

The Maryland Voter



Published by
The League of Women Voters of Maryland, Inc.
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Fall 2009
Editor: Carol Blackburn

Maryland Attorney General supports change in election of Circuit Court judges

The LWVMD undertook a review of its Administration of Justice positions in 2007. The result was a Fact Sheet in Winter 2009, and a re-tooling of several long-held positions. Two study committee members (Carol Sures, Anne Arundel, and Lois Stoner, Montgomery) conducted the following interview which is germane to that study which is continuing this year.



Since the early 1960s, the League has worked for the appointment of all judges with voter confirmation in nonpartisan, merit retention elections. This has not yet happened in Circuit Court. When we learned that Maryland Attorney General Douglas Gansler was championing a move to “fix” the Circuit Court, we asked for an interview. He arrived at the interview at the LWV-Montgomery office with his Chief Deputy Attorney General, Katherine Winfree, in tow.

The Attorney General is strongly supporting a change in the way we elect our Circuit Court judges, partly for the same reasons the League has supported the change.

“First, the unseemly nature of judges running for political office. They are appointed and must immediately stand for election, (so) they are running on no record,” Gansler said. It’s ironic,” he continued, “if there is an election of any judges it should be for District Court. But Circuit Court judges should stand for retention every 10 years like Appellate Judges do now.... In the current system we politicize when we want impartial judges. Second, (judges) cannot take policy positions (when they run) so it is a personality contest.” His third reason is funding the judicial campaigns. “Defense lawyers are the source for campaign funds...there is an appearance of conflict of interest, if not actual conflict.”

Also retention should be non partisan, he said. candidates appear on both Republican and Democratic ballots in the Primary Election. Non-affiliated and third party registrants cannot vote on those ballots.

He pointed out the system of electing judges goes back to 1861 although our other state courts have been changed.

The primary reason the Attorney General is wholeheartedly supporting a change is, “the current system is discriminatory against minorities – with the exception of Prince George’s County and Baltimore City.” Governors appoint minorities but they “won’t get elected” because there is discrimination. He cited several cases of popular, extremely qualified black District Court judges who were appointed to Circuit Court but lost their election to white challengers. Some excellent minority judges and lawyers simply won’t run because they know they will lose. This “will continue to happen with possibly a few exceptions” (unless there is a change), Gansler said.

What we do now “perpetuates a system with no minorities,” he said. The current appointment process was supposed to ensure more minorities attain that bench, but it has not worked out that way.

Gansler and Winfree also briefly commented that it was nearly impossible for women to become Circuit Court judges until very recently.

There was no ambiguity in Gansler’s proclamation: “There will be a bill this year,...It has been drafted. It will convert the election of Circuit Court judges to mirror that of Appellate Court judges.”

Currently it’s bi-partisan since judicial What about the feasibility and politics of promulgating a change which would involve a Constitutional Amendment? He averred, “There is wide support in the legislature including President (Mike) Miller and Senator Brian Frosh” (chair of the Senate Judicial Proceedings Committee). Gansler was disarmingly frank: “The glitch – the first battle -- will be the House Judiciary Committee...which is the precise reason the current system should be overturned: lawyers and money.”

We asked if the public will vote to support the amendment. “We need to educate them,” he said. The way to do it is to show them that a non-political bench is needed, he said. Public education will be “the second battle.”

Gansler discussed the potential impact of the recent U.S. Supreme Court Case which decided that judges must recuse themselves in cases where they have accepted campaign contributions. He implied that the ruling might doom fundraising for judicial campaigns.

Gansler strongly supports Judicial Nominating Commissions so that “the local bar and citizens have a say about who is on their bench.” He is not interested in codifying the appointment of the commissions which can be reconfigured by each Governor. He is “less concerned about changing the makeup of the nominating commissions.”

We asked the Attorney General if he thinks adjunct elected officials in the judicial system – Clerks of the Court, Registrars of Wills and Sheriffs – ought to be appointed. He said he sees “no problem electing courthouse people, no problem with the current system. Maybe merit appointments

would be better but we do not need a solution.” However, he said, “I look at sheriffs differently...the others are not policy or politically distinctive (but) sheriffs (function) differently in each of our 24 districts” and should be elected.

Gansler and Winfree bickered amicably about allowing cameras in the courtroom. The Attorney General said he “sees both sides (but) it is a real issue. I’m not opposed: courtrooms are public and we have technology to show them to every household. It will give people more access.”

Winfrey cited an intimidating, chilling effect on witnesses, especially in criminal cases. Gansler agreed and said that cameras would broaden exposure of witnesses

exponentially. Both agreed cameras pose no risk at the appeals court levels since the appeals courts are not fact-finding bodies.

We asked the Attorney General if he had any suggestions beyond the interview questions to improve the administration of justice in Maryland. At that point we had used up our appointed time. His answer, delivered with a hearty guffaw, was that he could do several more interviews to answer that one!

Carol Sures and Lois Stoner

Attorney General Douglas F. Gansler has an astonishing bio, particularly for a person in his 40s. He was elected AG in 2006 after serving as State’s Attorney for Montgomery County and has focused on environmental, public safety, and consumer issues. His background also includes a stint as Assistant U.S. Attorney prosecuting over 1,000 criminal cases of all varieties, and time at several private law firms. He clerked for the Honorable John F. McAuliffe, Judge on the Maryland Court of Appeals.

Log on to the web at www.oag.state.md.us for Gansler’s full bio as well as extensive information about the Office of the Attorney General.

FIND OUT THE LATEST ON HEALTH CARE REFORM

The League of Women Voters of Maryland is pleased to have Congressman John Sarbanes as the key note speaker at our luncheon at the Ram's Head Tavern in Annapolis on November 14. (A registration form is in this *Voter*). In 2006, Congressman Sarbanes was elected to the House of Representatives to represent Maryland's 3rd Congressional District, which spans portions of Anne Arundel County, Baltimore City, Baltimore County and Howard County. During his first term, he was awarded the Outstanding New Member Award by the Voice for National Service.

Congressman Sarbanes was appointed to the Energy and Commerce

Committee which has jurisdiction over a range of issues including national energy policy, health and health facilities and consumer affairs and protection. Under the leadership of Henry Waxman, this committee played a key role in drafting HR 3200 – America's Affordable Health Care Choices Act of 2009. The Congressman will be sharing his views on the status of health care reform and what kind of outcome we can expect. The League encourages anyone with an interest in this important topic to sign up for the event.

Nancy Soreng

THE ART OF ADVOCACY

This is the Citizen's Lobbying Course sponsored by the LWV Maryland that will show you how to approach the Maryland General Assembly to make your voice count. The Course will begin with a panel discussion about Effective Lobbying Techniques which includes two special interest organizational lobbyists. One panelist is Amy Fusting of the Maryland Citizens Against State Executions who successfully organized many groups and individuals through education, grassroots action and public demonstrations. Another panelist is Neilson Andrews with the Maryland State Medical Society, the most highly regulated group in our society that works to ensure that her constituency is heard in the General Assembly. Elected officials from District 42 will speak about How to Build Relationships and Gain Influence credibly. Democrat Steven Lafferty and Republican William Frank share their own unique individual perspectives. How to Impact the Budget will feature expert Warren Deschenaux, the chief fiscal analyst for the Maryland Department of Legislative Services. Watchdog Neil Bergsman of the Maryland Budget & Tax Policy Institute will focus on how state budget and tax policy affects community programs and services.

Join the League on Saturday, November 14 to sharpen your lobbying skills and learn how these experts get the job done in Annapolis. A tour of the legislative complex by MLIS follows the panel discussion.

Marjorie Slater-Kaplan



**THE LEAGUE OF WOMEN VOTERS of MARYLAND
ANNOUNCES TWO EVENTS SATURDAY, NOVEMBER 14, 2009
ATTEND ONE OR ATTEND BOTH!!**

9:00 a.m. - 12:00 p.m.

Miller Senate Office Bldg, East 1 Room, Gov. Bladen Blvd., Annapolis MD

 ***Citizens' Lobbying Course***
THE ART OF ADVOCACY

PROGRAM

Effective Lobbying Techniques

Amy Fusting - Maryland Citizens Against State Executions, Neilson Andrews - Maryland State Medical Society - Jennifer Gajewski, Towson University

Building Relationships, Gaining Influence

Legislators from District 42: Steve Lafferty (D) William Frank (R)

How to Impact the Budget (with the experts)

Warren Deschenaux, Maryland Department of Legislative Services
Neil Bergsman, Maryland Budget and Tax Policy Institute

Cost: \$25.00 Includes tour of the Legislative Complex

12:15 p.m.-2:15 p.m.

 **LUNCHEON – Ram's Head Tavern, 33 West Street, Annapolis**

Keynote Speaker: Congressman John Sarbanes, member of the Energy and Commerce Committee, the lead House Committee on Health Care Reform will speak on the status of efforts to improve health care in this country

Cost: \$35.00 Includes tour of the Legislative Complex

Send this form with **check made payable to LWVMD** to: 106 B South St. Annapolis, MD 21401
Register Early - Space is limited - All payments must be received by November 10th.

Name _____ E-Mail _____

Address _____ Phone _____ Organization _____

I plan to attend the Advocacy Course only _____ Cost: \$25.00 additional donation \$ _____

I plan to attend the Luncheon only _____ Cost: \$35.00

I plan to attend both events _____ Cost \$50.00

I plan to attend a tour of the Legislative complex at 12:15 p.m. _____ at 2:30 p.m. _____

Constitution Day Program New League Tradition

Panel discussed “Census and the U.S. Constitution”

LWVMD and the University of Maryland School of Law have established a nice tradition after three successive years of co-sponsoring a Constitution Day panel program on September 17, Constitution Day, in the law school’s Ceremonial Court Room. The University of Maryland, Baltimore (the university’s professional schools) also co-sponsors our annual program. This year we had a new co-sponsor, the student chapter of the American Constitution Society.

How our tradition began is interesting. Federal legislation, Public Law 108-447, the Consolidated Appropriations Act of 2005, actually drives our celebratory event. That law says, “Each educational institution that receives federal funds for a fiscal year shall hold an educational program on the United States Constitution on September 17 of such year for the students served by the educational institution.” LWVMD’s desire to honor our Constitution and educate the population about the document dovetails with the law school’s educational objective and the federal requirement. Three years ago when our Constitution Day tradition began the University of Maryland School of Law recognized it needed to have a Constitution Day program on September 17. The League, particularly keen then on civil liberties protection in the face of the Patriot Act, desired to authoritatively and publicly examine the 4,440 word U.S. Constitution and also the Bill of Rights and other Amendments. Celebrating on Constitution Day, September 17, the day in 1787 that all 12 state delegations to the Constitutional Convention in Philadelphia

approved the Constitution and the Convention consequently adjourned, seemed very appropriate to LWVMD for an additional reason: The September 11 attack on the World Trade Center and the Pentagon had sparked annual local remembrance events across America on or near September 11, but holding an event a few days later examining the relevance and strength of our democratic government’s founding document would have a healing, constructive effect on the population. The League asked and the law school was interested, so we partnered in coordinating our first Constitution Day on September 17, 2007.

Each year we choose a different theme. The first year’s theme was “*A Constitution Day Look at the Constitutions of the U.S.A. and Iraq.*” Our second program on September 17, 2008, was themed, “*The Courts and Executive Power.*” This year the theme was “*The Census and the U.S. Constitution.*” The constitutional requirement in Article 1, Section 2 to hold a census of the population every year ending in zero has resulted in a decennial census since 1790.

On Thursday, September 17, 2009, the one hour program started at 5:00 p.m. with a welcome from LWVMD President Nancy Soreng, who introduced local invited dignitaries responsible for planning a complete count in the 2010 Census in Maryland, Baltimore City, Baltimore County and Howard County. Another welcome came from the president of the student chapter of the American Constitution Society. A welcome and panel introductions

were given by Associate Dean for Research and Faculty Development and Professor of Law Michael Van Alstine, who served as moderator of the panel.

Three perspectives on the census theme were presented by expert panelists: Christa Jones, the U.S. Census Bureau's Special Assistant to the Associate Director of Decennial Census; Jenigh Garrett, the Assistant Counsel of the NAACP Legal Defense and Education Fund; and Professor David Super, formerly of Harvard and Yale Law Schools, who teaches University of Maryland School of Law courses on administrative law, civil procedure, evidence, legislation, local government law, property, public welfare law, regulatory theory and torts. Professor Super also teaches census law.

Jones discussed background on the US Census in the Constitutional context, current basic operational components, key activities and participation. The Constitution mandates the census and its uses—determining Congressional apportionment and legislative districts and how around \$400 billion is spent each year. She mentioned 14th Amendment civil liberties relevancies. Title 13 of the *U.S. Code* assures confidentiality of census information.

The census is the largest U.S. domestic activity. Our first census showed a US population of 3,929,214 in 1790 and in 2000 it was 281,424,177. The current population estimate is 310 million. Over 1.3 million workers help perform the census; they will come largely from local Complete Count Committees and local governments. The enumeration period is January to April. Everybody is counted in the census in their place of abode most of the time. Ten questions are on the census form, which

will be mailed to every household by Census Day, April 1, 2010. Bilingual forms will go to 13 million homes. Ninety percent of the population will get counted via the return mail. If forms are not returned to the Census Bureau, a staff person will be sent to the abode. There will be a communication campaign to urge people to participate and to accurately complete their forms.

Garrett focused on census data and minority voting rights, then the census undercount. NAACP is stressing the importance of completing the entire form so the race question is answered and returning the form for the count. This will provide statistics to support Congressional apportionment and accurate distribution of Federal funds. She also discussed gerrymandering.

Regarding those who are not counted in the census, Garrett said that the 2000 Census missed around 16 million people, mostly African Americans, the poor, the mobile, and children. In the 2010 census the people displaced by Hurricane Katrina and persons facing foreclosure are at risk of being in the undercount. Miscounts occur in the prison system due to prison residents swelling the count of jurisdictions, thereby reaping greater financial distribution for their areas.

Super said Article 1, Section 2 in the Constitution requiring the Census is one of the few mandatory features of the Constitution. The U.S. has had a census since its beginning. However, a census can be very controversial in countries not having a history of a census because results can reveal population facts the leaders of a country dislike. Accuracy of census data is important to determine social characteristics. Vast amounts of

money depend on the census for distribution.

A brief question and answer session ended the session around 6:00 p.m. A floral decorated reception in the Atrium with baked goods by Leaguers and beverages offered by the law school concluded the evening.

The event was video taped by the law school. The original address for the video link has been changed due to its malfunctioning. The video link is now available directly on the University of Maryland School of Law website under "Watch the Discussion" at: http://www.law.umaryland.edu/about/news_details.html?news=474

Andrea Morris Gruhl

Donation Benefits League

LWVMD received an unexpected donation this fall: a bequest from John K. Everson in the amount of \$5,000. The League was one of a number of Maryland organizations which Mr. Everson mentioned in his will. Although we don't know what connection Mr. Everson had to the League, it is hard not to imagine that perhaps a wife, sister or mother had been a member or that he had attended Candidates' Forums or used our Voters' Guides. Whatever the reason, we are very appreciative of John Everson's generosity.

Karen Heppen

League of Women Voters of Maryland

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