

IN THE MATTER OF THE 2002	*	IN THE COURT OF APPEALS
LEGISLATIVE REDISTRICTING	*	OF MARYLAND
OF THE STATE	*	SEPTEMBER TERM, 2001
	*	Misc. Nos. 19, 20, 22, 23, 24, 25, 26, 27,
	*	28, 29, 30, 31, 32, 33, 34
	*	

* * * * *

TO THE HONORABLE CHIEF JUDGE BELL AND THE ASSOCIATE JUDGES OF THE COURT OF APPEALS OF MARYLAND

REPORT OF THE SPECIAL MASTER

As required by Article III, Section 5, of the Maryland Constitution, after public hearings, Governor Parris N. Glendening submitted a plan for redistricting the State to reflect the growth and shifting of population in Maryland based upon the results of the 2000 decennial census of the United States. *See* Md. Const., art. III, § 5. In further compliance with said Section 5 of Article III, the Governor presented the plan to the President of the Senate and Speaker of the House of Delegates, who in turn introduced it as Senate Joint Resolution 3 and House Joint Resolution 3 on the first day of the 2002 session of the General Assembly, January 9, 2002. *Id.* Since the General Assembly did not enact a plan of its own by the 45th day of the opening of the Session, February 22, 2002, the Governor’s plan became this State’s plan for setting forth the boundaries of the legislative districts. *Id.*

Fourteen petitions have been filed challenging the validity of the State’s plan. After a hearing on April 11, 2002, the Court referred the petitions and the responses thereto to the undersigned as Special Master “for the taking of further evidence and the making of a report

to the Court” by May 24, 2002. Pursuant to that order, hearings took place on April 25, 26 and 29, 2002.

A. The Petitions

In Misc. No. 20, Petitioner Wayne K. Curry, the County Executive of Prince George’s County is joined by other African American residents of that county. Their amended petition asserts that the State’s plan violates their Fourteenth Amendment guarantee of equal protection of the law under the United States Constitution and that it is invalid under Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973. They also claim that the plan conflicts with Articles 2, 7 and 24 of the Declaration of Rights of the Constitution of Maryland.

In Misc. No. 22, Petitioner Eugene E. Golden, *et al.*, are registered voters in what were heretofore designated as the 7th and 31st legislative districts. Petitioners Jacob J. Mohorovic and John R. Leopold are members of the House of Delegates. They complain that District 44 of the State’s plan is neither compact nor contiguous and fails to indicate that due regard was given “to natural boundaries and the boundaries of political subdivisions” as required by Article III, Section 4 of the Maryland Constitution.¹ They level the same complaint at District 31 as drawn in the State’s plan.

¹ Article III, § 4 provides:

Each legislative district shall consist of adjoining territory, be compact in form, and of substantially equal population. Due regard shall be given to natural boundaries and the boundaries of political subdivisions.

Md. Const., art. III, § 4.

In Misc. No. 23, Petitioner Barry Steven Asbury, a registered voter in Baltimore County makes general claims of invalidity of the State's plan.

In Misc. No. 24, Petitioner J. Lowell Stoltzfus is a registered voter in Somerset County, as is Petitioner John W. Tawes. They are joined by Lewis R. Riley, a registered voter in Wicomico County. Mr. Stoltzfus is a member of the Maryland Senate. They assert that the State's plan violates Article III, Section 4 of the Maryland Constitution because it configures Districts 37 and 38 so that they are (1) not compact in form, and (2) in derogation of the constitutional mandate to afford due regard to boundaries of political subdivisions.

In Misc. No. 25, Petitioners Norman R. Stone, Jr., a member of the Maryland Senate, John S. Arnick, a member of the House of Delegates, and Joseph J. Minnick, another member of the House of Delegates, join with other registered voters in Baltimore County in challenging the creation of Districts 7, 34, 44 and 46 under the State's plan. They claim that the State has ignored Article III, Section 4 of the Maryland Constitution because these districts are not compact and contiguous and that due regard was not given to natural boundaries and boundaries of political subdivisions.

In Misc. No. 26, Petitioner Gail M. Wallace, a registered voter in Calvert County, complains that the State's plan in creating District 27A has ignored the requirements of Article III of the Maryland Constitution that legislative districts be compact and that due regard be given to boundaries of political subdivisions. She claims that by being included in District 27A, along with residents of Prince George's County, Southern Anne Arundel County and Northern Charles County, the residents of that portion of Calvert County, who

will comprise less than 9% of the voters in District 27A, will be denied effective representation.

In Misc. No. 27, Petitioner Stephen A. Brayman and other residents of the incorporated municipality of College Park, as registered voters in Prince George's County, complain that the division of the City between District 21 and District 22 under the State's plan violates the constitutional mandate that in planning legislative districts due regard be given to the boundaries of political subdivisions.

In Misc. No. 28, Petitioners Gabriele Gandel and Dee Schofield complain that under the State's plan their neighborhood in Montgomery County, where they are registered voters, has been included in District 20 although that neighborhood under prior redistricting was included within District 18. They allege that the Fourteenth Amendment to the Constitution of the United States, Article 7 of the Maryland Declaration of Rights and Section 2 of the Voting Rights Act, 42 U.S.C. § 1973 have been violated by this redistricting.

In Misc. No. 29, Petitioner Michael S. Steele is a registered voter in Prince George's County. He is an African American and is Chairman of the Maryland Republican party. He challenges the State's plan on various grounds, alleging that the State's plan:

1. Dilutes minority voting rights in violation of Section 2 of the Voting Rights Act, 42 U.S.C. § 1973;
2. Is a racial gerrymander that discriminates against minority voters in violation of the Fourteenth and Fifteenth Amendments;
3. Creates legislative districts which are not compact or contiguous and does not give due regard to natural

boundaries and boundaries of political subdivisions in violation of Article III, Section 4 of the Maryland Constitution;

4. Violates the “one person, one vote” guarantee of the Fourteenth Amendment;
5. Is a partisan gerrymander that discriminates against Republican voters in violation of the Fourteenth Amendment; and
6. Penalizes Republican voters in violation of the First Amendment.

In Misc. No. 30, Petitioner Dana Lee Dembrow is a registered voter in Montgomery County and is also a member of the House of Delegates. He claims the State’s plan is invalid because its legislative districts are not compact, as required by Section 4 of Article III of the Maryland Constitution. Furthermore, he alleges that the State’s plan was implemented without due process, and, finally asserts that the State’s plan undermines the right of opportunity of minority representation.

In Misc. No. 31, Petitioners Katharina Eva DeHaas, *et al.*, are registered voters in Anne Arundel County who complain that District 23A fails to give due regard to boundaries of political subdivisions because it has placed that portion of Anne Arundel County in which they reside in a district whose registered voters are principally from Prince George’s County.

In Misc. No. 32, Petitioners Rayburn Smallwood, *et al.*, are registered voters in Anne Arundel County. They challenge the State’s plan because it places a small portion of Anne Arundel County in which they reside in District 13, which is principally located in Howard

County. In doing so, they say the State's plan fails to give due regard to the boundaries of political subdivisions as required by Article III, Section 4 of the Maryland Constitution.

In Misc. No. 33, Petitioners John W. Cole, Franklin W. Prettyman and John S. Lagater are the County Commissioners of Caroline County and are registered voters in that county.

They assert that the State's plan is invalid because:

1. It creates legislative districts which are not compact, contiguous and lack due regard for natural boundaries or boundaries of political subdivisions;
2. It violates the concept of proportionality of representation embodied in Article 7 of the Declaration of Rights;
3. It limits the counties on the Eastern Shore to three senators and 11 delegates in the House of Delegates; and
4. It creates Subdistrict 38A as a majority minority district in violation of the equal protection clause of the Fourteenth Amendment.

In Misc. No. 34, Petitioner Joseph M. Getty, is a member of the House of Delegates from Carroll County and a registered voter in that county. He challenges the entire State's plan on the ground that certain counties, including Carroll, have populations that exceed the number of an ideal legislative district (112,691 persons) but failed to receive a district within their boundaries. In addition, he asserts that the State's plan fails to observe the requirements of Article III, Section 4 that each legislative district be compact and that due regard be given to the boundaries of political subdivisions.

B. Population Equality

The Petitioners in Misc. Nos. 20, 23, 28, 29 and 34 assert that the State's plan violates the "one-man, one vote" principle guaranteed by the Fourteenth Amendment of the United States Constitution and by Article III, Section 4 of the Maryland Constitution.

The Supreme Court of the United States and this Court have held that substantial equality of population is the primary goal of redistricting. *Reynolds v. Sims*, 377 U.S. 533, 567 (1964) ("[T]he basic principle of representative government remains, and must remain, unchanged—the weight of a citizen's vote cannot be made to depend on where he lives. Population is, of necessity, the starting point for consideration and the controlling criterion for judgment in legislative apportionment controversies." (footnote omitted)); ("The one person, one vote principle, we noted in 1982, 'is the *sine qua non* of fair representation, assuring that the vote of any citizen is approximately equal in weight to that of any other citizen in the State.'"). *Legislative Redistricting Cases*, 331 Md. 574, 592-93 (1993) (quoting *In re Legislative Districting*, 299 Md. 658, 672 (1982))). The Supreme Court, however, in applying the one person-one vote rule has held that minor deviations from mathematical equality among state legislative districts are insufficient to make a *prima facie* case of invidious discrimination under the Fourteenth Amendment so as to require justification by the state. ("Our decisions have established, as a general matter, that an apportionment plan with a maximum population deviation under 10% falls within this category of minor deviations."). *Voinovich v. Quilter*, 507 U.S. 146, 161 (1993), quoting *Brown v. Thomson*, 462 U.S. 835, 842-43 (1983); see also *Gaffney v. Cumming*, 412 U.S. 735, 745-47 (1973)).

This Court has applied this 10% rule to the requirement of Article III, Section 4 of the Maryland Constitution that all legislative districts be “of substantially equal population.” *Legislative Redistricting Cases*, 331 Md. at 600-01.

The evidence offered at the hearing showed that the 2000 census determined that Maryland had a population of 5,296,486 persons.² See State’s Exhibit 16. Sections 2 and 3 of Article III of the Maryland Constitution require that there be 47 legislative districts and that one senator and three delegates be elected from each. Moreover, the delegates may be elected at large throughout the district or from single or multiple subdistricts. Therefore, “ideal” legislative districts would each contain 112,691 persons; each single member subdistrict would contain 37,563 persons; and each two member subdistrict would contain 75,126 residents. Under the State’s plan the legislative districts range in population size from 107,065 to 118,242, a disparity of 11,177. This constitutes a deviation range from –4.99 to +4.92 or a total of 9.91%. See State’s Exhibit 26. Single member subdistricts range in population size from 35,716 to 39,432, a disparity of 3,716. This results in a deviation range of –4.92% to +4.97% or a total of 9.89%. Two member subdistricts, with an ideal population of 75,126, range in size from 73,512 to 78,867, a disparity of 5,355 persons. This constitutes a deviation range from –2.15% to +4.97% or a total of 7.12%.

Since all legislative districts and subdistricts under the State’s plan fall within a range of $\pm 5\%$, the population disparities are sufficiently minor so as not to require justification by the State under the Fourteenth Amendment, *Legislative Redistricting Cases*, 331 Md. at 594,

² The 1990 census revealed that Maryland’s population was 4,781,468.

or under Article III, Section 4 of the Maryland Constitution. *Id.* at 600-01. Finally, this Court pointed out in that case:

Possibly, there may be room under *Reynolds* and its progeny for a plaintiff to overcome the “10% rule,” if the plaintiff can present compelling evidence that the drafters of the plan ignored all the legitimate reasons for population disparities and created the deviations *solely* to benefit certain regions at the expense of others.

Id. at 597 (footnote omitted). The evidence presented to me does not establish any basis for such a finding.

For these reasons, I recommend that the Court reject the contentions that the State’s plan runs afoul of the population equality mandates of the Fourteenth Amendment and the Maryland Constitution.

C. Voting Rights Act

In *Legislative Redistricting Cases*, this Court explained that § 2 of the Voting Rights Act of 1965 as amended in 1982, prohibits any practice by a state or political subdivision

“which *results* in a denial or abridgement of” minority voting rights, and . . . that a minority need only show, in the totality of the circumstances, that it has less opportunity for electoral participation and success in order to establish a Voting Rights Act violation.

311 Md. at 604. The Supreme Court in *Thornburg v. Gingles* held that the important question in Voting Rights actions

“is whether as a result of the challenged practice or structure plaintiffs do not have an equal opportunity to participate in the political processes and to elect candidates of their choice.”

478 U.S. 30, 44 (1986). The *Gingles* court directed that to answer that question, courts must weigh “objective factors” such as:

1. the extent of any history of official discrimination in the state or political subdivision that touched the right of the members of the minority group to register, to vote, or otherwise to participate in the democratic process;
2. the extent to which voting in the elections of the state or political subdivision is racially polarized;
3. the extent to which the state or political subdivision has used unusually large election districts, majority vote requirements, anti-single shot provisions, or other voting practices or procedures that may enhance the opportunity for discrimination against the majority group;
4. if there is a candidate slating process, whether the members of the minority group have been denied access to that process;
5. the extent to which members of the minority group in the state or political subdivision bear the effects of discrimination in such areas as education, employment and health, which hinder their ability to participate effectively in the political process;
6. whether political campaigns have been characterized by overt or subtle racial appeals;
7. the extent to which members of the minority group have been elected to public office in the jurisdiction.

Additional factors that in some cases have had a probative value as part of plaintiffs’ evidence to establish a violation are:

whether there is a significant lack of responsiveness on the part of elected officials to the particularized needs of the members of the minority group.

whether the policy underlying the state or political subdivision's use of such voting qualification, prerequisite to voting, or standard, practice or procedure is tenuous.

Id. at 36-37. The *Gingles* court, however, noted three limits on the effect of these factors:

First, electoral devices, such as at-large elections, may not be considered *per se* violative of § 2 Second, the conjunction of an allegedly dilutive electoral mechanism and the lack of proportional representation alone does not establish a violation. *Ibid.* Third, the results test does not assume the existence of racial bloc voting; plaintiffs must prove it.

Id. at 46.

Finally, in *Gingles*, the Supreme Court emphasized that the creation of multi-member districts, “generally will not impede the ability of minority voters to elect representatives of their choice” unless:

First, the minority group must be able to demonstrate that it is sufficiently large and geographically compact to constitute a majority in a single-member district Second, the minority group must be able to show that it is politically cohesive Third, the minority must be able to demonstrate that the white majority votes sufficiently as a bloc to enable it . . . usually to defeat the minority's preferred candidate.

Id. at 50-51.

In Misc. 20 (Curry) and Misc. 29 (Steele), the State's plan as a whole is alleged to violate § 2 of the Act. These challenges fail since the petitioners cannot satisfy the threshold conditions mandated by *Gingles* that require the plaintiffs in the instant case to identify a geographically compact minority and a pattern of polarized voting by that minority as well as the surrounding white community. The evidence offered before me showed that more

than 60% of Maryland's African American population is concentrated in two political subdivisions, Baltimore City and Prince George's County. Thus, the contention that African Americans have suffered vote dilution clearly is not based upon a specific "geographically compact" minority population. Likewise, these statewide challenges are not supported by evidence of racially polarized voting by both the minority population and the surrounding white population. It is not enough to show a general pattern of racial polarization to require that district lines be drawn to maximize the number of majority black districts, at least up to a number constituting the same proportion that African Americans constitute of the total state population. *Marylanders for Fair Representation, Inc. v. Schaefer*, 849 F. Supp. 1022, 1048 (D. Md. 1994). As this Court stated in *Legislative Redistricting Cases*:

The Voting Rights Act simply does not require a state to create every conceivable minority district. *Turner v. State of Ark.*, 784 F.Supp. 553, 573 (E.D.Ark. 1991), *aff'd*, [504] U.S. [952], 112 S.Ct. 2296, 119 L.Ed.2d 220 (1992) (§ 2 is not an affirmative action statute, and a state need not enact a districting plan that maximizes black political power or influence).

331 Md. at 609.

Furthermore, Steele failed to offer any evidence from expert or lay witnesses sufficient to demonstrate that the black population in Maryland, or in the Capital Region (*i.e.*, Montgomery and Prince George's County), is sufficiently compact to create additional majority minority districts. Also, Steele did not meet his burden of proof that the black population statewide, or in the Capital Region, is politically cohesive or that white voters in

the State or Capital Region vote sufficiently in a bloc to enable them to defeat the minority's preferred candidate.

Consequently, Steele's claim that the Voting Rights Act requires the creation of single member subdistricts throughout the State cannot be maintained. Nevertheless, had he met his burden of proving the *Gingles* threshold conditions, he introduced no evidence that the "totality of the circumstances" surrounding the opportunities of minorities to take part in the electoral process would have rendered his complaint without merit.

Lastly, his claims that the drafters of the State's plan engaged in invidious racial discrimination in the districting proceedings and engaged in partisan gerrymandering in redistricting the State, are completely unsupported by the evidence.

For these reasons, I recommend that the Court hold that Petitioner Steele's contentions under the Fourteenth and Fifteenth Amendments, and the Voting Rights Act are without merit.

The Petitioners in Misc. No. 20 (Curry) challenge the State's plan under the Voting Rights Act on three grounds. First, they allege that under their alternative Curry Plan, a majority Hispanic delegate district, which would be a single member district that is designated 20B, should be created. That district would cross the boundary line between Montgomery and Prince George's Counties, which according to their expert, Dr. Richard H. Engstrom, would have a 50.7% Hispanic voting age population. *See* Engstrom report, p. 23. Dr. Engstrom, however, did not analyze any elections between or among Hispanic and non-Hispanic candidates. Consequently, he found no election results that could provide him with

sufficient data to conduct any analysis of the *Gingles* factors. Moreover, Dr. Engstrom testified that he did not know if Hispanic voters are a cohesive voting bloc, nor could he know whether whites would vote to defeat candidates preferred by Hispanics. Dr. Allen J. Lichtman, the State's expert, pointed out in his testimony that Dr. Engstrom could not show political cohesion, the second *Gingles* threshold prong, or its third prong, voting records of non-Hispanic voters in elections where a candidate preferred by Hispanic voters is involved.

Furthermore, Dr. Lichtman, in his report, as well as on the witness stand, demonstrated that in the Hispanic majority subdistrict proposed in the Curry Plan, 20B, registration and voter turnout in the Montgomery and Prince George's County precincts that make up the proposed Hispanic majority subdistrict are so low that the Curry Plan will not improve the ability of Hispanic voters to elect candidates of their choice. Those districts under the current districting are Montgomery (3-41), Prince George's (17-4), and Prince George's (17-10), where the average turnout of the voting age population is 2.9%. Therefore, I find that the Curry Petitioners have failed to establish the threshold conditions to a Voting Rights Act claim based on the absence of a Hispanic majority district, *i.e.*, that the minority population is cohesive and votes in a bloc.

Second, the Curry Petitioners attempted to prove that in the black opportunity Senate and House districts under the State's plan, the cohesive minority electorate would be unable to elect its candidate of choice. To do so, they depended upon Dr. Engstrom's analysis of the *Gingles* preconditions as they apply to African American voting opportunities in eight elections in Prince George's County where African American and non-African American

candidates ran. Six of the eight elections failed to show polarized voting along racial lines. In the three general elections Dr. Engstrom analyzed, African American and non-African American voters shared the same candidate preferences. *See* Curry exhibits 31, 32 and 33. In the 1998 primary election in District 27, the white candidate was the choice of both African Americans and non-African Americans. *See* Curry Ex. 26. In the 1994 Democratic primary election in District 26, African Americans and non-African American voters preferred the same two of the top three candidates, both of whom were African American. In that election, a majority of both African Americans and non-African Americans voted for African American candidates.

In the 1998 Democratic primary election in District 26, two of the top three African American choices were also the choices of non-African Americans. In this election, a majority of both African Americans and non-African Americans voted for African American candidates. I find that the analysis by Dr. Engstrom fails to demonstrate that voting is racially polarized in Prince George's County, either in the current districts or in the State's plan. Furthermore, even if Dr. Engstrom had proven the existence of racially polarized voting, there is no evidence from his analysis to support the other *Gingles* preconditions *i.e.*, a cohesive minority electorate that is usually unable to elect its candidates of choice as a result of whites voting sufficiently as a bloc to usually defeat the minority's preferred candidates. Therefore, I conclude that the Curry petitioners have not met their burden of proof on the *Gingles* preconditions to a Voting Rights action.

Third, the Curry Petitioners urge the creation of more majority minority districts in Prince George's County, in the Capital Region and statewide. I am not persuaded to that view by the evidence received at the hearing. The State's plan includes five districts in Prince George's County in which the State contends that African Americans have a fair opportunity to elect candidates of their choice, *i.e.*, Districts 22, 24, 25, 26 and 27. District 22 is the only one of these which does not have a majority African American voting age population; rather, in District 22 the African American voting age population is only 42% of the total voting age population in the district. Nevertheless, African Americans turnout to vote in Democratic primaries in District 22 at a much higher rate than non-African Americans, and constitute about 59% of primary voters in this district. *See* Lichtman report, p. 13.

Neither the Curry Plan nor any other plan has suggested or presented evidence that African Americans, or any other minority, constitute a sufficiently numerous and compact group anywhere in the State other than Baltimore City and Prince George's County, and the federal-court created district on the Eastern Shore, to create a minority opportunity district.

I, therefore, find that the State has demonstrated that the number of majority minority districts in the State is proportionate to the number of African Americans and other minorities in areas where the minority is sufficiently compact and numerous to create a minority opportunity district. There is no requirement that the State must create every conceivable minority district. *Legislative Redistricting Cases*, 331 Md. at 609. Indeed, § 2 of the Voting Rights Act expressly provides that "nothing in this section established a right

to have members of a protected class elected in numbers equal to their proportion in the population.” The Curry petitioners have not met their burden of proof that the State’s plan insufficiently provides for minority opportunity districts.

The Petitioners in Misc. No. 37 (Cole) claim that by creating Subdistrict 38A in order to make a majority minority district, the State has the burden under the Voting Rights Act to establish the *Gingles* factors. The Petitioner’s reliance on *Shaw v. Reno*, 509 U.S. 630 (1993) for that contention is misplaced. The Supreme Court has held that a plaintiff in an alleged vote dilution claim under the Voting Rights Act has the burden of proving the existence of the *Gingles* factors. *Thornburg*, 478 U.S. at 46; *Voinovich*, 507 U.S. at 155.

Subdistrict 38A under the State’s plan is substantially similar to Subdistrict 37A under the current plan. Current Subdistrict 37A was created as a result of a decision of the United States District Court for the District of Maryland which found a Voting Rights Act violation in the State’s 1992 plan. *See Marylanders for Fair Representation, Inc. v. Schaefer*, 849 F. Supp. 1022 (D. Md. 1994).

I recommend that the Cole petition be found to be without merit insofar as it alleges a violation of the Voting Rights Act.

D. State Law Contentions

With few exceptions, each Petitioner takes issue with the legislative districts drawn in the State’s plan as the districts affect their individual interests. They claim that the districts which they challenge were not drawn in compliance with the mandate of Section 4, Article III of the Maryland Constitution. That provision mandates:

Each legislative district shall consist of adjoining territory, be compact in form, and of substantially equal population. Due regard shall be given to natural boundaries and boundaries of political subdivisions.

1. Adjoining Territory

This phrase “adjoining territory” in Section 4 was adopted from the Proposed Constitution of 1968. Consequently, the floor debate at the constitutional convention that drafted that document is an aid to the interpretation of “adjoining territory.” During the floor debate on December 1, 1967, an amendment was proposed to substitute the term “adjoining land area” for “adjoining territory.” After that proposed amendment failed, the Chairman of the Committee on the Legislative Branch concluded that “we can’t use a prohibition about crossing a body of water.”). *Id.* at 6315-16, 6332-35. Later, another amendment was offered to prohibit the creation of a district “that crosses the center of the Chesapeake Bay.” *Id.* at 6525-31, 6439-42. When it appeared, however, that the proposed amendment might also prevent the creation of a district which crossed the Susquehanna River, the Committee Chairman expressed his concern that “if we start adding tributaries, estuaries, and other bodies of water . . . we won’t know where we stand.” *Id.* The Chairman stated that he would support the amendment only if it was limited to the Bay. *Id.* at 6529-31. As a result, the proposed amendment was withdrawn. *Id.* at 6541-42.

Subsequently, the Committee of the Whole of the Convention placed on the record a statement that it was “our intention that under the interpretation of the words adjoining and compact . . . a redistricting commission or the General Assembly could not form a district,

either a Senate district or a Delegate district by crossing the Chesapeake Bay.” *Id.* at 6574-75.

In other contexts, this Court has interpreted the term “adjoining territory” so that separation of two areas by water does not render them non-contiguous. *See Anne Arundel County v. City of Annapolis*, 352 Md. 117 (1998) (under municipal annexation statute, areas of land separated by water does not render them non-contiguous).

For these reasons I recommend that the Court deny the petitions challenging districts 31, 44, 34A, 38A and 37B which allege that because two parts of the district are separated by a river, the district’s territory is not contiguous.

2. Compactness and due regard for natural boundaries and boundaries of political subdivisions

In *Legislative Redistricting Cases*, 331 Md. at 590-92, this Court revisited the compactness requirement which the Court had examined in detail in *In re Legislative Districting*, 299 Md. at 674-81.

We pondered the meaning of the compactness requirement in some detail in the 1982 redistricting case, which involved a number of compactness challenges. After surveying the views of other jurisdictions, we found that “the ideal of compactness, in geometric terms, is a circle, with the perimeter of a district equidistant from the center. *In Re Legislative Districting, supra*, 299 Md. at 676, 475 A.2d 428. However, we recognized that

the compactness requirement must be applied in light of, and in harmony with, the other legitimate constraints which interact with and operate upon the constitutional mandate that districts be compact in form. Thus, it cannot ordinarily be determined by a mere visual examination of an

electoral map whether the compactness requirement has been violated. . . .

Id. at 680, 475 A.2d 428. We concluded that

it is not the province of the judiciary to strike down a district as being noncompact simply because a more geometrically compact district might have been drawn. . . . [T]he function of the courts is limited to assessing whether the principles underlying the compactness and other constitutional requirements have been fairly considered and applied in view of all relevant considerations.

Id. at 688, 475 A.2d 428.

311 Md. at 590-91.

Also in *In re Legislative Redistricting*, 299 Md. at 681, this Court observed:

the state constitutional requirements of § 4 work in combination with one another to ensure the fairness of legislative representation. That they tend to conflict in their practical application is, however, a plain fact, viz, population could be apportioned with mathematical exactness if not for the territorial requirements, and compactness could be achieved more easily if substantially equal population apportionment and due regard for boundaries were not required.

The factors relevant to the districts alleged to be in violation of the State Constitutional requirements of compactness, and due regard for natural boundaries and boundaries of political subdivisions will be addressed separately.

FINDINGS OF FACT

Baltimore County

Although the population of Baltimore County grew by 62,158 residents between 1990 and 2000, southeast Baltimore County lost population while the northern and western portions of the county gained population. *See* State's Ex. 20. As a result, a portion of the county's population must share districts with residents of another county, because Baltimore County has too much population for six legislative districts and not enough for seven legislative districts.

Under the State's plan there are six districts in which the majority of population comes from Baltimore County (Districts 6, 7, 8, 10, 11 and 12). *See* State's Ex. 24. Baltimore County shared districts with Carroll, Harford and Howard Counties in prior legislative districting plans from 1966 to 1992, and shared districts with Baltimore City in the 1992 plan. The options for redistricting in Baltimore County were to reconfigure old District 6 and 7 where the loss of population occurred, or to change the core of all county districts to absorb population.

Under the 1992 plan, Baltimore County came to be represented by incumbent senators, including Senator Delores Kelley, leader of the Senate Black Caucus (District 10); Senator Paula Hollinger, Vice Chair, Senate Education, Health and Environmental Affairs Committee (District 11); Senator Barbara Hoffman, Chair, Senate Budget and Taxation Committee (District 42); Senator Thomas Bromwell, Chair, Senate Finance Committee (District 8); and Senator Mike Collins (District 6), all from districts that would need to be

redrawn unless the State's plan were focused on the area in which population loss occurred. Senator Barbara Hoffman (whose legislative district is shared by Baltimore City and Baltimore County residents) and Delegate Howard Rawlings, Chair of the House Appropriations Committee, both testified that shared districts worked well and that shared Baltimore City and Baltimore County districts provide effective representation to the city and county residents.

Only two of the alternative plans submitted to the Governor's Redistricting Advisory Committee ("Committee") did not have legislative districts shared by Baltimore City and Baltimore County. The number of districts crossing the boundary between Baltimore City and Baltimore County remains the same as it was in the 1992 plan approved by this Court. *See State's Exs.. 25 and 31.* Less territory is involved in the 2002 Baltimore City/Baltimore County crossings than the 1992 crossings. A smaller percentage of Baltimore County's population shares a district with another jurisdiction under the State's plan (54.50%) than under the 1992 plan (55.53%).

District 44

The Committee decided to preserve the core of most Baltimore County districts. For example, the boundary lines between District 10 (Kelley) and District 11 (Hollinger) were largely preserved as were the boundary lines between District 11 (Hollinger) and District 42 (Hoffman). Districts 10 and 12A absorbed 1992 District 47B, and District 10, which had formerly crossed from Baltimore County into Baltimore City, was placed entirely in

Baltimore County. *Compare* State's Exs. 25 and 31. The Committee then reconfigured District 6 and 7, where the population loss occurred.

District 44 is located in Baltimore City and eastern Baltimore County. The driving distance between Merritt Boulevard in Dundalk, in the easternmost portion of District 44, is only 8.2 miles from the intersection of North Avenue and Fulton Avenue in the Northeastern-most portion of District 44. This distance is significantly less than that across District 47 under the 1992 plan and the variations on District 47 proposed by Petitioner Stone. Delegate Mohorovic testified that he lives in Dundalk, but travels to downtown Baltimore every day to work, and that he imagines quite a few other Dundalk residents also work in Baltimore City. He further testified that Dundalk residents wish to emulate the economic revitalization that has occurred within Baltimore City along the Inner Harbor in Canton and in Highlandtown, and hope to learn from that success. He conceded that he could represent the residents of District 44 under the State's 2002 plan and would do his best to represent them if the Court approves the plan.

The shape of District 44 was designed, at least in part, by the need to maintain a sufficient number of African American majority districts in the Baltimore City/Baltimore County area, by including the African American population of Turner's Station within the district. The portion of District 44 that crosses the Patapsco River includes the Francis Scott Key Bridge.

District 31

District 31, under the State's plan, includes territory on both sides of the Patapsco River in Baltimore and Anne Arundel Counties. *See* State's Ex. 25. One reason for the crossing was population; District 31 needed additional population. The Anne Arundel County portion of District 31 has 105,965 persons, 1,091 persons below the maximum allowable negative deviation. The Baltimore County portion of District 31 has 9,452 persons. *See* State's Ex. 24. The Baltimore County population within District 31 is too large to add to adjoining Baltimore County District 6. The population of District 6 under the State's plan is 113,685 (0.88% deviation from ideal). *See* State's Ex. 26. Adding the Baltimore County portion of District 31 to District 6 would cause District 6 to exceed the maximum deviation by 4,811 people. The population of District 46 under the State's plan is 107,065 (-4.99% deviation from ideal). *See* State's Ex. 26. Adding the Baltimore County population of District 31 to that of District 46 would result in a population of 116,508 (within the allowable deviation), but these populations are not contiguous. The Baltimore County population within District 31 cannot be added to adjoining District 44 while maintaining District 44 as a majority African American district. The percentage of the African American population in District 44 would drop from 52.62% to 49.45%. *See* State's Ex. 24. With an African American majority District 44, the number of African American majority districts in Baltimore City and Baltimore County is proportional to the African American population. District 31 was designed to avoid dilution of the newly merged African American majority district (District 44), and to minimize incumbent conflict.

Including the portion of the Patapsco River located in District 31, this district does not have an irregular shape. To the extent that the borders of District 31 are irregular, this is attributable to the extensive coastline on its southern, eastern, and northern sides. *See* State's Ex. 38. The Francis Scott Key Bridge and the Baltimore Beltway are immediately adjacent to District 31, and travel between the two portions of District 31 will require only a few minutes by automobile. *See* State's Ex. 38.

District 5B

Most of District 5B is entirely located within the northern portion of Baltimore County. The remainder of District 5B consists of a single extension into Carroll County that was required in order to include sufficient population in District 5B. This area shared a district with Carroll County from 1974 to 1994. The Committee received correspondence from Delegate Wade Kach, requesting that the Baltimore County portion of District 5 be a single member district and that the Carroll County portion of District 5 be a two member district. *See* State's Ex. 47. This single member district was also requested verbally by Petitioner Getty. The State's plan reflects this request. *See* State's Exs. 25 and 47.

District 7

Baltimore County and Harford County shared District 5 from 1974 to 1982. The two counties shared District 6 from 1992 to 2002. *See* State's Ex. 31. Harford County is contiguous only with Cecil and Baltimore Counties. Any excess population that it cannot share with Cecil County must be shared with Baltimore County.

Anne Arundel County

According to the 2000 census, the Anne Arundel County population is 489,656. *See* State's Ex. 19. A portion of Anne Arundel County's population must share districts with residents of other counties, because Anne Arundel County has too much population for four districts and not enough for five districts. If Anne Arundel had four self-contained legislative districts at the maximum 5% deviation, there would still be 16,352 excess people; it is not possible for the county to be self-contained. *See* State's Ex. 19.

The application of shared districts in Anne Arundel County was constrained by the Chesapeake Bay on the eastern boundary side of the county and population totals and population pressure from Calvert County from the south, Prince George's County from the west and Howard County from the north. All of these counties grew substantially in population between 1992 and 2002. *See* State's Ex. 20. The Committee decided to maintain the core of existing districts. The vast majority of Anne Arundel County residents stayed in the same legislative districts, including 98.39% of the residents of District 30; 93.69% of the residents of District 31; 83.91% of the residents of District 32; and 82.28% of the residents of District 33. To put the population of Anne Arundel County that shares a district in one single area, it would be necessary to disturb numerous established and significant communities inside Anne Arundel County and due regard for natural boundaries would be more difficult. For example, the communities of Glen Burnie, Pasadena, Severna Park, Arnold, Millersville, Severn and Annapolis could be affected.

District 13

Howard and Prince George's Counties have shared a district since 1982. *See* State's Exs. 28 and 31. Under the State's plan, Howard and Anne Arundel Counties share District 13 and Prince George's and Howard Counties share District 21. *See* State's Ex. 25.

The population of the Anne Arundel County portion of District 13 is 18,794, and the population of the Howard County portion of District 21 is 18,242. *See* State's Ex. 24. The Anne Arundel County portion of District 13 (which includes Maryland City) is divided from the rest of Anne Arundel County by a natural boundary—the Baltimore-Washington Parkway (I-295). The southeastern boundary of District 13 follows I-295 and intersects with Maryland Route 175, and includes correctional facilities in Jessup. *See* State's Ex. 65. The Committee attempted to preserve the core of existing districts in Anne Arundel County. In making this determination, the northwest portion of Anne Arundel County had to be placed in a shared district. District 32 is close to the maximum deviation and cannot absorb the excess population in District 13. The population of District 32 is 116,789 (3.64% above ideal district), and the population of District 32 plus the Anne Arundel County portion of District 13 is 135,583. *See* State's Ex. 24. This is 17,257 people more than the maximum allowable 5% deviation above the ideal population.

The African American population in District 13 increased by approximately 85% over the past 10 years. District 13 is represented by an African American representative in the House of Delegates. The Anne Arundel County portion of District 13 has a higher African American population than the Howard County portion of District 21. The all-or-part African

American population of the Anne Arundel County part of District 13 is 8,855 or 47.1%; the all-or-part African American population of the Howard County part of District 21 is 1,345 or 7.4%. *Id.* If District 13 included the Howard County portion of District 21, the African American population in District 13 would be decreased by 7,510 people, approximately 25%. *Id.* The percent of African American population (all or part) in this district would be 19.7%. *Id.* By including the Anne Arundel County portion within District 13, the State's plan preserves the African American population of District 13 (26.19%). *Id.*

District 23

District 23 crosses from Prince George's County into Anne Arundel County. In order to create the new African American majority District 47 in Prince George's County, along the Prince George's County/District of Columbia line, the boundary lines of existing districts in Prince George's County were pushed outwards from the District of Columbia line, and District 23 had to surrender population in central Prince George's County. *See* State's Ex. 60. The total population of District 23 under the State's plan is 110,746, and the population of the Anne Arundel County portion of District 23 is 3,729. *See* State's Ex. 24. If the crossing between Anne Arundel and Prince George's Counties was eliminated, the population of District 23 would be 107,017, more than 5% below the ideal population. *Id.*

The crossing in District 23 could not be eliminated without significant change in the boundaries of other Anne Arundel County districts, because Districts 32 and 33 are close to the maximum allowable deviation and cannot absorb the excess population from the Anne Arundel County portion of District 23. The population of District 32 is 116,789 (3.64%

deviation from ideal). Adding the population of District 32 and the Anne Arundel County portion of District 23A would create a total population of 120,518. *Id.* This is 7,827 in excess of the ideal district population and 2,192 in excess of the maximum allowable deviation. The population of District 33 is 117,768 (4.5% deviation from ideal). Adding the population of District 33 and the Anne Arundel County portion of District 23A would create a total population of 121,497. *Id.* This is 8,806 in excess of the ideal district population and 11,941 in excess of the maximum allowable deviation. *Id.*

District 27

In the 1992 plan, District 27 included parts of Prince George's, Anne Arundel, and Calvert Counties. In the 2002 plan, District 27 also includes part of Charles County. The Charles County/Prince George's County crossing in District 27 is discussed at pp. 32-33, *infra*. By 2000, District 27 under the 1992 plan had become the second largest legislative district in the State, with 137,182 residents. *See* State's Ex. 22. District 27 had to give up population, and it gave up population in Anne Arundel County.

District 27 under the 2002 plan contained 4,284 fewer Anne Arundel County residents than District 27 under the 1992 plan. In the 1992 plan, District 27 included 12,001 residents of Anne Arundel County, using 1990 Census figures. *See* State's Ex. 30. In the 2002 plan, District 27 includes 9,509 residents of Anne Arundel County, using 2000 Census figures. *See* State's Ex. 24. The Committee decided that because of geography and the population of the Southern Maryland peninsula, the crossing of District 27 into Anne Arundel County was required. If the crossing of District 27 into Anne Arundel County was eliminated, all

of the districts within Anne Arundel County would shift north, and there could be a larger crossing into Baltimore County for District 31.

Prince George's County

Prince George's County had the second highest population growth of any Maryland county, from 729,268 persons in 1990 to 801,515 in 2000. *See State's Ex. 20.* The County has the second highest percentage of African American residents (64.32%), second to Baltimore City (65.18%). *See State's Ex. 18.* In order to create the new African American majority District 47 in Prince George's County, along the Prince George's County/District of Columbia line, the boundary lines of existing districts in Prince George's County were pushed outwards from the District of Columbia line. *See State's Ex. 60.* Prince George's County has one of the highest concentrations of municipalities of any locality in the State. *See State's Ex. 38.*

District 21

District 21 crosses from Prince George's County into Howard County in order to acquire additional population, as a result of population taken from District 23 to form new District 47 in Prince George's County. District 21 also absorbed population from District 14, which had the largest population growth of any district in the State from 1990 to 2000. *See State's Ex. 22.*

Under the 1992 plan, District 13B crossed between Prince George's and Howard Counties at the same approximate location. *See State's Ex. 31.* District 13B no longer

crosses into Prince George's County. There was no testimony that District 21 would be difficult to traverse or that it would be difficult to communicate with constituents in that district. The portion of District 21 in Howard County follows the political subdivision line created by the Montgomery County/Howard County border.

District 22

The bulk of District 22 under the State's plan is the same as the previous District 22. District 22 is relatively small compared to other districts across the State and there was no testimony that it would be difficult to traverse District 22 or to communicate with its constituents. In the area of College Park, the shape of District 22 results from moving two precincts into District 22 to acquire additional population, which was required in order that District 22 could give some population on its southern border to the new District 47. *See* State's Ex. 60. Under the State's plan, the town of College Park is located in District 21, with the exception of the two precincts (21-017 and 21-010) that were moved to District 22. *Id.* One of these two precincts (21-017) is the University of Maryland campus, whose residents are students who have a low number of registered voters and an extremely low voting turnout. *Id.* This precinct has a total population of 8,629, a voting age population of 8,577, had 646 total registered voters for the 2000 presidential election and a total voter turnout of 476 for the 2000 presidential election. The other precinct (21-010) contains 3,289 residents, and is located next to Berwyn Heights, the town in which the new District 22 Delegate, Tawanna Gaines, was the mayor.

College Park is located in an area of Prince George's County where there are numerous, adjacent municipalities, including Berwyn Heights, Greenbelt, Hyattsville, and Riverdale Park. *Id.* With the exception of the partial plan submitted by Petitioner Brayman, every third-party plan splits College Park. The redistricting for the Prince George's County Council similarly splits College Park between proposed District 1 (containing precincts 01-02, 21-04, 22-05, and 21-10) and District 3 (containing precincts 21-01, 21-02, 21-15, and 21-17). To unite College Park, while maintaining substantial equality of population, one could not take the two College Park precincts out of District 22 without obtaining additional population from adjoining districts. This population could not come from adjacent majority African American District 47 without major changes to that district, because it is defined by its borders with the District of Columbia and Montgomery County. Petitioner Brayman has proposed two alternative plans to place College Park in a single district. One plan causes District 22, which is an African American plurality district under the State's plan, to become a plurality white district. The other plan causes the population in District 23A to fall to 6.5% below the ideal population. *See* Brayman Ex. 4 (an analysis of the Brayman Plan prepared by the State).

District 27

In the 1992 plan, District 27 included parts of Prince George's, Anne Arundel, and Calvert Counties. In the 2002 plan, District 27 also includes parts of Charles County. The Census 2000 population of Charles County was 120,546. *See* State's Ex. 16. In the 1992 plan, Charles County was entirely within District 28. *See* State's Ex. 31. Charles County

now has too much population to remain in a single district. Excess population must be shared with a neighboring jurisdiction. In addition, Calvert County had the largest percentage population increase of any jurisdiction in Maryland. *See State's Ex. 20.* Thus, Subdistrict 27A is now entirely within Calvert County, and the Anne Arundel portion of District 27 is in Subdistrict 27B.

Because of the geography of Southern Maryland, the only districts contiguous to District 28 that could take the excess population from District 28 were District 27 and District 29. The northern boundaries of District 27 already needed adjustment in order to create the new African American majority District 47 in Prince George's County. In addition, District 29 had one of the largest growths in population from 1990 to 2000, and had to give up population to District 27 in order to stay within allowable deviations. The Committee decided to attach the excess population from District 28 to District 27 rather than creating a new crossing for District 29.

Montgomery County

Montgomery County had the largest population growth of any county in Maryland. *See State's Ex. 20.* All eight legislative districts in Montgomery County are wholly within the borders of Montgomery County. *See State's Ex. 25.*

District 20

District 20 is located entirely within the southwest corner of Montgomery County. Two of its sides are extremely regular, and consist primarily of straight lines formed by the

county border. *See* State's Ex. 25. There was no testimony that a delegate or senator would have trouble traversing District 20 and, in terms of its total territory, District 20 is one of the smallest districts in the State. *Id.* The shape of District 20 under the 2002 plan is not more irregular than the shape of District 20 in prior redistricting plans. For example, under the 1982 plan, an appendage of District 20 extended into the central portion of Montgomery County. *See* State's Ex. 28.

The Petitioners who have complained about the division of the neighborhood of Rollingwood, or about the configuration of District 20, have not identified any municipality that is split by District 20. The neighborhood of Rollingwood is not a political subdivision. Districts 18 and 20 were drawn so as to split existing incumbent delegates into the two districts. Delegate Hurson is the incumbent in District 20 and the remaining two incumbents are still in District 18. Minority candidates are expected to run for the open delegate seats.

Western Maryland

In all redistricting plans adopted since the 1960s, Frederick County and Carroll County have always shared legislative districts with neighboring counties, and Frederick County has never had a legislative district entirely within its county lines. No witness identified any instance where a representative of a shared district in Western Maryland failed to respond to concerns of residents of a political subdivision within the district. The Western Maryland districts have traditionally been single member districts. *See* State's Exs. 28 and

31. The district crossing into Washington County involves less population than under the 1992 plan. *See* State's Exs. 24 and 30.

District 3B

District 3B is primarily located in Frederick County, with part of the district in Washington County. Frederick County shares a subdistrict with Washington County under each of the alternative plans, including the plan proposed by Petitioner Getty, which focused on the western four counties. *See* State's Ex. 59. The Washington County portion of Subdistrict 3B includes prisoners incarcerated in State prison institutions. The State's prison facilities in this area were divided between Districts 3B and 2B. Because these prisoners do not vote in elections, it is appropriate to include prisons within subdivision crossings where possible. The inclusion of the non-voting prison population within the crossing minimizes the number of voters who are affected by the crossing, and therefore minimizes any potentially adverse consequences that the crossing may create.

Subdistrict 3A was created to encompass the City of Frederick, which is the largest incorporated municipality in the State, outside of Baltimore City. The Census 2000 population of the City of Frederick was 52,767, and was larger than the population of eight Maryland Counties. *See* State's Ex. 20.

The Eastern Shore

Since 1966, because of the population density and number of counties on the Eastern Shore, all of the population in each county has shared a legislative district with people in one

or more counties. In the approved 1982 plan, District 36 contained all or part of five counties. In the approved 1992 plan, District 36 contained all or part of five counties and District 37 contained all or part of four counties. In the 2002 plan, District 36 now contains all or part of four counties, and District 37 contains all or part of five counties.

Districts 34 and 36 – Cecil County

The sharing of District 34A between Cecil County and Harford County is due to the population of the Eastern Shore, which requires that a district cross the Susquehanna River in order to stay within allowable deviations. District 36 in the State's plan has a population of 118,176 including 44,542 in Cecil County (only 150 people below maximum tolerance). *See* State's Ex. 24. The balance of the Cecil County population is 41,409, which is 1,967 in excess of maximum tolerance of 39,442 for a single member district. *Id.* District 34B was drawn by the Committee to contain 39,430 persons (only 12 below maximum tolerance), with the remaining Cecil County residents added to District 34A along the Route 95 corridor outside the municipal boundary lines of Perryville and Port Deposit. *See* State's Exs. 24 and 38. District 34A may be traversed by means of the nearby Route 40 bridge across the Susquehanna River or the 1-95 bridge. *See* State's Ex. 38.

Districts 36 and 37 – Caroline County

At least three counties on the Eastern Shore must be split because of population limitations. According to the 2000 Census, Caroline County had a population of 29,772, more than 20% below the ideal population for a single member subdistrict. *See* State's Ex. 16. In every legislative apportionment since 1966, residents of Caroline County have shared

a district with residents of other counties. Since 1982, Caroline County has been divided between two districts, District 36 and District 37. *See* State's Exs. 28 and 31. All but one of the alternative plans submitted to the Committee split Caroline County. The only plan that did not split Caroline County placed it in a shared two member subdistrict with Queen Anne's County, but even this alternative did not guarantee that a Caroline County candidate would be elected to represent the subdistrict because the population of Queen Anne's County outnumbered Caroline's by 40,563 to 29,772.

Caroline County Administrator Hawley acknowledged that, due to population, not every county on the Eastern Shore can have a resident delegate, there will have to be some splitting of counties; Caroline County is a home rule jurisdiction. Because of their geographic location either Talbot or Caroline County has to be split. Under the 1992 plan, both Talbot and Caroline County were split. *See* State's Ex. 31. The Committee for the 2002 plan decided to unite Talbot; this plan also allowed Easton to be unified in District 37B. *See* State's Ex. 38.

In the 1992 plan, the Caroline County line was crossed in two different places. In the 2002 plan, the Caroline County line is only crossed once. The fact that Caroline County is split does not mean that a Caroline County resident could not win election in District 36 or District 37. Senators and Delegates across the State have been elected in split districts in which they reside in the county with a smaller population. Petitioner Getty referred to

Senator Ferguson in District 4 as an example. Petitioner Stoltzfus provided another example.

Districts 37 and 38

Before the adoption of the 2002 plan, District 38 had a population of 120,548, which exceeded by 7,857 people the ideal district population and was 2,222 people over the maximum allowable deviation. *See State's Ex. 22.* Districts 37 and 38 are bounded by the highly irregular Maryland coastline on the south, east, and west, and by the straight lines of the Maryland-Delaware border to the north. Because of the low population density of the Eastern Shore, Districts 37 and 38 are large districts, and will contain a large amount of territory under any plan. *See State's Ex. 20 (County Population Data).*

Under the 1992 plan, District 36 contained all or part of five counties, and District 37 contained all or part of four counties. District 36 also contained all or part of five counties in the 1982 plan. Districts 37 and 38 are affected by the shape of District 38A, which joins African American communities in compliance with *Marylanders for Fair Representation, Inc., supra*, p.17. District 38A in the State's plan is the same district as District 37A under the 1994 plan. The changes to District 38A under the State's plan were minor ones required as a result of population changes in the region. The minority population in 1994 District 37A had decreased, and the boundaries had to be modified to maintain it as a minority district. The Committee recommended changes to increase the population of District 38A under the State's plan to 39,375, with an African American population of 52.06% under the Department of Justice measurement standard. *See State's Ex. 39.*

Under the plan submitted by Petitioner Stoltzfus, the State's proposed Delegate District 38A would be put back into District 37, and the State's proposed Delegate District 37A would be returned to District 38. Under that configuration, Districts 37 and 38 would have 118,193 and 118,326 residents, respectively.

Since *In re Legislative Districting*, 271 Md. 320, 332 (1974), the Eastern Shore has been divided into three legislative districts, one of which was comprised of the shore counties of Somerset, Dorchester and part of Wicomico. The citizens of these lower shore counties have formed alliances, such as the Tri-County Council for the Lower Eastern Shore and the Lower Eastern Shore Heritage Committee, to promote their interests. See Stoltzfus Exs. 8 and 12.

The Stoltzfus proposal would not in anyway affect the composition of the majority minority district crafted by *Marylanders for Fair Representation, Inc.* Rather, it would return that single member district to the middle shore counties from which it was carved.

Under the State's plan, Salisbury was substantially united in District 38. Switching the subdistricts, as proposed by Petitioner Stoltzfus (to create districts from 38A/37B and 37A/38B) would result in a larger population of Salisbury being split among two different Senate districts. While Salisbury could not be completely united, because the population of District 38 under the 2002 plan was too close to the maximum allowable deviation, only 763 residents of Salisbury are in District 37A. District 38 contains 22,980 residents of Salisbury, or 96.8%. District 38 could not absorb the remaining population of Salisbury (763 residents) without exceeding the maximum allowable deviation. Switching the 37A and 38A

subdistricts would result in 9,420 residents of Salisbury (39.7%) in District 38 and 14,323 residents of Salisbury (60.3%) in District 37.

Under the 1992 plan, as amended by *Marylanders for Fair Representation, Inc.*, Wicomico County was divided between Districts 37 and 38, with 44,320 persons in District 38 (59.6%), and 30,019 persons in District 37 (40.4%). Under the 2002 plan, Wicomico County is less divided, with 61,827 persons in District 38 (71.93%) and 22,817 persons in District 37 (18.07%). *See* State's Ex. 24. If Districts 37A and 38A were switched, there would be 46,835 Wicomico County residents (54.49%) in District 38, and 37,809 residents (45.51%) in District 37.

Districts 38A and 37B have been challenged on the basis that they both cross the Nanticoke and Wicomico Rivers. Districts 37 and 38 do not cross the Nanticoke River at the same point, and the northern and southern portions of District 37B do not adjoin at the same location that District 38A crosses the Nanticoke River. The northern and southern portions of District 37B adjoin on the western side of the district, adjacent to the shore of the Chesapeake Bay (as discussed herein, *supra*, at pp. 18-19, the fact that a district is divided by a river should not prevent the banks of the river from being contiguous within the meaning of Article III, § 4 of the Maryland Constitution).

CONCLUSIONS OF LAW RELATING TO STATE CONSTITUTIONAL CLAIMS

The requirements for legislative districting set forth in Article III, § 4 of the Maryland Constitution are intended to work in combination, though they tend to conflict in their

practical application. *In re Legislative Districting*, 299 Md. 658, 674, 681 (1982). Because the conclusions pertinent to the various requirements necessarily overlap, they will be addressed collectively.

This Court noted in *In re Legislative Districting* that:

The provision of § 4 of Article III of the Maryland Constitution that “[d]ue regard shall be given to natural boundaries and the boundaries of political subdivisions” is integrally related to the compactness and contiguity requirements; all involve the physical configuration of district lines.¹⁵ The primary intent of the “due regard” provision is to preserve those fixed and known features which enable voters to maintain an orientation to their own territorial areas. Like compactness and contiguity, the “due regard” requirement is of mandatory application, although by its very verbiage it would appear to be the most fluid of the constitutional components outlined in § 4.

¹⁵ We construed incorporated municipalities as being “political subdivisions” within the contemplation of § 4 in *In re Legislative Districting*, 271 Md. 320, 317 A.2d 477 *cert. denied sub. nom. Twilley v. Governor of Md.*, 419 U.S. 840, 95 S.Ct. 70, 42 L.Ed.2d 67 (1974).

299 Md. at 681.

As interpreted by this Court, the “due regard” provision is subject to the “overriding goal of equality of population,” and is intended to “work in combination with” the other State Constitutional requirements “to ensure the fairness of legislative representation,” even though the requirements “tend to conflict in their practical application.” *In re Legislative Districting*, 299 Md. at 674, 678, 681.

The requirement of “due regard” for natural boundaries and boundaries of political subdivisions may be subordinated to achieve a “rational goal,” such as avoiding the additional loss of senior legislators, reducing the number of incumbent contests and “achieving racial balance among the districts.” *Id.* at 691. In addition, the various constitutional requirements are conflicting and balancing them requires the exercise of discretionary choice by those drafting the State’s plan. *Id.*

Although the term “natural boundaries” may include artificially created boundaries, such as highways and roads, the Constitution cannot possibly prohibit crossing every such line in the formation of a district, nor can it require that any particular natural boundary be used in preference to another.

Stone Petition (Misc. No. 25) & Golden Petition (Misc. No. 22)

The Stone and Golden Petitioners claim that the State did not give due regard to natural boundaries and boundaries of political subdivisions because, under the 2002 plan, former District 7 has been eliminated, residents of Dundalk will share District 44 with residents of Baltimore City across the Patapsco River, and residents of Edgemere will share District 31 with residents of Anne Arundel County across the Patapsco River. The number of districts crossing the boundary between Baltimore City and Baltimore County remains the same as it was in the plan approved by the Court in *Legislative Redistricting Cases*. The evidence at the hearing demonstrated, through the testimony of the Secretary of State, that the principles underlying compactness as well as all other constitutional concerns had been fairly considered and applied in designing Districts 31 and 44. In the Baltimore

City/Baltimore County area, the effect of the State's plan leaves undisturbed the core of existing districts, minimizes incumbent conflicts, and preserves for its African American voters the opportunity to elect candidates of their choice.

By contrast, both the Stone and Golden Petitioners based much of their argument on a perceived lack of community of interest between residents of Dundalk and Baltimore City in the case of District 44, or between residents of Edgemere and Anne Arundel County, in the case of District 31. Neither set of Petitioners, however, has identified any instance where a representative of a shared district has failed to address the concerns of residents of a political subdivision within the district. Moreover, Southeastern Baltimore County and Baltimore City residents do share common interests, including common places of employment and a stake in the economic revitalization of waterfront areas along the Patapsco River and Inner Harbor. According to Senator Hoffman, a shared district provides effective representation to residents of the political subdivisions sharing the district. Even Petitioner Stone confirmed that the shared districts established in the 1992 redistricting have worked as well as could have been expected. Delegate Mohorovic testified that he could represent the residents of District 44 under the State's 2002 plan and would do his best to represent them if the Court approves the plan. No witness identified any instance where the representative of a district shared by Baltimore City and Baltimore County has failed to respond to concerns of residents of either political subdivision.

The Stone Petitioners' Alternative Plan

Senator Stone's latest plan, submitted at the hearing on April 26, 2002, pairs 30 incumbent Delegates and six incumbent Senators; Delegates Kelly and Taylor in single member District 1C; Delegates Schenk and McGee in single member District 2A; Delegates Weir, Ports, DeCarlo and Hubers in District 6; Delegates Pielke, Klima and Kach in two member District 9B; Delegates Menes, Gaines, Moe, Frush and Gianetti in District 21; Senators Exum and Lawlah in District 24; Senators Mitchell and Hughes in District 40; Senators Sfikas and McFadden in District 46; Delegates Oaks, Nathan-Pulliam, Gladden and Phillips in District 41; Delegates Krysiak, Hammen, Dypski, Branch, Harrison and Davis in District 46; Delegates Cole and McHale in single member Subdistrict 47A; Delegates Kirk and Paige in single member Subdistrict 47C.

Stone's latest plan also splits College Park, Frostburg, Greenbelt, Glenarden and Cheverly, among other municipalities. In addition, the latest Stone plan has discontinuous blocks in the Hagerstown area in precinct 10-007; eliminates the single member African American majority Subdistrict 23; and eliminates the single member subdistrict in Somerset County (District 37A in the State's plan). In the latest Stone plan, Baltimore City has five full districts and two single member districts (with the third piece being in Baltimore County), which is one less district than the State's plan. Baltimore City under the latest Stone plan has only four districts with a majority African American population, which is also one less district than the State's plan provides.

The Golden Petitioners' Alternative Plan

The Golden Petitioners, together with the Petitioners in DeHaas (Misc. 31) and Smallwood (Misc. No. 32), have submitted an alternative plan (“Mohorovic Plan”) with an number of serious deficiencies. Senate districts in the Mohorovic Plan deviate from the ideal district population by as much as +6.9% (proposed District 47) and -7.02% (proposed District 46), for a total Senate district population variance of 13.99%, that exceeds the 10% maximum population variance required for *prima facie* validity under the equal protection clause of the United States Constitution and the substantially equal population requirement of the Maryland Constitution. Single member subdistricts in the Mohorovic Plan deviate from the ideal subdistrict population by as much as +6.9% (proposed District 21B) and -4.65% (proposed District 31C) for a total population variance of 13.99% among single member subdistricts. Two member subdistricts in the Mohorovic Plan deviate from the ideal subdistrict population by as much as +4.69 (proposed District 24A) and -9.08 (proposed District 46A) for a total population variance of 13.77% among two member subdistricts.

Three districts in the Mohorovic Plan include discontinuous territory: (1) District 30 contains discontinuous precinct 1-003, whose 6,953 residents would cause any adjoining district to exceed +5% deviation from the ideal district population; (2) District 24B contains discontinuous precinct 15-001; and (3) District 21A contains a small area that is discontinuous. The Mohorovic Plan proposes a new shared District 6 that joins a two member subdistrict 6A in South Baltimore City with a single member subdistrict 6B in Northern Anne Arundel County. The Mohorovic Plan splits College Park, Greenbelt,

Cheverly, Bowie, Bladensburg, Rockville, Gaithersburg and Laurel, among other municipalities, and eliminates the single member subdistricts that have traditionally been provided in Western Maryland.

The Mohorovic Plan pairs nine incumbent Senators, including five incumbent Senators from Baltimore City, against each other. Senators Hughes, Blount and Mitchell in proposed District 3, and Senators Sfikas and McFadden in proposed District 5. It also pairs another incumbent Senator from Baltimore City, Senator Della, against an incumbent Senator from Anne Arundel County, Senator Jimeno, and pairs incumbent Senators Stone and Collins from Baltimore County in District 7. The Mohorovic Plan also pairs incumbent Delegates from Baltimore City in proposed District 1 (pairs incumbent Delegates Campbell, Doory, Marriott, Rawlings and Rosenberg), District 3 (pairs Delegates Fulton, Gladden, Phillips and Jones), District 4 (pairs Delegates Branch, Kirk, Paige and Nathan Pulliam), and District 5 (pairs Delegates Dypski, Hammen, Krysiak, Davis and Harrison), against each other.

DeHaas Petition (Misc. No. 31)

The DeHaas Petitioners contend that in adopting the 2002 plan the State did not give due regard to natural boundaries and the boundaries of political subdivisions when it placed residents of Anne Arundel County in a shared District 23A with residents of Prince George's County. Due to the population of Anne Arundel County, it is not possible for all residents of Anne Arundel County to be placed in legislative districts entirely within Anne Arundel County. Petitioners have not identified any instance where a representative of a shared district has failed to address concerns raised by residents of a political subdivision within the

district; nor have they presented any evidence that the natural boundary specified in the Petition, the Patuxent River, poses any obstacle to travel or effective representation.

Smallwood Petition (Misc. No. 32)

The Smallwood Petitioners contend that in adopting the 2002 plan, the State did not give due regard to the boundaries of political subdivisions when it placed residents of northwestern Anne Arundel County in a shared District 13 with residents of Howard County. The Smallwood Petitioners presented no testimony at the hearing nor did they identify any instance where a representative has failed to address concerns raised by a resident of a political subdivision within the district. The State's plan was based on appropriate criteria, including preserving the core of the existing districts in Anne Arundel County, recognizing the population restraints presented by District 22, which is close to the maximum allowable deviation, and not diluting the African American population in District 13. Moreover, the District 13/District 32 boundary line follows the Baltimore-Washington Parkway, which constitutes a natural boundary.

Cole Petition (Misc. No. 33)

The Cole Petitioners, who consist of the members of the Caroline County Commission and a Caroline County Administrator, contend that, in adopting the 2002 plan, the State did not give due regard to natural boundaries and the boundaries of political subdivisions in apportioning Districts 34, 36, 37 and 38 on the Eastern Shore, as well as various other districts throughout the State's plan. According to the 2000 Census, the population of Caroline County is more than 20% below the ideal population for a single member

subdistrict, and residents of Caroline County have shared a district with residents of other Counties in every legislative apportionment since 1966.

The Cole Petitioners acknowledge that either Caroline or Talbot County must be split between Districts 36 and 37, and argue that Talbot County, which is entirely within District 37 under the State's plan, should have been divided instead of Caroline County. Given that one of the two counties must be divided, the Committee's decision to divide Caroline County rather than Talbot County does not show any lack of due regard for political subdivisions or natural boundaries.

Steele Petition (Misc. No. 29)

Petitioner Michael Steele, State Chairman of the Republican Party, maintains that in adopting the 2002 legislative redistricting plan as a whole, the State did not give due regard to natural boundaries and the boundaries of political subdivisions and communities of interest. Petitioner Steele has not identified any instance where a representative has failed to address concerns raised by residents of a political subdivision within the district. Nor has he presented any evidence that would justify abandoning the State's long-standing multi-member districts. Apparently, the true objective of Steele's challenge is partisan. According to James Lawrence Knighton, who drafted both Steele's original plan and the so-called "Steele II" plan, the original plan sought to maximize Republican gains, and the districts in Steele II are based on the districts in the original plan. The Steele II plan pairs 23 incumbent Democratic Senators against each other. Nor is that plan technically viable; the Steele II plan has two districts that are completely discontinuous by any test.

Getty Petition (Misc. No. 34)

The Getty Petitioners maintain that the State's plan did not give due regard to the boundaries of political subdivisions in two respects: (1) by not placing an entire legislative district within Frederick County and Carroll County, respectively, and (2) by dividing the town of Hampstead between Subdistricts 5A and 5B. The Getty Petitioners, however, concede that, due to population, each of the five westernmost counties, Garrett, Allegheny, Washington, Frederick and Carroll, must be placed in shared legislative districts with boundaries that cross county lines, that in all redistricting plans adopted since the 1960s, Frederick County and Carroll County have shared legislative districts with neighboring counties, and that Frederick County has never had a legislative district entirely within its county lines. The Getty Petitioners have not identified any instance where a representative of a shared district in Western Maryland has failed to respond to concerns of residents of a political subdivision within the district. The crossing of the Baltimore County and Carroll County line and the splitting of Hampstead were required to achieve substantial equality of population.

The State's plan responded to population changes and recognized municipalities when it created a district in the City of Frederick. That the Getty petitioners present no legally valid claim is confirmed by their alternative plan for that area, which advances partisan interests, but not constitutional requirements.

Getty Petitioners' Alternative Plan

The Getty Petitioners have proposed an alternative plan that redraws only Districts 1 through 5. Under the alternative plan submitted by the Getty Petitioners, each of the five westernmost counties of Garrett, Allegany, Washington, Frederick and Carroll will have to share legislative districts with other counties. The alternative plan proposed by the Getty Petitioners would place Delegate Kevin Kelly and Speaker of the House Casper Taylor, both of whom are Democrats, in the same single member subdistrict, but would not require any incumbent Republicans to run against each other.

The Getty Petitioners acknowledge that the relief they are seeking in western Maryland will require changes in legislative district boundaries elsewhere in the State and will affect districts beyond those that are adjacent to the five western Maryland districts the Getty petitioners seek to reconfigure. However, the Getty Petitioners have not submitted a workable statewide plan nor any plan that purports to demonstrate how the changes to other districts elsewhere in the State necessitated by their requested remedy can be made in a manner that satisfies the requirements of Federal and State law.

With respect to the State-wide Getty Plan ("Getty Plan"), Christian Cavey testified on behalf of the Getty Petitioners that he had not prepared a map, but he had prepared a spreadsheet which he believed to be the basis for the map submitted as Getty Exhibit 34-4. The map submitted as Exhibit 34-4, however, is both technically and substantively flawed. Under the Getty Plan, portions of Districts 6, 8A, 44A and 44B are discontinuous, and a deviation from the ideal district population range from -18.38% to +6.06% for a maximum

population variance of 24.42%. Representation of Baltimore City residents is reduced to five districts and a two member subdistrict, with three majority black Senate districts, two majority white Senate districts, and a majority white two member subdistrict, connected to a majority white one-member subdistrict in Baltimore County.

Six incumbent Democratic Senators are paired with each other in District 7 (Sen. Collins and Sen. Stone), District 40 (Sen. Mitchell and Sen. Hughes), and District 47 (Sfikas and McFadden). No incumbent Republican Senators are paired in any district. Incumbent Democratic Delegates will run against each other in Districts 1, 7, 41, 42, 46 and 47A. No incumbent Republican Delegate need run against another Republican Delegate (in District 8A two Republican incumbents would be placed in a two member subdistrict with a Democratic incumbent, and in District 12A, Del. Murphy, a Republican, would be placed in a single member subdistrict with a Democratic incumbent).

Brayman Petition (Misc. No. 27)

The Brayman Petitioners claim that the State did not give due regard to natural boundaries and the boundaries of political subdivision because, under the plan, the City of College Park is located in Districts 21 and 22. With the exception of the partial plan submitted by the Brayman Petitioners, every third party plan splits College Park. The redistricting for the Prince George's County Council similarly splits College Park between proposed District 1 (containing precincts 01-02, 21-04, 21-05, and 21-10) and District 3 (containing precincts 21-01, 21-02, 21-15, and 21-17). The City of College Park is located in an area of Prince George's County where there are numerous, adjacent municipalities,

including Berwyn Heights, Greenbelt, Hyattsville, and Riverdale Park. In order to create substantially equal districts, it is necessary to split the boundaries of some of these municipalities, as both the Brayman Petitioners' and the State's plan demonstrate.

In order to unite the City of College Park, the Brayman Petitioners propose, among other things, the relocation of three City of Laurel precincts (precincts 10-010, 10-011, and 10-007) from District 21 and District 23. *See* Brayman Exhibit 1. This would have the effect of splitting the City of Laurel, a political subdivision, among Districts 21 and 23. By contrast, the State's plan gives due regard to the City of Laurel, maintaining it wholly within District 21. While Mayor Brayman complained that prior redistricting plans did not have District 21 crossing the Patuxent River into Howard County, his plan does nothing to rectify the sharing of District 21 among Prince George's and Howard Counties. Under the Brayman Petitioners' plan, District 21 would still cross the Patuxent River into Howard County. This is because, as the State plan recognizes, population from Howard County is needed to make District 21 of substantially equal population.

Gandal and Schofield Petition (Misc. No. 28)

Petitioners Gandal and Schofield maintain that the State did not give due regard to natural boundaries in Districts 18 and 20 or the boundaries of political subdivisions in that the plan divides neighborhoods and precincts. Petitioners Gandal and Schofield, and Delegate Grosfeld testified that the State's plan splits the neighborhood of Rollingwood, placing part of it in District 18 and part of it in District 20. Each testified that in the past, Rollingwood was located entirely within District 18. While Petitioners Gandal and Schofield

testified that they believed Rollingwood's ability to participate in the political process would be affected by the State's plan, Delegate Grosfeld testified that the residents of Districts 18 and 20 both would be represented by incumbent senior representatives, in terms of both tenure in Annapolis and leadership in the General Assembly. There was no evidence presented that the officials elected to office in Districts 18 and 20 would or could not be responsive to the needs of Rollingwood.

The State's plan does give due regard to natural boundaries and the boundaries of political subdivisions within Districts 18 and 20. The map shows that the entire eastern boundary of District 20 is the boundary between Montgomery and Prince George's County and that the bottom of the district is defined by the border between Montgomery County and the District of Columbia. Most of its remaining boundaries follow precinct lines, which in turn are based on roads and other natural boundaries. District 18 also follows natural boundaries. Its upper end is defined by Viers Mill Road on one side and a railroad on the other. It also used the county's border with the District of Columbia, Rock Creek Park, Wisconsin Avenue, Connecticut Avenue, University Boulevard and the Beltway for substantial stretches. While the district does not follow major roads for its entire boundary, the decision to use smaller roads on occasion is easily explained by the need to maintain population equality in this densely populated area.

Dembrow Petition (Misc. No. 30)

The Dembrow Petition alleges that the State did not give due regard to natural boundaries by not using the "well recognized thoroughfare of Randolph/Cherry Hill" as the

dividing line between Districts 14 and 20, and splitting precincts and dividing along residential streets well established neighborhoods, communities, and homeowners' associations. *See* Dembrow Petition, Misc. No. 30 at ¶ 1.C. In fact, Randolph Road has never been the sole dividing line for District 20. In the 1974 plan, the road went through District 20. In the 1982 plan, the line between Districts 14A and 20 followed Randolph Road for a short time, but crossed it on both the east and the west side of the district. The same was true in the 1992 plan. The State's plan comes closer to following Randolph Road than any past plan.

The Petitioners in Misc. No. 22 (Golden), Misc. No. 25 (Stone), Misc. No. 33 (Cole), Misc. No. 29 (Steele), Misc. No. 34 (Getty) and Misc. No. 30 (Dumbrow) also allege that the State's plan violates Article III, § 4 of the Maryland Constitution which requires that legislative districts be "compact in form." I conclude with regard to these petitions that the State has met its burden of proving compliance with that constitutional mandate.

This Court has viewed "compactness as a requirement for a close union of territory (conducive to constituent-representative communication), rather than as a requirement which is dependent upon a district being of any particular shape or size." *In re Legislative Districting*, 299 Md. at 688. In determining the compactness of a district, the Court must give "due consideration" to "the 'mix' of constitutional and other factors which make some degree of noncompactness unavoidable," including "concentration of people, geographic features, convenience of access, means of communications, and the several competing constitutional restraints, . . . as well as the predominant constitutional requirement that

districts be comprised of substantially equal population.” *Id.* Although the districts under the State’s plan that are attacked by the Petitioners in question may not be “visually compact,” constitutional compactness is not determined by that test. *In re Legislative Districting*, 299 Md. at 680. Rather I am convinced that the State has given due consideration to “the mix of constitutional and other factors” in drawing the districts in question. I recommend that the Court deny the challenges alleging lack of compactness and failure to give due regard to boundaries of political subdivisions mounted in the above enumerated petitions.

On the other hand, I am not persuaded that the State has met its burden of proof that its plan complies with the constitutional requirements of compactness and due regard for political boundaries in drawing Districts 37 and 38. I reject the State’s reason for designing such noncompact districts based upon a more favorable split of the voters in Wicomico County and in the City of Salisbury so that those voters would supposedly enjoy a better chance of electing a senator of their choice.

Furthermore, District 38B proposed by the State includes portions of five counties: Caroline, Talbot, Dorchester, Wicomico and Worcester Counties stretching from the Atlantic Ocean to Caroline County. I do not believe that this configuration of District 38B demonstrates that its drafters gave due regard to the boundaries of political subdivisions. The State’s configuration of Districts 37 and 38 divides Somerset County from Worcester County and part of Wicomico County. Those three areas have been aligned in one legislative district since 1966. No acceptable reason has been presented, in my view, to justify divergence from

the longstanding tradition of including the lower shore counties in one legislative district. I recommend that the court grant the Stoltzfus petition and reconfigure Districts 37 and 38 so that, what was under the State's plan designated as single member District 38A would become 37A, and that single member District 37A would become 38A.

E. Additional Claims

Some of the Petitioners have alleged that the State's plan deprives them of their rights under the First Amendment to the United States Constitution³ and under Articles 2, 7 and 24 of the Declaration of rights of the Maryland Constitution.⁴ The evidence does not support these allegations, and I recommend that these claims be rejected.

³ The First Amendment states:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

U.S. Const., amend. I.

⁴ Article 2 states:

The Constitution of the United States, and the Laws made, or which shall be made, in pursuance thereof, and all Treaties made, or which shall be made, under the authority of the United States, are, and shall be the Supreme Law of the State; and the Judges of this State, and all the People of this State, are, and shall be bound thereby; anything in the Constitution or Law of this State to the contrary notwithstanding.

Art. 2 of the Md. Declaration of Rights.

Article 7 states:

That the right of the People to participate in the Legislature is the best security of liberty and the foundation of all free Government; for this purpose, elections ought to be free and frequent; and every citizen having

the qualifications prescribed by the Constitution, ought to have the right of suffrage.

Art. 7 of the Md. Declaration of Rights.

Article 24 states:

That no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land.

Art. 24 of the Md. Declaration of Rights.

Respectfully submitted,

Robert L. Karwacki
Special Master

May 21, 2002