

My Work in Property Tax Collection

I joined the faculty of the Institute of Government on July 1, 1965, after graduating from law school in June. I think one of the major reasons I was hired was that I had taken a law school course in state and local taxation and liked the subject. Henry Lewis was the faculty member responsible for all property tax matters at the Institute and he needed some help. I immediately started working with Henry. In my twenty-five years I had never met anyone who was remotely like Henry. He not only appeared to know everything there was to know about the property tax, he also knew an enormous amount about North Carolina state and local government law generally. He was also on speaking acquaintance with almost half the population of the state. Among his personal quirks: he did not own a television set; he never cooked and used the oven of his stove to store back issues of newspapers; and he was the only person I ever knew to order a bacon and peanut butter sandwich, toasted, on whole wheat.

It is impossible to overstate the importance of Henry's work in the property tax field. After graduating from Harvard Law School in 1940 and spending nearly five years in the U.S. Army during World War II, he joined the Institute of Government in 1946. He started and taught the schools for new assessors and collectors, he began the annual association meetings, and he wrote guidebooks for both groups of tax officials. He also did daily consulting with assessors, collectors, and city and county attorneys. He set the bar very high for all of us who were subsequently to work in the tax field.

I spent 1965-1966 working with Henry—learning the job, mostly. Then, in October of 1966, I went on active duty with the U.S. Navy for three years. I returned to the Institute of Government, and the property tax, on November 1, 1969.

Before I review some of the major events during the years that Henry and I worked together, I want to say something about how local tax offices were organized. In 1965 and for five or ten years after that, nearly every county had a tax assessor (in those days called a "tax supervisor") and a tax collector, and every municipality had a collector. In some of the smaller counties, the same person held both positions. The major exceptions to this arrangement were Mecklenburg County and the City of Charlotte. Mecklenburg County had a tax administrator who supervised both assessment and collection, and the collector was a division head in the department. When I arrived in North Carolina, Bob Alexander was the Mecklenburg County Tax Administrator and he came from an assessment background. The county also handled tax collections for Charlotte. Over the years, the Charlotte-Mecklenburg model came to

be adopted by most cities and counties across the state. The county appointed a tax administrator who supervised both the assessment and collection functions, and the county collected taxes for most of the municipalities within its boundaries. Again, following Mecklenburg, most of the tax administrators were from an assessment background. The two exceptions to this that I recall were Joe Stone in Mecklenburg, after Bob Alexander's retirement, and Jo Roberson in Orange County. Both had been tax collectors.

In 1970, a legislative commission was formed to study and recommend revisions to the Machinery Act, the provisions of the North Carolina General Statutes dealing with property tax assessment and collection. These statutes had not been comprehensively revised since 1939. Henry Lewis was asked to serve as the commission's legal counsel, and Henry asked me to assist him. The way the process worked was that at each meeting of the commission, Henry and I would present various sections of the Machinery Act, explain what the problems were, and suggest revisions. Our explanations of problems and suggestions for revision were based on Henry's experience over the years and on discussions with assessors, collectors, and attorneys. At many of the meetings, assessors and collectors testified to the commission about changes they wanted to see made. When the time came to cast the commission's recommendations into statutory language, Henry asked me to draft the public service company (railroads, airlines, trucking companies, electric utilities, and similar businesses) provisions and the collection and foreclosure provisions.

In drafting the public service company provisions I worked closely with Bob Underhill, the specialist in those matters from the Property Tax Division of the Department of Revenue. Bob would explain to me the changes to make in language that I could understand, and I would then draft a statute and submit it to him to see if I had captured what he intended. We worked back and forth like this until we had a final version of the new public service company statutes.

In revising the collection provisions, I worked mostly on my own. I knew from discussions with collectors that they wanted an easier way to enforce collection against personal property, and I knew from talking with city and county attorneys that they wanted to see the foreclosure provisions simplified and brought into compliance with the new rules of civil procedure. I was aware that the Department of Revenue had available much simpler and easier to use procedures for the enforcement of state taxes than were available for property taxes. I essentially imported the state procedures for levy and attachment and garnishment into the Machinery Act, with appropriate modifications for the local government context. I rewrote the mortgage-style foreclosure provisions

so that they conformed with the rules of civil procedure, and I revised the in rem procedures to make them simpler and also to try to ensure that they complied with due process requirements.

The bill prepared by the study commission was enacted by the 1971 General Assembly as the Machinery Act of 1971, with no amendments. Forty years later it remains the foundation of property tax administration in the state.

Although I subsequently drafted various tax bills—usually amendments to existing statutes—for introduction in the General Assembly, I did not again become involved in a major legislative effort until 1990. A major goal of the tax collectors' association had long been to change the way motor vehicles were taxed. Because of the difficulties in listing this class of property and then collecting the taxes on the listed vehicles, assessors and collectors knew that a significant percentage of motor vehicles were escaping taxation. In addition, the tax offices were spending an enormous amount of effort in trying to list the vehicles and collect the taxes due. Finally, by 1990, after several years of hard work by a special committee composed of a number of collectors and assessors, including Terry Rowland, of Cabarrus County, Roger Cotten and Jenks Crayton, of Guilford County, and chaired by Bobby Wicker, of Harnett County, a proposal was put together that appeared to be acceptable to the Division of Motor Vehicles and several influential legislators. The proposal made most motor vehicles a special class of property, with a rolling listing date. The tax assessors would use the registration lists from DMV as their guides for listing the property, and the taxes would have to be paid before a vehicle could be registered in the following year. My job was to translate these new procedures into statutory form so that a bill could be introduced.

The motor vehicle tax bill was enacted in 1991. Major help in its passage came from Senator John Kerr, of Goldsboro, who was the long-time chairman of the Senate Finance Committee. Although tax officials had been telling city and county governing board members for years that large amounts of revenue were being lost on motor vehicles, many governing board members were astounded at the results as the new law was implemented. So much additional revenue was raised that a number of cities and counties were able to hold the line on tax rate increases for several years.

A few months after the Machinery Act of 1971 was enacted, Henry and I divided responsibilities for the Institute's work in the property tax. He would handle listing and assessment and I would handle collection. I continued to teach a few sessions in the School for New Assessors and Henry taught a few sessions in the School for New Tax Collectors. In

1974, John Sanders, who had been director of the Institute of Government since 1962, was named a vice president of the University of North Carolina and Henry became director. Joe Ferrell then assumed Henry's responsibilities in the property tax field, and Joe and I worked together until my retirement in 2001.

I spent a considerable amount of time doing research and writing. I wrote the second edition of Property Tax Collection in North Carolina (Henry had written the first edition), and then over the years I wrote several revisions to keep the book up to date with changes in the law. I also wrote the second edition of Property Tax Lien Forms and Procedures and several revisions of that book as well. From time to time, I wrote issues of the *Property Tax Bulletin* to inform collectors and attorneys of changes in the Machinery Act, new court decisions, and similar new developments in the tax field.

In my early years of teaching the School for New Tax Collectors, I fairly closely followed the model that Henry had developed. This was a lecture format with the intention of ensuring that the students had a good working knowledge of the collections provisions of the Machinery Act and could look up for themselves questions that might arise in their daily work. After a few years of using this model, I began to introduce problems that students would be required to review and prepare answers for; these would be discussed in class. About five years before I retired, I decided that it would be beneficial if the school moved away from a strictly Machinery Act-based format and we introduced the students to some actual tax collection procedures. To that end, I asked several experienced tax collectors to teach sessions in the school. I remember that Jo Roberson from Orange County and Pete Rodda from Forsyth County were two collectors who taught. The students very much appreciated these lessons from the real world of collection work, and looking back I can see that I should have begun the practice much earlier in the schools.

When Henry taught both schools by himself he never gave a test at the end. In 1970, we began administering what Henry called a "survey" at the conclusion of each school. We explained that the survey was to inform us, the instructors, what had been learned so that in future schools we could improve the format and our teaching. In no way was this to be interpreted as a grade, and no one failed the school based on the survey. And that was how we used the surveys for a number of years. At least by the 1980s, however, the tax collectors' association had initiated a certification program, and one of the requirements for certification was making a passing grade on a test at the conclusion of the School for New Tax Collectors. In light of that requirement, I modified and lengthened the survey and made it into a true final examination.

The tax collectors' annual conference was traditionally held in April at the Institute of Government. Usually, we met in old classroom III, which accommodated about 100 people. The conference was a joint effort between the collectors' association and the Institute of Government. I considered the program committee one of the most important of the association's committees, and it was certainly one of the hardest working. The programs for the conferences included panel discussions by different collectors—and some times attorneys—on issues of current interest, updates on recent legislation and court decisions, and presentations on general topics in public administration. Over the years, it became obvious to me that more and more collectors, assistants and deputies, were attending the conference, to such an extent that the Institute could no longer accommodate it. I do not remember the exact year we made the change, but some time in the 1980s the program committee and I decided we needed to shift the location out of the Institute of Government, and we moved the conference to the Europa Hotel, in Chapel Hill. After several years at the Europa, the conference moved to the Sheraton in the Research Triangle Park, and then in some years to the Greensboro Sheraton. There were several advantages to holding the conference at a large hotel. All of the attendees could stay at one location—the hotel. Breakout rooms were available if needed. Association committees could meet between sessions. And the annual banquet could be held on site, at the hotel. All in all the change was to the good, and it enabled the association to put on programs that the Institute was not able to handle.

By a wide margin, most of my work in property tax collection was daily consulting with city and county collectors and attorneys. In the early days, this was by telephone and letter, but with the advent of e-mail, letters dropped out of the picture and it all became by telephone and e-mail. Some of the questions required extensive research and could not be answered immediately; others could be answered by a quick reference to the Machinery Act and required little or no research. All were interesting, and dealing with them gave me a chance to become acquainted with tax officials all across the state and kept me apprised of problems and developments in the tax field. I enjoyed the consulting aspect of my work more than any other part. I liked the immediacy of it, the notion that some one called me with a question and needed an answer right then. And, to be honest, I was gratified that a tax official or attorney called or wrote me in the belief that I could provide sound advice.

The Institute of Government-School of Government turned out to be a good professional niche for me. I enjoyed working in public law, teaching, and consulting. I think I would not have been happy in a

purely academic position, but being able to do teaching and research and at the same time be engaged in practical issues on a daily basis turned out to be just about perfect. The interest in local taxation that I developed in law school became a life-long professional interest, and I came to value greatly the many close friendships that I made among tax collectors and assessors. Looking back after being retired for ten years, I think those friendships were the best part of the work.

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