

# 237-290  
Douglas  
Supreme Court of the United States  
Washington 25, D. C.

CHAMBERS OF  
JUSTICE WILLIAM O. DOUGLAS

February 14, 1959

MEMORANDUM TO THE CONFERENCE

Re: Nos. 237 and 290

I have had great difficulty with Nos. 237 and 290. I have, in fact, written it both ways -- the first time to affirm pursuant to my original vote. But I became quite dissatisfied with that decision and after much thought and deliberation decided to change my vote to reverse.

This has been one of the most difficult cases in my 20 years here -- probably the most difficult one because the issues lie so close. But I am now finally of the view that in spite of certain insurance aspects of the variable annuity, it is more nearly a security or an investment contract rather than insurance as that term has been used in the Federal Acts in question.

WOD  
William O. Douglas

The Chief Justice ✓  
Black, J.  
Frankfurter, J.  
Clark, J.  
Harlan, J.  
Brennan, J.  
Whittaker, J.  
Stewart, J.