

# Opinions

Office of the Vermont Secretary of State



Vol.7, #6

June 2005



## A Message from the Secretary

Vermont's high schools have precious few days left to influence our graduating seniors. This spring, as we get ready to celebrate the accomplishments of our graduating classes and send them off into the world as young adults, let's remind them about one of the most important responsibilities of our democracy — voting. The activities surrounding the end of the school year provide a great opportunity to welcome our seniors into adulthood by registering them to vote.

Registering to vote is the most crucial initial step to becoming an involved citizen in our democracy, but it's not as easy as just filling out a form. Vermont's constitution requires a person to take a "voter's oath." A notary public or justice of the peace must give this oath. Students who forget to register and take the oath prior to leaving the state for college, the military or employment find themselves unable to vote in the November election. They cannot simply register and then vote by mail, as other states would allow. This makes registering our seniors before they graduate very important.

This year the Secretary of State's office has designated the week of May 30 - June 3rd High School Voter Registration Week. During this week, we are asking schools across Vermont to register their high school seniors. Many of Vermont's town clerks and Board of Civil Authority members are helping out by making themselves available to help run the registration drives and administer the oath to eligible students.

We know that many of our youth are truly committed to improving our country and re-energizing our democracy. We also know that the young adults who graduate from our high schools and colleges today will be the political leaders of the future. Let's help them get off to a good start by making sure that they are registered to vote before they leave school.

For more information about High School Voter Registration Week or to download Vermont's voter registration form visit the office's website [atwww.govotevermont.com](http://atwww.govotevermont.com) or call us at 800-439-8683.

Deborah L. Markowitz, Secretary of State

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## Aunt Serena Tackles Health Care Costs

Aunt Serena was a tad perturbed after reading an article in the *St. Albans Messenger* about health care costs. What really put a bee in her bonnet was the quote that a doctor should expect a “satisfactory return...on his [sic]...investment [in getting a medical degree] with a minimum of hardship.” As she wrote Peggy, “Note that, Peggy. ‘With a minimum of hardship.’ Begorry, that’s what the patient wants too! The patient not only has to be sick and is full of aches and pains and other hardships...[but also] has to scabble to pay his taxes and his grocery and feed bills.” Aunt Serena acknowledged that the issues were complex, but something had to be done about the cost of health care. She was cautiously optimistic. “It will work out. It will have to. We’ve got to face it and fix it.”

Aunt Serena’s Letter to Peggy column on health care costs appeared in the March 23, 1929 *Burlington Free Press*. In the late 1920s and early 1930s many Vermonters tried to face and fix health care costs. They examined the lack of access to medical facilities and doctors, particularly among rural Vermonters; medical costs that prevented Vermonters from seeking care until confronting a health crisis; and the lack of medical insurance.

A national Committee on the Costs of Medical Care set out to study the problem of delivering “adequate, scientific medical service to all people, rich and poor, at a cost which can be reasonably met by them in their respective stations in life.” The Committee spent several summers in Burlington in the early 1930s since Vermont’s problems were “typical of a substantial part of the United States.”

After thirteen separate studies the Committee concluded that the “common belief that the poor receive necessary medical care is disproved...” and calculated that 30% of the \$7.5 million that Vermonters spent annually on health care was wasted. Other findings included:

- the costs of sickness to families are distributed unevenly, ranging from fifty cents to \$1,400. Seventeen percent of 1,300 rural families studied accounted for 62% of the total health care costs incurred by the entire group.
- the costs “dispose[d] farm families to put off calling the doctor.”
- there was no central agency “to decide...whether new hospitals are required, and if so, what kinds and how large they should be, and where located.”
- 70% of the people studied did not have regular dental care.
- preventive medicine is sorely neglected.

The primary problem was “that many families cannot make the necessary expenditures.” The Committee noted that “in a few rural communities...subsidies are paid to physicians out of tax funds...making them accessible to citizens in the locality.” Actually towns tried several approaches. In 1930 Stowe voted funds to provide “eyeglasses for school children whose parents are unable to meet the cost.” The same year Richford voted \$175 as a milk fund for school children, while Thetford appropriated \$227.50 for the services of a Red Cross nurse in the schools. Chelsea and Strafford voted \$500 to encourage doctors to locate in their communities, while Arlington, Sunderland, Poultney, and Whitingham proposed \$1,000 incentives to attract doctors or nurses.

An October 11, 1930 *Free Press* editorial suggested the formation of “guilds” in which citizens would pay an annual amount for health care and agree to have annual check ups as a way of reducing medical costs. “This is merely carrying the insurance ideas, now so well established for Life, Accident, Fire, Theft, etc, with the additional protection of being assured the best of medical care when sickness comes, as it does to most families in the course of time.”



Ten days later a *Free Press* editorial made note of the Saskatchewan plan, which had started in 1921, where each municipality within the province would hold referenda “to sanction an annual grant to a legally qualified physician. The physician is thus paid by the town.” The Vermont Commission on Country Life also looked at, and recommended, the Saskatchewan plan. The Commission’s 1931 report, entitled *Rural Vermont*, described the system as “for the employment of doctors to serve the rural families, payment [to participating doctor] being made by the municipality, either on a full-time or part-time basis and treatment being free to those families within” the municipality. “Salaries paid the doctors range from \$2,800 with opportunity for private practice, to \$5,000 on a whole-time basis.”

While the Saskatchewan plan was not adopted by the legislature, some municipalities moved in that direction. The Brattleboro Memorial Hospital and Brattleboro Mutual Aid Association joined together in 1926 to provide health service by nurses in exchange for small annual fees by Brattleboro residents (\$2.00 for individuals, \$3.00 for families). Another annual fee (\$5.00 for individuals and \$7.50 for married couples) provided “for the full costs above \$30 and not to exceed \$300 in the case of an operation at the Brattleboro Memorial Hospital.” As the Brattleboro partnership explained, “The chance of illness is a ghost which stalks every family...Equal to the fear of unemployment, or of failure, or of death, is the fear of a disastrous illness which in a few short weeks wipes out the savings of years...This protection, therefore, is offered to the people of Brattleboro in an attempt to do away with the financial gamble of ill health, to make it possible for each person to be financially independent in time of sickness, and at the same time to provide a constant nursing service to all who need it.”

The catastrophic costs of illness, the need for preventive care linked to some form of health insurance, and even the possibility of adopting Canadian health care models are as familiar to us, in 2005, as they were to Vermonters seventy-five years ago. In the intervening years numerous initiatives tackled health care and its costs, yet increasing complex medical technologies, and changing social expectations, require us to constantly re-assess and re-address health care issues.

The Archives holds the records of this long evolving discussion of health care but we need to find ways, and resources, to make these records more accessible. Aunt Serena would expect nothing less, begorry.



# Opinions of Opinions

**1. Town and School may lend money to each other.** The selectboard and school board may loan money to each other secured by a note signed by the selectboard or school board. 16 V.S.A. §429. The note shall stipulate the terms and the notes shall be payable upon demand or mature within three months from the date of issue. Obviously, the boards need to have the funds available and be willing to cooperate, but we felt it was worth a reminder that this option may be helpful in some towns.

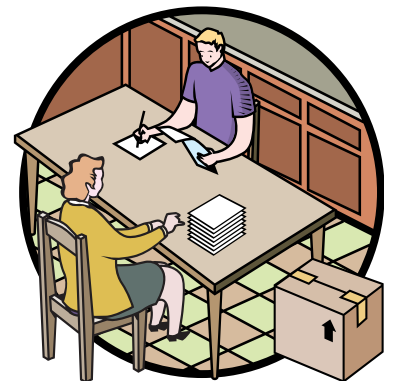
**2. Reconsideration votes by Australian Ballot may be held quickly and must be in same location as prior vote.** When a town or school district or other municipal corporation uses the Australian ballot system of voting for the budget, if the budget is defeated, the legislative body may warn another election on a revised budget with at least seven days warning. 17 V.S.A. §2680(c) and (g). The vote must be held in the same location as the first vote. 17 V.S.A. §2680(c). Note that the normal 30 to 40 day warning period for a special meeting or election does not apply to Australian ballot budget votes when the budget failed at the first annual meeting.

**3. Reconsideration of floor votes needs full warning time.** If the budget is voted for the town or school district from the floor at a traditional town meeting, if the budget article is defeated, the legislative body must warn another special meeting for not less than 30 nor more than 40 days. Remember that at a traditional town meeting the budget article can be amended from the floor, so that it is possible to revise or lower the budget during the meeting. Moderators can educate the voters regarding the best process to use to vote amendments so that the article is not defeated before a satisfactory budget number is determined by the voters.

**4. The Selectboard or School Board can warn a special meeting to reconsider the same Article as many times as it wishes during a year, except for bond votes.** Petitions by 5% of town voters requesting reconsideration can only be done once on the same article or issue during a twelve-month period. However, the law permits the legislative body to bring an issue back to the voters as many times as the board wishes. 17 V.S.A. §2661

**5. Meeting minutes do not have to be posted.** Although some towns or boards post minutes on the bulletin board or on a website, this is done as a courtesy only—the law does not require posting of minutes. 17 V.S.A. §312 only requires that minutes be made available for inspection and copying within five days of the meeting. These minutes can be marked or stamped DRAFT until they are approved by the board, but they must be made available upon request for inspection or copying within five days of the meeting.

**6. Reserve funds may usually be spent without additional vote.** If a town has established a reserve fund for a special purpose, such as a reserve fund for highway equipment, the statute provides that the reserve fund is to be under



the control and direction of the legislative body (Selectboard or School Board). 17 V.S.A. §2804 Once a reserve fund is established and funded by town vote, the Board may expend the funds for such purposes for which the fund was established without another town vote. If the legislative body wants to spend those reserve funds for any other purpose, then the spending must be authorized by a majority of voters at an annual or special meeting.

**7. During clerk’s vacation, office hours may be altered.** Even town clerks can go on vacation – provided they make an arrangement to have someone else – an assistant – open up the office and the vault in order to make the public records available. No law requires the assistant clerk to maintain the same hours as the clerk (in one instance, the assistant, who ordinarily works very part time for the town, will open the office on request). So long as the clerk posts an advance notice to let the public know what the temporary times or arrangement will be, and the records are available during his or her absence, the legal requirement that “the files and records in the office of the clerk shall be available for inspection upon proper request at all reasonable hours” will be met.



**8. Study committees formed by the board are subject to the open meeting law.** The open meeting law provides that committees formed by a public board are also considered to be public bodies. Accordingly, if the selectboard appoints a citizen committee to study and report back its findings on an issue such as developing the local riverfront into a park, or changing the municipal charter, the meetings of that committee must be publicly noticed – just like the meetings of the board that created it. The committee must also take and make available within five days minutes of each meeting.

**9. When cemetery associations dissolve, responsibility falls to the town.** A cemetery association, which is not owned and operated by a church, or by a religious or ecclesiastical society, may be dissolved under the provisions of chapter 19 of Title 11. Upon dissolution, all lands owned or held by it for cemetery purposes and all perpetual care funds, trust funds, and all other property held or owned by it, less dissolution expenses, may be transferred to the town in which the lands are located, and thereafter these lands may become public burial grounds, and the town shall hold the perpetual care funds and trust funds in trust for the care, improvement and embellishment of the lots therein, according to the terms upon which they were held by the association. 18 V.S.A. § 5439.

**10. Appointments to fill vacancies can be discussed in executive session.** The open meeting law permits a board to go into executive session to discuss “the appointment or employment or evaluation of a public officer or employee.” 1 V.S.A. § 313(3). This would include discussing possible appointments to fill vacancies in town office.

**11. Vermont law makes digital records public record of the town.** 1 V.S.A. § 317(b) provides “as used in this subchapter, ‘public record’ or ‘public document’ means all papers, documents, machine readable materials or any other written or recorded matters, regardless of their physical form or characteristics, that are produced or acquired in the course of agency business.” This means that if a clerk keeps the town’s grand list or voter checklist on the computer - the computer database is a public record of the town as well as the paper record.

**12. Courts are not limited to actual cost.** Whenever probate, district, environmental, family or superior court officers and employees or officers and employees of the judicial bureau furnish copies or certified copies of records, it may charge 25 cents a page with a minimum fee of \$1.00, and \$5.00 for a certified copy or for authenticated documents. Note, however, that one certified copy of any document issued by a court must be given, without charge, to a party of record to the action and no fees should be assessed when copies or certified copies of records are given to any state agency.

**13. Selectboard can warn meeting to vote on special appropriations.** The Selectboard has the authority to warn a special meeting at any time - for any purpose they wish. This means that if appropriations for social service agencies were voted down at town meeting, the board could put the issue to the voters again at a special meeting.

**14. Voted special appropriation can be paid as cash flow permits.**

When the voters at town meeting vote to pay an appropriation to a social service agency or other non-municipal entity that agency is absolutely entitled to payment as voted by the electorate. If no date of payment is provided, so long as payment is made within the budget year the Selectboard can exercise its discretion as to the timing. It is therefore not unreasonable for the board to wait until after the tax due date to pay out these appropriations.



**15. New board members on expanded board may be elected at special meeting.**

One school district voted to expand its board from three to five members. The district was meeting again to revote the budget. So long as the new vote was warned as a special meeting (and not with the shortened seven days notice permitted when the budget is voted by Australian ballot, or for union or incorporated school district budget re-votes) the meeting can also include the election of additional members to the board. 16 V.S.A. § 423(b). In such a case the term of those elected for one year shall expire on the next annual meeting day and those elected for two years shall expire on the second annual meeting day following their election. Note that in one case the district specified that the new members were to be elected at the next annual meeting. In this case the provisions of 423(b) will not apply and the district will have to wait until the next meeting to elect the additional board members.

**16. School budget revote is warned by the district.** Although the district meeting may have been held jointly with the town, the town Selectboard has no role in warning or holding a revote on a school budget. Rather, it is the school board that warns the new meeting. 16 V.S.A. § 422.

**17. Board may only appoint a town manager if the town has voted to adopt the Manager form of government.** Once the town adopts a Town Manager form of government the board can appoint whoever they wish (so long as he or she does not hold other elective office) to serve as Town Manager or Interim Manager. The board may not appoint a Manager until the town adopts this form of governance by vote at a regular or special meeting — unless your charter provides otherwise. You should have your town attorney check your charter to give you a sense of whether the charter provisions contradict the general law.

**18. Summer employment of minors will be subject to Child Labor laws.** An employee must be at least 16 years old to work in most non-farm jobs. No person who is under 18 years old may work in any occupation declared hazardous by the Secretary of the USDOL or the Commissioner of Labor & Industry. These include, in part, driving a motor vehicle and being an outside helper on a motor vehicle, using power-driven hoisting apparatus, power-driven circular saws, band saws, and guillotine shears, roofing operations, or excavation operations. (For a complete list visit [www.state.vt.us/labind](http://www.state.vt.us/labind).)



Children Age 14 and 15 MAY NOT work in any of the hazardous occupations above and may not work in construction or repair jobs, driving a motor vehicle or helping a driver, power-driven machinery or hoisting apparatus other than typical office machines, processing occupations, public messenger jobs, or transporting of persons or property. (For a complete list visit [www.state.vt.us/labind](http://www.state.vt.us/labind).)

Children Age 14 and 15 MAY work no more than three hours on a school day or 18 hours in a school week; eight hours on a non-school day or 40 hours in a non-school week. Also, work may not begin before 7 a.m. or end after 7 p.m., except from June 1 through Labor Day, when evening hours are extended to 9 p.m. Note that different rules apply in agricultural employment.

**19. Selectboard can request fence viewer to examine fences and divide costs between landowners.** Upon request of the selectboard, the fence viewers shall examine fences within the town and must determine who is responsible for maintaining the fence dividing two parcels. 24 V.S.A. § 3810. When the land is being pastured without a division fence by both adjoining property owners then the fence viewer can be asked to decide how many animals each property owner can put on the land. 24 V.S.A. § 3804. The fence viewer can also determine where a fence should be placed if the fence cannot be placed along the property line because of water or other impediments, and the owners can not agree on where it should be built. The fence viewer may not decide a boundary line or decide on ownership of land. 24 V.S.A. § 3802. See *Camp v. Camp*, 59 Vt. 667 (1887); *Shaw v. Gilfillan*, 22 Vt. 565 (1850).

**20. Fence viewer cannot require landowner or occupant to pay for fence if he/she keeps no livestock.** In 1989 the Vermont Supreme Court found 24 V.S.A. § 3802 unconstitutional. Section 3802 requires abutting landowners to pay a portion of the costs to maintain a fence that separates his or her property from the neighboring parcel. *Choquette v. Perrault*, 153 Vt. 45 (1989). The court reasoned that the change in land use patterns in Vermont means that the fence law more and more often applies to landowners without livestock. The court concluded that in such situations the fence law is burdensome, arbitrary and confiscatory, and is thus, unconstitutional. For this reason, the fence viewer can only require the landowner or occupant who owns livestock to pay the cost of maintaining the fence.

**21. Appeals from decisions of fence viewers must be made within two hours of the decision.** It is a little known fact that the shortest period for bringing appeal is from decisions of the fence viewer. Vermont law permits fence viewer decisions to be appealed to the district or superior court – but only if the appeal is taken within two hours of the rendition of the decision. 24 V.S.A. § 3810.

**22. Planning commission may pick newspaper in which to advertise public hearings.** Vermont statutes require that public hearings be advertised in papers of general circulation in the community. 24 V.S.A. § 4444. Where more than one paper serves a particular community, it is the board who is advertising that must determine which newspaper should be used. Although the selectboard determines the newspaper that is to be used for publishing town meeting warnings, there is no law that gives the selectboard authority to designate the newspaper used by other boards 17 V.S.A. § 2641(b) That being said, we believe it is best practice for all town boards to publish their notices in the same paper so the public know where to look for information about the town. However, so long as the planning commission uses a paper that serves the area, they will comply with the law.

**23. Board doesn't have to put person on agenda.** The open meeting law gives the public the right to be present and comment on the business of the local board. The board sets its own agenda and no citizen has the right to require the board to “put them on the agenda.” That being said, most boards provide a general invitation to hear from the public at some point during the meeting at which time this citizen should have an opportunity to speak.

*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.*

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## Workplace Posters...For a Price?



Many towns have called complaining that they had been contacted by an official sounding organization that told the town that they needed to purchase updated workplace posters (for a price). To get the required posters for free you can visit the department of labor and industry at <http://www.state.vt.us/labind/Wagehour/posters.htm>.

## Tip of the Month

*This month's tip comes from Sandy Harris, VMCTA President:*

When I am doing a recording rather than type or stamp the recordation information on the last page of the document, I have a template that I've set up in Word and simply fill in the blanks, print it out and use removable tape to fasten it to the last page of the document for copying. Then I remove that one and either stamp on the original or copy onto the original. It saves time, is heat fused as is the document, and protects the paper from bleeding inks.



To submit a tip, please email Sandy Harris (VMCTA President) at [vernontc@sover.net](mailto:vernontc@sover.net) or mail it to: Sandy Harris, Town of Vernon, 567 Governor Hunt Road, Vernon, VT 05354



## Mark Your Calendar with the Vermont League of Cities and Towns' Upcoming Events!

For more information, go to [www.vlct.org](http://www.vlct.org), email [info@vlct.org](mailto:info@vlct.org) or call 800/649-7915.

### Introduction to Health Savings Accounts

June 7 at the South Burlington Town Offices

June 8 at the St. Johnsbury Town Office

June 9 at the Bennington Fire Station, 3rd Floor

June 10 at the Hartford Town Offices

This free workshop for members of the VLCT Health Trust will provide you with an overview of how a High Deductible Health Plan (HDHP) works with a Health Savings Account (HSA). We will discuss why a municipality may wish to consider an HDHP with an HSA. Contact VLCT for more information.

### Workshop: Planning and Zoning Series #4:

June Dates and Locations TBA. Contact VLCT for more information.

This workshop is designed for all local officials involved in the development review process including planning commissioners, zoning administrators, town planners, development review board and zoning board of adjustment members, managers and administrators, selectboard members and other interested parties. When local boards and commissions disagree on a course of action, it can be difficult to determine who is in charge. Come learn what the law does (and does not) provide as a starting point for your discussions.

## 2005 Poster & Essay Contest Awards Day

What a wonderful day we had on May 16th as we celebrated the winners of the annual Poster & Essay Contest! The winners came to Montpelier for the day to take a tour of the State House, the Vermont Historical Society Pavilion Exhibit, and view the Vermont Constitution at the Secretary of State's office. Students received a certificate and a \$100 savings bond at the awards ceremony during lunch at the State House.

In the spirit of **High School Voter Registration Week on May 30 – June 3**, we share the wisdom of our Grades 9-12 Poster & Essay Contest winner. Ben Brewster, a student at Mount Saint Joseph Academy in Rutland, wrote about "**The Importance of Voting to Democracy.**" His essay follows:

### The Importance of Voting to Democracy

by Ben Brewster

Voting isn't just important to Democracy. Voting is Democracy. You can't have a successfully run democratic system without the support and votes of the citizens. The definition of a democracy even has voting in it. A democracy is a government in which the supreme power is vested in the people and exercised by them directly or indirectly through a system of representation usually involving periodically held free elections. That is what our forefathers envisioned for our country. We went to war for our democracy. Thousands of Americans fought for our rights; they shed their blood to give us what we have today.

Voting rights at one point were only given to the rich landowners, and then it was amended and given to men even if they didn't own property. Now women can vote and the voting age is 18. All these things were done to get more people voting. These things would never have happened if voting was not important. In the last election fifty percent of eligible voters voted. It was the highest it's been for a long time. It's good to see a high rate of voting; that means people are doing their part in keeping our democracy alive. Without the votes of the people our democracy would expire. It would turn into a country run by the people in the white house, senate, congress, and special interest groups. That wouldn't make people happy. In fact our government would become a dictatorship rather than a democracy. Nobody wants to live in a place run where your thoughts and opinions don't matter.

Voting gives the ability for people to express their opinions about the government. The power lies in our hands when we vote. We are given a really great opportunity that many people don't take advantage of. We are given the opportunity to change what we don't like and bring about something you do like. Every vote reassures our democracy and makes it stronger. We can't allow for it to weaken and disintegrate. I bet many people couldn't even imagine living in a place where the people's opinion doesn't matter. I know I can't.

Still today only half of all voters take part in voting day. Many people are angry with the government and don't care to vote. Others despise the candidates or don't believe their vote counts, and don't have interest in the issues that are up for vote. No matter what their reasons are they need to vote. You can't bicker about the government when you don't go out and vote and try and change what you are angry about. It's your right as an American and it should be taken advantage of.

Is there any way to get more people to vote? I think we should do something to get more people voting. We should make it a law. We wouldn't have a problem then. Everyone would vote. If they didn't they would get in trouble. We could also give benefits to the people who do vote. They could be given a bonus on their tax returns or something. It could act as some kind of tax write off, like they do to people who give money to charity. There could also be better representation of things. Give more of a broad spectrum of different parties for people to be represented by. That could allow for people to feel like they are represented more accurately and maybe get people more excited to vote.

Democracy is not possible without the people's vote. It has been important since our government was founded and it always will be, as long as people do their duty by taking part in the simple and easy process of registering to vote and voting.

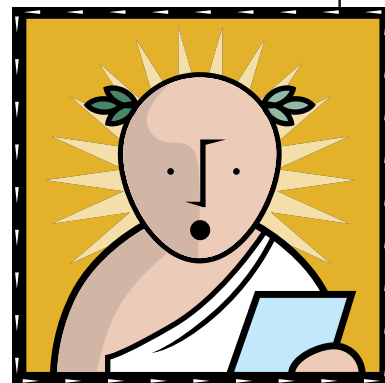
## June 2005 Calendar

- June 1** Deadline for Listers to lodge personal property inventories with Town Clerk. 32:4007
- June 4** Last day for Listers to lodge the grand list with Town Clerk for public inspection for town of fewer than 5000 inhabitants. 32:4111(d), 4341
- June 24** Last day for Listers to lodge the grand list with Town Clerk for public inspection for town of greater than 5000 inhabitants. 32:4111(d), 4341
- June 30** End of fiscal year for all school districts, charter provisions notwithstanding, and for municipalities that have adopted July 1 through June 30 fiscal year calendar. 32:1, 24:1683(b), (c)
- June 30** Reminder for Town Clerk in municipality with fiscal year ending June 30 to publicly disclose fees kept as compensation for that fiscal year. 24:1179

## Quote of the Month

“A new idea is delicate. It can be killed by a sneer or a yawn; it can be stabbed to death by a quip and worried to death by a frown on the right man’s brow.”

Charles Brower

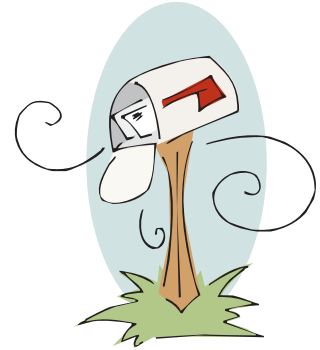


# Mailing List Updates!

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

or post: 26 Terrace St. Drawer 09, Montpelier, VT 05609-1101.

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

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June 2005

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# Opinions

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Vol.7, #6 June 2005



## A Message from the Secretary

Vermont’s high schools have precious few days left to influence our graduating seniors. This spring, as we get ready to celebrate the accomplishments of our graduating classes and send them off into the world as young adults, let’s remind them about one of the most important responsibilities of our democracy — voting. The activities surrounding the end of the school year provide a great opportunity to welcome our seniors into adulthood by registering them to vote.

Registering to vote is the most crucial initial step to becoming an involved citizen in our democracy, but it’s not as easy as just filling out a form. Vermont’s constitution requires a person to take a “voter’s oath.” A notary public or justice of the peace must give this oath. Students who forget to register and take the oath prior to leaving the state for college, the military or employment find themselves unable to vote in the November election. They cannot simply register and then vote by mail, as other states would allow. This makes registering our seniors before they graduate very important.

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## Aunt Serena Tackles Health Care Costs

Aunt Serena was a tad perturbed after reading an article in the *St. Albans Messenger* about health care costs. What really put a bee in her bonnet was the quote that a doctor should expect a “satisfactory return...on his [sic]...investment [in getting a medical degree] with a minimum of hardship.” As she wrote Peggy, “Note that, Peggy. ‘With a minimum of hardship.’ Begorry, that’s what the patient wants too! The patient not only has to be sick and is full of aches and pains and other hardships...[but also] has to scabble to pay his taxes and his grocery and feed bills.” Aunt Serena acknowledged that the issues were complex, but something had to be done about the cost of health care. She was cautiously optimistic. “It will work out. It will have to. We’ve got to face it and fix it.”

Aunt Serena’s Letter to Peggy column on health care costs appeared in the March 23, 1929 *Burlington Free Press*. In the late 1920s and early 1930s many Vermonters tried to face and fix health care costs. They examined the lack of access to medical facilities and doctors, particularly among rural Vermonters; medical costs that prevented Vermonters from seeking care until confronting a health crisis; and the lack of medical insurance.

A national Committee on the Costs of Medical Care set out to study the problem of delivering “adequate, scientific medical service to all people, rich and poor, at a cost which can be reasonably met by them in their respective stations in life.” The Committee spent several summers in Burlington in the early 1930s since Vermont’s problems were “typical of a substantial part of the United States.”

After thirteen separate studies the Committee concluded that the “common belief that the poor receive necessary medical care is disproved...” and calculated that 30% of the \$7.5 million that Vermonters spent annually on health care was wasted. Other findings included:

- the costs of sickness to families are distributed unevenly, ranging from fifty cents to \$1,400. Seventeen percent of 1,300 rural families studied accounted for 62% of the total health care costs incurred by the entire group.
- the costs “dispose[d] farm families to put off calling the doctor.”
- there was no central agency “to decide...whether new hospitals are required, and if so, what kinds and how large they should be, and where located.”
- 70% of the people studied did not have regular dental care.
- preventive medicine is sorely neglected.

The primary problem was “that many families cannot make the necessary expenditures.” The Committee noted that “in a few rural communities...subsidies are paid to physicians out of tax funds...making them accessible to citizens in the locality.” Actually towns tried several approaches. In 1930 Stowe voted funds to provide “eyeglasses for school children whose parents are unable to meet the cost.” The same year Richford voted \$175 as a milk fund for school children, while Thetford appropriated \$227.50 for the services of a Red Cross nurse in the schools. Chelsea and Strafford voted \$500 to encourage doctors to locate in their communities, while Arlington, Sunderland, Poultney, and Whitingham proposed \$1,000 incentives to attract doctors or nurses.

An October 11, 1930 *Free Press* editorial suggested the formation of “guilds” in which citizens would pay an annual amount for health care and agree to have annual check ups as a way of reducing medical costs. “This is merely carrying the insurance ideas, now so well established for Life, Accident, Fire, Theft, etc, with the additional protection of being assured the best of medical care when sickness comes, as it does to most families in the course of time.”



Ten days later a *Free Press* editorial made note of the Saskatchewan plan, which had started in 1921, where each municipality within the province would hold referenda “to sanction an annual grant to a legally qualified physician. The physician is thus paid by the town.” The Vermont Commission on Country Life also looked at, and recommended, the Saskatchewan plan. The Commission’s 1931 report, entitled *Rural Vermont*, described the system as “for the employment of doctors to serve the rural families, payment [to participating doctor] being made by the municipality, either on a full-time or part-time basis and treatment being free to those families within” the municipality. “Salaries paid the doctors range from \$2,800 with opportunity for private practice, to \$5,000 on a whole-time basis.”

While the Saskatchewan plan was not adopted by the legislature, some municipalities moved in that direction. The Brattleboro Memorial Hospital and Brattleboro Mutual Aid Association joined together in 1926 to provide health service by nurses in exchange for small annual fees by Brattleboro residents (\$2.00 for individuals, \$3.00 for families). Another annual fee (\$5.00 for individuals and \$7.50 for married couples) provided “for the full costs above \$30 and not to exceed \$300 in the case of an operation at the Brattleboro Memorial Hospital.” As the Brattleboro partnership explained, “The chance of illness is a ghost which stalks every family...Equal to the fear of unemployment, or of failure, or of death, is the fear of a disastrous illness which in a few short weeks wipes out the savings of years...This protection, therefore, is offered to the people of Brattleboro in an attempt to do away with the financial gamble of ill health, to make it possible for each person to be financially independent in time of sickness, and at the same time to provide a constant nursing service to all who need it.”

The catastrophic costs of illness, the need for preventive care linked to some form of health insurance, and even the possibility of adopting Canadian health care models are as familiar to us, in 2005, as they were to Vermonters seventy-five years ago. In the intervening years numerous initiatives tackled health care and its costs, yet increasing complex medical technologies, and changing social expectations, require us to constantly re-assess and re-address health care issues.

The Archives holds the records of this long evolving discussion of health care but we need to find ways, and resources, to make these records more accessible. Aunt Serena would expect nothing less, begorry.



# Opinions of Opinions

**1. Town and School may lend money to each other.** The selectboard and school board may loan money to each other secured by a note signed by the selectboard or school board. 16 V.S.A. §429. The note shall stipulate the terms and the notes shall be payable upon demand or mature within three months from the date of issue. Obviously, the boards need to have the funds available and be willing to cooperate, but we felt it was worth a reminder that this option may be helpful in some towns.

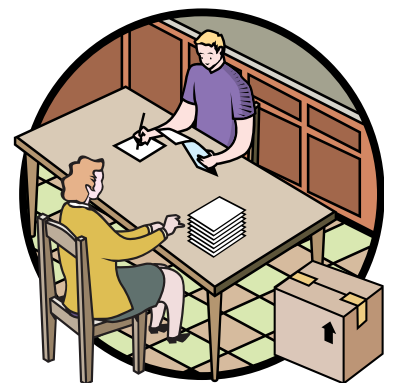
**2. Reconsideration votes by Australian Ballot may be held quickly and must be in same location as prior vote.** When a town or school district or other municipal corporation uses the Australian ballot system of voting for the budget, if the budget is defeated, the legislative body may warn another election on a revised budget with at least seven days warning. 17 V.S.A. §2680(c) and (g). The vote must be held in the same location as the first vote. 17 V.S.A. §2680(c). Note that the normal 30 to 40 day warning period for a special meeting or election does not apply to Australian ballot budget votes when the budget failed at the first annual meeting.

**3. Reconsideration of floor votes needs full warning time.** If the budget is voted for the town or school district from the floor at a traditional town meeting, if the budget article is defeated, the legislative body must warn another special meeting for not less than 30 nor more than 40 days. Remember that at a traditional town meeting the budget article can be amended from the floor, so that it is possible to revise or lower the budget during the meeting. Moderators can educate the voters regarding the best process to use to vote amendments so that the article is not defeated before a satisfactory budget number is determined by the voters.

**4. The Selectboard or School Board can warn a special meeting to reconsider the same Article as many times as it wishes during a year, except for bond votes.** Petitions by 5% of town voters requesting reconsideration can only be done once on the same article or issue during a twelve-month period. However, the law permits the legislative body to bring an issue back to the voters as many times as the board wishes. 17 V.S.A. §2661

**5. Meeting minutes do not have to be posted.** Although some towns or boards post minutes on the bulletin board or on a website, this is done as a courtesy only—the law does not require posting of minutes. 17 V.S.A. §312 only requires that minutes be made available for inspection and copying within five days of the meeting. These minutes can be marked or stamped DRAFT until they are approved by the board, but they must be made available upon request for inspection or copying within five days of the meeting.

**6. Reserve funds may usually be spent without additional vote.** If a town has established a reserve fund for a special purpose, such as a reserve fund for highway equipment, the statute provides that the reserve fund is to be under



the control and direction of the legislative body (Selectboard or School Board). 17 V.S.A. §2804 Once a reserve fund is established and funded by town vote, the Board may expend the funds for such purposes for which the fund was established without another town vote. If the legislative body wants to spend those reserve funds for any other purpose, then the spending must be authorized by a majority of voters at an annual or special meeting.

**7. During clerk’s vacation, office hours may be altered.** Even town clerks can go on vacation – provided they make an arrangement to have someone else – an assistant – open up the office and the vault in order to make the public records available. No law requires the assistant clerk to maintain the same hours as the clerk (in one instance, the assistant, who ordinarily works very part time for the town, will open the office on request). So long as the clerk posts an advance notice to let the public know what the temporary times or arrangement will be, and the records are available during his or her absence, the legal requirement that “the files and records in the office of the clerk shall be available for inspection upon proper request at all reasonable hours” will be met.



**8. Study committees formed by the board are subject to the open meeting law.** The open meeting law provides that committees formed by a public board are also considered to be public bodies. Accordingly, if the selectboard appoints a citizen committee to study and report back its findings on an issue such as developing the local riverfront into a park, or changing the municipal charter, the meetings of that committee must be publicly noticed – just like the meetings of the board that created it. The committee must also take and make available within five days minutes of each meeting.

**9. When cemetery associations dissolve, responsibility falls to the town.** A cemetery association, which is not owned and operated by a church, or by a religious or ecclesiastical society, may be dissolved under the provisions of chapter 19 of Title 11. Upon dissolution, all lands owned or held by it for cemetery purposes and all perpetual care funds, trust funds, and all other property held or owned by it, less dissolution expenses, may be transferred to the town in which the lands are located, and thereafter these lands may become public burial grounds, and the town shall hold the perpetual care funds and trust funds in trust for the care, improvement and embellishment of the lots therein, according to the terms upon which they were held by the association. 18 V.S.A. § 5439.

**10. Appointments to fill vacancies can be discussed in executive session.** The open meeting law permits a board to go into executive session to discuss “the appointment or employment or evaluation of a public officer or employee.” 1 V.S.A. § 313(3). This would include discussing possible appointments to fill vacancies in town office.

**11. Vermont law makes digital records public record of the town.** 1 V.S.A. § 317(b) provides “as used in this subchapter, ‘public record’ or ‘public document’ means all papers, documents, machine readable materials or any other written or recorded matters, regardless of their physical form or characteristics, that are produced or acquired in the course of agency business.” This means that if a clerk keeps the town’s grand list or voter checklist on the computer - the computer database is a public record of the town as well as the paper record.

**12. Courts are not limited to actual cost.** Whenever probate, district, environmental, family or superior court officers and employees or officers and employees of the judicial bureau furnish copies or certified copies of records, it may charge 25 cents a page with a minimum fee of \$1.00, and \$5.00 for a certified copy or for authenticated documents. Note, however, that one certified copy of any document issued by a court must be given, without charge, to a party of record to the action and no fees should be assessed when copies or certified copies of records are given to any state agency.

**13. Selectboard can warn meeting to vote on special appropriations.** The Selectboard has the authority to warn a special meeting at any time - for any purpose they wish. This means that if appropriations for social service agencies were voted down at town meeting, the board could put the issue to the voters again at a special meeting.

**14. Voted special appropriation can be paid as cash flow permits.**

When the voters at town meeting vote to pay an appropriation to a social service agency or other non-municipal entity that agency is absolutely entitled to payment as voted by the electorate. If no date of payment is provided, so long as payment is made within the budget year the Selectboard can exercise its discretion as to the timing. It is therefore not unreasonable for the board to wait until after the tax due date to pay out these appropriations.



**15. New board members on expanded board may be elected at special meeting.**

One school district voted to expand its board from three to five members. The district was meeting again to revote the budget. So long as the new vote was warned as a special meeting (and not with the shortened seven days notice permitted when the budget is voted by Australian ballot, or for union or incorporated school district budget re-votes) the meeting can also include the election of additional members to the board. 16 V.S.A. § 423(b). In such a case the term of those elected for one year shall expire on the next annual meeting day and those elected for two years shall expire on the second annual meeting day following their election. Note that in one case the district specified that the new members were to be elected at the next annual meeting. In this case the provisions of 423(b) will not apply and the district will have to wait until the next meeting to elect the additional board members.

**16. School budget revote is warned by the district.** Although the district meeting may have been held jointly with the town, the town Selectboard has no role in warning or holding a revote on a school budget. Rather, it is the school board that warns the new meeting. 16 V.S.A. § 422.

**17. Board may only appoint a town manager if the town has voted to adopt the Manager form of government.** Once the town adopts a Town Manager form of government the board can appoint whoever they wish (so long as he or she does not hold other elective office) to serve as Town Manager or Interim Manager. The board may not appoint a Manager until the town adopts this form of governance by vote at a regular or special meeting — unless your charter provides otherwise. You should have your town attorney check your charter to give you a sense of whether the charter provisions contradict the general law.

**18. Summer employment of minors will be subject to Child Labor laws.** An employee must be at least 16 years old to work in most non-farm jobs. No person who is under 18 years old may work in any occupation declared hazardous by the Secretary of the USDOL or the Commissioner of Labor & Industry. These include, in part, driving a motor vehicle and being an outside helper on a motor vehicle, using power-driven hoisting apparatus, power-driven circular saws, band saws, and guillotine shears, roofing operations, or excavation operations. (For a complete list visit [www.state.vt.us/labind](http://www.state.vt.us/labind).)



Children Age 14 and 15 MAY NOT work in any of the hazardous occupations above and may not work in construction or repair jobs, driving a motor vehicle or helping a driver, power-driven machinery or hoisting apparatus other than typical office machines, processing occupations, public messenger jobs, or transporting of persons or property. (For a complete list visit [www.state.vt.us/labind](http://www.state.vt.us/labind).)

Children Age 14 and 15 MAY work no more than three hours on a school day or 18 hours in a school week; eight hours on a non-school day or 40 hours in a non-school week. Also, work may not begin before 7 a.m. or end after 7 p.m., except from June 1 through Labor Day, when evening hours are extended to 9 p.m. Note that different rules apply in agricultural employment.

**19. Selectboard can request fence viewer to examine fences and divide costs between landowners.** Upon request of the selectboard, the fence viewers shall examine fences within the town and must determine who is responsible for maintaining the fence dividing two parcels. 24 V.S.A. § 3810. When the land is being pastured without a division fence by both adjoining property owners then the fence viewer can be asked to decide how many animals each property owner can put on the land. 24 V.S.A. § 3804. The fence viewer can also determine where a fence should be placed if the fence cannot be placed along the property line because of water or other impediments, and the owners can not agree on where it should be built. The fence viewer may not decide a boundary line or decide on ownership of land. 24 V.S.A. § 3802. See *Camp v. Camp*, 59 Vt. 667 (1887); *Shaw v. Gilfillan*, 22 Vt. 565 (1850).

**20. Fence viewer cannot require landowner or occupant to pay for fence if he/she keeps no livestock.** In 1989 the Vermont Supreme Court found 24 V.S.A. § 3802 unconstitutional. Section 3802 requires abutting landowners to pay a portion of the costs to maintain a fence that separates his or her property from the neighboring parcel. *Choquette v. Perrault*, 153 Vt. 45 (1989). The court reasoned that the change in land use patterns in Vermont means that the fence law more and more often applies to landowners without livestock. The court concluded that in such situations the fence law is burdensome, arbitrary and confiscatory, and is thus, unconstitutional. For this reason, the fence viewer can only require the landowner or occupant who owns livestock to pay the cost of maintaining the fence.

**21. Appeals from decisions of fence viewers must be made within two hours of the decision.** It is a little known fact that the shortest period for bringing appeal is from decisions of the fence viewer. Vermont law permits fence viewer decisions to be appealed to the district or superior court – but only if the appeal is taken within two hours of the rendition of the decision. 24 V.S.A. § 3810.

**22. Planning commission may pick newspaper in which to advertise public hearings.** Vermont statutes require that public hearings be advertised in papers of general circulation in the community. 24 V.S.A. § 4444. Where more than one paper serves a particular community, it is the board who is advertising that must determine which newspaper should be used. Although the selectboard determines the newspaper that is to be used for publishing town meeting warnings, there is no law that gives the selectboard authority to designate the newspaper used by other boards 17 V.S.A. § 2641(b) That being said, we believe it is best practice for all town boards to publish their notices in the same paper so the public know where to look for information about the town. However, so long as the planning commission uses a paper that serves the area, they will comply with the law.

**23. Board doesn't have to put person on agenda.** The open meeting law gives the public the right to be present and comment on the business of the local board. The board sets its own agenda and no citizen has the right to require the board to “put them on the agenda.” That being said, most boards provide a general invitation to hear from the public at some point during the meeting at which time this citizen should have an opportunity to speak.

*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.*

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## Workplace Posters...For a Price?



Many towns have called complaining that they had been contacted by an official sounding organization that told the town that they needed to purchase updated workplace posters (for a price). To get the required posters for free you can visit the department of labor and industry at <http://www.state.vt.us/labind/Wagehour/posters.htm>.

## Tip of the Month

*This month's tip comes from Sandy Harris, VMCTA President:*

When I am doing a recording rather than type or stamp the recordation information on the last page of the document, I have a template that I've set up in Word and simply fill in the blanks, print it out and use removable tape to fasten it to the last page of the document for copying. Then I remove that one and either stamp on the original or copy onto the original. It saves time, is heat fused as is the document, and protects the paper from bleeding inks.



To submit a tip, please email Sandy Harris (VMCTA President) at [vernontc@sover.net](mailto:vernontc@sover.net) or mail it to: Sandy Harris, Town of Vernon, 567 Governor Hunt Road, Vernon, VT 05354



## Mark Your Calendar with the Vermont League of Cities and Towns' Upcoming Events!

For more information, go to [www.vlct.org](http://www.vlct.org), email [info@vlct.org](mailto:info@vlct.org) or call 800/649-7915.

### **Introduction to Health Savings Accounts**

June 7 at the South Burlington Town Offices

June 8 at the St. Johnsbury Town Office

June 9 at the Bennington Fire Station, 3rd Floor

June 10 at the Hartford Town Offices

This free workshop for members of the VLCT Health Trust will provide you with an overview of how a High Deductible Health Plan (HDHP) works with a Health Savings Account (HSA). We will discuss why a municipality may wish to consider an HDHP with an HSA. Contact VLCT for more information.

### **Workshop: Planning and Zoning Series #4:**

June Dates and Locations TBA. Contact VLCT for more information.

This workshop is designed for all local officials involved in the development review process including planning commissioners, zoning administrators, town planners, development review board and zoning board of adjustment members, managers and administrators, selectboard members and other interested parties. When local boards and commissions disagree on a course of action, it can be difficult to determine who is in charge. Come learn what the law does (and does not) provide as a starting point for your discussions.

## 2005 Poster & Essay Contest Awards Day

What a wonderful day we had on May 16th as we celebrated the winners of the annual Poster & Essay Contest! The winners came to Montpelier for the day to take a tour of the State House, the Vermont Historical Society Pavilion Exhibit, and view the Vermont Constitution at the Secretary of State's office. Students received a certificate and a \$100 savings bond at the awards ceremony during lunch at the State House.

In the spirit of **High School Voter Registration Week on May 30 – June 3**, we share the wisdom of our Grades 9-12 Poster & Essay Contest winner. Ben Brewster, a student at Mount Saint Joseph Academy in Rutland, wrote about "**The Importance of Voting to Democracy.**" His essay follows:

### The Importance of Voting to Democracy

by Ben Brewster

Voting isn't just important to Democracy. Voting is Democracy. You can't have a successfully run democratic system without the support and votes of the citizens. The definition of a democracy even has voting in it. A democracy is a government in which the supreme power is vested in the people and exercised by them directly or indirectly through a system of representation usually involving periodically held free elections. That is what our forefathers envisioned for our country. We went to war for our democracy. Thousands of Americans fought for our rights; they shed their blood to give us what we have today.

Voting rights at one point were only given to the rich landowners, and then it was amended and given to men even if they didn't own property. Now women can vote and the voting age is 18. All these things were done to get more people voting. These things would never have happened if voting was not important. In the last election fifty percent of eligible voters voted. It was the highest it's been for a long time. It's good to see a high rate of voting; that means people are doing their part in keeping our democracy alive. Without the votes of the people our democracy would expire. It would turn into a country run by the people in the white house, senate, congress, and special interest groups. That wouldn't make people happy. In fact our government would become a dictatorship rather than a democracy. Nobody wants to live in a place run where your thoughts and opinions don't matter.

Voting gives the ability for people to express their opinions about the government. The power lies in our hands when we vote. We are given a really great opportunity that many people don't take advantage of. We are given the opportunity to change what we don't like and bring about something you do like. Every vote reassures our democracy and makes it stronger. We can't allow for it to weaken and disintegrate. I bet many people couldn't even imagine living in a place where the people's opinion doesn't matter. I know I can't.

Still today only half of all voters take part in voting day. Many people are angry with the government and don't care to vote. Others despise the candidates or don't believe their vote counts, and don't have interest in the issues that are up for vote. No matter what their reasons are they need to vote. You can't bicker about the government when you don't go out and vote and try and change what you are angry about. It's your right as an American and it should be taken advantage of.

Is there any way to get more people to vote? I think we should do something to get more people voting. We should make it a law. We wouldn't have a problem then. Everyone would vote. If they didn't they would get in trouble. We could also give benefits to the people who do vote. They could be given a bonus on their tax returns or something. It could act as some kind of tax write off, like they do to people who give money to charity. There could also be better representation of things. Give more of a broad spectrum of different parties for people to be represented by. That could allow for people to feel like they are represented more accurately and maybe get people more excited to vote.

Democracy is not possible without the people's vote. It has been important since our government was founded and it always will be, as long as people do their duty by taking part in the simple and easy process of registering to vote and voting.

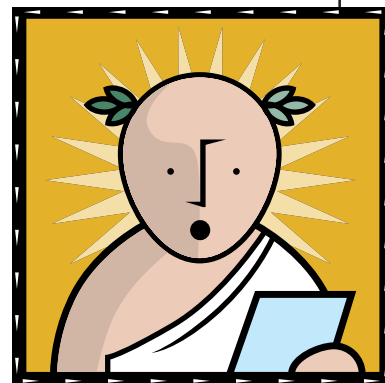
## June 2005 Calendar

- June 1** Deadline for Listers to lodge personal property inventories with Town Clerk. 32:4007
- June 4** Last day for Listers to lodge the grand list with Town Clerk for public inspection for town of fewer than 5000 inhabitants. 32:4111(d), 4341
- June 24** Last day for Listers to lodge the grand list with Town Clerk for public inspection for town of greater than 5000 inhabitants. 32:4111(d), 4341
- June 30** End of fiscal year for all school districts, charter provisions notwithstanding, and for municipalities that have adopted July 1 through June 30 fiscal year calendar. 32:1, 24:1683(b), (c)
- June 30** Reminder for Town Clerk in municipality with fiscal year ending June 30 to publicly disclose fees kept as compensation for that fiscal year. 24:1179

## Quote of the Month

“A new idea is delicate. It can be killed by a sneer or a yawn; it can be stabbed to death by a quip and worried to death by a frown on the right man’s brow.”

**Charles Brower**



# 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: [kmathieson@sec.state.vt.us](mailto:kmathieson@sec.state.vt.us),

or post: 26 Terrace St. Drawer 09, Montpelier, VT 05609-1101.

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

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

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