

IN MEMORIAM: LEE C. WHITE (1923–2013)

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Most Energy Bar Association (EBA) members will have known Lee Calvin White, who died on October 31, 2013, as the Chairman of the old Federal Power Commission (FPC), the predecessor of today's Federal Energy Regulatory Commission (FERC), or perhaps later as a practitioner in infrastructure areas largely outside of the FERC and the FPC. But Lee was also one of those rare men who have made a positive difference in several disparate areas of modern history, serving three Presidents—Hoover, Kennedy, and Johnson—in key roles outside the energy world on which we usually focus.

Born in 1923 to parents who were immigrant shopkeepers in Omaha, Nebraska, he graduated from the University of Nebraska in 1948, after returning from WWII, with a degree in Electrical Engineering, going on to obtain his law degree from that same school in 1950 and then to work initially as a lawyer for the Tennessee Valley Authority (TVA). In 1954, however, Lee got a call from Ted Sorenson,¹ one of his closest friends in law school, who had found a job with then-Senator John F. Kennedy (JFK). Sorenson suggested that Lee come to Washington, D.C., to interview with Senator Kennedy, who needed additional staff. Lee did, and was hired, though shortly thereafter was assigned to work with Ambassador Joseph P. Kennedy (JFK's father) and the Second Hoover Commission² during the time Senator Kennedy was recuperating from his back operation.

From that posting he returned to work as Legislative Assistant for JFK, as Counsel for the Senate Small Business Committee, as Administrative Assistant to Senator John Sherman Cooper, and then again for JFK, on his election as President, as Assistant Special Counsel to the President (Ted Sorenson was Special Counsel). One of the tasks Lee picked up was that of civil rights counsel to President Kennedy (and thereafter for President Johnson), and that made him the “point person” in the White House for dealing with Martin Luther King Jr. and other civil rights leaders during the 1963 March on Washington, and generally. Lee stayed on as Associate Special Counsel and then as Special Counsel to President Lyndon B. Johnson (LBJ) after the assassination of

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1. Sorenson was a key staffer for JFK until the President's death.

2. The Commission on Organization of the Executive Branch of the Government, headed by former President Herbert Hoover, was established to find more efficient ways to organize the Executive Branch of the government.

President Kennedy in 1963 and worked with LBJ to achieve the passage of the Voting Rights Act of 1965. In that regard, he was proud of his suggestion to LBJ that the President ask to address a very rare joint session of Congress shortly after the bloody confrontation in Selma, Alabama. In that joint session LBJ memorably said that “all of us . . . must overcome the crippling legacy of bigotry and injustice” and ended echoing the civil rights movement anthem with “we shall overcome.”³

Turning to the energy area, when JFK was elected, he had asked ex-Dean Landis of Harvard Law School to assess the regulatory agencies in the Federal system. EBA members should recall the assessment of the FPC in that report:

The Federal Power Commission without question represents the outstanding example in the federal government of the breakdown of the administrative process.⁴

That may have been kind. The first Chairman appointed by JFK, Joe Swidler, had taken significant steps to solve the problems identified by Dean Landis (and other problems which he found after examination). And in 1966, when Swidler’s term was up, President Johnson appointed Lee White to succeed him and to finish the job. In his remarks at Lee’s swearing in, the President noted:

Whenever there was a knotty problem here at the White House to be examined and to be solved, Lee, with a quiet and luminous skill, set about to do just what needed to be done. I have always found him a man of good spirit with a tolerance for the nagging details of every problem, as well as very sound judgment about where the facts could be found and where the solution would take us.⁵

Lee, who served until replaced by President Nixon in 1969, finished the job of making the FPC an agency which could be proud of its record. He made decisions based on the record and facts and called them as he saw them, without concern for his own personal future, and after his service he did not try to capitalize on his reputation or connections. And as had been the case at the White House, he did not seek personal credit for his ideas or for the result reached. His autobiography, *Government for the People: Reflections of a White*

3. President Lyndon B. Johnson, Special Message to the Congress: The American Promise (Mar. 15, 1965), available at <http://www.lbjlib.utexas.edu/johnson/archives.hom/speeches.hom/650315.asp>.

4. S. COMM. ON THE JUDICIARY, 86TH CONG., REP. ON REGULATORY AGENCIES TO THE PRESIDENT-ELECT 54 (Comm. Print 1960) (authored by James M. Landis).

5. President Lyndon B. Johnson, Remarks at the Swearing In of Lee C. White as Chairman, Federal Power Commission (Mar. 2, 1966) [hereinafter Johnson, Remarks at the Swearing In], available at <http://www.presidency.ucsb.edu/ws/?pid=28113>.

House Counsel to Presidents Kennedy and Johnson,⁶ is wonderful reading for anyone interested in how government really works.

Lee was responsible for the first steps toward assuring reliability of the electric structure in the country, in a wonderful example of how he got things done. Following the 1965 blackout of the entire Northeast, the FPC had developed a program that would have amended the Federal Power Act to give it considerable abilities to require more effective coordination. At that time, there was no such thing as what is now the North American Electric Reliability Corporation (NERC) and only very limited voluntary coordination among electric utilities. But Lee thought that it might be better if the industry itself undertook effective self-regulation and had discussed this with the brilliant Philip Sporn, then still a director of the American Electric Power Company (AEP). An informal understanding was reached, after which Lee would make speeches around the country at industry meetings, explaining how the country needed the strong new reliability authority sought by the FPC, and Sporn would follow to the same locations a week or so later, explaining that if the industry would take the responsibility itself, the proposed FPC authority would not be needed.⁷ The strategy worked, and the industry formed what ultimately became NERC as the entity to provide that self-regulation, which worked for several decades.

After the FPC, Lee was a partner in several law firms and served in numerous other functions, including as a member of the Board of Trustees of the Environmental Defense Fund, a member of the Board of Governors of the D.C. Bar, and a member of the Board of Governors of the New York Mercantile Exchange. At the time of his death, we were proud to have him still serving as Of Counsel to Spiegel & McDiarmid, LLP.

President Johnson caught Lee's essence correctly at his swearing in as FPC Chair:

Lee White has served his country and two Presidents with fidelity both to conscience and to pride. Moreover, he goes to the FPC with his sense of humor undiminished. Any man who can survive 5 years in the White House, never stumble over an assigned task, and leave with his ability to laugh unimpaired, is a man that I would warn all of you is to be reckoned with.⁸

Lee was indeed a man to be reckoned with, and the country is a better place because of his efforts.

6. LEE C. WHITE, *GOVERNMENT FOR THE PEOPLE: REFLECTIONS OF A WHITE HOUSE COUNSEL TO PRESIDENTS KENNEDY AND JOHNSON* (2008).

7. *Id.* at 147.

8. Johnson, Remarks at the Swearing In, *supra* note 5.