

# The Burger Court Opinion Writing Database

*United States v. Maryland Savings-Share Insurance Corp.*

400 U.S. 4 (1970)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
THE CHIEF JUSTICE

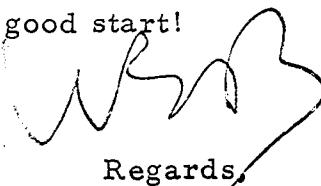
October 12, 1970

Dear Byron:

Re: No. 160 - U. S. v. Maryland Savings-Share  
Insurance Corporation

I join in the P. C. circulated by you on October 9.

We're off to a good start!



Regards,

Mr. Justice White

cc: The Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE HUGO L. BLACK

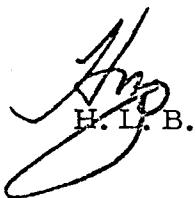
October 12, 1970

Dear Byron:

No. 160  
Re: United States v. Maryland Savings -  
Share Ins. Corp.

Please join me in your per curiam.

Sincerely,



H. L. B.

Mr. Justice White

cc: Members of the Conference

October 12, 1970

Re: No. 160 - U.S. v. Maryland Savings

Dear Byron:

While I appreciate the considerations that led to your proposed summary disposition of this case, I still think the case worthy of plenary consideration, and therefore would like to have it noted.

Sincerely,

J. M. H.

Mr. Justice White

CC: The Conference

October 15, 1970

Re: No. 160 - U. S. v. Maryland Savings

Dear Byron:

Would you kindly add at the foot of your opinion  
the following:

"MR. JUSTICE HARLAN, considering  
that the issues in this case are deserving of plenary  
consideration, would set the case for argument."

Sincerely,

J. M. H.

Mr. Justice White

CC: The Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

October 12, 1970

RE: No. 160 - United States v. Maryland  
Savings-Share Insurance Corporation

Dear Byron:

I agree with the Per Curiam you have  
prepared in the above case.

Sincerely,



Mr. Justice White

cc: The Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE POTTER STEWART

October 12, 1970

No. 160 - U.S. v. Maryland Ins. Corp.

Dear Byron,

I agree with your Per Curiam in this case, and with your suggestion that if a majority join the Per Curiam, a sentence be added vacating the order on this morning's list.

Sincerely yours,

P.S.

Mr. Justice White

Copies to the Conference

October 9, 1970

MEMORANDUM FOR THE CONFERENCE

Re: No. 160 - United States v. Maryland Savings-Share  
Insurance Corporation

The Conference voted to hear oral argument in this case. I asked the Chief Justice to withhold the announcement of the order since I thought the decision of the District Court could be summarily reversed without argument. The attached is an effort to do so.

B.R.W.

The Chief Justice  
Mr. Justice Black  
Mr. Justice Douglas  
Mr. Justice Harlan  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice Marshall  
Mr. Justice Blackmun

To: The Chief Justice  
Mr. Justice Black  
Mr. Justice Douglas  
Mr. Justice Harlan ✓  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice Marshall  
Mr. Justice Blackmun

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**SUPREME COURT OF THE UNITED STATES**

October Term, 1970

From: White, J. Circulated: 10-9-10

UNITED STATES v. MARYLAND SAVINGS-SHARE  
INSURANCE CORPORATION Recirculated: \_\_\_\_\_

ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

No. 160. Decided October —, 1970

PER CURIAM.

This is a direct appeal by the United States from a district court judgment holding unconstitutional § 501 (c)(14)(B) of the Internal Revenue Code of 1954, 26 U. S. C. § 501 (c)(14)(B), on the ground that it arbitrarily discriminates between Maryland Savings-Share Insurance Corporation (MSSIC), the appellee, and other similar nonprofit, mutual insurers.

MSSIC was established by the Maryland Legislature with the object of insuring the accounts of shareholders of member savings and loan associations. Although first chartered in 1962, it seeks the benefit of § 501 (c)(14)(B), which exempts from tax nonprofit corporations such as petitioner but only if organized before September 1, 1957.<sup>1</sup> MSSIC's position is that September 1, 1957, is an arbitrary and unconstitutional cutoff date which must be excised from the section, leaving the section applicable

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<sup>1</sup> Internal Revenue Code § 501 (c)(14)(B), 26 U. S. C. § 501 (c)(14)(B), provides:

"(B) Corporations or associations without capital stock organized before September 1, 1957, and operated for mutual purposes and without profit for the purpose of providing reserve funds for, and insurance of shares or deposits in—

"(i) domestic building and loan associations,

"(ii) cooperative banks without capital stock organized and operated for mutual purposes and without profit, or

"(iii) mutual savings banks not having capital stock represented by shares."

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE BYRON R. WHITE

October 12, 1970

MEMORANDUM FOR CONFERENCE

Re: No. 160 - U.S. v. Maryland Savings-Share  
Insurance Corporation

I notice that this case was included on  
the order list today as having been noted. If  
there is a majority for the per curiam which I  
have circulated, perhaps a sentence could be  
added vacating the order noting probable juris-  
diction.



B.R.W.

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To: The Chief Justice  
Mr. Justice Black  
Mr. Justice Douglas  
Mr. Justice Harlan ✓  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice Marshall  
Mr. Justice Blackmun

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From: White, J.

**SUPREME COURT OF THE UNITED STATES**

Circulated: \_\_\_\_\_

October Term, 1970

Recirculated: 10-14-70

**UNITED STATES v. MARYLAND SAVINGS-SHARE  
INSURANCE CORPORATION**

ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

No. 160. Decided October —, 1970

PER CURIAM.

This is a direct appeal by the United States from a district court judgment holding unconstitutional § 501 (c)(14)(B) of the Internal Revenue Code of 1954, 26 U. S. C. § 501 (c)(14)(B), on the ground that it arbitrarily discriminates between Maryland Savings-Share Insurance Corporation (MSSIC), the appellee, and other similar nonprofit, mutual insurers.

MSSIC was established by the Maryland Legislature with the object of insuring the accounts of shareholders of member savings and loan associations. Although first chartered in 1962, it seeks the benefit of § 501 (c)(14)(B), which exempts from tax nonprofit corporations such as petitioner but only if organized before September 1, 1957.<sup>1</sup> MSSIC's position is that September 1, 1957 is an arbitrary and unconstitutional cutoff date which must be excised from the section, leaving the section applicable

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<sup>1</sup> Internal Revenue Code § 501 (c)(14)(B), 26 U. S. C. § 501 (c)(14)(B), provides:

“(B) Corporations or associations without capital stock organized before September 1, 1957, and operated for mutual purposes and without profit for the purpose of providing reserve funds for, and insurance of shares or deposits in—

“(i) domestic building and loan associations,

“(ii) cooperative banks without capital stock organized and operated for mutual purposes and without profit, or

“(iii) mutual savings banks not having capital stock represented by shares.”

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To: The Chief Justice  
Mr. Justice Black  
Mr. Justice Douglas  
Mr. Justice Harlan  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice Marshall  
Mr. Justice Blackmun

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From: White, J.

# SUPREME COURT OF THE UNITED STATES

October Term, 1970

Circulated: \_\_\_\_\_

UNITED STATES *v.* MARYLAND SAVINGS-SHARE  
INSURANCE CORPORATION

Recirculated: 10-15-70

ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

No. 160. Decided October —, 1970

## PER CURIAM.

This is a direct appeal by the United States from a district court judgment holding unconstitutional § 501 (c)(14)(B) of the Internal Revenue Code of 1954, 26 U. S. C. § 501 (c)(14)(B), on the ground that it arbitrarily discriminates between Maryland Savings-Share Insurance Corporation (MSSIC), the appellee, and other similar nonprofit, mutual insurers.

MSSIC was established by the Maryland Legislature with the object of insuring the accounts of shareholders of member savings and loan associations. Although first chartered in 1962, it seeks the benefit of § 501 (c)(14)(B), which exempts from tax nonprofit corporations such as petitioner but only if organized before September 1, 1957.<sup>1</sup> MSSIC's position is that September 1, 1957 is an arbitrary and unconstitutional cutoff date which must be excised from the section, leaving the section applicable to all corporations of the same nature as itself regardless of the date of their creation. We do not agree.

<sup>1</sup> Internal Revenue Code § 501 (c)(14)(B), 26 U. S. C. § 501 (c)(14)(B), provides:

"(B) Corporations or associations without capital stock organized before September 1, 1957, and operated for mutual purposes and without profit for the purpose of providing reserve funds for, and insurance of shares or deposits in—

"(i) domestic building and loan associations,

"(ii) cooperative banks without capital stock organized and operated for mutual purposes and without profit, or

"(iii) mutual savings banks not having capital stock represented by shares."

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Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

October 13, 1970

Re: No. 160 - U.S. v. Maryland Savings-  
Share Insurance Corporation

Dear Byron:

Please join me in your per curiam.

Sincerely,



T.M.

Mr. Justice White

cc: The Conference

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Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

October 12, 1970

Re: No. 160 - United States v. Maryland  
Savings-Share Ins. Corp.

Dear Byron:

I agree with the Per Curiam you have prepared for this case with the addition, as you have suggested, of a sentence vacating the order of October 12, noting probable jurisdiction.

Sincerely,

H. A. B.

Mr. Justice White

cc: The Conference