A Message from the Secretary

September is here and we are preparing for the upcoming busy electoral season! With the statewide primary just behind us, and the election only two months away, we are already in full swing!

First, I want to thank all of our hard working town clerks and volunteers who helped make August 28th, the date of our statewide primary, a smooth success. Your dedication to excellence shows and we at the SOS office really appreciate your efforts.

This is the second time we have asked you to post your results online—in real time—and your participation really helped to provide up to date, easy access—for voters, candidates, and the media. This is as transparent as we can get, folks, and you helped make it happen. Thank you!

Please remember, with November 6th right around the corner, we are here to help you in any way we can. We are just a phone call or e-mail away! Got a question? Give us a call!

On another note, please join me in officially welcoming our new State Archivist, Tanya Marshall to her new post, replacing Greg Sanford. Check out page two, where Tanya has written her first column for "Voice from the Vault." There may be a new author of this column, but the information will be just as valuable. Welcome, Tanya, to your new role. After nine years with our office, we know your transition will go smoothly and we celebrate your new role!

Sincerely,

James C. Condos
Secretary of State

Quote of the Month

Democracy is not something that happens, you know, just at election time, and it’s not something that happens just with one event. It’s an ongoing building process. But it also ought to be a part of our culture, a part of our lives.

-- Jim Hightower

In this Issue

Quote of the Month ............. 1
Voice From the Vault ........... 2
Opinions of Opinions........... 3
Civics Behind the Scenes .... 5
Elections Calendar ............. 6
Elections Calendar, cont’ .... 7
“I Found It in the Archives”

“I Found It in the Archives” is an initiative by the Society of American Archivists to tell (and remind) people that records of importance to them are being preserved, cared for, and made accessible by archivists. In government-settings -- where every public employee is a records creator and records custodian – it often takes a village to foster and sustain records long enough for them to resurface and be re-discovered, re-used, and ultimately, re-valued. The Eureka! moment of finding something in the archives is rarely the realization that a record exists but instead the information that the record contains.

For thirty years, Gregory Sanford focused on these Eureka! moments: discoveries within the detailed texts of public records that help shed light on issues or matters long forgotten or misunderstood. From his efforts, we have learned a great deal and public employees and citizens alike have reaped the benefits of his research, scholarship, and insights.

During my tenure with the State of Vermont – a mere nine years in comparison – I’ve been on the other end. The administrative and operational aspects of records management, such as reviewing legal requirements, appraising government functions, and scheduling large sets of records for either destruction or permanent preservation, rarely takes one into the detailed content of a single record. It is also easy to get caught in the weeds – especially with electronic records, which are far more complicated to manage than paper ones. As a result, this transition to State Archivist has been a good one. It has brought me full circle and helped remind me why I became an archivist in the first place.

This personal Eureka! moment came the weekend following Bennington Battle Day. In the spirit of the holiday, my family and I took a day trip to the Bennington Monument. As we descended down to the monument’s base, the employee operating the elevator asked us if we had signed the visitors’ log. Logs are, of course, in abundance in public agencies. There are logs or ledgers for almost anything and they are one of our most created public records. The employee, however, wasn’t as interested in the current visitors’ log as he was in telling us about the older ledger maintained in a nearby case. While touring the monument the day before, a family from a Midwestern state made a startling discovery.

After signing the visitors’ log, the family glanced at the preserved ledger, which was opened to the same day – August 18th – but from the year 1912. To their surprise, they saw an entry from the same little Midwestern town as theirs. Yes, in the archives of the Bennington Monument, they found not only a reference to their hometown but also learned that members of their own family made the same trip to the same monument on the very same day – but 100 years earlier. The employee beamed with excitement and said the family could not wait to get home to do some more research of their own.

Records providing written evidence of persistent legal rights, historical events, significant deliberations and decisions, and similar substantial matters are easy to review, appraise and schedule for permanent preservation. Yet, serendipitous discoveries, like the one made in the 1912 ledger at the Bennington Monument by that Midwestern family, demonstrate that one can never anticipate what might be found in public records – or what content will be of importance and to whom and why. It’s the balance of records management and archival preservation that records analysts and archivists at the Vermont State Archives and Records Administration try to strike in the work they do every day.

While I can’t foresee any specific individual’s Eureka! moment, I welcome the opportunities and challenges that come with serving the State of Vermont as State Archivist and look forward to fostering and sustaining a recordkeeping culture that enables archivists, public employees, and citizens to “find it in the Archives.”

_Tanya Marshall became Vermont State Archivist on August 1, 2012, after the retirement of Gregory Sanford. For more information about the Society of American Archivists’ “I Found It in the Archives” can be found online at: http://www2.archivists.org/initiatives/i-found-it-in-the-archives_
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.

1. If an early voter mails or returns in person his voted ballot in the sealed signed envelope and the unused ballot envelope to the town clerk, the voter cannot ask for his ballots back so he can “change his mind”. 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.

2. If an early voter discovers that he has made a mistake and spoiled his ballot(s) 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

3. 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 p.m. closing of the polls. Vermont statutes do not limit the means by which voted ballots be returned. Although it may seem unusual, it is permissible.

4. The town committee or 3 voters may make a request to the board of civil authority to have additional members added to the board of civil authority if there are less than three members of a major party serving on the BCA. The procedures are set out in 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 underrepresented party to bring the number of representatives from the party up to three members.

5. Registered voters in Vermont shall not lose residence for voting purposes solely by living outside of the United States. 17 V.S.A. §2122 Until the voter returns to reside in the United States, the voter can remain on the checklist and vote by absentee ballot in the town in which the voter last resided.

6. Persons serving in the military and U.S. citizens who live outside the United States may register and continue to vote in the jurisdiction where the voter 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 absentee ballots.
7. If a military or overseas voter is concerned about the transit time it takes to receive the ballots and then return the ballots, 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 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 return the ballots inside. 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 can then print the ballots, mark the ballots, complete the certificate, affix it to a No. 10 envelope, and place this in an express delivery envelope for return to the town clerk.

8. Please mail the Official Return of Votes for the general election in the prepaid envelope as soon as possible after the November 6th election (but not later than 48 hours after the election) to the Secretary of State. Please fax, or scan and email, a copy of the ORV to the secretary of state as soon as you have completed it and then send the original ORV in the pre-paid envelope. Please also provide a copy of the ORV to the senatorial district clerk, county clerk, and representative district clerk. All towns received prepaid envelopes for the Primary and General Election in March at the time of the Presidential Primary. The ORV, Summary and Tally Sheets were emailed to each town clerk. The forms can also be downloaded from the CERS Election Night Reporting portal.

9. No single board member has any authority to act alone in hearing a matter in which the board must render a decision. This rule applies to zoning boards of adjustment, developmental review boards, selectboards, boards of listers, boards of tax appeals, boards of abatement, boards of liquor control, etc. For a three member board to act in a quasi-judicial proceeding, at least 2 members of the board must hear all of the evidence and must agree upon a decision.

10. If one voter is elected both as a Selectboard member and a Justice of the Peace, that person is only entitled to one vote on the Board of Civil Authority. The number of board members on the full board is also reduced by one for purposes of calculating a quorum. For example, if a town normally has a BCA made up of five selectboard members, 15 justices and a town clerk, the board would be 21 members and a quorum for other than election purposes would be 11. If, however, in the same town, two selectboard members were also elected Justices of the Peace, the board would be 19 members and a quorum for other than election purposes would be 10. A person cannot cast two votes by virtue of being elected to two different offices. **NOTE:** For tax appeals, at least 3 members must be present and then a majority vote of the board members present is required.

11. If a person bringing a tax appeal to the BCA chooses not to attend the hearing, the BCA must still hold the hearing, consider the appellant’s written submission, inspect the property and render a decision. However, if the appellant refuses to allow an inspection of the property (both interior and exterior of any structure), then the appeal will be considered withdrawn. 32 V.S.A. §4404(c)
National Voter Registration Day
September 25th, 2012

This year, at their annual summer conference, the National Association of Secretaries of State (NASS) passed a resolution to mark **Tuesday, September 25th** as National Voter Registration Day! September has long been known as Voter Registration Month, but this year, NASS went a bit further to focus on one day in particular to promote as National Voter Registration Day!

In Vermont, the Secretary of State's office is participating and working with local schools, colleges, local municipalities and other civic minded organizations and individuals to provide as many opportunities across the state as possible to get Vermonters who have not yet registered to vote to do so on this day! *(If you can't do it on this day, any day in September---or even early October would be great, too!)*

Below is a link to the National Voter Registration Day website for helpful resources to hold successful events and to sign up as a site to hold a registration drive. The Secretary of State's office in Montpelier can also provide you with all the materials and support you need to hold a successful event!

[http://nationalvoterregistrationday.org/](http://nationalvoterregistrationday.org/)

For more information, please contact Nancy Lynch at 828-2148 or nancy.lynch@sec.state.vt.us

**REMEMBER!!**

*~DEMOCRACY IS NOT A SPECTATOR SPORT~*
SEPTEMBER 2012

September 2 (Sunday)
In the case of a tie between two candidates of the same party for the same office, last day for the state committee of a party, for a state or congressional office; the senatorial district committee for state senate; the county committee for county office; or the representative district committee for a representative to the general assembly to post notice of a meeting to nominate a candidate from among the tied candidates in the primary election (notice shall be given five days before the meeting, which shall occur no later than 10 days following the primary). 17 V.S.A. § 2369(1)
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)

September 3 (Monday)
Labor Day – state holiday. All state offices are closed. 1 V.S.A. § 371

September 4 (Tuesday)
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

September 5 (Wednesday)
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

September 7 (Friday)
Last day for a losing candidate to request a recount (within 10 days after the election). 17 V.S.A. § 2602(b) In the case of a tie between two candidates of the same party for the same office, last day for the state committee of a party, for a state or congressional office; the senatorial district committee for state senate; the county committee for county office; or the representative district committee for a representative to the general assembly to meet to nominate a candidate from among the tied candidates in the primary election (no later than 10 days following the primary). 17 V.S.A. § 2369(1)
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)

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 (second 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

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 (second Friday following the Primary Election). 17 V.S.A. § 2474(a)

Last day that a candidate for county office (probate judge, assistant judge, state’s attorney, sheriff, 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)

September 10 (Monday)
In the case of a tie between two candidates of the same party for the same office, last day for the state committee of a party, for a state or congressional office; the senatorial district committee for state senate; the county committee for county office; or the representative district committee for a representative to the general assembly to certify the candidate nomination for the general election to the secretary of state (within 48 hours of the nomination). 17 V.S.A. § 2369(2), 2103(13).

September 12 (Wednesday)
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)

September 17 (Monday)
Candidates for statewide offices, state senatorial candidates, state representatives, state 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 on July 15th and on the 15th of each month thereafter until and including December 15. 17 V.S.A. § 2811(a), 2103(13). 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)

September 20 (Thursday)
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
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 or post: 128 State Street, Montpelier, VT 05633-1101.

email: secretary@sec.state.vt.us

Thank you for helping us keep Opinions running efficiently!