

TO: Senator Dole  
FR: Kerry

RE: Ellen Sauerbrey Event

\*Sauerbrey's people are expecting an audience of approximately 400-500.

\*Bill Brock will introduce you. They have suggested that you speak for 10 minutes or so, touching upon the last few weeks in Congress, and introduce Sauerbrey at the conclusion of your remarks.

# Sauerbrey Case Comes Up Short on Votes

## Testimony Ends With Republican Unable to Counter Victory Margin; Judge to Rule

By David Montgomery  
and Paul W. Valentine  
Washington Post Staff Writers

Testimony ended yesterday in Republican Ellen R. Sauerbrey's legal challenge to the 1994 Maryland governor's race without her attorneys contesting enough votes to reverse Democrat Parris N. Glendening's narrow victory.

Even if Anne Arundel Circuit Court Judge Raymond G. Thieme Jr. threw out all 3,664 votes that Sauerbrey was permitted to challenge in court, it would not alter the outcome of the Nov. 8 election, which Glendening won by 5,993 votes.

But Sauerbrey found some measure of vindication when state election officials announced yesterday that they would begin an independent investigation of sloppy election procedures in Baltimore City and Montgomery and Prince George's counties—the three jurisdictions Glendening carried.

Sauerbrey's allegations have "created a cloud" over the election, said James W. Johnson Jr., the Democratic chairman of the State Administrative Board of Election Laws, reading a statement written by a Republican board member.

Members of the bipartisan board said the probe should be conducted by an independent voting-law consultant rather than the Maryland attorney general's office, which has been defending Baltimore election officials in the Sauerbrey trial.

Thieme scheduled closing arguments in the case for this morning.

He indicated he would try to hand down a ruling by this evening on whether to grant Sauerbrey's request to either declare her the governor or order a new election.

Sauerbrey's last-ditch attempt to add new voter-fraud charges failed yesterday when the judge barred as unreliable and inadmissible her contention that the number of votes counted in Baltimore exceeded the number of voters by 1,998.

Outside the courtroom, the GOP nominee complained that the excluded evidence could have proved her claim that "this election was stolen and the ballot boxes were stuffed." She blamed "our government, via this court" for blocking "the best information we have."

Sauerbrey's attorneys rested their case before lunch.

Attorneys for Glendening and elections officials were granted 1½ days to put on their rebuttal, but they took less than an hour. Bruce Marcus, a Glendening attorney, said outside the courtroom that the legal team believed that a full assault on Sauerbrey's case was unnecessary because it didn't think she had met the burden of proving her case.

To prevail, Sauerbrey must present "clear and convincing evidence" of enough irregularities to alter the outcome of the election. Her attorneys maintained that they met that standard by presenting testimony on numerous "election breakdowns" in Baltimore, in addition to the quantified number of contested votes.

Sauerbrey said she was proud of the case she had made, even though

ultimately the judge limited her evidence to fewer than 4,000 allegedly improper votes, down from the nearly 50,000 listed in her Dec. 27 complaint.

"That is a significant number of votes when added to the procedural errors [in Baltimore] that cannot be quantified readily," she said yesterday.

But she angrily denounced the judge and the opposing attorneys for blocking her attorneys' attempts to get allegations of more illegal votes entered into evidence. Thieme barred evidence yesterday of about 10,000 contested votes on procedural grounds, effectively erasing the bulk of Sauerbrey's allegations.

Thieme would not allow Sauerbrey's computer investigator to testify about 1,998 votes that allegedly were counted in Baltimore in excess of the number of people who actually voted in the city. The discrepancy, Sauerbrey's investigator would have testified, was between the city's total certified vote tally and the number of voter names checked off on Election Day. The pencil marks are made on printed voter lists as people cast ballots as a precaution against someone voting twice.

"There are more votes being reported than could possibly have been cast," said John M. Carbone, Sauerbrey's attorney, pleading with Thieme to allow the evidence. "All we ask is, how, how?"

Thieme frowned and appeared unimpressed.

"So what?" said the judge.

Thieme ruled that the database used by Sauerbrey's investigator was

inadmissible because it was based on unreliable documents, even though the source of the information was the Baltimore election board itself.

The discrepancies were present in 87 of Baltimore's 408 precincts, including a difference of 248 more votes than voters recorded at one precinct and 213 at another.

An attorney for the election board conceded that the lists frequently contain errors—and contended that is why they should not be admitted as factual evidence.

Election judges may forget to make the pencil marks, which could explain any discrepancy between the number of voters recorded and the number of votes cast, said Deputy Attorney General Ralph S. Tyler III, an attorney for the election board.

The authoritative source for the number of voters and votes is the certified information derived from the voting machines themselves and from the signature cards that voters sign at the polls, Tyler said.

Sauerbrey said she will not make a decision on whether to appeal until after Thieme rules, but her attorneys and Glendening's attorneys prepared a motion yesterday to agree on an expedited appeal to the state Court of Appeals. Sauerbrey's attorneys also are positioning themselves for a simultaneous federal appeal on constitutional grounds.

Thieme also barred a witness who was going to swear to the reliability of a Post Office address list upon which Sauerbrey found about 8,000 people who allegedly voted after



BY CRAIG HERNDON—THE WASHINGTON POST

Ellen R. Sauerbrey at a news conference outside the Anne Arundel Courthouse, where she rested her case challenging the result of the gubernatorial election.

moving out of the county in which they were registered.

After Sauerbrey's case concluded, George Nilson, a Glendening attorney, called a single witness: former Maryland attorney general Stephen H. Sachs, who is on Sauerbrey's list of 23 voters who allegedly voted twice.

Sachs, a lawyer, testified that he was in Seattle taking depositions on

Election Day and that he voted by absentee ballot.

Nilson argued that on Election Day, an election judge mistakenly put a pencil mark next to Sachs's name, indicating he voted, when the person who actually voted and was not marked was a man named Stephen K. Sacks.

Such are the flaws in Sauerbrey's charges of irregular Page 2 of 22 said.

**SENATOR BOB DOLE  
REMARKS  
ELLEN SAURBREY DINNER**

**THANK YOU. LET ME BEGIN BY  
THANKING MY FRIEND BILL BROCK  
FOR ALL HE HAS DONE FOR THE  
REPUBLICAN PARTY HERE IN  
MARYLAND AND ACROSS THE  
COUNTRY.**

**I REMEMBER BACK IN 1977. THE  
DEMOCRATS WERE BACK IN THE  
WHITE HOUSE, AND THEY**

**CONTROLLED CONGRESS.**

**MEMORIES OF WATERGATE WERE  
STILL FRESH, AND A LOT OF SO-  
CALLED EXPERTS WERE READING  
THE LAST RITES TO THE  
REPUBLICAN PARTY.**

**AND THEN BILL BROCK BECAME  
CHAIRMAN OF THE REPUBLICAN  
NATIONAL COMMITTEE. UNDER HIS  
UNIFYING LEADERSHIP, THE PARTY  
MADE IMPORTANT GAINS IN 1978,**

**AND BY 1980 WE WERE BACK IN  
THE WHITE HOUSE AND IN  
CONTROL OF THE SENATE.**

**BILL PUT UP A GREAT FIGHT  
AGAINST LONG ODDS LAST YEAR,  
AND WHILE HE DIDN'T WIN, HE DID  
BRING A LOT OF ENERGY,  
ENTHUSIASM AND CONVERTS TO  
THE MARYLAND REPUBLICAN  
PARTY.**

**AND THAT ENTHUSIASM HELPED  
TO ELECT FOUR OUTSTANDING  
REPUBLICANS TO THE HOUSE OF  
REPRESENTATIVES. (BOB EHRLICH,  
WAYNE GILCHREST, ROSCOE  
BARTLETT, AND CONNIE MORELLA),  
AND IT HELPED SEND MORE  
REPUBLICANS TO ANNAPOLIS.**

**AND THE MARYLAND  
REPUBLICAN PARTY IS ALSO  
STRONGER BECAUSE OF THE**

**EFFORTS OF THE REMARKABLE  
REPUBLICAN WE HONOR TONIGHT.**

**WHEN ELLEN SAURBREY BEGAN  
HER CAMPAIGN THERE WEREN'T  
MANY PEOPLE--MYSELF INCLUDED--  
WHO GAVE HER MUCH OF A  
CHANCE. BUT ELLEN KNEW  
BETTER. SHE KNEW MARYLANDERS  
WERE FED UP WITH BIG  
GOVERNMENT, HIGH TAXES, AND  
BUSINESS AS USUAL. SHE KNEW**

**THAT MARYLANDERS WERE READY  
FOR A CHANGE.**

**AND I REMEMBER ELECTION  
NIGHT. I WAS IN MY OFFICE, AND  
THE TELEVISION NEWS WAS  
REPORTING VICTORY AFTER  
VICTORY FOR REPUBLICANS. AND I  
REMEMBER LOOKING AT THE  
SCREEN, AND HEARING THEM  
REPORT THAT ELLEN WAS AHEAD.**



**AND CHEERS WENT UP ALL OVER  
MY OFFICE.**

**AND THEN A FEW MINUTES  
LATER, I LOOKED UP AND ELLEN  
WAS BEHIND. AND YOU KNOW THE  
REST OF THE STORY.**

**NO MATTER WHAT HAPPENS IN  
COURT, ELLEN AND ALL MARYLAND  
REPUBLICANS CAN BE VERY PROUD  
OF THE CAMPAIGN SHE RAN.  
AGAINST LONG ODDS, THIS**

**ELECTION WAS THE CLOSEST IN  
MARYLAND'S HISTORY.**

**IN FACT, MY FRIEND, STROM  
THURMOND, SAID IT WAS THE  
CLOSEST ELECTION HE REMEMBERS  
SINCE THOMAS JEFFERSON BEAT  
AARON BURR BY ONE ELECTORAL  
VOTE IN 1800. AND STROM HAS  
ALWAYS BEEN PROUD THAT HIS  
VOTE FOR JEFFERSON MADE THE  
DIFFERENCE.**

**IN FILING HER CASE, ELLEN WAS  
STANDING UP FOR THE RIGHTS OF  
ALL MARYLANDERS--REPUBLICANS  
AND DEMOCRATS ALIKE.**

**ALL MARYLANDERS NEED TO  
KNOW THAT THEIR VOTE COUNTED,  
AND THAT THEIR PUBLIC OFFICIALS  
WERE CHOSEN IN A FAIR ELECTION.**

**AT THE VERY LEAST, ELLEN HAS  
PUT THOSE IN CHARGE OF THE  
ELECTIONS PROCESS ON NOTICE**

**THAT THEY CAN DO BETTER. AND I  
NOTICED THAT OFFICIALS IN A  
NUMBER OF COUNTIES ANNOUNCED  
YESTERDAY THAT THEY WOULD  
BEGIN AN INDEPENDENT  
INVESTIGATION OF SLOPPY  
ELECTION PROCEDURES.**

**THE BOTTOM LINE IS THAT IF  
THERE'S A CLOSE OR CONTESTED  
ELECTION TWO OR FOUR YEARS  
FROM NOW, MARYLANDERS WILL**

**BE ABLE TO THANK ELLEN  
SAUERBREY FOR IMPROVEMENTS  
THAT CAME ABOUT BECAUSE OF  
HER COURAGE.**

**AND IF THERE'S ONE WORD  
THAT DESCRIBES ELLEN, IT IS  
"COURAGE." ELLEN HAD THE  
COURAGE TO RUN A RACE AGAINST  
ALMOST HOPELESS ODDS; AND SHE  
HAD THE COURAGE TO PUT UP  
WITH A LOT OF CRITICISM FROM**

**THE MEDIA IN MAKING SURE THAT  
THE ELECTION WAS FAIR.**

**I KNOW THAT ELLEN IS  
GRATEFUL FOR YOUR  
SUPPORT...AND I HOPE THAT SHE  
CAN COUNT ON IT IN THE WEEKS  
AHEAD.**

**ONE THING I KNOW IS THAT WIN  
OR LOSE, ELLEN WILL CONTINUE TO  
PLAY AN IMPORTANT ROLE IN OUR**

**PARTY, AND IN THE ISSUES OF THE  
DAY.**

**AND BEFORE I INTRODUCE ELLEN,  
I HAVE BEEN ASKED TO SAY A  
QUICK WORD OR TWO ABOUT THE  
FIRST TWO WEEKS OF CONGRESS.**

**THE MISSION HOUSE AND  
SENATE REPUBLICANS SHARE IS TO  
REIN IN GOVERNMENT AT HOME,  
AND TO REASSERT AMERICAN  
LEADERSHIP ABROAD. AND THAT'S**

**JUST WHAT WE'VE STARTED TO  
DO.**

**IN THE LAST 40 YEARS THAT THE  
DEMOCRATS HAVE CONTROLLED  
CONGRESS, THEY IMPOSED  
THOUSANDS AND THOUSANDS OF  
RULES AND REGULATIONS ON OUR  
SMALL BUSINESSMEN AND WOMEN,  
AND REFUSED TO APPLY THOSE  
REGULATIONS TO CONGRESS  
ITSELF.**



**IT ONLY TOOK THE NEW  
REPUBLICAN CONGRESS A FEW  
WEEKS TO CHANGE THAT. WITH  
THE PASSAGE OF CONGRESSIONAL  
COMPLIANCE LEGISLATION IN BOTH  
THE HOUSE AND THE SENATE,  
CONGRESS WILL NOW BE TREATED  
NO DIFFERENTLY THAN ANYONE  
ELSE.**

**AND WE BEGAN DEBATE  
YESTERDAY IN THE SENATE ON S.1-**

**-LEGISLATION TO PUT AN END TO  
THE UNFUNDED MANDATES THAT  
THE FEDERAL GOVERNMENT  
IMPOSES ON OUR STATE AND  
CITIES.**

**OVER THE PAST 40 YEARS, THE  
DEMOCRAT CONGRESS HAS  
SUCCEEDED IN ALL BUT REMOVING  
THE 10TH AMENDMENT FROM OUR  
CONSTITUTION. THAT AMENDMENT  
SAYS, AND I QUOTE, "THE POWERS**

**NOT DELEGATED TO THE UNITED STATES BY THE CONSTITUTION, NOR PROHIBITED BY IT TO THE STATES, ARE RESERVED TO THE STATES, RESPECTIVELY, OR TO THE PEOPLE."**

**THAT'S THE CONCEPT OF FEDERALISM. AND IT'S MUCH BETTER THAN THE CONCEPT OF PATERNALISM, WHICH THE DEMOCRATS HAVE ADOPTED. AND**

**MY TOP GOAL FOR THE 104TH  
CONGRESS IS TO DUST OFF THE  
10TH AMENDMENT AND RESTORE IT  
TO ITS RIGHTFUL PLACE IN OUR  
CONSTITUTION.**

**AND, AS I SAID ON THE FIRST  
DAY OF THIS SESSION, WE INTEND  
TO ROLL BACK FEDERAL  
PROGRAMS, LAWS, AND  
REGULATIONS, FROM A TO Z--FROM  
AMTRAK TO ZOOLOGICAL STUDIES--**

**WORKING OUR WAY THROUGH THE  
ALPHABET SOUP OF GOVERNMENT.  
NO DOUBT ABOUT IT, IT'S GOING  
TO TAKE A LOT OF COURAGE TO  
MAKE SOME OF THE TOUGH  
DECISIONS THAT LIE AHEAD. AND  
I'M GOING TO TELL MY  
COLLEAGUES TO JUST LOOK TO  
ELLEN SAURBREY IF THEY WANT TO  
SEE AN EXAMPLE OF COURAGE AND  
PERSEVERANCE.**

**WELL, I HAVE A PLANE TO  
CATCH, SO I BETTER STOP HERE.  
BUT I DID WANT TO COME BY  
TONIGHT TO THANK ALL OF YOUR  
FOR YOUR COMMITMENT TO THE  
REPUBLICAN PARTY, AND TO  
THANK ELLEN FOR THE LEADERSHIP  
SHE WILL CONTINUE TO PROVIDE. IT  
IS MY PRIVILEGE TO INTRODUCE TO  
YOU, A WOMAN OF HEART, SPIRIT,  
AND COURAGE, ELLEN SAURBREY.**