

# Briefs

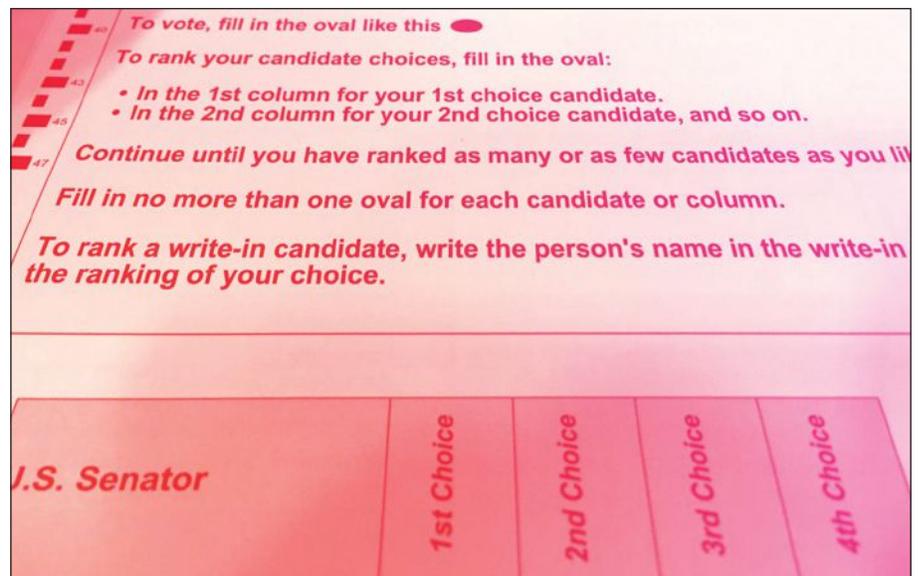
MAJORITY RULES ■ MARIJUANA ■ IN MEMORIAM ■ LETTER

## Maine Trying to Do Better Than “Majority Rules”

**T**he idea of “majority rules” can be flawed when there are more than two candidates running for office. The winner of such a contest can win without securing a majority of votes. Think the “Nader effect” on the 2000 presidential election, or the 2016 presidential election, which saw the winner attain less than a majority of the popular vote. The state of Maine set out to correct this incongruence with the first use of ranked choice voting, or RCV, in a federal election during the 2018 mid-terms.

A ranked-choice ballot has a voter rank candidates from “most preferred” to “least preferred” instead of having them choose a single candidate for an office. RCV is implemented when there are more than two candidates in the running and no candidate wins a majority of votes. In that event, the candidate with the least number of “most preferred” votes is eliminated, then the eliminated candidate’s “second-most preferred” votes are redistributed to the remaining candidates. This is done until a candidate has attained a majority and wins.

Maine voters used ranked-choice ballots to vote for federal positions. Independent incumbent U.S. Sen. Angus King and Democratic incumbent Rep. Chellie Pingree both won reelection to the U.S. Senate and House, respectively. In the House race between Republican incumbent Rep. Bruce Poliquin and Democrat Jared Golden, no candidate won a majority out of



the four-candidate race, so RCV was implemented with Golden coming out the winner.

For state-level candidates, Maine voters used a traditional ballot. There are questions as to whether RCV is constitutionally viable, since Maine’s state constitution calls for the offices of governor, state senator and state representative to be elected by a plurality. In the 19th century, after a series of tied elections had to be decided by repeat elections or by vote of the state legislature, the constitution was amended to accommodate a plurality winner. After a series of governor races from 1974 to 2014 that saw 9 out of 11 governors elected with less than 50 percent of the vote—in fact, 5 out of the 11 were elected with a less than 40 percent majority—“Maine Question

5” was added to the November 2016 ballot, asking for RCV to be used in federal and state elections.

“Maine Question 5” passed with a 52 percent majority. In spring 2017, it was challenged by then-attorney general Janet Mills—who won the state primaries in June 2018 under RCV—and a coalition of state legislators who claimed the law violated the state constitution’s plurality clause. In October 2017, the legislature voted to delay RCV implementation until 2021, by then which a constitutional amendment should, theoretically, be passed. If not, RCV would be repealed. A people’s veto effort reintroduced RCV to the June 2018 primary election ballot with “Maine Question 1” and passed, paving the way for the landmark voting system to be used in the mid-terms. ■

# Marijuana Legalization Gains Mid-Terms Traction

**M**arijuana legalization gained a foothold in the Midwest this past November when recreational marijuana use was approved by Michigan voters during the mid-term elections. Voters elected for the passage of Proposal 1, which allows adults 21 years of age or older to possess up to 2.5 ounces (71 grams) of marijuana in public and up to 10 ounces (284 grams) at home. They are permitted to grow up to 12 plants at home but are prohibited from selling, and the measure also technically permits users to purchase pot, but retail sales are still about two years away as the regulation and licensing system is set up.

Supporters of the measure, include—according to AP News—a national organization of black-owned businesses, a group of retired Michigan law enforcement officers and the Coalition to Regulate Marijuana Like Alcohol, a political committee based out of Washington, D.C. They estimate that legalization will bring in about \$130 million a year in tax revenue that will go toward repairing roads and funding schools and municipal governments. Proposal 1 advocates also say that legalization provides greater regulation of an industry that is already occurring, and will allow police to focus on more pressing criminal matters.

Advocates against legalizing recreational marijuana in Michigan include prosecutors, religious groups, law enforcement agencies and municipal chambers of commerce. These groups say the state will see increased drug use and abuse in children and teens as a result of legalization, as well as a rise in car crashes. They also claim that the approved amounts for possession are too generous. According to the Detroit Free Press, Healthy and Productive Michigan, an anti-Proposal 1 coalition, says that insurance costs will go up as a result of increased accidents at work and on the road, and legalization will make it more difficult for businesses to hire drug-free workers.

Meanwhile, across the rest of the U.S., voters rejected a measure to legalize recreational marijuana in North Dakota. The state is still in the process, however, of setting up a regulation system for medical use, which was approved less than two years ago. Voters made Missouri the 32nd state to



approve medical marijuana. Races in California, Colorado, Illinois and Michigan resulted in the elections of pro-legalization candidates to the governorship. And in Texas, House representative incumbent Pete Sessions, chair of the House Rules Committee, was defeated by challenger Colin Allred. Rep. Sessions used his committee position in Congress to prevent marijuana legislation from moving to the floor. As part of his campaign for the U.S. House District 32 seat, Allred chided Sessions for his refusal to listen to differing viewpoints on the marijuana issue.

## IN MEMORIAM

Paul B. Pollack  
Feb. 25, 2018, age 80

Tom P. Monteverde  
Nov. 16, 2018, age 91

Gary Gusoff  
Sept. 19, 2018, age 67

Seymour Kurland  
Nov. 23, 2018, age 88

Glenn Unterberger  
Oct. 14, 2018, age 65

Please send In Memoriam notices to  
tplmag@philabar.org.

*Have you considered a contribution to the Philadelphia Bar Foundation in memory of a deceased colleague? For information, call Jessica Hilburn-Holmes, executive director, at 215-238-6347.*



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# Letter Regarding Last Issue's "Just One Vote" Feature

Dear Kelly,

I apologize for replying very belatedly to your engaging letter of August 22, but I have been traveling and thus away from the office of the Political Science Department at Swarthmore. Thus, it was only now that I have received and read your letter. (You may have thought that I had not replied because I was annoyed, but, as you will see, my response has been just the opposite. I have been delighted and indeed edified by your wonderful letter and article.)

There is definitive proof that on the matter of "just one vote" you are right today, and that Professor Kurth was wrong in 1974. That proof is that Professor Kurth, who "had never voted. And never would," started to vote in 1992 and has voted in every election since. By that time, several good

reasons for voting had accumulated in the mind of Professor Kurth. However, the decisive one was a version of the reason that you give near the end of your article:

"Your vote is your free pass to complain until the next election. If you choose not to take it, maybe you should remain silent until you do vote."

By 1992, I had many good friends who were in a variety of serious and useful occupations, professions, or simple life situations, which were utterly unlike the rather rarified and esoteric field of "political science" (such as it is). Whereas fellow political scientists might think that my rarified and esoteric arguments for not voting were rather clever and bemusing, my other friends were more inclined to think that, on the matter of voting at least, I was either

a lunatic or moral monster. Since I did like these friends and I did enjoy complaining until the next election, I started to vote (and to complain) in the 1992 election, and I have thoroughly enjoyed the experience ever since. I highly recommend it to others.

I also thoroughly enjoyed many other parts of your article. I was especially pleased and edified to meet all those unicorns. Of these, the most wonderful was "lawyer Marcus 'Landslide' Morton, who was elected Governor of Massachusetts in 1839. By one vote."

You can feel free to share this testimony of my miraculous conversion experience to anyone that choose. ■

Warm regards and best wishes,  
James Kurth  
Swarthmore College

## SOLICITING SUBMISSIONS ON "RACE AND THE LAW"

The Editorial Board of The Philadelphia Lawyer magazine is soliciting submissions for a forthcoming issue on race and the law. The Board is looking for articles that tell stories from the perspectives of people of all colors who work in the legal community. This issue will be slated for Spring 2019.

We are looking for shorter articles of 750 words and longer feature-length articles of 1,200-1,500 words. Authors may ask to remain anonymous to protect their privacy. For more information and to submit an article for consideration please email [tplmag@philabar.org](mailto:tplmag@philabar.org).

## Get Published in THE PHILADELPHIA LAWYER

The Editorial Board of this magazine welcomes submissions from attorneys and other professionals who wish to share their expertise on law-related topics.

As policy, we do not compensate our writers.

Articles must be original and previously unpublished.

Manuscripts should adhere to the following word counts:

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- \* Other Law-Related  
Features: 1,500 words
- \* General Interest: 1,500 words
- \* Fiction: 1,000 words
- \* Practice Areas: 750 words
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