MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
http://legislature.maine.gov/lawlib

116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document No. 1194

H.P. 880   House of Representatives, April 6, 1993

RESOLUTION, Proposing an Amendment to the Constitution of Maine
Repealing the Requirement of Grand Jury Review for Noncapital Crimes.

Reported by Representative PARADIS for the Commission to Study the Future of Maine's
Courts pursuant to Public Law 1989, chapter 891, Part B, section 6, as amended.
    Reference to the Joint Standing Committee on Judiciary suggested and printing ordered under
Joint Rule 20.

JOSEPH W. MAYO, Clerk

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

Constitution, Art. 1, §7 is amended to read:

Section 7. No person to answer to certain crimes but on
indictment; exceptions; juries. ~~No person shall be held to
answer for a capital or infamous crime, unless on a presentment
or indictment of a grand jury, except in cases of impeachment, or
in such cases of offenses, as are usually cognizable by a justice
of the peace, or in cases arising in the army or navy, or in the
militia when in actual service in time of war or public danger.~~
Any criminal offense for which there is a penalty of one year or
more of imprisonment that is within the jurisdiction of a court
established under Article VI, Section 1 may be prosecuted by
indictment at the election of the prosecuting officer. A person
prosecuted other than by indictment may not be held to answer
unless a judicial officer has found on the basis of evidence
presented that there is probable cause to believe that an offense
has been committed by the person prosecuted. The Legislature
shall provide by law a suitable and impartial mode of selecting
juries, and their usual number and unanimity, in indictments and
convictions, shall be held indispensable.

; and be it further

**Constitutional referendum procedure; form of question; effective
date. Resolved:** That the municipal officers of this State shall
notify the inhabitants of their respective cities, towns and
plantations to meet, in the manner prescribed by law for holding
a statewide election, at a statewide election, on the Tuesday
following the first Monday of November following the passage of
this resolution, to vote upon the ratification of the amendment
proposed in this resolution by voting upon the following question:

"Do you favor amending the Constitution of Maine as proposed
by resolution of the Legislature to eliminate the
requirement of grand jury review of noncapital criminal
cases when a judge has already found probable cause?"

The legal voters of each city, town and plantation shall
vote by ballot on this question and designate their choice by a
cross or check mark placed within the corresponding square below
the word "Yes" or "No." The ballots must be received, sorted,
counted and declared in open ward, town and plantation meetings
and returns made to the Secretary of State in the same manner as
votes for members of the Legislature. The Governor shall review
the returns and, if it appears that a majority of the legal votes
are cast in favor of the amendment, the Governor shall proclaim

2   that fact without delay and the amendment becomes part of the
Constitution on the date of the proclamation; and be it further

4   **Secretary of State shall prepare ballots. Resolved:** That the
Secretary of State shall prepare and furnish to each city, town

6   and plantation all ballots, returns and copies of this resolution
necessary to carry out the purpose of this referendum.

8

10   **STATEMENT OF FACT**

12   This constitutional resolution is a recommendation of the
Commission to Study the Future of Maine's Courts and authorizes

14   district attorneys and the Attorney General to prosecute criminal
cases without the necessity of scheduling grand jury hearings

16   when a judge has made a prior finding of probable cause.