

**The  
Maryland**

**Voter**



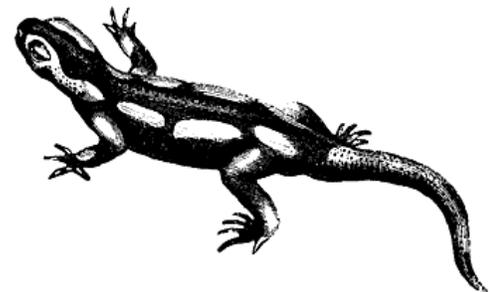
**Autumn 2011**

## **Maryland's Gerrymander is Alive and Well**

*By Lu Pierson*

During a Special Session in October 2011, members of the Maryland General Assembly fulfilled their obligation to enact a Congressional redistricting plan, based on the 2010 census figures for the State, and Governor Martin O'Malley subsequently signed the plan into law. The Maryland Constitution is silent on Congressional Redistricting and the U.S. Congress gives authority to state legislatures to adopt a plan.

In July 2011, Governor O'Malley appointed a five-member Redistricting Advisory Committee (GRAC) to receive public input on redistricting Maryland's Congressional and legislative districts. The five members of the Committee were Jeanne D. Hitchcock, Esq., Chair (Governor



O'Malley's Appointments Secretary); Thomas V. Mike Miller (President of Maryland Senate); Michael E. Busch (Speaker of Maryland House of Delegates); James King (former member House of Delegates); and Richard Stewart (President and Chief Executive Officer of Montgomery Mechanical Services Incorporated), the Committee's only Republican. A public website was created to keep citizens updated on the actions of the Committee and to allow people to submit third-party redistricting plans to the Committee.

The Committee conducted a dozen hearings across the state to receive input from citizens and elected representatives on how the district lines should be drawn. At these hearings the most frequent comment of those who testified was that communities of interest should not be split, noting that residents of Western Maryland have little in common with residents of Montgomery County, and residents of the Eastern Shore have little in common with the northern sections of the State. Attendees at the Anne Arundel hearing complained that their county was divided among four Congressional Districts. Some asked for more politically competitive districts; others just asked that their particular district not be changed. League members testified at a number of the hearings, calling for transparency in the process and suggesting that the GRAC should hold hearings *after* the release of a draft plan instead of before, to allow citizens to make educated and thoughtful comments about potential changes to district lines.

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# Details of Adopted Congressional Redistricting Plan

(with thanks to The Washington Post's October 20 breakdown and interactive map)

**District 1:** It expands westward along the state's northern border. It gains some white and Republican voters, becoming the state's most Republican district. [Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, Worcester counties, and parts of Baltimore, Carroll, and Harford counties.]

**District 2:** 276,000 people move in and out of the district, but the racial, ethnic and political attributes change little. [Parts of Baltimore City and parts of Anne Arundel, Baltimore, Harford and Howard counties]

**District 3:** One third of the residents of the newly and widely redrawn 3rd District were imported from other districts. The share of Hispanic and Asian populations increased about 2%, with a similar decline in white voters. [Parts of Anne Arundel, Baltimore, Howard and Montgomery counties and parts of Baltimore City]

**District 4:** More than 600,000 people move in and out of this district. It gains residents in Anne Arundel and Prince George's counties, and loses them in Montgomery. White population share increases by 7 percent. Democratic voters remain a majority. [Parts of Anne Arundel and Prince George's counties]

**District 5:** The least changed district in the plan, it gains 26,000 new people and loses 73,000 from the district. [Calvert County, Charles County, St. Mary's County, and parts of Anne Arundel and Prince George's counties]

**District 6:** The state's most Republican district prior to redistricting, it now becomes a majority Democratic district, by adding minorities from Montgomery County, and loses people to Frederick and Carroll Counties. 349,000 people were added to the district and 360,000 people were removed from the district. [Allegany County, Garrett County, Washington County and parts of Frederick and Montgomery counties]

**District 7:** This district changes shape in Baltimore and Howard Counties and gains some white population. Democrats are still in the majority. [Parts of Baltimore City, parts of Baltimore and Howard counties],

**District 8:** Created out of the previous 6th district, this district has a net gain of 115,000 white residents, mostly from Frederick and Carroll County. It has a net loss of 119,000 minority residents, mostly from Montgomery County. [Parts of Carroll, Frederick and Montgomery counties]

**In total, 1.6 million Maryland residents were moved from one district to another, out of a total population of 5.7 million.**

**The three least compact and contiguous districts:**



**District 2**



**District 3**



**District 4**

*(Gerrymander - from page 1)* Throughout the summer, pundits and the press opined that Governor O'Malley's redistricting plan would attempt to redraw the state's Congressional map to maximize the potential for electing 7 Democrats out of the 8 Congressional seats – the question was whether he would target District 1's Andy Harris or District 6's Roscoe Bartlett. By the time the GRAC submitted its recommended plan to the Governor, it was clear that the target was Congressman Bartlett. Prior to the 2011 redistricting, District 6 contained Garrett, Allegany, Washington, Frederick, and Carroll counties and northern sections of Baltimore, Harford and Montgomery counties. The GRAC proposed plan changed the configuration of that district to include the three Western Maryland counties plus the suburban sections of Frederick and Montgomery counties. Almost 50 percent of the residents of the new 6<sup>th</sup> district are new to the district.

The redistricting map submitted by the Governor to the General Assembly was substantially the same as the map proposed by his Advisory Committee. During the Senate consideration of the redistricting plan, Republican Senator Pipkin introduced as an amendment a completely different map. The Republican map contained districts that were contiguous and compact, and created three minority-majority districts, acknowledging the census figures that showed minority population in the state increased from about one-third to almost one-half. This amendment was rejected by the Senate 13-33. The 4<sup>th</sup> District's Congresswoman, Donna Edwards, protested to state lawmakers that removing Montgomery County voters from the 4<sup>th</sup> district would weaken the minority-majority status of her district, but her suggestion to place those voters back into her district was rejected.

Maryland League President Nancy Soreng testified at the Joint Committee hearing. In her testimony, Soreng said that just because state lawmakers COULD create such a politically gerrymandered map (there being no state Constitutional limitations) that didn't mean they SHOULD create such a map. She noted that the relationship between political gerrymandering and the increasingly partisan atmosphere in Congress has contributed to the subsequent inability of the House of Representative to compromise and enact legislation.

In the Maryland Senate, the vote in favor of the redistricting plan was 33 (all Democrats) to 13 (12 Republicans and 1 Democrat). In the House of Delegates, the vote in favor of the Governor's redistricting plan was 91 (all Democrats) to 46 (41 Republicans and 5 Democrats).

### ***Post-Session actions on redistricting plan***

Howard Gorrell of Smithsburg in Western Maryland attended and testified at all 12 redistricting hearings. The gist of his testimony was that he did not want the Committee to engage in political gerrymandering, and he requested that communities of interest be kept intact. He presented a unique theory that local school districts define communities of interest and suggested that the GRAC should consider these districts as building blocks for redistricting. He also submitted a third-party redistricting plan to the Governor's Redistricting Advisory Committee. On October 27, 2011, Mr. Gorrell filed suit against the Governor in U.S. District Court over the enacted redistricting plan. Mr. Gorrell's suit alleges that the plan dilutes the voting power of agriculture-related electorates and that the gerrymandered congressional districts favor the Governor's political party, thereby violating the rights of voters of other political parties and independents.

*The Washington Post* reported on Oct. 21, 2011, that a spokeswoman for the Civil Rights Division of the Justice Department stated the Justice Department would take under advisement any request filed by Maryland Republicans or other groups to investigate if the plan was racially gerrymandered.

On November 10, 2011, nine Marylanders filed a federal lawsuit alleging that the redistricting plan adopted by the General Assembly should be thrown out because under the plan "African-American and other minority communities are fractured among multiple districts for the benefit of white candidates" and because the increase in minority populations in Maryland merit a third majority-minority district in the state. The suit also challenges the new Maryland law that requires prisoners be counted at their last known address.

In a recent interview, retired Supreme Court Justice John Paul Stevens said "I just read a newspaper article the other day about the Maryland redistricting, which is designed to help the Democrats. That's outrageously unconstitutional in my

judgment.” Justice Stevens continued, saying, “The government cannot gerrymander for the purpose of helping the majority party; the government should be redistricting for the purpose of creating appropriate legislative districts. And the government ought to start with the notion that districts should be compact and contiguous as statutes used to require.” He says that his inability to persuade the other justices to overturn partisan gerrymandering was “one of my major disappointments in my entire career.”

### ***League’s position***

The redistricting position adopted by the Maryland League in 2004 supports an independent commission as the preferred redistricting body, with members of the commission appointed by the Governor, The General Assembly and the Court of Appeals. The position also states that the redistricting standards on which the plan should be based are substantially equal population, geographic contiguity and geographic compactness, and that these standards should apply to Congressional and Legislative redistricting.

While the League’s efforts supporting a Constitutional amendment to implement an independent redistricting commission have been unsuccessful, we should consider whether the inclusion into the Maryland Constitution of actual standards for Congressional redistricting is an interim step towards our total goal that we should support.

Although disheartening to the League that a majority of our State Senators and Delegates approved this redistricting plan that was obviously politically gerrymandered and possibly racially gerrymandered, there is one fact that makes their positive vote understandable: Members of the Maryland legislature were asked to vote on the Congressional redistricting plan at a time when their own districts are being redrawn by the same leaders. The GRAC will submit to the Governor its proposed legislative redistricting plan in December. The Governor will submit his plan to the General Assembly in January. ♦

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<b>LWV Events and Deadlines</b>	
30 Nov 2011	Consensus Reports on LWVUS Federal Role in Education Study are Due
28 Jan 2012	LWVMD Winter Workshop <i>9:30 am - 1:30 pm</i>
24 Feb 2012	LWVMD Drug Policy Study Consensus Reports due
8 Mar 2012	Legislative Day in Annapolis <i>9:30 am - 1:30 pm</i>
19 Apr 2012	LWVMD Lobby Day on Capitol Hill <i>9:30 am - 2:00 pm</i>
28 Apr 2012	LWVMD Spring Fundraiser <i>10:00 am - 2:00 pm</i>
1 May 2012	LWVUS Privatization Study Consensus Reports due
5 May 2012	LWV NCA Convention <i>10:30 am - 12:00 pm</i>
19 May 2012	LWVMD Council <i>9:30 am - 2:30 pm</i>
7 Jun 2012	LWVMD Board Retreat /Calendar Planning <i>10:00 am - 2:00 pm</i>
8 -12 Jun	LWVUS Convention
<b>Election and Voting Events</b>	
21 Nov 2011	Deadline: Leagues submit questions for 2012 Voters' Guide
11 Jan	Candidate Filing Deadline
15 Feb	Deadline: Candidate Submissions for 2012 Primary Election LWV Voters' Guide
17 Feb	Mail Overseas Absentee Ballots
18 Feb	LWVMD Interactive Primary Voters' Guide available at <a href="http://Vote411.org">Vote411.org</a>
13 Mar	Voter Registration and Party Affiliation Deadline for Presidential Primary
24-29 Mar	Early Voting for Primary Election <i>10:00 am - 8:00 pm, except 12-6 on Sunday</i>
3 Apr 2012	<b>2012 Presidential Primary Election Day</b> <i>7:00 am - 8:00 pm</i>
24 Apr	Voter Registration Reopens (Tentative)
19 Sep	Deadline: Candidate Submissions for 2012 General Election LWV Voters' Guide
22 Sep	LWVMD Interactive General Voters' Guide available at <a href="http://Vote411.org">Vote411.org</a>
16 Oct	Voter Registration Deadline: 2012 General Election
27 Oct – 1 Nov	Early Voting for General Election <i>10:00 am - 8:00 pm, except 12-6 on Sunday</i>
6 Nov 2012	<b>2012 PRESIDENTIAL ELECTION DAY</b> <i>7:00 am - 8:00 pm</i>



# View of Fifth Annual LWVMD Constitution Day Program at Law School

By Andrea Morris Gruhl

“Judicial Review and the Constitution: Whittington and Marbury” was the topic at this year’s Constitution Day program co-sponsored by the League of Women Voters of Maryland and the law school of the University of Maryland. The speakers were Mark A. Graber, the law school’s Associate Dean for Research and Faculty Development and Professor of Law and Government, and Dan Friedman, Counsel to the Maryland General Assembly and Adjunct Professor of Law at the law school.

For the fifth successive year we have held this event at the elegant Ceremonial Court Room of the law school. LWVMD President Nancy Soreng and Mark Graber welcomed attendees to the noon-time event. Professor Graber announced that this was the last program of the University of Maryland School of Law because at 4:00 p.m. it would become the University of Maryland Francis King Carey School of Law. The family of Mr. Carey, a graduate of the law school and a great, great grandson of Justice Polk in the Whittington v. Polk case, recently gave \$35 million to the school, which was being renamed in his honor.

The legal question of the day’s program, Professor Graber said, dealt with transferral of power under the Constitution, possibly to the courts. English legal traditions strongly shaped our American system. Comlaw controlled the acts of Parliament. In England, Parliament was not the last authority. Americans deliberately codified and wrote down our Constitution, but even before the US Constitution, judicial review occurred. In the late 18<sup>th</sup> century Federalists were in control of Congress and established our judicial system. Control changed in the U.S. in the 1800 election

and in Maryland in the 1801 election. The Whittington v. Polk case in Maryland in 1801 and Marbury v. Madison in 1803, the first landmark U.S. Supreme Court case, were both bold assertions of the power of establishing judicial review.

Dan Friedman emphasized that the two cases, one testing the Maryland Constitution and the other the U.S. Constitution, were not acting under the same Constitution and were not similar. The legislature of Maryland has organic power. Whittington v. Polk dealt with the plenary powers of the Maryland legislature. The Federal Constitution has the power of a grant, as shown in Marbury v. Madison. Dan Friedman said his job as counsel to the Maryland General Assembly is to say the General Assembly has an obligation to pass a law they think the state needs, even if courts may say it is not constitutional. The right to decide whether a law is constitutional or not belongs to the court system. ♦

*Note: If you would like to borrow the DVD of the presentation to view personally or for your local League to view or show publicly, contact Andrea Gruhl ([andregruhl@aol.com](mailto:andregruhl@aol.com)) using header “Constitution Day DVD.” The disc is unedited and runs around one hour. It is sprightly and the viewer is informed and entertained as though actually attending the September 16 program. After borrowing arrangements are made, write a check for \$25 payable to League of Women Voters of Maryland and mail it to Andrea Gruhl, 5990 Jacob’s Ladder, Columbia, MD 21045-3817.*



**Richard Willson**  
LWV of Washington County



## *Spotlight on a Member*

*In each edition of the LWVMD Voter we will be telling you about a member who has played an important role in LWVMD.*

### **Seeing Membership Initiative Work**

**By Carol Blackburn**

If the National League's Membership Initiative had been in place when Richard Willson joined the Washington County League, one aspect of it would have been met—working with other groups.

In 2005 the Housing Authority of Washington County issued a workforce housing task force report that was consistent with the local League's positions. Richard was on the task force and ended up working with the League in explaining the task force report. After about six months, he said, he joined the League In 2008, instead of being a "tag-a-long."

As a member, Richard volunteered to set up the Washington County League's web site and is now the treasurer and vice president.

"The League is an intellectually stimulating group that promotes the democratic process," Richard said of his interest. "The voters have to understand the issues and have to weigh things, and that's what the League does."

The challenge is finding members, and that's where National's Membership Initiative comes in. "We are able to use the tools as a way to attract members," Richard said. "We are always working on membership, continuing to do the things we do and incorporating membership recruitment into it. And what's amazing is what a small group can do: voters service, candidate forums, all working with other groups."

And, when the Washington County League held its education forum in September, the participants—educators, parents and elected officials—thanked the League "because they got to talk to each other about education," Richard said.

The Washington County League is one of six Maryland Leagues involved in the Membership Initiative. "We found we were doing 50 to 60 percent of the things emphasized in the initiative, but we weren't seeing the connections," Richard said. "We would ask other groups to publicize our events but we didn't think of co-sponsorships or of working directly with a person from the group. What the League tools showed us was there was more potential there. Now we think through the process a little more and see tons of promise." ♦

### **LWVMD's 2012 Legislative Priorities**

**An equitable and efficient fiscal structure that provides adequate revenue to finance public services**



**Protection of the environment, including support for clean energy**

The League continues to work for repeal of the death penalty, legalization of civil marriage, and improving the election and redistricting processes.



**LEAGUE OF WOMEN VOTERS  
OF MARYLAND**



**REPORT FROM STATE CIRCLE**

*REPORT FROM STATE CIRCLE* will have six issues, approximately every two weeks, commencing the end of January and with the Wrap-Up Issue in mid April.

The RSC reports on the Governor’s Budget and important legislative events, and covers a broad spectrum of social, economic, environmental and governmental proposals before the Maryland General Assembly that the League will be monitoring. League reporters will cover these issues from the League perspective, including our long-considered positions and our priorities for this year.

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