

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 351

H. P. 301 House of Representatives, January 23, 1975
Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Faucher of Solon.
Cosponsor: Mr. Carey of Waterville.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

RESOLUTION, Proposing an Amendment to the Constitution to Provide a Non-jury Trial for Petty Criminal Offenses.

Constitutional amendment. RESOLVED: Two-thirds of each branch of the Legislature concurring, that the following amendment to the Constitution of this State be proposed:

Constitution, Art. I, § 6, last ¶, first sentence, is amended to read:

To have a speedy, public and impartial trial, and, except in trials by martial law or impeachment, **and, except in trials of offenses punishable by not more than six months in prison or a \$500 fine, or both, and offenses of petty crimes as recognized at common law, by a jury of the vicinity.**

Form of question and date when amendment shall be voted upon. Resolved: That the aldermen of cities, the selectmen of towns and the assessors of the several plantations of this State are empowered and directed to notify the inhabitants of their respective cities, towns and plantations to meet in the manner prescribed by law for calling and holding biennial meetings of said inhabitants for the election of Senators and Representatives at the next general election in the month of November or special state-wide election on the Tuesday following the first Monday of November following the passage of this resolution to give in their votes upon the amendment proposed in the foregoing resolution, and the question shall be:

“Shall the Constitution be amended as proposed by a resolution of the Legislature to provide a non-jury trial for petty criminal offenses?”

The inhabitants of said cities, towns and plantations shall vote by ballot on said question, and shall indicate by a cross or check mark placed against

the words "Yes" or "No" their opinion of the same. The ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings, and returns made to the Office of the Secretary of State in the same manner as votes for Governor and Members of the Legislature, and the Governor and Council shall review the same, and if it shall appear that a majority of the inhabitants voting on the question are in favor of the amendment, the Governor shall forthwith make known the fact by his proclamation, and the amendment shall thereupon, as of the date of said proclamation, become a part of the Constitution.

Secretary of State shall prepare ballots. Resolved: That the Secretary of State shall prepare and furnish to the several cities, towns and plantations ballots and blank returns in conformity with the foregoing resolution, accompanied by a copy thereof.

STATEMENT OF FACT

It is the purpose of this resolution to amend Article I, Section 6 of the Constitution of Maine so that only persons committing a serious crime, as opposed to a petty crime, will have a right to a jury trial. The law in the federal system, as well as in 48 of the 50 states, allows non-jury trials of petty offenses. Only Massachusetts and Maine guarantee a trial by jury for all crimes.

A petty offense is defined by the Supreme Judicial Court of Maine, by the United States Supreme Court and by United States Congress as an offense punishable by no more than 6 months in prison or a fine of \$500, or both.

This Amendment to Article I, Section 6 would make the right to a jury trial in the State of Maine Constitution the same as that found by the Supreme Court of the United States in the Federal Constitution:

So called petty offenses were tried without juries both in England and in the Colonies and have always been held to be exempt from the otherwise comprehensible language of the Sixth Amendment's jury trial provisions.

Duncan v. Louisiana, 391 U. S. 145, 160, (1967).

By amending the Constitution of the State of Maine to allow non-jury trials only for petty criminal offenses, the heavy burden on the state court system will be lightened and the due process right of all citizens to a fair and speedy trial will be enhanced.