

Tribute to Tom Whitehead, by Lisa Sockett (9/25/09)

In the summer of 2005 then Assistant Dean Sid Moore from George Mason Law School called me and asked whether I would be willing to co-teach a Communications Policy and Law seminar that Fall with a Distinguished Visiting Professor named Tom Whitehead. Dean Moore explained that Tom wasn't a lawyer and hadn't taught a class at the law school before, so he thought I could help Tom plan and organize the course, since I had already taught Communications Law here as an adjunct.

Thus began one of the most interesting six months of my life, as I came to know, work closely with, and greatly admire Tom Whitehead, a wonderful colleague and a fabulous teacher in the truest sense of the word.

To be honest, I didn't know who Tom was at first – Dean Moore told me that Tom had worked in the Nixon White House as the first director of the U.S. Office of Telecommunications Policy, the precursor to today's National Telecommunications and Information Administration at the Department of Commerce.

As Tom and I began to meet to plan the course, I was intrigued with his vision that he wanted to bring in weekly guest speakers to the class. But these weren't just any ordinary guest speakers – they were some of the most famous communications policy makers around. His line-up included:

- **Brian Lamb**, the founder and CEO of C-SPAN;
- **Glen Robinson**, Professor of Communications Law at the University of Virginia Law School;
- **Richard Wiley**, Managing Partner of Wiley, Rein & Fielding, and former General Counsel and Chairman of the FCC;
- **Dale Hatfield**, Professor of Telecommunications at the University of Colorado and former head of the FCC's Office of Plans & Policy and Office of Engineering and Technology, as well as former Deputy Administrator of NTIA;
- **Don Baker**, founding partner of Baker & Miller and former Assistant Attorney General for Antitrust;
- **Henry Geller**, former General Counsel of the FCC and former Director of NTIA;
- our own Professor of Law and Economics **Tom Hazlett**, former Chief Economist at the FCC;

And, of course . . .

-- **Supreme Court Justice Antonin Scalia**, former law professor and former General Counsel of the White House Office of Telecommunications Policy.

How did Tom know all these people, and how did he manage to get them all to agree to come to our small, fifteen-student seminar here at George Mason law?

Well, some of Tom's magic was due to serendipity. When Tom started the first Office of Telecommunications Policy at the White House, he managed to hire a young law professor named Antonin Scalia as his General Counsel, and a young journalist named Brian Lamb as his media and congressional expert. He obviously could spot talent.

But as I heard more of Tom's story, I realized that he himself was a telecommunications pioneer. During the 1970's Tom used his White House position to advocate for more openness and competition in the telecommunications industry. Among other things, he succeeded in getting the FCC to adopt an Open Skies policy allowing for multiple, non-governmental satellite communications providers. Many credit this policy with revolutionizing the television industry by enabling cable operators to provide programming on a nationwide basis.

During this critical period, Tom was working with all these other telecommunications pioneers at the FCC and later at NTIA and elsewhere in the government. They all formed strong bonds of friendship through their desire to change telecommunications policy to make openness and competition the norm.

So when Tom asked these pioneers to show up in our classroom, they did! And that made for a very special experience that Fall. The students – and I – got to hear behind-the-scenes stories from Dick Wiley about his tenure as the head of the FCC's digital television committee; and from Don Baker about the AT&T breakup. We heard two spectrum experts – Dale Hatfield and Tom Hazlett -- give policy advice seemingly from two ends of the spectrum!

And, of course, we heard great insights from Brian Lamb about starting the cable channel -- C-SPAN – to bring the inner workings of Congress to the American people in an unfiltered way, whether we like what we see or not.

I was most touched by the time we spent with Justice Scalia. As I rushed to class that morning, I realized that we had forgotten to ask the students to dress in something other than baggy jeans and a t-shirt. To my relief, when I entered the class, all fifteen students – without prompting – were wearing courtroom attire appropriate for Justice Scalia’s visit. Tom and I were very proud of them that day.

I will never forget Justice Scalia’s willingness that morning to engage the students in legal discussions about the government’s ability under the Constitution to regulate indecency over the airwaves – always a hot topic – and whether the FCC had the authority to deem cable broadband an information service under Title I of the 1934 Communications Act.

During our discussions, Justice Scalia spoke about his concern about the coarsening of our society’s morals. I often wonder when I’m reading his opinions to what extent he is responding to those concerns.

At Tom’s request, both Brian Lamb and Justice Scalia also spoke to the entire law school after visiting with our class, and both gave talks that were very well received. I was so impressed with how generous they were with their time. And, I realized, it all came down to Tom. They did it for him.

The phrase I use to describe Tom is that he was the consummate gentleman. He was always dressed impeccably, on time, and prepared. He was very respectful of my opinions and the opinions of our students.

What made it really fun to be around him is that he was always eager to engage in rigorous intellectual discussions about communications issues as well as the issues of the day. He seemed to enjoy life to the utmost, and he also really enjoyed teaching the class. He was energized by being around the students, sharing his knowledge, and allowing them to be a part of his unique circle of friends, who also happened to be titans in the world of communications and law.

I believe that teaching that course was, in a way, a culmination for Tom of a lot he had achieved in his life regarding communications policy. I think it was a highlight for him – I know it was highlight and a privilege for me and for our students.

Thank you very much for allowing me to share my experiences and memories of Tom Whitehead with you.

