



Torcaso v. Watkins (1961) - Justice Black - 9/0.

Issue: Torcaso was appointed to the office of Notary Public by the Governor of Maryland but was refused his commission because **he would not declare his belief in God** as required by the Maryland Constitution. Claiming that this requirement violated his rights under the 1st and 14th Amendments, he sued in a state court to compel issuance of his commission.

Held: This Maryland test for public office cannot be enforced...because it unconstitutionally invades his freedom of belief and religion...

Reasoning: The power and authority of the State of Maryland thus is put on the side of one particular sort of believers — those who are willing to say they believe in "the existence of God." It is true that there is much historical precedent for such laws. When our Constitution was adopted, the desire to put the people "securely beyond the reach" of religious test oaths brought about the inclusion in **Article VI** of that document of a provision that "**no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.**" The Amendment embraces two concepts, — freedom to believe and freedom to act. The first is absolute but, in the nature of things, the second cannot be. We repeat and again reaffirm that neither a State nor the Federal Government can constitutionally force a person "to profess a belief or disbelief in any religion." Neither can constitutionally pass laws or impose requirements which aid all religions as against non-believers and neither can aid those religions based on a belief in the existence of God as against those religions founded on different beliefs. In upholding the State's religious test for public office the highest court of Maryland said: "The petitioner is not compelled to believe or disbelieve, under threat of punishment or other compulsion. True, unless he makes the declaration of belief he cannot hold public office in Maryland, but he is not compelled to hold office." The fact, however, that a person is not compelled to hold public office cannot possibly be an excuse for barring him from office by state-imposed criteria forbidden by the Constitution. This Maryland religious test for public office unconstitutionally invades the appellant's freedom of belief and religion and therefore cannot be enforced against him.

