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LLOYD FOX/SUN STAFF PHOTO

Former GOP gubernatorial candidate Ellen R. Sauerbrey is mobbed by reporters on her way back to the courtroom after a lunch recess.

Sauerbrey election suit trial opens

Baltimore official admits error in failing to purge the rolls of ineligible voters

By Thomas W. Waldron
and Michael James
Sun Staff Writers

In a courtroom packed with supporters, the lead lawyer for Ellen R. Sauerbrey yesterday called the November gubernatorial election a process that failed as he opened the Republican's unprecedented court battle to overturn the results.

Attorney John M. Carbone zeroed in on bureaucratic oversights rather than Mrs. Sauerbrey's more provocative charges of voter fraud as he attempted to show that the 5,993-vote victory of Gov.-elect Parris N. Glendening should be nullified.

Mr. Carbone did not even mention the "dead" or incarcerated voters that were included in Mrs. Sauerbrey's lawsuit filed Dec. 27, but

dwelted instead on the failure of election officials to purge from the rolls thousands of voters who technically should not have been allowed to cast ballots.

"Allowing those people to vote diluted other voters," Mr. Carbone said. "What this ultimately has done is create doubt about the reliability of the numbers. . . . We found significant errors — errors that suggest the process failed."

He added, "This case is not about politics. It's about people . . . who want nothing less than what the Constitution calls for. They want nothing less than a pure election."

Glendening attorney Bruce L. Marcus fired back, telling the judge that Mrs. Sauerbrey's case was about disenfranchising voters.

"I'm not sure which people [Mr.

Carbone] thinks he's representing," Mr. Marcus said.

During a break, Mr. Marcus noted with derision that Mr. Carbone had even referred to Baltimore City voters who should have been purged from the voting lists as "dead wood."

Mr. Marcus labeled Mrs. Sauerbrey's allegations "the incredible shrinking case," noting that all of her claims had dwindled after Glendening attorneys demanded proof.

He noted, for example, that the 4,774 votes allegedly cast in the names of prisoners was down to only 44 as the trial began.

Anne Arundel County Circuit Judge Raymond G. Thieme Jr., who spent the day taking notes on a personal computer, made it clear that the trial will end by Friday. The schedule appeared to be aimed at al-

lowing a decision before Jan. 18, when Mr. Glendening is scheduled to be inaugurated.

In the crammed courtroom, Mrs. Sauerbrey sat in the first row behind her attorneys, flanked by her husband, Wilmer, and her running mate, Paul H. Rappaport. Mr. Glendening was not present. The day was spent in brief opening arguments by attorneys and questioning of the chief election officials in the only three counties that Mr. Glendening carried in the Nov. 8 election.

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Polls turn sharply against Sauerbrey since election. **10A**
Olesker wonders about election case arithmetic. **2B**

THE SAUERBREY SUIT

Republican suffering defeat in court of public opinion, poll says

By Peter Jensen
Sun Staff Writer

No matter how a judge rules on Ellen R. Sauerbrey's lawsuit seeking to overturn November's gubernatorial election, the Republican is already losing badly in the court of public opinion.

A poll released yesterday shows that if the Nov. 8 election were held again, Parris N. Glendening would win by a 20-point spread, 58 percent to 38 percent, with 4 percent undecided.

That is a considerable improvement for Mr. Glendening, who narrowly beat Mrs. Sauerbrey two months ago. Translated to ballots, his victory margin would rise from last fall's 5,993 to the equivalent of 282,035 votes today.

The shift in public opinion seems due mostly to the public's increasingly negative view of Mrs. Sauerbrey, who made sweeping charges of voter fraud after the election but has since focused mostly on technical violations of state voting law.

The number of voters who regard the former Baltimore County delegate unfavorably has risen to 50 percent — 20 points higher than two months ago, according to the poll by Mason-Dixon Political Media Research of Columbia.

Meanwhile, 82 percent of the interviewed voters said they don't want a judge to void the election results and declare Mrs. Sauerbrey the victor. And 63 percent said they don't want a new election.

Even Sauerbrey supporters seem to view the legal challenge skeptically. Just 52 percent of people who said they voted for Mrs. Sauerbrey want a new election, while 21 percent of Sauerbrey voters view her as a "sore loser."

The poll, which was conducted for *The Sun* and other news organizations, was based on telephone interviews with 809 randomly selected registered voters on Friday, Saturday and Sunday. The poll's margin of error is 3.5 percentage points.

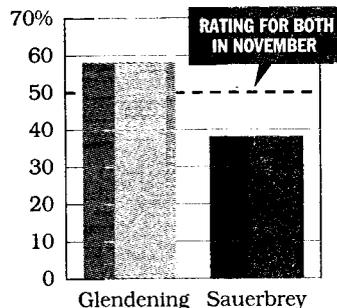
Del Ali, vice president of Mason-Dixon, said reports of Mrs. Sauerbrey's lawsuit have been "really damaging to her." In particular, he pointed to the Republican's charge that votes were cast in the names of 37 dead people that was followed by reports demonstrating that some of those people are alive.

Mr. Glendening's 58 percent-38 percent showing over Mrs. Sauerbrey was the biggest lead a Mason-Dixon poll has given the Prince George's County Democrat.

"Ellen Sauerbrey's support was never rock solid — they were moder-

ELECTION REMATCH?

A poll of more than 800 registered voters, half of whom say they voted for Ellen R. Sauerbrey Nov. 8, finds that Gov.-elect Parris N. Glendening would win handily if the election were held again.



SOURCE: Mason-Dixon Political Media Research

SUN STAFF GRAPHIC

ate-to-liberal Democrats attracted by her proposed 24 percent tax cut who decided to take a shot with her," Mr. Ali said. "Those people have made a reassessment."

The poll found that Mrs. Sauer-

brey's favorable rating has slipped slightly from 42 percent two months ago to 38 percent now. Mr. Glendening's popularity hasn't taken off, either; it just hasn't slipped.

The former county executive is seen favorably by 45 percent of respondents, up 2 percentage points from November. More people see him either negatively (28 percent) or neutrally (27 percent).

"Mr. Glendening has no clear mandate," Mr. Ali said.

When pollsters asked if Mrs. Sauerbrey's claims of voter fraud are legitimate or show she's a sore loser, 48 percent labeled her a sore loser and 34 percent said her complaints are legitimate, with the remaining 18 percent unsure.

Mrs. Sauerbrey yesterday questioned the poll's credibility, pointing out that "Mason-Dixon predicted [former congresswoman] Helen Bentley would win the primary." Shortly before the September gubernatorial primary, a Mason-Dixon poll found Mrs. Sauerbrey gaining, but still trailing Mrs. Bentley by 13 percentage points.

"I knew I was taking a risk" with the legal battle, Mrs. Sauerbrey said. "It's often a risk to fight for what you think is right. But I'm still willing to take that risk and accept whatever the consequences are."

Charles F. Porcari, a spokesman for Mr. Glendening, said the poll results are "self-explanatory" and declined to comment further.

After an election, winners generally get a bump in popularity and losers drop in favor as voters react to the results. But the poll's findings suggest that Mrs. Sauerbrey should blame her drop in public opinion on herself, said James Gimpel, an assistant professor of government and politics at University of Maryland College Park.

"It's an extraordinary negative jump [for Mrs. Sauerbrey]," Mr. Gimpel said. "And the bulk of this change is the result of a perception that she's a sore loser."

Mr. Gimpel said Mrs. Sauerbrey's protest may have cost her all the political capital she gained by coming so close last November, and any chance of winning a statewide race in the future.

"She's really losing in the court of public opinion," he said. "This is not helping her at all."

The voters interviewed in the poll were chosen as a sample of sex, race, party affiliation, and geographic distribution. About 49 percent said they voted for Mr. Glendening in November; 47 percent said they voted for Mrs. Sauerbrey; and 4 percent refused to reveal their vote.

TRIAL: After weeks of accusation, Sauerbrey suit opens in court

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The courtroom thinned out as the day wore on. Even Mrs. Sauerbrey left with an hour still to go. "It's like watching paint dry," she told reporters as she left the courthouse.

Baltimore election chief Barbara Jackson testified that she failed to purge city rolls of tens of thousands of people who technically were not eligible to vote in 1994 because they had not voted in the preceding five years. Of those, some 3,000 actually voted, she said.

"I realized I goofed," she said, explaining that she forgot to arrange for one purge of city lists and later ran out of time to complete another before Election Day. "I made an error," she said.

Glendening attorneys have minimized the impact of allowing technically ineligible voters to cast ballots.

Mrs. Sauerbrey issued a statement at the end of the day that addressed the reduction in the size of her allegations.

"The number of questionable votes that were cast in the November election has always been subject to change," she said. "However, over the next several days as our evidence is presented in court, the citizens of Maryland will see a distinct pattern of voting irregularities."

Outside of court, the Glendening forces have been busily investigating the latest Sauerbrey claims. They have hired, for example, a former chief investigator for the U.S. Senate Iran-contra inquiry to locate some of the thousands of voters who allegedly moved but failed to change their address with election officials as required by law.

Investigators have found that nearly all of about 45 voters they have contacted never actually changed their place of residence, but instead had mail forwarded because, for example, they were going to college or on vacation, according to Glendening lawyers.

Investigators were also researching the latest of Mrs. Sauerbrey's list of dead people in whose names votes were allegedly cast. An earlier list of 37 such voters included many people who were actually alive, some of whom had even voted for Mrs. Sauerbrey.

The most recent list also appeared to have flaws.

One voter on the list, Daniel Joshua Leach of Montgomery County, died on Election Day, Nov. 8, but mailed in an absentee ballot before then, according to his 78-year-old widow, Ethel Leach.

"When he did vote, he was certainly alive," she said.



Anne Arundel County Circuit Judge Raymond G. Thieme Jr. has indicated the trial must end by Friday.