box? Legal Ethics on TV" [Menkel-Meadow, "Honest Lawyer"] in Asimow, ed, 37; Elayne Rapping, "Introduction: The History of Law on Television" in Asimow, ed, xxvii at xxx: "fictional programming actually has a much greater influence than the news on how people view the legal system."

¹¹ Deborah L Rhode, "Legal Ethics: Prime Time and Real Time" (2012) 1:2 Berkeley J Ent & Sports L 113. See also Menkel-Meadow, "Can They Do That?," *supra* note 10 at 1307 [citation omitted]: "the greater variety of genres and increasing numbers of lawyers in popular literature and culture present an excellent opportunity for students of legal ethics to examine the work of lawyers in both their "macro" (choice of career, choice of client, role in legal institutions) and "micro" (choice of particular actions and behaviors) contexts, and allow us to examine the many different criteria we might apply to evaluate whether a lawyer is a good or bad actor, or a good or bad person.'" (But see also Asimow in Asimow, ed, *supra* note 10: "[w]e can only hope that young lawyers won't learn ethics from watching... the many other corner-cutting lawyers Carrie Menkel-Meadow describes in her essay.") See also Menkel-Meadow, "Honest Lawyer," *supra* note 10, especially at 45 [citation omitted]: "Many law professors have learned to teach legal ethics through TV shows." See also Kellyn O McGee, "Pop/life: integrating popular culture in professional responsibility and other courses" in Christine Corcos, ed, *The Media Method: Teaching Law with Popular Culture* (Durham, NC: Carolina Academic Press, 2019) 353 at 369-372.

¹² See e.g. Menkel-Meadow, "Honest Lawyer," *supra* note 10 at 40: "Lawyers on TV also take ethical shortcuts, either to help solve the problems of their clients or to achieve social or individual justice. The stories juxtapose formal or ethical procedural rules against more foundational notions of justice."

¹³ Rhode, *supra* note 11 at 115. See also Robert M Jarvis, "Teaching Admiralty Popularly" (2011) 55:2 St Louis U LJ 541 at 545-546. See also generally, albeit in the context of teaching political science, Staci L Beavers, "The West Wing as a Pedagogical Tool" (2002) 35:2 PS: Political Science & Politics 213; Staci Beavers, "The West Wing as a Pedagogical Tool" in Peter C Rollins & John E O'Connor, eds, *The West Wing: The American Presidency as Television Drama* (Syracuse: Syracuse University Press, 2003) 175.

¹⁴ For previous examples of scholarship on popular culture and legal ethics, see e.g. Rachel Spencer, "Doing Good by Stealth: Professional Ethics and Moral Choices in *The Verdict* and *Regarding Henry*" in Reid Mortensen, Francesca Bartlett & Kieran Tranter, eds, *Alternative Perspectives on Lawyers and Legal Ethics: Reimagining the Profession* (New York: Routledge, 2011) 108; Paula Baron, "The Emperor's New Clothes: From Atticus Finch to Denny Crane" in Mortensen, Bartlett & Tranter, eds, 85. Michael Asimow, "Embodiment of Evil: Law Firms in the Movies" (2001) 48:6 UCLA L Rev 1339; Tonja Haddad, "Silver Tongues on the Silver Screen: Legal Ethics in the Movies" (2000) 24:2

I focus on Sorkin's use of what we might call the 'good Republican' in three iterations of lawyers. The first two characters, Ainsley Hayes and Joe Quincy, are associate White House counsel. The third, Cliff Calley, is majority counsel for a congressional committee investigating the Bartlet White House. Other commentators have explored similar themes in *The West Wing*. For example, Nathan Paxton focuses in part on Hayes as an exemplar of duty, as a Republican serving under a Democratic president.¹⁵ Pamela Ezell has described Hayes' debut episodes as the "zenith" of "Sorkin's commitment to creating an idealized White House".¹⁶ Similarly, Keith Rowley focuses on Hayes and Quincy as examples of "duty" in his examination of the show's lawyers.¹⁷ Calley, to my knowledge, has been less often analyzed. My focus here is on these three characters as both Republicans and lawyers at the same time. I note here that, while many of the characters on *The West Wing* happen to be lawyers although they are not actively practicing law¹⁸ – which in itself holds a lesson about the utility of law for public service – these three characters are explicitly practicing lawyers. The political ideology of these characters brings the lessons about public service lawyering into sharp focus.

I note at the outset that the portrayal of associate White House counsel in *The West Wing* is never explicitly clear about whether these are political appointments or apolitical public service appointments. Moreover, there

Nova L Rev 673; William A Hilyerd, "Hi Superman, I'm a Lawyer: A Guide to Attorneys (and Other Legal Professionals) Portrayed in American Comic Books: 1910-2007" (2009-2010) 15 Widener L Rev 159; Louis Michael Rosen, "The Lawyer as Superhero: How Marvel Comics' Daredevil Depicts the American Court System and Legal Practice" (2019) 47:2 Cap U L Rev 379. Similarly, Michelle Mouton has written about the relationship between public service norms in Victorian literature and those in *The West Wing*: Michelle Mouton, "Victorian Parliamentary Novels" in Rollins & O'Connor, eds, *supra* note 13, 18.

¹⁵ Nathan A Paxton, "Virtue from Vice: Duty, Power, and *The West Wing*" in Thomas Fahy, ed, *Considering Aaron Sorkin: Essays on the Politics, Poetics and Sleight of Hand in the Films and Television Series* (Jefferson: McFarland & Company, 2005) 147 at 158-160.

¹⁶ Pamela Ezell, "The Sincere Sorkin White House, or, the Importance of Seeming Earnest", in Rollins & O'Connor, eds, *supra* note 13, 159 at 163.

¹⁷ Keith A Rowley, "Is There a Lawyer in the (White) House? Portraying Lawyers on the *West Wing*" in Asimow, ed, *supra* note 10. Indeed, Rowley's final heading at 396 simply reads, "It's About Duty."

¹⁸ *The West Wing*, "And It's Surely to Their Credit" (1 November 2000 on NBC), Season 2, Episode 5, written by Aaron Sorkin, Kevin Falls & Laura Glasser, directed by Christopher Misiano, Warner Brothers: "I'm a lawyer. Everybody in the room's a lawyer." See also Rowley, *supra* note 8 at 385: "As with any real-life administration of recent memory, a number of President Bartlet's closest advisors during the show's halcyon seasons ... were lawyers by training."

appears to be continuing controversy in US media over the extent to which an ostensible prohibition on partisan political activity by federal employees will be enforced against *West Wing* staffers.¹⁹ Thus, I do not specifically consider the concept of public service neutrality in my analysis. Nonetheless, in serving a client with political ideology very different than their own, the experiences of these two lawyer characters can provide important lessons for government lawyers in Canada, who do practice in a context of civil service neutrality as constitutional convention.²⁰ In this essay, I use the phrase ‘public service’ to broadly include apolitical or political roles in any branch of government and the phrase ‘civil service’ to indicate the apolitical bureaucracy.

I acknowledge that not every ‘good Republican’ in *The West Wing* is a practicing lawyer and that some ‘bad Republicans’ are practicing lawyers. The archetypal ‘good Republican’ in the first season of the show is Joe Willis, a social studies teacher completing his late spouse’s term as a Republican in Congress.²¹ Willis amazes the White House director of communications by his openness to vote contrary to the party line when faced with a persuasive argument.²² Of course, education and teachers –

¹⁹ See esp 5 USC 7323; see e.g. EG Montini, “13 Trump White House officials broke federal law and got off scot-free” *The Arizona Republic* (10 November 2021), 2021 WLNR 36831163; W James Antle III, “Biden reelection bid tests White House’s anti-campaigning will” *The Gazette [Colorado Springs]* (6 July 2023), 2023 WLNR 23423810 (“Biden’s team has taken pride in trying to follow the Hatch Act scrupulously, they say, especially in contrast with former President Donald Trump’s White House”); Lisa Rein, “To punished workers, Hatch Act not a joke” *The Washington Post* (30 August 2020) A1, 2020 WLNR 24341254 (contrasting penalties on low-level federal employees with Trump’s refusal to impose penalties on senior White House staffers).

²⁰ See esp *Osborne v Canada (Treasury Board)*, 1991 CanLII 60 (SCC).

²¹ This excerpt is discussed, primarily in relation to race and not profession, in generally Trevor Parry-Giles & Shawn Parry-Giles, *The Prime-Time Presidency: The West Wing and US Nationalism* (Urbana: University of Illinois Press, 2006) at 106-107.

²² *The West Wing*, “Mr. Willis of Ohio” (3 November 1999 on NBC), Season 1, Episode 6, written by Aaron Sorkin, directed by Christopher Misiano, Warner Brothers. But see Paul C Challen, *Inside The West Wing: An Unauthorized Look at Television’s Smartest Show* (Toronto: ECW Press, 2001) at 119, who emphasizes Willis’ identity not as a teacher but as a member of the general public: “the episode invoked a classic Capra-esque motif: how a regular Joe can effect and affect U.S. politics at the highest level.... Mr. Willis’s insistence on discussing the census bill earnestly with the two other congressmen with key votes, instead of quickly toeing the Democratic party line, puts him in that Capra tradition of the small man who feels he has to make big decisions in Washington.... By having a “regular guy” figure interact with jaded professional politicians and staffers we’re reminded that although the political decision-making process comes across as slick

perhaps even more than lawyers – are venerated in *The West Wing*.²³ Conversely, there are occasionally bad practicing (Republican) lawyers. But those characters tend to be under-developed caricatures.²⁴ Nonetheless, as Carrie Menkel-Meadow has noted, it is worth asking why lawyers are so often used as examples of morality in popular culture,²⁵ American or otherwise – and why Sorkin so often uses the ‘good Republican’ practicing lawyer character as an exemplar of morality.

I cheerfully admit to being an idealist and a romantic, particularly about public service and the practice of law. But idealism can be valuable, so long as it is recognized as idealism. To some extent legal ethics and professionalism are themselves properly and unavoidably aspirational. In this sense, idealism is particularly meaningful. And *The West Wing* is

and fast-paced on *The West Wing*, the real-life and fictional decisions that are made at the White House and in Congress still affect – and are affected by – the average person.”

²³ See e.g. *The West Wing*, “Six Meetings Before Lunch” (5 April 2000 on NBC), Season 1, Episode 18, written by Aaron Sorkin, directed by Clark Johnson, Warner Brothers: “[E]ducation is the silver bullet. Education is everything. We don’t need little changes. We need gigantic monumental changes. Schools should be palaces. The competition for the best teachers should be fierce. They should be making six-figure salaries. School should be incredibly expensive for government and absolutely free of charge to its citizens, just like national defense.”

²⁴ *The West Wing*, “Lord John Marbury” (5 January 2000 on NBC), Season 1, Episode 11, written by Aaron Sorkin, Patrick Caddell & Lawrence O’Donnell, directed by Kevin Rodney Sullivan, Warner Brothers, in which a (presumably Republican) lawyer uses a deposition to attempt to get incriminating information from the deputy White House chief of staff. See e.g. L. Anthony Sutin, “The Presidential Powers of Josiah Bartlet” (2001) 28:3 N Ky L Rev 560 at 562-563: “We see President Bartlet’s frustration at... the ability of a determined lawyer pressing a Freedom of Information Act lawsuit to ensnare senior staff in depositions for hours”.

²⁵ Menkel-Meadow, “Can They Do That?”, *supra* note 10 at 1307-1308: “It is also interesting to ask why lawyers have so frequently been depicted as the repositories of professional morality, and used in critiques of morality in American culture, compared to other professionals with ethical dilemmas such as doctors, architects, police officers, and business managers, not to mention other kinds of workers (such as British butlers, or French executioners), and ordinary human beings.”

certainly idealistic,²⁶ especially in its attitude to public service.²⁷ As Rhode notes, however, despite the moral simplicity often present in popular culture and the complexity of legal ethics, “realism is not always essential”.²⁸ I nonetheless recognize that the show is problematic in very important ways, particularly with regard to gender.²⁹ I also acknowledge that different people can draw very different lessons from *The West Wing*.³⁰

²⁶ See e.g. Ann C Hall, “Giving Propaganda a Good Name: *The West Wing*” in Fahy, ed, *supra* note 15, 115 e.g. at 115: “Truly, such behavior does not exist in reality, but when viewers fault the series and Sorkin’s writing for its idealism, they neglect to consider the fact that the television show is fiction and the fact that it is a sterling piece of postmodern propaganda.” See also Matthew Alford, “A Screen Entertainment Propaganda Model” in Joan Pedro-Carañana, Daniel Broudy & Jeffery Klaehn, eds, *The Propaganda Model Today: Filtering Perception and Awareness* (London: University of Westminster Press, 2018) 145 at 148, characterizing *The West Wing* as a “bromide” but describing its characters as “well-meaning, competent, and idealistic” as contrasted to left-wing per se. See also Sutin, *supra* note 24 at 560: “The overriding theme of *The West Wing* is the unwavering commitment of the President and his staff to the pursuit of an idealistic agenda that includes gun control, campaign finance reform, nuclear disarmament, environmental protection, gay rights, and other liberal staples. There is little hint of political vendettas, office politics, or craven compromise. The ends are clear, the battle lines are marked, and the team rises to the task again and again.” See also Ezell, *supra* note 16 at 165: “*The West Wing* is successful precisely because it depends on an idealized version of the White House that does not and cannot exist anywhere but the Warner Bros. backlot.”

²⁷ See e.g. Sanford Borins, *Governing Fables: Learning From Public Sector Narratives* (Charlotte: Information Age Publishing, 2011) at 163 (describing “Sorkin’s narrative universe” as having “an enduring belief in the continuing decency, rectitude, and devotion to public service of the individuals who engage in it”) and 167 (“Sorkin’s view of politics in the Oval Office and public service in the *West Wing* is, if not exactly idealized, then air-brushed”). See e.g. Ezell, *supra* note 16 at 163, quoting an interview of Sorkin on *PBS NewsHour*: “The show is kind of a valentine to public service”.

²⁸ Rhode, *supra* note 11 at 114 [citation omitted].

²⁹ For example, on issues around gender (see e.g. Laura K Garrett, “Women of the *West Wing*: Gender Stereotypes in the Political Fiction” in Fahy, ed, *supra* note 15, 179; but see also Christina Lane, “The White House Culture of Gender and Race in *The West Wing*: Insight from the Margins” in Rollins & O’Connor, eds, *supra* note 13, 32) and around terrorism (see e.g. Rachel Gans-Boriskin & Russ Tisinger, “The Bushlet Administration: Terrorism and War on *The West Wing*” (2005) 28:1 *J Am Culture* 100 at 111; Jack Holland, “‘When You Think of the Taliban, Think of the Nazis’: Teaching Americans ‘9/11’ in NBC’s *The West Wing*” (2011) 40:1 *Millennium J Intl Stud* 85). See also Chris Lehmann, “The Feel-Good Presidency: The Pseudo-Politics of *The West Wing*” in Rollins & O’Connor, eds, *supra* note 13, 213 at 214: “the mere persistence – indeed, the continued, mammoth popularity – of the show... ratif[ies] and institutionaliz[es] ... the selective (yet ever didactic) liberal retreat into political fantasy”.

³⁰ See e.g. Borins, *supra* note 27 at 162: “As is often the case when popular culture is put

I fully acknowledge that *The West Wing* is very patriotically American, not just American-specific.³¹ Indeed, the series has been cited in the Canadian legal literature largely for encouraging misconceptions of US-Canadian border security and porousness.³² Despite these factors, many of the issues and lessons about lawyers in public service are broader than and at least partly separable from the pro-American narrative and can thus be relevant to many audiences, including a Canadian one. As I noted above, there are fundamental and important differences between Canada and the US (including Sorkin's idealistic and imagined US) around civil service neutrality and the boundary between political staffers and the apolitical civil service. Nonetheless, *The West Wing* articulates an image of public service and the practice of law at their best, instead of at their worst or most middling. Thus, while this image will never become reality,³³ that does not diminish its value.

Conversely, *The West Wing* is somewhat dismissive of the private practice of law, at least for the 'wrong' clients. In a second-season flashback, Josh Lyman (the eventual deputy White House chief of staff) chides his friend Sam Seaborn (the eventual deputy White House communications director) for using his skills at a prestigious firm to minimize the liability for an oil company in its purchase of an obsolete ship:

Josh Lyman: What are you doing?

under the microscope, the series functions for these writers as something of a Rorschach text, with authors analyzing it for a range of tendencies and reasons".

³¹ See generally Giles & Giles, *supra* note 21. See also Lehmann, *supra* note 29 at 215: "*The West Wing* sets out, week after week, to restore public faith in the institutions of our government, to shore up the bulwarks of American patriotism, and to supply a vision of executive liberalism".

³² See e.g. Kent Roach, "Did September 11 Change Everything? Struggling to Preserve Canadian Values in the Face of Terrorism" (2002) 47 McGill LJ 893 at 935 [citation omitted]: "The television version of the *West Wing* worried about terrorists crossing into the United States from Canada while the real *West Wing* authorized the tripling of its personnel on the ominously named "northern border". See also e.g. Reg Whitaker, "Keeping up with the Neighbours? Canadian Responses to 9/11 in Historical and Comparative Context" (2003) 41 Osgoode Hall LJ. 241 at 256: "The Canadian connection stories have proved to have about the same credibility as the episode of the TV series *The West Wing*, in which the White House was alerted to a terrorist who had infiltrated across the Ontario-Vermont border. Although no responsible official of the U.S. government has ever given credence to this mythology, anti-Canadian suspicions form a political background to American perceptions of Canada that Canadian officials are persistently forced to confront."

³³ See e.g. Rowley, *supra* note 17 at 396: "We can only hope that truth mirrors fiction." I hold no such hope.

Sam Seaborn: Protecting oil companies from litigation.... They're our client. They don't lose legal protection because they make a lot of money.

Josh Lyman: I can't believe no one ever wrote a folk song about that.³⁴

Easy humour aside, and with respect to Sorkin, I by no means suggest that the private practice of law is not valuable or that it cannot lead to a good life. Instead, the issues facing lawyers in private practice are more easily articulated and understood than the issues facing lawyers in public service.

Finally, I assume that Sorkin's choice to make Hayes, Quincy, and Cowley both lawyers and Republicans is a deliberate one that reflects a normative worldview from which useful lessons can be drawn, instead of a simply a convenient or expedient creative choice about what kind of characters are easier to write or more fitting for furthering the plot.³⁵ This assumption is a fair one, particularly given Sorkin's idealism, but it is an assumption nonetheless.

III. THE 'GOOD REPUBLICAN': THREE PRACTICING LAWYERS

Individually and together, these three characters provide lessons – even if only aspirational – about practicing lawyers in public service.

A. Ainsley Hayes and Joe Quincy

Ainsley Hayes and Joe Quincy are both Republican lawyers who make a very deliberate choice to serve in a Democratic presidential administration. However, while Quincy makes that choice on his own, Hayes is initially reluctant.

Ainsley Hayes is introduced as an up-and-coming Republican media personality who President Bartlet directs his chief of staff to hire as associate White House counsel. She accepts the position despite her additional,

³⁴ *The West Wing*, "In the Shadow of Two Gunmen (Part 1)" (4 October 2000 on NBC), Season 2, Episode 1, written by Aaron Sorkin, directed by Thomas Schlamme, Warner Brothers. (All episode quotations are from <http://www.westwingtranscripts.com/>.)

³⁵ See here Paxton, *supra* note 15 at 159, note 10: "Many media critics contended that the introduction of the Ainsley character provided Sorkin a means to soften criticism that his show offered only liberal viewpoints and unfairly criticized the right wing. Sorkin denied that that was his motivation; Ainsley came about as a natural development of the entertaining story he wanted to tell." See also Michael Asimow in Asimow, ed, *supra* note 10 "Part VII: Lawyers on Non-Law TV Shows", 343 at 343: "[T]he addition of lawyer characters and legal subplots intensified the narrative on noncomedic dramatic shows such as *The West Wing* and *Picket Fences*".

largely ideological, misgivings.³⁶ Her first two episodes overflow with explicit and implicit nods to duty. When offering her the position, Bartlet's chief of staff invokes duty and service: "The President likes smart people who disagree with him. He wants to hear from you. The President's asking you to serve. And everything else is crap."³⁷ Hayes' second episode is explicitly – even overwhelmingly – about duty. In a memorable moment, her new boss, chief White House counsel Lionel Tribbey, is skeptical that she is motivated by duty, and that scepticism leads to a detour through the work of Gilbert and Sullivan:

Ainsley Hayes: I feel a sense of duty.

Lionel Tribbey: I'm sorry?

Ainsley Hayes: I said I feel a sense of duty.

Lionel Tribbey: What, did you just walk out of *The Pirates of Penzance*?

Ainsley Hayes: Sir?

Lionel Tribbey: "Why, he's an Englishman."

Ainsley Hayes: "He is an Englishman" is from *H.M.S. Pinafore*.

Lionel Tribbey: It's from Penzance. Don't tell me about Gilbert and Sullivan. It's from *Penzance* or *Iolanthe*... one of the ones about duty.

Ainsley Hayes: They're all about duty. And it's from *Pinafore*.³⁸

Sorkin is thus insistent that Hayes is motivated by duty.³⁹ While Paxton takes as a given that Hayes "sacrifices her own good for what she perceives as the good of the country", and Paxton is certainly correct that that is true in a financial sense,⁴⁰ with respect it is not as clear to me that duty in this context necessarily means sacrifice in the broader sense. Likewise, I do not necessarily agree with Ezell's characterization of Hayes' motivations:

³⁶ See e.g. Challen, *supra* note 22 at 84: "The Ainsley character can be seen as a symbol of the kind of informed patriotism that suffuses and animates most of the characters on *The West Wing*. Although she's a loyal Republican in a sea of Democrats, Ainsley is deeply committed to non-partisan democratic principles and the American form of government." See also 155: "The Ainsley character represents an unmitigated force of American patriotism.... Ainsley is Sorkin's way of once again re-establishing a Capraesque sense of pride in America – and American-style democracy."

³⁷ *The West Wing*, "In This White House" (25 October 2000 on NBC), Season 2, Episode 4, written by Aaron Sorkin, Peter Parnell & Allison Abner, directed by Ken Olin, Warner Brothers.

³⁸ *The West Wing*, "And It's Surely to Their Credit", *supra* note 18, quoted in part in Rowley, *supra* note 17 at 387-388.

³⁹ See e.g. Challen, *supra* note 22 at 155: "But as Sorkin himself told *George* magazine, she [Hayes] 'has an extraordinary sense of duty.'" See also Sutin, *supra* note 24 at 561-562, (presumably) describing Hayes: "A fiercely ideological Republican lawyer accepts a job in the Bartlet White House because she feels duty-bound to accept an invitation to serve the President of the United States."

⁴⁰ Paxton, *supra* note 15 at 159.

"Ainsley remains transfixed by the glow of power and civic purpose she observed."⁴¹ If power is a motivation, it is – as Paxton notes – wrapped up tightly in duty.⁴² Similarly, political operative Dick Morris noted Hayes' "basic civic-mindedness".⁴³

While the two episodes focus painfully on Hayes' duty and her Republican identity, Sorkin suggests explicitly that lawyers of different political persuasions, including liberal ones, are drawn to public service and minimize their ideological preferences in doing so. In response to skepticism of her motives from her new and very Democratic boss Tribbey, Hayes juxtaposes Tribbey's own ideological differences with the administration and Tribbey's own sense of duty: "The President's way too moderate for your taste.... On affirmative action, capital gains, public schools, free trade... You left a lucrative practice in Chicago and a seven-figure income. It wasn't out of duty?"⁴⁴

Hayes' sense of duty is nonetheless that of a practicing lawyer who advises others to follow the law, even when what the law requires is far from ideal. In a segment that refers back to Seaborn's past work for oil companies,⁴⁵ Seaborn is appalled when his excellent legal work protects a former client from liability for knowingly risking avoidable environmental disaster.⁴⁶ Hayes adamantly warns him not only of the legal peril he would face by breaching attorney-client privilege but also the legal futility of such a breach: "Stop talking, or I'm walking out. You know better. If you gave that deposition, you'd be disbarred. And even if you were willing to be disbarred, there's no judge in the country who'd allow privileged testimony."⁴⁷

⁴¹ See Ezell, *supra* note 16 at 164.

⁴² Paxton, *supra* note 15 at 166-171. See esp 166 ("The West Wing argues throughout its five seasons that power and duty must be firmly tied to one another and that power must be subordinate to duty") and 169 ("To be sure, the staffers of *The West Wing* and the president seek after power, but their power is attained through following one's duty").

⁴³ Dick Morris, "The West Wing got it all wrong: Former Clinton strategist says it's far sneakier in real life" *The National Post* (4 November 2000) A1.

⁴⁴ *The West Wing*, "And It's Surely to Their Credit", *supra* note 18, referred to by Rowley, *supra* note 17 at 396.

⁴⁵ See above note 34 and accompanying text.

⁴⁶ *The West Wing*, "Bad Moon Rising" (25 April 2001 on NBC), Season 2, Episode 19, written by Aaron Sorkin & Felicia Willson, directed by Bill Johnson, Warner Brothers.

⁴⁷ *Ibid*: This segment is discussed in Jarvis, *supra* note 13 at 545-546; although Jarvis recognizes the legal ethics dilemma, he uses the segment to teaches issues of maritime

As Paxton has recognized, Hayes does not abandon her political beliefs but instead foregoes the public expression of those beliefs in favour of inward-facing expression in which she has the opportunity to explain those beliefs and their merits to her colleagues and her clients.⁴⁸

In contrast to Hayes, Quincy is coy about his political affiliation and initially gives the impression that is a Democrat or an independent. At her initial meeting with the president's chief of staff, Hayes is explicit about her Republican pedigree and the clash of her ideas with those of the Bartlet administration: "I have always been a Republican. My father is a Republican. His father was State Chairman of the North Carolina Republican Party. When I was young, I was a Young Republican.... Mr. McGarry, I loathe almost everything you believe in."⁴⁹ Quincy acknowledges his affiliation only when asked directly. He then explains, however, that he has been banished from Republican opportunities because of a memo he once wrote on campaign finance reform.⁵⁰ He also emphasizes his dedication to public service despite his politics: "I like public service. I want to serve. And you guys are the only ones left."⁵¹ Indeed, Quincy is explicit that he is voluntarily foregoing the financial rewards of private practice in a prestigious firm in the name of that "service".⁵²

Perhaps tellingly, Quincy is explicitly applying to fill the position left vacant by the departure of Hayes – suggesting deliberate continuity in the

liability.

⁴⁸ See e.g. Paxton, *supra* note 15 at 158-159: "What does Ainsley give up to become a member of the opposition in service to the Bartlet White House? Clearly, one of the actions she may never engage in while she follows her duty includes making public appearances on behalf of the causes that she believes in as a Republican.... But she can become the premier voice for Republican views to the members of the White House staff, providing an empathetic mouth for policies and people they might normally regard as enemies."

⁴⁹ *The West Wing*, "In This White House", *supra* note 37.

⁵⁰ See e.g. Rowley, *supra* note 17 at 390: "Joe was in the doghouse with his fellow Republicans for arguing in favor of limiting soft money campaign contributions and hoped that the opening in the White House Counsel's office would save him from having to accept a lucrative offer from [large and prestigious firm] Debevoise & Plimpton".

⁵¹ *The West Wing*, "Evidence of Things Not Seen" (23 April 2003 on NBC), Season 4, Episode 20, written by Aaron Sorkin, Eli Attie & David Handelman, directed by Christopher Misiano, Warner Brothers.

⁵² *The West Wing*, "Evidence of Things Not Seen", *ibid*:

Josh Lyman: They're going to offer you \$225 000 a year. Is this your fallback?

Joe Quincy: They're my fallback.

two characters' roles and beliefs.⁵³ However, whereas Hayes' introductory pair of episodes is explicitly about duty, Quincy's first episode – titled "Evidence of Things Not Seen" – is more about faith, albeit not religious faith. While Quincy is being interviewed by the deputy White House chief of staff, President Bartlet spends hours on a phone call in the Oval Office trying to convince the Russian president that a US spy drone that crashed in Russian territory was not spying on Russia. Bartlet eventually gives up the sham in the spirit of trust: "We're going to have to trust each other a little Peter.... We're going to have to trust each other".⁵⁴ Likewise, Quincy – and his interviewer – ultimately both decide to trust in each other despite their political differences. Meanwhile, as a senior staffer waits in uniform to depart for reservist military duty, the White House press secretary explicitly characterizes his service as a matter of faith.⁵⁵

Some of the broader implications of Hayes and Quincy about the role of lawyers in public service are complementary but not identical. Whereas Quincy's dialog seems to suggest that public service is itself a good, and preferable to the private practice of law, Hayes' dialog suggests that a good life as a lawyer flows from the goodness and not necessarily the ideology of the lawyers' clients. At the end of Hayes' first episode, before she announces her decision to accept the position, her (presumably Republican) friends mock the people in the Bartlet administration. Hayes' reaction emphasizes the virtue of her new clients without overlooking their ideological differences:

I said don't say that. Say they're smug and superior, say their approach to public policy makes you want to tear your hair out. Say they like high taxes and spending your money. Say they want to take your guns and open your borders, but don't call them worthless. At least don't do it in front of me.... The people I have met have been extraordinarily qualified. Their intent is good. Their commitment is true. They are righteous, and they are patriots. And I'm their lawyer.⁵⁶

⁵³ See e.g. Paxton, *supra* note 15 at 159, note 10: "Interestingly, after Emily Procter left the show as a recurring character, the fourth season introduced another Republican lawyer (this time a white male played by Matthew Perry), who applied to work at the White House because he also wanted to serve and because he had been blacklisted by his party. He ended up with the same office as Ainsley and for two episodes fulfilled many of the roles the previous character had."

⁵⁴ *The West Wing*, "Evidence of Things Not Seen", *supra* note 51.

⁵⁵ *The West Wing*, "Evidence of Things Not Seen", *ibid.*

⁵⁶ *The West Wing*, "In This White House", *supra* note 37, quoted in part in Paxton, *supra* note 15 at 158 and in Parry-Giles & Parry-Giles, *supra* note 21 at 21. As Paxton, *supra* note 15 at 158 puts this realization: "[A]s [Hayes] spends the day in the White House, she sees the staff and the president engage in acts both of partisan politics and of service

Likewise, when she counsels Seaborn (her de facto client at that moment) against breaching attorney-client privilege about his former big oil client, one of the things she says to him is that “[y]our know better”.⁵⁷ In reminding Seaborn of the clear law around his professional obligations, Hayes is reminding Seaborn, and reminding and reassuring herself, that she is a good lawyer because she advises good people. In contrast, Quincy’s interest in the position of associate White House counsel pre-dates any direct assessment of the goodness of his potential clients. Indeed, he seems to believe that public service lawyering is good in itself regardless of the goodness of the clients.

B. Cliff Calley

Cliff Calley holds a very different role than Hayes and Quincy, but still reinforces the value of lawyers in public service. Calley is majority counsel for the House committee investigating the Bartlet administration’s efforts to conceal the president’s Multiple Sclerosis diagnosis. While Cawley’s introductory story arc focuses on his forbidden romance with the assistant to the deputy White House chief of staff, he later plays a key role in the surprise adjournment of a congressional committee hearing when one Republican member is about to pursue embarrassing and irrelevant testimony about the alcoholism of the White House chief of staff. The committee chair follows Calley’s advice and adjourns the hearing.

Calley complements Hayes and Quincy by demonstrating honour for a practicing lawyer in public service who shares a basic political ideology with their client. He clearly frames the matter as one of right and wrong. Nonetheless, he explicitly relates that what he is doing, and the wrongful conduct he is combatting, to the soul and long-term success of the Republican Party:

This is bush league. This is why good people hate us. This right here. This thing. This isn't what these hearings are about. He cannot possibly have been properly prepared by counsel for these questions, nor should he ever have to answer them publicly. And if you proceed with this line of questioning, I will resign this committee and wait in the tall grass for you, Congressman, because you are killing the party.⁵⁸

Thus, more explicitly than Hayes and Quincy, Calley illustrates that doing the right thing does not mean adopting or pursuing or foregoing particular

to the country and the world.”

⁵⁷ See above note 47.

⁵⁸ *The West Wing*, “Bartlet for America” (12 December 2001 on NBC), Season 3, Episode 10, written by Aaron Sorkin, Felicia Willson & Eli Attie, directed by Thomas Schlamme, Warner Brothers.

political values or ideologies over others – and that ideology is or should be separable from questions of right and wrong.

Calley also reinforces that the role of lawyers in public service is to advise their elected clients, not to make decisions for those clients about what is right or wrong according to their own conceptions. In a later episode, when his former love interest realizes that Calley must have been involved in the committee adjournment, Calley does not take the easy credit.⁵⁹ Instead, he is explicit that the decision to adjourn was not his but that of the committee Chair, and that he merely advised the Chair to do so.⁶⁰ Thus we see that lawyers in public service can advocate for what they consider to be the right thing to do while accepting that the ultimate decisions are not theirs to make. They should take neither credit nor blame for those ultimate decisions.

While Hayes and Quincy are not adversaries of the administration, in some sense Calley is the epitome of the noble adversary. He is after all advising his client to do the right thing – both in the client's interests and a moral sense. It just so happens that the right thing is in the immediate political interests of the Democratic presidential administration. In another sense, however, he is not properly understood as necessarily being an adversary at all, instead calling back to a more noble (and idealized) era of politics.

IV. ANALYSIS

As I mentioned above, practicing lawyers are not the only examples of 'the good Republican' in *The West Wing*. But together these three characters constitute the most prevalent examples of this concept. Although they never appear in the same scene together, their combined presence across seasons and across plotlines strongly suggests deliberateness by Sorkin. *The West Wing* is a show about many things, but it is not a show about practicing lawyers to any real extent.

I thus return to a key question: why did Sorkin make many, though not all, of the 'good Republicans' in *The West Wing* practicing lawyers? Sorkin in his dialogue is never particularly explicit about the reasons for this choice. This choice may be one that unconsciously or consciously adopts Menkel-

⁵⁹ *The West Wing*, "H. Con - 172" (9 January 2002 on NBC), Season 3, Episode 11, written by Aaron Sorkin, Eli Attie & Felicia Willson, directed by Vincent Misiano, Warner Brothers.

⁶⁰ *The West Wing*, "H. Con - 172", *ibid.*

Meadow's recognition that lawyers are disproportionately used as examples of morality in US popular culture.⁶¹ As Menkel-Meadow explains, lawyers may have more engaging and explicit ethical tensions than do other professionals:

I think there are more depictions of lawyers' ethical dilemmas in popular culture than of other professionals precisely because we have several masters. As lawyers, we serve the private interests of clients, but we also serve the public interest of the justice system, as well as ourselves and our families. To have a job which, at the same time, faces both inward and outward, with private duties and responsibilities, but with public consequences, sets up a dramatic tension that creators of stories and other cultural artifacts cannot resist.⁶²

In other words, lawyers and legal ethics tensions make for more interesting stories than other professionals. Indeed, the potential tensions of ideology and loyalty facing all three characters I have discussed here – Hayes, Quincy, and Calley – are not insignificant ones. These creative choices could also reflect Sorkin's perceptions of lawyers based on his lived experience, particularly his research and success in examining the challenges facing naval lawyers in the screenplay for the classic film *A Few Good Men*. The practicing lawyer as the epitome of the 'good Republican' in *The West Wing* is thus at minimum an intriguing creative choice – but it could be more than that.

What might be the larger lessons from Sorkin's choice to make many of the 'good Republicans' in *The West Wing* practicing lawyers? In my view, while public service is an inherent good – in Sorkin's world and in the real world – Sorkin is seemingly suggesting that the pinnacle of public service lawyering, or even public service generally, is to serve clients with significantly different political ideologies than one's own. This differing is most vivid and explicit, at least in the world of *The West Wing*, by making these lawyers Republicans.⁶³ But the value and the goodness is not squarely in serving Democratic interests over Republican interests in the abstract. Instead, the value and goodness comes from serving the administration, which happens to be Democratic. Practicing lawyers who are Republicans make that value and goodness more clearly identifiable.

This choice also suggests something about the practice of law itself: that law can meaningfully and effectively be practiced in an ideologically neutral way – that when ideology is removed, the lawyer and their skills remain

⁶¹ Menkel-Meadow, "Can They Do That?", *supra* note 10 at 1307-1308. See above note 25 and accompanying text.

⁶² Menkel-Meadow, "Can They Do That?". *supra* note 10 at 1337.

⁶³ Thanks to Liam McHugh-Russell on this point.

functional. In contrast, for example, roles like a speechwriter or a chief of staff are inherently political and lose their utility when people who hold them put aside ideology, because political ideology and those roles are inextricably linked. The practicing lawyer as 'good Republican' makes these lessons and values clearer than they would otherwise be.

It is not completely clear whether in the reverse situation in Sorkin's world – Democratic practicing lawyers serving a Republican presidential administration – those practicing lawyers would have the same goodness. The idealistic answer would be yes. Such an answer is bolstered by the Calley character, a Republican who uses his position as Republican committee counsel to promote the good choice by his elected superiors, a choice he frames as being in the best interests of the Republican party. If a 'good Republican' lawyer can have this positive impact on their Republican clients, the optimistic and idealistic tone of *The West Wing* suggests that a Democratic lawyer could likewise have a similarly positive impact on parallel Republican clients.

Several potential lessons can be drawn from these 'good Republican' lawyer characters about the practice of law in public service. The first is perhaps an objective conclusion: the skills of practicing lawyers are especially suited and necessary to public service. The rest, in contrast, are normative, though they vary in their degree of idealism:

- Practicing lawyers are especially able to achieve the ideals of public service.
- There is inherent value in public service, especially for practicing lawyers.
- That value outweighs, or at least can outweigh, the personal cost (and any other costs) of public service where the client might not share the lawyer's political views.
- The choice of public service lawyering is about both duty and faith in people (particularly clients) as opposed to political ideology.
- Lawyers are – or at least can be – exemplars of goodness.
- Public service reflects or embodies or even creates goodness in lawyers.

The lessons about public service largely emerge from the choice to make the Hayes and Quincy characters Republicans, although those lessons are reinforced as applying to Democrats by the interaction between Hayes and Tribbey. The Calley character shows that an explicitly partisan public service role is not necessarily free of difficult (but potentially different) challenges and can involve vehement disagreement with other Republicans.

What commonalities can be drawn from these lessons? First, they are in themselves abstract. Second, most are easily or at least readily dismissed as aspirational if not unrealistic or idealistic. Thus *The West Wing* has value in making these attributes concrete and identifiable in a surprisingly relatable and engaging way – all the more so because they are aspirational if not unrealistic or idealistic. That is, these attributes have normative value whether or not they are now or ever have been objectively true, in the US context or any other one. These lessons suggest that these idealistic goals are especially reachable or at least pursuable for lawyers and aspiring lawyers in public service. Perhaps less idealistically, these experiences also suggest that law is a transferable skill that transcends ideologies and is particularly suited to public service. Lawyers of any political stripe can serve any government at any time. While it is not difficult to identify and explain the impact of public service on legal ethics for government lawyers, these examples thus help convey the *value* of public service for lawyers – value that perhaps offsets or at least contextualizes the potentially serious career and personal implications that can flow from those legal ethics impacts.

At the same time, a more jaded viewer might conclude from these characters that practicing lawyers or Republicans, or both, lack any particular ideological commitment or are at least too ready to set aside their own commitments in pursuit of power or a very particular kind of prestige. These attributes might also be seen as disloyalty to one's own beliefs. Nonetheless, these differing conclusions and lessons that can be drawn from these characters provide a rich basis for discussion and debate.

Some of the potential lessons about the goodness of a lawyer and a lawyer's good life are, however, more varied.⁶⁴ The goodness of a lawyer can be related to the goodness of their clients, as the Hayes quote above suggests. However, the character of Quincy suggests that the goodness of a lawyer can come from the goodness of the lawyer's intentions – or the mere choice of public service lawyering – regardless of the goodness of the lawyer's clients. Likewise, the Calley character suggests that the goodness of a lawyer can come from the goodness of the advice they give, especially in the commitment to give advice that may be unwelcome.⁶⁵ This variety suggests

⁶⁴ For a legal theory examination of these questions, see e.g. Alice Woolley, "Context, Meaning and Morality in the Life of the Lawyer" (2014) 17:1 Legal Ethics 1; Alice Woolley, "To What Should Lawyers Be Faithful?" (2012) 31:2 Criminal Justice Ethics 124; Alice Woolley, "Not Only in America: The Necessity of Representing 'Those People' in a Free and Democratic Society" in Abbe Smith & Monroe Freedman, eds, *How Can You Represent Those People?* (New York: Palgrave MacMillan, 2013) 199.

⁶⁵ See e.g. FLSC Model Code, *supra* note 4, r 3.3-2, commentary 3: "Occasionally, a lawyer must be firm with a client. Firmness, without rudeness, is not a violation of the rule. In communicating with the client, the lawyer may disagree with the client's perspective, or

that there are many possible ways to assess the goodness of a lawyer and their career choices.

V. REFLECTIONS AND CONCLUSION

The West Wing provides emphatic and alluring vignettes about lawyers in public service. These vignettes reveal larger truths – or at least larger possibilities.

At first glance, these lawyer characters may seem to achieve goodness through a readiness to abandon their political views, especially Republican political views. This impression would suggest that lawyers' beliefs are malleable if not mercenary. At a deeper level, however, they suggest that honourable public service independent of personal political views is possible and valuable and something to be embraced, not shunned, by practicing lawyers. They also suggest that the practice of law can transcend ideologies and is particularly suited and necessary to public service. It is not that these lawyers do not face inherent tensions of politics and loyalty and inherent costs, but that they fully embrace those tensions and accept those inherent costs.

All together, we are left with three propositions of varying complexity, propositions that become particularly clear against the backdrop of the series because of these three characters' identities and roles as 'good Republicans':

- Hayes: lawyers in public service achieve goodness by representing good clients.
- Calley: lawyers in public service achieve goodness by advising clients to avoid the temptation to do the wrong thing.
- Quincy: lawyers in public service achieve goodness merely by being in public service, even if their clients are not good.

Note in particular that the Hayes proposition is the mirror of the lesson from Seaborn's representation of big oil, which is that lawyers in private practice achieve goodness by not representing bad clients.

These propositions mesh together in an understandable way, whether or not they are convincing or accurate. While they are simplified and idealistic, they do have specific implications that may be transferable. In the Canadian context, in which government lawyers serve as members of the

may have concerns about the client's position on a matter, and may give advice that will not please the client. This may legitimately require firm and animated discussion with the client."

apolitical civil service across governments of many different stripes, the Quincy and Calley lessons are particularly relevant. If government lawyers, following Hayes, were to choose when to join or leave the civil service based on the perceived goodness of their clients, then turnover would likely spike and long-term continuity and expertise would be lost.⁶⁶ A Calley or Quincy figure is a good public service lawyer regardless of the goodness of any particular client at any given time. In particular, while clients may not always follow Calley-type advice, the public service lawyer achieves goodness by providing that advice.

The ultimate value of these portrayals of practicing lawyers in *The West Wing*, whether for teaching or other purposes, is that they articulate and convey ideals about public service lawyering that can be difficult to express in the abstract. That articulation is not an end point in itself and is certainly not proof of positivist truths. Instead, it is a starting point for discussion and for careful reflection on the both the actual role and the potential role of lawyers in public service.

⁶⁶ See e.g. Martin, *supra* note 5 at 10-11 [citations omitted]: “accepting and continuing employment as a government lawyer means becoming a member of the apolitical public service and accepting both ‘the constitutional convention of bureaucratic neutrality’ and the unique nature of the Crown in a system of responsible government.” On political neutrality as a constitutional convention, see e.g. Osborne, *supra* note 20.