



# Opinions

Office of the Vermont Secretary of State

Vol. 10, #8

September 2008

## Quote of the Month

*An investment in knowledge  
always pays the best interest.*

**Benjamin Franklin**

*Reminder! All previous issues  
of Opinions are available online  
at*

**[www.sec.state.vt.us/  
municipal/opinions.htm](http://www.sec.state.vt.us/municipal/opinions.htm)**

## In this Issue

Quote of the Month.....	1
Voice from the Vault.....	2
Opinions of Opinions.....	4
Upcoming Events.....	6
Civics Behind the Scenes.....	7
Municipal Calendar.....	8
Civics Behind the Scenes.....	10
Tip of the Month.....	11

## A Message from the Secretary

My house is a lot quieter these days. It is not just that the kids are back in school, but our nest has gotten a little emptier because my oldest has gone off to college. Surprisingly, it is not just my daughter that I will miss – but our house feels empty without the noise and excitement of her friends. We have gotten used to having young people stopping by at all hours, hanging out on the porch listening to music and talking, eating us out of house and home.



We always felt lucky when Aviva and her friends chose our house to use as a hang-out. Not only did we have a better idea of what they were up to, but they are interesting and engaged kids. They have opinions about what is going on in the world. They have something to say when we talk about books, religion and even politics. What I didn't know, is that they are not unique.

In the spring of 2007, in partnership with the Vermont Student Assistance Corporation, we surveyed the entire Vermont senior class. Nearly every public and private school student participated. The survey was designed to give us information about whether exposure to the political process through mock election programs and other civic education opportunities affects students' attitudes and behaviors. The survey gives us a great snapshot of our youngest citizens. Here is some of what we found:

As a group, the class of 2007 speaks out about politics. Sixty-four percent reported that “when political issues are discussed I have something to say.”<sup>1</sup> Indeed, the majority, 53 percent, believed that they were “better informed about politics than most students.”<sup>2</sup> Most of these young people also reported that they planned to be active in civic and political life in the future.

Sixty-eight percent said that they would certainly vote for president, with an additional 21 percent saying that they probably would vote for president. Not quite as many of this group were certain they would vote in a state election – with 55 percent saying they would certainly do this, and an additional 28 percent saying they would probably do this. Seventy-three percent of the class of 2008 said they would probably or definitely volunteer in the community at some time in the future and 47 percent said they would probably or definitely collect money for a social cause.

Our office worked with VSAC to survey Vermont seniors to help us measure whether our civics education and mock election programs are a good investment. Students reported that their education made a difference. Nearly 70 percent strongly agreed, agreed, or somewhat agreed with the statement that “my education helped me understand political issues.” About half of the students reported participating in a mock election program in high school. Forty-five percent reported going to a polling place with a parent, and nearly half of the students said they have met an elected official.

<sup>1</sup> 20% strongly agreed, 21% agreed and 23% somewhat agreed with this statement.

<sup>2</sup> 13% strongly agreed, 15% agreed and 26% somewhat agreed with this statement.

*Continued on page 3*

## Webster and the Battle of Bennington

While it may reflect poorly on my abilities as a pet owner, I confess that my dog Webster is unfamiliar with the Battle of Bennington (August 16, 1777). What Webster did know on August 15<sup>th</sup> of this year was that it was morning, I was home, and therefore it was time for us to stroll down to Laird Pond. Numerous neighbors driving by on their way to work stopped to inquire why we were out and about on a Friday. Most assumed I was taking advantage of the all too rare sunshine to play hooky and stay home. When I explained that it was a state holiday my neighbors offered good natured, but nonetheless pointed, remarks on state employees and obscure holidays.

Battle of Bennington Day suffers from misunderstanding and neglect. One sure sign of this is the lack of the commercial exploitation that we use to observe, and obscure, more celebrated holidays. There was nary a car, furniture, or mattress sale to be found on the 15<sup>th</sup>, while the card racks at local stores were bereft of Bennington Battle Day offerings.

Periodically brave souls sally forth to give the holiday its historical due. This year Senator Bill Doyle offered an opinion piece on why the battle was important (Times Argus, August 10<sup>th</sup> and the Free Press on August 15<sup>th</sup>), while Mark Bushnell used his Sunday, August 17<sup>th</sup> column in the Rutland Herald/Time Argus to likewise explain the battle's role in the subsequent surrender of Gen. John Burgoyne at Saratoga, one of the pivotal events of the American Revolution.

But as I strolled along the peaceful and familiar back roads I fell into thought about Vermont as a war zone and the common threads of the human experience. As most of you know, Vermont occupied a disputed territory claimed primarily by New York and New Hampshire. In 1777, against the backdrop of the American Revolution, Vermont issued its own declaration of independence and called itself into being through the adoption of a state constitution. It was the first self-created state and, as a revolution with the Revolution, raised a host of sticky political issues for the original thirteen states.

That is a story for another day. The point was that New York continued to try and assert its jurisdiction over Vermont while the British army used the Champlain Valley as a major military corridor. While Vermont's revolutionary leaders declared that New York and Great Britain had abrogated the social contract, leaving us in a state of nature, free to create a new political entity, others retained allegiance to New York and/or Great Britain. Speculators and settlers whose title to Vermont land came from New York opposed the new state in defense of their property and labor. The British army was operating in the Champlain Valley while British loyalists in Canada, with their Native American allies, conducted raids against Vermont settlements.



These raids are long forgotten but were terrifying realities to Vermont settlers. In early 1777, for example, 14 Vermont soldiers under Capt. Thomas Sawyer accompanied Moses Pierson to his farm in Shelburne to prepare his crops. Pierson had abandoned his farm the previous fall because of enemy raiders. In March the troops were attacked by Native Americans under the command of a British officer and were driven into a blockhouse which was then set on fire. The Vermonters managed to defeat the raiders, killing the British officer and at least 12 others, but at the cost of three killed. These skirmishes were repeated in other frontier towns. Residents of Vermont's frontier towns were left with the difficult choices of staying with the hope that local and state militia could offer protection; withdrawing until it was safe to return; or accepting the protection of Vermont's enemies.

The latter course was not without additional risks. In July 1777 Ira Allen on behalf of Vermont's Council of Safety, which functioned as the state government, warned New Hampshire's revolutionary government that every town that accepted British protection changed Vermont's line of defense and, "as Some Disaffected Persons eternally Lurk in almost every Town, such become Doubly fortified to injure their Country." Vermont looked to ways to remove such "Disaffected Persons."

For several years Vermont's revolutionaries had used their militia, notably the Green Mountain Boys, to frustrate New York's efforts to assert its jurisdiction. New York surveyors had their instruments broken and were escorted out of state. New York's Vermont courts were disrupted, most famously at the "Westminster Massacre." New York sheriffs and their posses were set upon when they attempted to arrest Vermont supporters. Settlers holding New York title risked having their homes destroyed and being expelled from Vermont.

In March 1778 the Vermont legislature created courts of confiscation. These courts seized and sold the property of Tories who opposed Vermont. This not only eliminated enemies of the state, as defined by the legislature, but also provided much revenue for the new state government without having to resort to taxes. Tories who were evicted from their land were arrested and imprisoned until they could be escorted out of state.

Occasionally the courts made allowances for the wives and families of the Tories (while this was often done for humanitarian reasons, in some cases there may have been an attempt to recognize that the treasonous behavior of a husband may not have been shared by the family). The wife of Tory Jeremiah French was expelled to join her husband “now in the armies of the Enemy” but was allowed to take “two feather beds and bedding not exceeding eight sheets, six coverlids or blankets, five plates, two platters, two basins, one quart cup, & knives & forks if she has such things, [and] her own and her children’s wearing apparel.” All other “moveables” were to be sold to pay for transporting her out of state, while the family’s real property was seized and sold.

In 1941 Mary Greene Nye, in her introduction to *Sequestration, Confiscation and the Sale of Estates* (State Papers of Vermont, Volume 6), lamented that the “whole field of sequestration...is almost entirely unreacted.” While Vermonters have long celebrated the political and military feats of our founders, we have largely ignored the social and economic realities of being in a war zone surrounded by powerful and inimical interests. In recent columns I have focused on the new Vermont State Archives and Records Administration and the need to manage public records. Another role of the Archives is to encourage the study of state government over time. My own preference, as long time readers know, is to not only see the past as passed, but also to look to the past for clues about who we are and how we respond to different situations and issues.

And this is where my thoughts led me as Webster and I walked toward Laird Pond. There is a constancy to human nature. Vermont’s revolutionaries restricted the freedom of expression of those who opposed them; they waged a guerilla war to keep New York from establishing the infrastructures of government and to tie down a superior military force; and they cleansed the state of opponents. We see similar responses today within the far too numerous trouble spots of the world. What, if anything, can a better understanding of how we once responded to internal and external threats tell us about the events of our current world?

*A Message from the Secretary...continued from page 1*

We asked students some specific questions about what they learned in school. The results indicated that schools were making headway in teaching kids the fundamentals of how to be engaged citizens. Fifty-six percent strongly agreed or agreed with the statement: “I learned how our elections work.” Forty-four percent strongly agreed or agreed with the statement: “I learned about individuals’ responsibility to community.” Forty-three percent strongly agreed or agreed with the statement: “I know how to research candidates for political office.” Thirty-nine percent strongly agreed or agreed with the statement: “I learned how to examine social problems.” Thirty-four percent strongly agreed or agreed with the statement: “I learned how political action groups can solve problems,” and 35 percent strongly agreed or agreed with the statement: “I learned ways of addressing community problems.”

What does this all really mean? Looking broadly at the responses, we have good reason to feel optimistic. These results tell us that this newest generation of Vermont adults will be more active and engaged than the ones before it. It also affirms the value of the Secretary of State’s civic education programs, and in particular, Vermont Votes for Kids mock election program which teaches kids the importance of voting to our democracy. When we invest in civics education we are investing in Vermont’s future!



Deborah L. Markowitz, Secretary of State

- 1. Clerk should arrange a private space for voting early at the town office.** The law gives voters the right to mark a ballot “conveniently and privately.” 17 V.S.A. §§2502(b), 2504. Now that more voters are choosing to vote early in the town clerk’s office, private space should be provided so that the voter can vote secretly. Some clerks have set up voting booths in the office; others have purchased tabletop display boards they can take out when needed to give voters a private space to mark a ballot. A voter can also choose to take the ballot out of the office to complete and then return by 7:00 p.m. on Election Day.
- 2. Voters must register where his or her “principal dwelling place” is located.** 17 V.S.A. §2122(b). The law permits a person to vote only where he or she is domiciled (this is where their principal dwelling place is located.) Although a voter with more than one home can choose which home to consider as a principal dwelling place, a voter cannot claim that nonresidential property or undeveloped land is a residence for voting purposes. In addition, if a person’s property is located partly in one town and partly in another town, the person must register to vote in the town where the house or dwelling place is located.
- 3. Voter may sometimes remain on the checklist when they have moved from a town.** Voter may remain on the checklist when they have temporarily moved out of a town so long as they have a specific intent to return. For example a person who moves to go to college or temporarily while a new home is being built or during the pendency of a divorce may stay on the voter checklist even though he no longer has a dwelling place in the town. In addition, registered voters who are serving in the military and U.S. citizens who live outside the United States may register and continue to vote in the jurisdiction where they last resided immediately prior to moving overseas. Even if a person was not on your checklist, if he resided in your town or city immediately prior to either joining the military or moving overseas, then that person can submit a voter registration form (application to the checklist) and request to vote by absentee ballot.
- 4. Ballots may be overnighted, faxed or emailed when necessary.** If a military or overseas voter is concerned about the transit time for receiving and returning a ballot then the voter, a family member or friend can give the town clerk a prepaid overnight or express delivery envelope to speed delivery. A town clerk may also fax ballots to a military or overseas voter upon request along with a certificate to be affixed to a No. 10 Envelope to sign and then use to return the ballots. A town clerk may also email a PDF of the ballots to a voter along with a PDF of the certificate to be affixed to the return envelope. The voter must print the ballots, mark the ballots, complete the certificate, affix it to a No. 10 envelope, then place this in an express delivery envelope for return to the town clerk. Please contact Melanie Hodge at [mhodge@sec.state.vt.us](mailto:mhodge@sec.state.vt.us) if you need a PDF of your ballots or a PDF of the certificate to email.
- 5. Selectboard may appoint additional BCA members upon request of a major party that is under-represented on the board.** If less than three members of a major party have been elected to serve on the BCA, the town committee of a political party or any three voters who are affiliated with a political party may make a request to the selectboard to have persons affiliated with the under-represented party appointed to the board of civil authority to serve as election officials and assist with the election duties of the BCA. 17 V.S.A. §2143. If a written request is filed with the town or city clerk, the legislative body shall appoint from a list of names submitted by the under-represented party to bring the number of representatives from the party up to three members. Remember, these appointed members are election officials but cannot participate in any other BCA duties such as tax abatements or appeals.
- 6. Town committee may nominate justices of the peace.** Town committees of a major political party must caucus prior to the first Tuesday in September to nominate justices of the peace. If the committee misses this deadline it can meet as provided in 17 V.S.A. §§ 2381-2387 to nominate candidates for Justice. The chair of the committee must provide not less than five days written notice to all members of the committee of the meeting to nominate. The committee nominates JP candidates by a majority of those present and voting. The statement of nomination by committee form must then be completed and signed by the chairman and secretary. A copy of the notice must be filed with the statement of nomination before 5:00 p.m. on September 12, 2008, in your town clerk's office.
- 7. Official return of vote must be filed within 48 hours of the election.** Town clerks must file the Official Return of Votes for the primary as soon as possible after the September 9<sup>th</sup> election (but not later than 48 hours after the election) with the Secretary of State, senatorial district clerk, county clerk, and representative district clerk. The elections division mailed copies of the tally sheets, summary sheets, and Official Return of Votes forms to all town clerks along with more detailed instructions in late August. If you did not receive yours please contact the elections division.
- 8. Constables are no longer required by law to “guard” the ballot box or tabulating machine.** Although prior law made it a duty of the constable to “guard” the ballot box, the constable no longer has this role – or any other official role in the elections. A constable can



be appointed by the BCA to serve as an assistant election official, and the presiding officer can assign the constable to perform any role he or she feels is necessary. Of course, if there are unruly voters or observers, the presiding officer can ask the constable for assistance in maintaining order in the polling place.

- 9. Voters must deposit their own ballots into the ballot box.** The presiding officer must assign an election official to stand approximately four feet away from the ballot box or tabulating machine to be available to answer questions for voters. Voters **MUST DEPOSIT THEIR OWN BALLOTS INTO THE BALLOT BOX or TABULATOR** unless they have requested assistance. If a tabulator rejects a ballot due to an over-vote, then the election official moves to the left side of the tabulator to read the display screen and tells the voter which is the first race in which the voter has voted for too many candidates. The most frequent complaint to our office on Election Day is that an election official has “taken” a voter’s ballot to deposit in the ballot box or has hovered too close to the tabulating machine so that the voter fears that his ballot is being “read” by the election official.
- 10. In the September primary, voter’s party ballot choice is private.** Unlike the presidential primary, where a voter must publicly declare which party’s ballot he or she wishes to vote, in the September state primary the voter is given all four major party ballots. In the privacy of the voting booth the voter marks one of the ballots and then folds up the three he or she wishes to discard. No one but the voter should know which ballot has been chosen. 17 V.S.A. § 2570.
- 11. There will be two ballot boxes for primary election.** For the primary, in addition to the ballot box or tabulator there will be a box for unvoted ballots. With four major parties this year, this means one ballot is placed in the ballot box (or optical scan tabulator) and three are placed in the unvoted ballot box. An election worker may take the unvoted ballots and assist the voter in disposing of them; however, it is important to do this in such a way that would not lead the voter to believe that you could know which primary ballot she chose to vote. 17 V.S.A. § 2570.
- 12. A voted early or absentee ballot that has been received by the town cannot be returned to the voter.** If an early voter mails or returns in person his voted ballot and unused ballots in the sealed, signed envelope to the town clerk, the voter cannot ask for his ballots back so he can “change his mind” about a vote. 17 V.S.A. §2543. The law states that “once an early voter absentee ballot has been returned to the clerk in the sealed envelope with the signed certificate, it shall be stored in a secure place and shall not be returned to the voter for any reason.” It is just as if the ballot had been deposited in the voted ballot box on Election Day.
- 13. Early or absentee voter can replace spoiled ballot.** If an early voter discovers that he has made a mistake and spoiled his ballots prior to returning the ballots to the clerk, he can return all of the spoiled ballots and envelopes to the town clerk and request another set of ballots to vote, just the same as a voter in the polling place can request up to three sets of ballots if he spoils or makes a mistake in marking or tearing the ballots. 17 V.S.A §2568
- 14. Early or absentee voters in the primary must return voted and unvoted ballots.** For the September primary, an early absentee voter must return the unvoted ballots in the unvoted envelope along with his voted ballot in the voted ballot envelope, or his ballot must be considered defective and shall not be counted. 17 V.S.A. §2547. All early voters must select only one primary ballot to vote, and the other three major party ballots must be returned to the clerk in the unvoted ballot envelope along with the voted ballot in the signed certificate envelope.
- 15. Ballots must be returned to the polls by 7:00 p.m. in order to be counted.** Anyone, a neighbor, a delivery boy, even a candidate can return voted ballots sealed in the voted ballot envelope with the signature of the voter to the town clerk (or polling place on Election Day) before the 7:00 p.m. closing of the polls. Vermont statutes do not limit the means by which voted ballots be returned.
- 16. Reasonable rules for poll watchers can be set by each presiding officer.** We recommend that presiding officers prepare a list of rules for all poll watchers to review and sign. These rules could include: No cell phones in the polling place, no food or drink, no chitchatting with voters, election workers, or other poll watchers. They must sit or stand where assigned by the presiding officer (behind guardrail or tape marks on floor). They have the right to hear names but may not touch the checklists or talk to the election officials working on the entrance checklist. If they have a problem hearing they must speak to the presiding officer who will help solve the problem.
- 17. Small towns must show checklist to poll watchers twice during Election Day.** In towns with less than 500 voters, poll watchers (representatives of a political party or a candidate) may view the checklist twice during Election Day, at a time that is convenient for the election officials. This is only permitted in instances where the board of civil authority received a request in writing from the representative or candidate at least 12 hours before the opening of the polls.



- 18. Selectboard and school board records should be maintained separately in the town clerk's office.** The town school district is a separate municipal corporation from the town or city. The records for each municipal corporation should be maintained separately to avoid confusion.
- 19. Clerk is not required to search and copy.** The public records law only requires the custodian of the records to make the records available for "public inspection" and copying (if you have copy equipment) during your regular office hours. The custodian may, as a courtesy, collect, copy and send the requested records, but this is a courtesy only - it is not required by law.
- 20. Public has a right to be heard at open meeting.** Public boards must allow the public reasonable opportunity to express its opinion on matters considered by the public body during the meeting, subject to reasonable rules established by the chair. 1 V.S.A. §312(h) Vermont law makes it clear that a board cannot eliminate all public comment; however, it does not clearly articulate the limits of the board's control over public comment. Not surprisingly, boards and citizens may differ in interpreting how much comment and what type of rules provide "reasonable opportunity" to participate. What makes it even more challenging is that the appropriateness of the rules governing participation may change depending upon the matters under consideration by the board. At a minimum, we suggest that the board chair should articulate the procedures for public comment and the board's rationale for the procedures at the beginning of each open meeting.
- 21. Non-residents may participate in public meetings.** The rule that only voters can speak unless the assembly votes to allow the person to participate applies only to the Annual and Special meetings of the town. The open meeting law provides that members of the public (not just voters) have the right to speak on public issues at meetings of public bodies. 1 V.S.A. § 312
- 22. Towns are not required to use bid process.** There is no state statute that requires towns or town cemeteries to use a public bid process. However, many towns have adopted public bid policies, and some towns include bidding requirements in their charters. Whenever a public official may be an interested bidder, a public bid process should be used to ensure that the public has confidence in the selection process. Note that the law requires public bidding in many school district contracts.
- 23. Board members who bid on town contracts must not participate in discussion or vote on contract.** Whenever a board member wishes to bid on a town contract the board member should remove him or herself from the board for the purpose of the discussion and vote. To avoid even the appearance of undue influence the board member should not be present during the discussion and vote.
- 24. Municipal library trustees may not vote to pay a "gift" from endowment fund to trustees.** Voters may elect to provide the library trustees a salary or stipend. If they fail to do so then the selectboard may vote to fix compensation. 24 V.S.A. § 932, 933. Note that unless compensation is set in law or by vote local officials, including library trustees do not have a right to compensation for personal services. 24 V.S.A. § 931.



*In our monthly Opinions, we provide what we believe the law requires based upon our legal judgment, years of observing Vermont's local government practices, and Vermont Court decisions. This information is intended as a reference guide only and should not replace the advice of legal counsel.*

## Upcoming Events

### 2008 VLCT Town Fair

- Date:** Thursday, October 2  
**Place:** Killington Grand Hotel in Killington, VT  
**Cost:** \$25 - \$95  
**Contact:** Jessica Hill at Vermont League of Cities and Towns  
**Phone:** 802-229-9111  
**Email:** [jhill@vlct.org](mailto:jhill@vlct.org)  
**Register:** <http://www.vlct.org/eventscalendar/townfair/>

The annual meeting for ALL municipal officials and staff in Vermont! The largest annual gathering of local officials in the state.

Our office is a veritable flurry of activity these days, simultaneously preparing for back-to-school and the fall elections. In our ongoing effort to prepare future citizens, our office provides resources for Vermont students from kindergarten through college, and things are especially exciting (and hectic) at this time of year! Below is a brief description of a few key programs. As always, the involvement and support of municipal folks is greatly appreciated. In particular, town clerks do so much for voters of all ages.

## Vermont Votes For Kids

Our civics education program being used by schools all over Vermont this fall is in full swing! The K-12 civics curriculum provides students the opportunity to research candidates and help them understand how elections work.



## Democracy in Action Newspaper Pages

Daily newspapers across the state run this six-week series to supplement the Vermont Votes For Kids program. Students can read about the history of voting rights, hot election issues, the polling process, how to evaluate campaign advertising, and much more! Your local schools can order the series by contacting the newspaper directly.

## Mock Elections

The culmination of the VVK experience is a mock election where students cast their ballots at school or at their town polling place on Election Day. To provide the best, most realistic voting experience for students, town clerks and teachers can work together to hold the mock election at the town polling place. Please be ready for these requests and call me if you have questions or concerns regarding the mock election process at your polling place or at your local school.

## College Voters

Our office is working with students and staff from Vermont colleges around the state, sponsoring voter registration efforts, to encourage our youngest voters to voice their vote. Our newly published "College Voter's Guide" is a fantastic resource for first-time voters.



## Honor A Vet With Your Vote

The orders are starting to come in fast for Honor a Vet buttons! Some clerks are sponsoring button drives in their community at town gatherings and events. Thanks for your efforts in recognizing the important contributions of our nation's veterans.

## Election Materials

*Register to Vote Here* signs and elections stickers are available. And we have a supply of buttons and bumper stickers with our *Your Vote is Your Voice* message, as well as lots of voter education resources.

Please visit our website at [www.sec.state.vt.us](http://www.sec.state.vt.us) for more information or to order materials or contact Missy Shea at 802-828-1296.

# Municipal Calendar

---

## SEPTEMBER 2008

1 - Labor Day. 1 V.S.A. § 371(a)

1 - (During the eight days immediately preceding election day and on election day) Town clerk must give each pair of justices one part of the list of ill or physically disabled applicants to be visited, together with early or absentee voter ballots and envelopes for each. 17 V.S.A. § 2538(b), (c)

2 - Candidates for county office (high bailiff) to file ten-day pre-primary campaign finance reports with the county clerk with whom nomination papers were filed. If a filing deadline falls on a Saturday, Sunday or legal holiday, then the deadline shall be extended to the next business day. 17 V.S.A. §§ 2821 and 2103(13)

2 - On or before the first Tuesday in September, upon the call of the town committee, party members in town may meet and nominate candidates for justice of the peace. 17 V.S.A. § 2413 If no caucus is held, the town committee meets and nominates candidates for justice of the peace. 17 V.S.A. § 2381(a)(3)

3 - Last day, until 5:00 p.m., to apply for addition to the checklist to vote in the primary. Clerks' offices must be kept open from 3:00 p.m. to 5:00 p.m. to receive applications. 17 V.S.A. §§ 2144(a) and (b), 2103(13)

3 - Last day for town clerks to receive a simultaneous request for an application for addition to the checklist accompanying an early or absentee ballot request. 17 V.S.A. §§ 2532(b) and (c), 2103(13)

3 - Last day for people who are not eligible to register by this date but who will be by election day to file a written notice of intent to apply with the town clerk and to apply for an early or absentee ballot. 17 V.S.A. §§ 2144(b) and (c), 2103(13)

4 - Last day for town clerk to forward to the board of civil authority a list of voters added to the checklist (at least five days before election). 17 V.S.A. § 2144b(d)

5 - First day for independent and minor political party candidates, nominees of major parties that have failed to nominate candidates in the primary, and candidates for the office of justice of the peace to file statements of nomination with the appropriate filing officer (not more than 60 days before the general election). 17 V.S.A. § 2386

6 - Last day for the board of civil authority to designate pairs of justices of the peace, assuring political balance, to deliver early or absentee ballots to ill and physically disabled voters (three days prior to the election). 17 V.S.A. § 2538(a)

8 - Board of civil authority must appoint a presiding officer if the town clerk or other regular presiding officer is unable to preside at the election or if more than one polling place is used. 17 V.S.A. § 2452

8 - Prior to the day of the election, board of civil authority must appoint assistant election officers. 17 V.S.A. § 2454

8 - Presiding officer must notify the election officers of their hours and duties. 17 V.S.A. § 2455

8 - Voters, family members, authorized persons, or health care providers may request early or absentee ballots until 5:00 p.m. or the closing of the town clerk's office on this day. 17 V.S.A. § 2531(a)

8 - Clerks must make a list of early or absentee voters available upon request in their offices. 17 V.S.A. § 2534

8 - The presiding officer of each polling place must also post a copy of the warning and notice, sample ballots and the current checklist in a conspicuous place in each polling place before the polls open on election day. 17 V.S.A. § 2523(a)

8 - The presiding officer shall also ensure that signs informing voters of procedures for depositing ballots are placed on or near the ballot boxes before the polls open on election day. 17 V.S.A. § 2523(b)

9 - PRIMARY ELECTION DAY- A primary election shall be held on the second Tuesday of September in each even numbered year for the nomination of candidates of major political parties for all offices to be voted for at the succeeding general election, except candidates for president and vice president of the United States, their electors, and justices of the peace. 17 V.S.A. § 2351

9 - Clerks must make a list of all early or absentee voters available upon request in each polling place as soon as it opens. 17 V.S.A. § 2534

9 - The presiding officer must post copies of the warning, notice, and sample ballots. Signs should be placed on or near the ballot boxes explaining procedures for depositing ballots. 17 V.S.A. § 2523

9 - Polls must be open no earlier than 5:00 a.m. and not later than 10:00 a.m. (opening hour set by board of civil authority). Polls remain open until 7:00 p.m. 17 V.S.A. § 2561(a)

9 - During polling hours presiding officer must ensure that there is no campaigning of any kind and no campaign literature displayed, placed, or distributed inside the polling place. On walks and driveways leading to a polling place, no candidate or other person may physically interfere with the progress of a voter to and from the polling place. 17 V.S.A. § 2508

9 - For those who became eligible to vote after the first Wednesday prior to Election Day and had notified the town clerk of intent to apply for addition to the checklist, the town clerk shall act on applications until polls are closed. 17 V.S.A. § 2144(b), (c)

9 - As soon as possible after the polls close, the presiding officer must examine entrance and exit checklists and prepare a statement of discrepancies. 17 V.S.A. § 2583(a)

9 - Presiding officer directs election officials in counting ballots. 17 V.S.A. §§ 2581, 2582

9 - Presiding officer must seal all ballots, exit checklist(s) and tally sheets. The entrance checklist must be kept out of the ballot bags and placed in a secure location. 17 V.S.A. §§ 2583(a), 2590(a), 2689

10 - Representative district canvassing committees for single town districts meet at 10:00 a.m. to tally returns. 17 V.S.A. § 2368

PLEASE OVERNIGHT YOUR OFFICIAL RETURNS (ORV) to the Office of the Secretary of State, 26 Terrace Street, Montpelier, VT 05609-1101. We must data enter all results on Friday, Saturday, and Sunday in order to have the Statewide Canvassing Report for 10 a.m. on Tuesday.

11 - In a manner prescribed by the secretary of state and within 48 hours of the close of the polls, the town clerk shall deliver the original Official Return of Vote to the secretary of state and one certified copy to the representative district clerk, senatorial district clerk and county clerk. 17 V.S.A. § 2588

12 - Representative district canvassing committees in multi-town districts, and canvassing committees for state senator and county offices meet at 10:00 a.m. to tally returns. (Three days after the election.) 17 V.S.A. § 2368

12 - Last day for canvassing committees in single town districts to prepare and sign certificates of nomination and mail or deliver in person to each candidate nominated a notice of nomination. (Within two days after the canvassing meeting) 17 V.S.A. § 2371(a)

12 - Last day for validly nominated candidates to withdraw their names from the ballot by filing a written notice with the town clerk in the case of a justice of the peace, or with the secretary of state in the case of all other offices (third day following the primary). 17 V.S.A. § 2412

12 - Last day for independent and minor political party candidates, nominees of major parties that have failed to nominate candidates in the primary, and candidates for the office of justice of the peace to file statements of nomination with the appropriate filing officer (third day following the primary election). 17 V.S.A. § 2386

12 - Canvassing committee for single member district must also file with the secretary of state a list (the "canvassing report") showing the vote for each candidate of each party for each office. 17 V.S.A. § 2371(a)

15 - Last day for canvassing committees in multi-town representative districts and for countywide offices and for state senator to prepare and sign certificates of nomination and mail or deliver in person to each candidate nominated a notice of his or her nomination. (two days after the canvassing meeting) 17 V.S.A. §§ 2371(a), 2103(13)

15 - Last day for town clerk to remit to state treasurer an accounting of dog and wolf-hybrid licenses sold and remit the license fee surcharge for a rabies control program. 20 V.S.A. § 3581(f)

16 - Canvassing committees for statewide and congressional offices meet at 10:00 a.m. to tally returns (one week after the primary) 17 V.S.A. § 2368

18 - Party chair must certify in writing the names of the presidential and vice presidential candidates selected at the party's national convention (forty-seven days before the general election). 17 V.S.A. § 2716

19 - Last day for a losing candidate to request a recount (within 10 days after the election). 17 V.S.A. § 2602(b)

19 - Last day that a candidate nominated by more than one political party for the same office may elect the party or parties in which the nominee will be a candidate (2<sup>nd</sup> Friday following primary). The nominee shall notify the secretary of state or town clerk, as the case may be, of such choice. 17 V.S.A. §2474

19 - Last day for persons nominated by any means for the same office by more than one political party to elect the party or parties for which they will be candidates (2<sup>nd</sup> Friday following the Primary Election). 17 V.S.A. § 2474(a)

19 - Last day for party committees to nominate a candidate due to the death or withdrawal of a candidate after the Primary Election. The party committee has seven days from the date of withdrawal of a candidate. 17 V.S.A. §2386(b)

20 - Within five days of the date of mailing or personal delivery of a statement of nomination to a candidate for state representative from a single town district, that candidate may request that an error in the candidate's name, residence or party affiliation be corrected or that the candidate's preference as to the candidate's own name be used on the ballot, as well as choosing which party affiliation will be listed if the candidate was nominated by more than one party. 17 V.S.A. §§ 2371(b), 2474

22 - Last day that a candidate for county office (high bailiff and justice of the peace), state senator, or state representative from a multi-town district may request that an error in the candidate's name, residence or party affiliation be corrected, or that the candidate's preference as to the candidate's own name be used on the ballot (within five days of mailing of certificates). 17 V.S.A. §§ 2371(b), 2103(13)

24 - Last day that a legal voter may contest the results of the primary election (within 15 days after the election). 17 V.S.A. § 2603(c)

25 - Candidates for state office, state senate, state representative, political parties, and political committees, who have made expenditures or received contributions of \$500.00 or more must file campaign finance reports with the secretary of state by 5:00 p.m. 17 V.S.A. §§ 2103(13), 2811(a)(1). (25<sup>th</sup> of each month.) Candidates for the state senator or state representative must also file such reports with the clerk of the candidates' respective senate or house district (the same clerk where the candidate files nominating petitions). 17 V.S.A. § 2811(e)

25 - Last day for clerks to request additional ballots for the General Election, due to unusual growth of the checklist. (40 days prior to the election.) 17 V.S.A. § 2478(d)

25 - Last day for the board of civil authority to divide the checklist and designate polling places for the general election. 17 V.S.A. § 2501(a)

30 - Town clerks receive at least five copies of the warning and notice for each polling place in the town (at least five days before they must be posted). Blanks should be filled in on each warning by the town clerk, listing the polling place, address and the time polls open in each town. 17 V.S.A. § 2521(b)

#### OCTOBER 2008

5 - Last day to post the warning and notice for the general election (30 days before the election). 17 V.S.A. § 2521(a) The checklist must also be posted in two or more public places in the town in addition to being posted at the town clerk's office in towns with over 5,000 population. In towns with less than 5,000 population, the checklist must only be posted one place in addition to the clerk's office. 17 V.S.A. §§ 2141, 2521(a) In towns that divide their checklist, that portion of the checklist that applies to the district should be posted.

6 - Town clerks will receive general election ballots by this date (not later than 30 days before the election). Clerks should store the ballots, except those used for sample ballots and early or absentees, in a secure location until the date of the election. 17 V.S.A. §§ 2479, 2103(13)

13 - Columbus Day. 1 V.S.A. § 371(a)

15 - Last day for town clerks to post sample ballots (for the general election) in the same places that have previously posted copies of the warning, notice, and checklist. (20 days prior to the election.) 17 V.S.A. §2522(a)

15 - Last day for U.S. Congressional candidates to file FEC quarterly reports for the October quarter (Aug. 25-Sept. 30). 2 U.S.C. § 434(a)(2)

23 - Last day for U.S. Congressional candidates to file FEC 12-day pre-general election reports (Oct. 1-Oct. 19). 2 U.S.C. § 434(a)(2)

25 - (At least 10 days before the election) Vote tabulators must be tested using official ballots that are clearly marked "test ballots." 17 V.S.A. § 2493(b)

25 - State withholding tax return is due (actual date by which return must be postmarked is shown on the printed form) if reporting less than \$2,500 per quarter. More than \$2,500 requires monthly report; more than \$9,000 requires semi-weekly report. 32 V.S.A. § 5842

27 - Candidates for state office, state senator, state representative, political parties, and political committees who have made expenditures or received contributions of \$500.00 or more must file campaign finance reports with the secretary of state by 5:00 p.m. 17 V.S.A. § 2811(a)(1). Candidates for the state senator or state representative must also file such reports with the clerk of the candidates' respective senate or house district (the same clerk where the candidate files nominating petitions). 17 V.S.A. § 2811(e)

27 - Candidates for county office (probate judge, assistant judge, state's attorney, sheriff, high bailiff and justice of the peace) who have raised or expended \$500 or more must file a ten-day pre-general campaign finance report with the county clerk. If a filing deadline falls

on a Saturday, Sunday or legal holiday, then the deadline shall be extended to the next business day. 17 V.S.A. §§ 2821(a)(2) and 2103(13) Copies of these reports must be forwarded by the county clerk to the secretary of state within five days of receipt. 17 V.S.A. § 2821(c)

27 - During the 8 days preceding the election and on election day, the clerk shall divide the list of ill and physically disabled voters into as many equal parts as there are pairs of designated justices, and deliver those lists to the justices, together with early or absentee ballots and envelopes. 17 V.S.A. § 2538(b)

29 - Last day, until 5:00 p.m., to apply for addition to the checklist in order to vote in the general election. Clerks' offices must be kept open from 3:00 p.m. to 5:00 p.m. to receive applications. 17 V.S.A. § 2144(a)

29 - Last day, until 5:00 p.m., for people who are not eligible to register by this date but who will be by election day to file a written notice of intent to apply with the town clerk. 17 V.S.A. § 2144(b) and (c)

29 - Last day for town clerks to receive a request for an application for addition to the checklist accompanying an early or absentee ballot request. 17 V.S.A. § 2532(b) and (c)

30 - Last day for Town Clerk to forward to the Board of Civil Authority a list of voters added to the checklist (at least five days before election). 17 V.S.A. § 2144b(d)

31 - Last day to file Form 941 (Quarterly Withholding Return) with the IRS

***The Municipal Calendar is provided by the Vermont League of Cities and Towns/Chittenden Bank and the Secretary of State's Office. The Secretary of State's 2008 Election Calendar is posted online at [http://vermont-elections.org/elections1/critical\\_dates\\_2008.html](http://vermont-elections.org/elections1/critical_dates_2008.html)***

## Tip of the Month

This month's tip comes from Judy Stratton, Town Clerk of Shaftsbury.

Voters continue to express concern that election officials "are looking at my votes" when they feed ballots into the vote tabulator at the polling place. Judy has found a creative use for the plastic coated corrugated folding tabletop voting booths that the Office of the Secretary of State provided for towns to use to provide privacy for voters who use the Vote-by-Telephone system.

The three sided table top "voting booth" can be set up on top of the black ballot box. In the inside center section, Judy has taped on a "pocket" to hold a legal sized file folder that has been labeled "PRIVACY SCREEN". Judy then taped large print instructions to election officials directing them to ask the voter to cover his or her ballot with the privacy screen if the ballot is rejected and the official needs to read the LCD screen.

We think this is such a great idea that we are going to provide an additional table top voting booth with the "pocket" to hold a privacy screen to each tabulator town before the November General Election. Many thanks to Judy for this creative idea!

*Send your tips to John Cushing, President of VMCTA, at [jcushing@town.milton.vt.us](mailto:jcushing@town.milton.vt.us)*

# Mailing List Updates!

**Help us keep our mailing list up to date!**

***Let us know if:***

- your address needs to be updated,
- your name is misspelled, or
- you'd rather receive *Opinions* a week early via email.



Send us a note via fax: 802-828-2496,

email: [gcolbert@sec.state.vt.us](mailto:gcolbert@sec.state.vt.us),

or post: 26 Terrace St., Montpelier, VT 05609-1101.

Be sure to include the information from your current *Opinions* mailing label as well as any changes that you would like to have made.

***Thank you for helping us keep Opinions running efficiently!***

RETURN SERVICE REQUESTED

Redstone Building  
26 Terrace Street  
Montpelier, VT 05609-1101  
802-828-2363  
[www.sec.state.vt.us](http://www.sec.state.vt.us)

Office of the Vermont Secretary of State  
September 2008

# Opinions

PRSR STD  
U.S. Postage Paid  
PERMIT NO. 147  
MONTPELIER, VT  
05609-1101