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The Story of the
Institute of Government

The University of North Carolina
at Chapel Hill

Out of a Classroom in Chapel Hill

Chapter VII Working Patterns

I have asked several long-term colleagues to describe their personal working patterns in the Institute of Government, and to make these patterns more realistic, I have asked them to write informally and in the first person. They represent Institute working patterns at their best: Henry Lewis, Donald Hayman, Philip Green, Lee Bounds, Bob Campbell, Jack Atwater, and Catherine Maybury Seelye.

Henry Lewis (a talk to tax supervisors in 1978)

Following the 1947 General Assembly I was thrust unexpectedly into the Property Tax world, and I did not find the prospect hopeful.

The office of county tax supervisor was commonly combined with some other position; very few supervisors boasted substantial staffs; even fewer had experienced appraisers on whom to rely; most were limited to the puny assistance supplied by township list takers. Neither the tax supervisors nor the county commissioners took strong interest in making discoveries; and administration of the exemption laws was distressingly lax.

At the state level there was an *ex officio* agency known as the

State Board of Assessment charged with hearing appeals from the counties and with assessing the property of public utilities; but it had no staff and no budget. Utility appraisals were thrown together by an employee of the Revenue Department's Intangibles Tax Division in accordance with statutes that had not been revised since before the First World War. The fact that only rarely was the Board called on to hear appeals from the counties was clear evidence that local decisions seldom offended property owners.

I assumed the Institute's work with the Property Tax because we lost our man in that field, and someone had to keep the program going. But my grade as a student of taxation had almost eliminated me from law school, so I began the task with something very close to fear. But perhaps that fear, that honest sense of ignorance, stood me in good stead, for, from the first, you became my teachers, not the other way around. Together, I think we have had a wonderful time, and I candidly assert that we can take some pride in what has happened to North Carolina's Property Tax since 1947.

I found you a friendly and helpful set of people, associated in a weak organization headed by a few men and women who, with their successors, were the real pioneers in our state's Property Tax advancement. This is not the time to name them all, but I assure you that I could do so.

In our first years together, we spent our time learning the fundamentals of the Machinery Act of 1939, a pretty complex instrument, and as we hammered it out in annual conferences at the Institute, we learned the strengths and weaknesses of both our law and the way it was being administered. We came to understand that the office of county tax supervisor would always be weak if county commissioners, county finance officers, and county attorneys wanted to keep it that way. (Later we added county managers to that list.) We realized that we needed to bring those officials into our pattern for learning, and we did—at commissioners' conventions, in schools for finance officers, in conferences for attorneys, and through your constant efforts to educate them back home.

From the first I was troubled by your lack of training and lack of staff for real property revaluations. A few counties had spent sub-

stantial sums for professional assistance, but most counties had no love for outside help, especially if it cost a lot of money. I studied the work being done in other states; I even attended a school for assessors at the University of Connecticut. There, to my surprise, I found that the teaching was being done by the assessors themselves, some of them not doing a very good job of it. This convinced me that North Carolinians were potentially capable of doing the job as well or better. Thus, for a number of years, we devoted substantial portions of your annual conferences to appraisal discussions led by North Carolina tax people who had experience to share. Not until the late 1960's were we convinced that the courses offered by the International Association of Assessing Officers would be worthwhile for North Carolina. Now you use them regularly.

Perhaps the most daring step I took was to develop, publish, and offer you a manual for assessing real property for taxation in this state. Perhaps the most daring thing some North Carolina counties did was to adopt and use that manual. It was a crude beginning, but it was a start. We published the book in 1948; three years later, by accident, I learned that it had been translated into Japanese (without my permission) and used by the United States Military Government for tax appraisals in the City of Osaka. Such treatment for the property owners of Osaka demonstrated that the United States government still believed in strict Reconstruction.

As we learned more together, you moved to strengthen your office staffs. In 1953 the Institute offered its first course for new tax supervisors, and you and your Association worked with me to encourage experienced as well as new supervisors to attend. Those who came taught me a great deal, and we must have taught you something or else you would not have continued to support the school through the years. Just last month Joe Ferrell conducted the twenty-third of these fundamental courses. Similarly, your annual conferences here have become increasingly useful, even sophisticated.

The more we studied, the more we saw the need for changes in the law as well as in its administration. This knowledge, this gleam in your eyes, furnished the spark of initiative that has been the single most important force for Property Tax improvement in our his-

tory. Your determination led you to persuade commissioners, attorneys, and legislators to get moving and, together, you won the support of the North Carolina Association of County Commissioners before the legislature.

Now I will take a couple of minutes to point to some of the milestones in our progress:

In 1955 the General Assembly established the first of what became a series of commissions to study the revenue structure of the state, but when that commission made its report it contained no suggestions whatsoever about the locally administered Property Tax. Nevertheless, the General Assembly of 1957 set up a second Tax Study Commission that devoted a great deal of attention to the Property Tax, and its recommendations became the foundation for many of the changes that have taken place since. Together with Hudson Stansbury of the Department of Tax Research, I had the opportunity of working with that commission. Out of its study—fueled by your Association's ideas and initiative—counties obtained authority to establish uniform assessment ratios of less than 100%, thereby, for the first time, giving property owners a solid basis for questioning valuations by forcing county commissioners to record officially the basis on which property was being taxed. A giant step. From the same commission and the 1959 legislature came the 8-year mandatory revaluation schedule in place of the long ignored quadrennial mandate; and, finally, from these sources came authority for counties to levy a special tax that might be accumulated from year to year to pay for expensive revaluation programs—a major blow to the argument that financing good appraisals could not be accomplished under then-existing legal restrictions.

In 1961 you again stormed the General Assembly—through the recommendations of yet another study commission—to attack the shocking legislative habit of allowing individual counties to grant special local exemptions and preferential classifications. You had failed in this effort two years earlier, but this year you succeeded; and in the General Election of 1962 you had the satisfaction of seeing the voters adopt a constitutional amendment requiring that all exemptions and classifications be statewide in application.

As early as 1964 you trained your guns on our antiquated system

for appraising the property of public utility companies. Here you took on more than one giant; not only did you shake the utilities in their comfortable tax bed but also you brought into question the effectiveness of an unfinanced and sparsely manned State Board of Assessment. I can testify to the dogged determination of your Association as its officers and legislative committees worked with successive Commissioners of Revenue to develop solutions that they could join you in proposing to the General Assembly. Those efforts began long before 1964, and at times the struggle was disheartening. I know because I was there. In 1966, however, a Tax Study Commission recommended some major changes; and with the strong backing of the County Commissioners Association and the League of Municipalities, the 1967 General Assembly was persuaded to give the State Board of Assessment its first full-time secretary and staff, to be financed—miracle of miracles—from the Intangibles Tax. But the 1967 legislature refused to adopt that commission's proposals for rewriting the statutes governing public utility property appraisal.

By 1969 your colleagues in tax collection had joined you in the movement for complete revision and modernization of the Machinery Act, and the General Assembly responded by establishing a special commission to deal with the Property Tax. Again, I had the opportunity of working with them, and this time Bill Campbell was with me.

There is no time in which to tell the story of the efforts that went into bringing that commission to the point where its members saw the issues and were willing to deal with them. Eventually, they produced the Machinery Act of 1971 which, except for the portions that treated exemptions and classifications, provided a completely new framework for the Property Tax. Five features of the 1971 act merit special mention: (1) For the first time, it required state certification of the qualifications of county tax supervisors. (2) It made the township list taker system optional. (3) It rewrote the discovered property statute to make clear that understatement of value was equivalent to failure to list. (4) It completely rewrote the public utility appraisal and allocation statutes. (5) And, finally, it effected a

sweeping repeal of the great bulk of local acts dealing with the Property Tax.

After enacting the revised statute, the 1971 legislature set up still another commission to tackle the thorny subject of exemptions and classifications. Once more we set to work.

Anyone who might have been naive about vested interests in exemptions and preferential classifications surely lost his innocence during that study. But from it, by action of the 1973 legislature, you gained a better organized and less ambiguous set of exemption and classification statutes. What you did not obtain was reduction in the volume of exemptions and preferential classifications. In fact, they were expanded, notably in favor of farm land, forest land, and property of the elderly.

In addition, the General Assembly of 1973 transformed the State Board of Assessment into the Property Tax Commission and established a Property Tax Division in the Department of Revenue; it also restored the 100% assessment mandate that had been dropped in 1959.

Other changes have been effected since 1973, but I will not mention them.

Not everyone is pleased with all the changes that took place or were set in motion between 1947 and 1973 when I was working with you. Some are unhappy with the substantially strengthened state role in supervision and influence; some are unhappy with the revised system of appraising and allocating public utility and similar property values; some fear that the multiplication of exemptions and preferential classifications is laying too heavy a burden on a decreasing set of taxable properties; and some are troubled by the side-effects of 100% assessment.

I share some of these fears; others I do not. I take heart, however, in two fundamental changes that took place during my Property Tax experience: First, the tax statutes were made much easier to understand; most of the hidden favors and pitfalls were removed. Second, the men and women who administer North Carolina's Property Tax law received better training and became far more knowledgeable than ever before. I warn you, however, that the

maintenance of clear-cut tax laws demands constant effort by minds trained not merely in law but in North Carolina Property Tax law. If that warning is heeded, you will be able to locate trouble spots; and, with that knowledge, you will be far better equipped to eliminate them than were your predecessors in 1947.

Five years ago, when I was asked to become Director of the Institute of Government, I realized that if I accepted the post I would have to drop out of the Property Tax scene. This was my most difficult choice. I knew that taking the new job would mean that no more could I prod and push you, no more could I grapple with the questions you brought to me, and no more would I have the chance to work with those who studied, proposed, and drafted changes in the tax law. But when I realized that Joe Ferrell and Bill Campbell would be here to take on this work, I was happy and took the decision without regret. They are as good as the Institute's best, and you deserve them.

Now, the time has come for me to step aside completely—like an outdated copy of the Machinery Act, something of a curiosity but not something to rely on.

I add here something of my Institute experiences outside the property tax field.

When I joined the Institute of Government's small post-war staff in 1946 I had formed no firm ideas of what I hoped to do there, and when asked by Albert Coates where I would like to start could only tell him what I preferred not to do: I asked that he not assign me to criminal law (I had disliked the course in law school) or governmental personnel work (I had struggled with manpower classification and assignment for almost five years of military service). He suggested that I examine the efforts George Hampton had made in the thirties to prepare simplified versions of the North Carolina election laws for use by county and precinct officials. This study of both primary and general election laws and practice led me to look also at the subject of municipal elections and, eventually, every provision for special elections and referenda to be found in North Carolina law.

In 1948 I published my first set of instructions for use in party

primaries and general elections, a manual that, under varying titles, I took through ten biennial editions until Rod Turnbull came to share the elections work in 1970.

Early in my experience with local election officials I had to face the dilemma posed when an Institute staff member found himself directly involved in partisan political affairs. And, by definition, nothing is more politically sensitive than the statutory and administrative framework in which primaries and general elections are conducted. From the first I made it my business to work as closely as possible with the person who happened to be serving as chairman of the State Board of Elections—often a significant figure in Democratic Party politics—and Raymond C. Maxwell, long the full-time executive secretary of that board. Without their counsel and criticism my work would have been academic and full of holes for the local officials faced with practical problems. I have always placed a high value on the fact that I gained Mr. Maxwell's confidence to the point that he was willing to join me in something theretofore unknown in North Carolina, instructional sessions for county boards of elections members and secretaries, sessions in which he and I shared the teaching assignments. Borrowing from my law school experience, I developed a system for teaching the election law through concrete examples—cases—that appealed to men and women more accustomed to dealing with factual situations than abstract principles.

My studies of the election laws of North Carolina and other states, coupled with the familiarity with the practical workings of those laws I had gained through twenty years of association with election officials were of inestimable help when I was called on to serve as counsel and draftsman for the commission established by the General Assembly of 1965 to revise and rewrite the election laws of the state. Although the commission's work was not intended to be revolutionary, it is clear that when the legislature of 1967 enacted the commission's draft, the North Carolina election laws were laid bare with a clarity that had not been exhibited since 1900, and the stage was set for whatever changes have taken place since 1967.

Late in 1947 I succeeded Peyton Abbott in the field of taxation,

while continuing my work with election laws and election officials; and, in my eyes at least, I had a full load of work. But in those days, when the Institute staff was composed of fewer than a dozen faculty members, none could enjoy the luxury of uninterrupted specialization. I was just settling into the tax job when the Institute accepted the invitation of the City of Charlotte and Mecklenburg County to make the first broad study of the possibility of merging the two units of government or, if not the units, at least some of their functions. Naturally I became responsible for examining and analyzing the tax agencies of the county and city—an important and time-consuming step in my professional experience. Others from our staff had equally demanding responsibilities in other areas of study. For some reason that I have now forgotten, we found ourselves without staff to deal with the delicate issue of the public schools. Should the separate city and county school units be merged and, if so, on what basis? In the emergency, and with more loyalty than knowledge, I assumed the responsibility. Although I was competent to develop a legal analysis of the existing situation and propose alternative plans, I had no practical knowledge of school personnel and school politics. Nevertheless, I did my best to listen to the people charged with running the two systems, trying through questions to get a clear understanding of their fears of each other as well as the fundamental issues at stake. But when I came to write my report and offer reasonable possibilities for the future, I almost lost my nerve. I was overwhelmed with ignorance of the technicalities, and I was fearful that whatever I wrote could be decimated by both sets of school officials. In desperation, I decided to try to analyze the problem posed by the two school systems from the point of view of the private citizen and wrote:

In an essentially adolescent community, it is imperative that plans for future educational development be made in terms of the geographical area, in terms of all the children and in terms of total resources.

In brief, I did what I would never recommend; I attempted to rely on common sense, a very weak weapon without the support power of broad knowledge of a field.

Six years later, no action having been taken, *The Charlotte News* began an editorial designed to spur merger by quoting what I have set out above and closed by saying:

And Mr. Lewis shrewdly noted that "common business experience will make the citizens see chances for economy in one planning program, one building program, one maintenance program, as against two of each."

Not until 1960 did the Charlotte and Mecklenburg school systems become one. (The wheels of local government do not always race toward solutions proposed from outside.) I have quoted from the editorial not wholly in self-praise; I use it as evidence that the Institute faculty member does now and then have the satisfaction of appreciation, although it is rare and often delayed.

Earlier I mentioned my experience with the commission charged with election laws revision; that prompts me to mention the work I did with the series of commissions established to consider the reorganization of the administrative agencies of North Carolina state government. Although I had some responsibilities with several of these commissions, I will restrict my comments to my experience with the first of them. When the Institute was called upon to staff this commission, we felt both honored and (certainly in my case) timid. It was one thing to examine and analyze a unit of county or city government, but examination, analysis, and suggestions for change in an agency of state government—often with an important and well-known administrator—was a horse of distinctly different hue.

And to my lot fell the Department of Revenue, the Tax Review Board, the Department of Tax Research, and the State Board of Assessment. Although I was courteously received by the heads of these agencies, it was soon apparent that the Commissioner of Revenue, who played a dominant role in each, was resentful of what he considered an intrusion—and, worst of all, intrusion by a young fellow with little or no experience in state tax administration. (I could not dispute this analysis, but I had no choice but to proceed to the best of my ability.) Fortunately, the highly respected commission members lent their authority to my efforts, and the numerous

division chiefs gave me generous help. At length, I produced a draft report in which I proposed that the reorganization commission recommend the repeal or revisal of a welter of statutory provisions and consider dropping, merging, or reorganizing some of the existing agencies I had examined.

It was unwavering Institute policy to submit reports and proposals for change (we always called them "alternatives") to the agency head directly affected *before* submitting them to the body to which we were to report. This served two purposes—errors of fact were likely to be discovered with less embarrassment, and, more significant psychologically, the person whose agency was being examined could not later assert that he had been surprised by the report. I followed the procedure and made copies of my draft available to the affected agency heads. Time passed, and I received no response from the Commissioner of Revenue, no request that I come to his office for discussion, no written criticisms or suggestions. The day arrived on which I was scheduled to give an oral summary of my work to the full commission. As I entered the Pines Restaurant, where the members had assembled, a Revenue Department representative handed me a thick envelope, saying that the Commissioner had asked him to deliver it to me in person. When the others sat down to enjoy dinner, I lost my appetite; I discovered that the Commissioner had treated my draft as if it were a complaint in a civil action and, paragraph-by-paragraph, he had answered. It was a chilling experience, but I was convinced that he had misinterpreted both the purpose and the purport of what I had written. At that moment, called on to make my oral presentation, I took the only course open to me: I summarized each element of my report, summarized the Commissioner's response to it, then did my best to clarify the issues for the study commission members without taking undue advantage of the Commissioner's absence. Governor Hodges was presiding that evening, a circumstance not calculated to ease my burden, but I do not think I disgraced the Institute. Most of my proposals were adopted, and from the experience I developed friendships with Frank Taylor, William B. Rodman, and others in state government that stood me in good stead throughout my Institute career.

I hope what I have written will be of some help. Since I know that you want something of the flavor of the Institute experience, I have dropped modesty and have written of some of the things that happened to me that produced a bit of praise as well as some of the less rewarding experiences.