

Congress of the United States
House of Representatives
Washington, DC 20515-3006

March 6, 2023

General Assembly of Maryland
Maryland House Committee on Health and Government Operations
RE: Written Statement in Support of House Bill 871

Dear Chairwoman Pena-Melnyk, Vice Chair Cullison, and Members of the Committee:

Greetings to all my friends in Annapolis and thank you for taking my written testimony. I write to support House Bill 871, which would amend the Maryland Constitution to remove language which violates the U.S. Constitution by imposing religious tests for public officeholders.

Article 37 of the Maryland Constitution requires “a declaration of belief in the existence of God” for a Marylander to hold public office. This provision was actually invalidated by the U.S. Supreme Court in 1961 in *Torcaso v. Watkins*¹, where the Court unanimously held that our Article 37 violates the First Amendment. In his opinion for the Court, Justice Hugo Black wrote that states cannot “constitutionally force a person to profess a belief or disbelief in any religion” as a condition for holding office.

Because of this Supreme Court decision, the religious test in Article 37 has been a dead letter for more than 60 years. But the language remains in our state Constitution, a lingering and embarrassing insult to our people, the rule of law, and the separation of church and state. The same is true of similarly unconstitutional and obsolete language contained in Articles 36 and 39 conditioning both religious liberty and the right to serve as a witness or a juror on a person’s expressed belief in the existence of God or a Divine Being. These jarring provisions are equally unconstitutional, unenforceable, and unsightly, flotsam and jetsam marring our state Constitution.

For these reasons, I support House Bill 871, which would clean up Articles 36 and 37, and completely remove Article 39 of the Maryland Constitution by stripping unconstitutional language and conforming our state Constitution to well-established Supreme Court case law prohibiting religious tests for public office. These changes amount to good constitutional housekeeping. They would align our state Constitution with Maryland’s long history as a safe haven of religious tolerance, particularly for Catholics fleeing persecution. They would also register the religious diversity and intellectual freedom that define our state culture.

¹ 367 U.S. 488 (1961).

I therefore urge a favorable Committee report on House Bill 871.

Very truly yours,

A handwritten signature in blue ink that reads "Jamie Raskin". The signature is written in a cursive style with a large initial "J" and a prominent "R".

Jamie Raskin
Member of Congress