

Secretary of State of Maryland v. Joseph H. Munson Co., Inc., 467 U.S. 947 (1984)

In a five-to-four decision, the U.S. Supreme Court ruled that a Maryland statute regulating charitable fundraising was in violation of the First Amendment and unconstitutional. In an earlier 1980 decision (*Schaumburg v. Citizens for a Better Environment*, 444 U.S. 620), the Court had held that a law requiring charitable organizations to use at least 75 percent of all funds raised for charitable purposes was unconstitutional. Similarly, Maryland's statute prohibited charitable organizations from paying out more than 25 percent of their total fundraising revenue as fundraising expenses. Maryland's statute, unlike the one at issue in *Schaumburg*, contained an exception exempting organizations for whom that 25 percent limit would "effectively prevent the charitable organization from raising contributions" (*Maryland* at 951, note 2).

Justice Harry A. Blackmun authored the majority opinion. After addressing a debate over Munson's standing to sue, Justice Blackmun took up the merits of the case. Here Justice Blackmun argued that the statute assumes that high fundraising costs by the charity necessarily mean that fraudulent behavior is taking place. Justice Blackmun argued that fundraising cost is ultimately an organizational policy decision made by the charity; moreover, narrower means, such as requiring financial disclosure are more likely to detect fraud than this percentage limit. This defect, Justice Blackmun argued, remained regardless of the statutory exception added by Maryland.

Justice John Paul Stevens, in a separate concurring opinion, argued that the case should not have been granted review at all. Given that it did grant review, however, Justice Stevens sided with the opinion offered by Justice Blackmun. Justice William H. Rehnquist, joined by three of his colleagues, authored the dissent in this case. The dissent argued that the potential

harms of Maryland's statute are more than mitigated by the state's legitimate interests in attempting to protect charities.

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See Also:

Overbreadth, Schaumburg v. Citizens for a Better Environment

Further Reading:

Copilevitz, Errol. "Nonprofit Symposium: The Historical Role of the First Amendment in Charitable Appeals." *Stetson Law Review* 27 (Fall 1997): 457-472.

Rohr, Marc. "Freedom of Speech After Justice Brennan." *Golden Gate University Law Review* 23 (Spring 1993): 413-510.