

# MAINE STATE LEGISLATURE

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**PUBLIC DOCUMENTS**

OF THE

**STATE OF MAINE**

BEING THE

**REPORTS**

OF THE VARIOUS

**PUBLIC OFFICERS  
DEPARTMENTS AND  
INSTITUTIONS**

FOR THE TWO YEARS

**JULY 1, 1928 - JUNE 30, 1930**

STATE OF MAINE

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REPORT

OF THE

ATTORNEY GENERAL

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for the calendar years

1929-1930

## FRAUD—CHECKS

April 26, 1930

Ralph W. Hawkes, Esq.,  
County Attorney,  
York Village, Maine

Dear Brother Hawkes: *In Re: P. L. 1923, Chap. 7.*

In answer to your letter of April 18, I am pleased to inform you that according to the decision of *State vs. Vashon*, 123 Me. 412, it is my opinion that the Legislature in providing that a person issuing a fraudulent check where the penalty is by imprisonment for not more than a year, shall be guilty of a misdemeanor, exceeded its Constitutional limitations.

Chapter 137, Section 3, provides that:

“Imprisonment for one year must be inflicted in the State Prison, unless otherwise specially provided.”

The Court says, in the aforesaid case, that:

“Such a punishment makes the crime a felony.”

The fact that the Legislature says that the crime shall be a misdemeanor would not have any controlling effect over the section which makes it possible to impose a sentence of one year.

Trusting that the foregoing will answer your inquiry, I am

Sincerely yours,

CLEMENT F. ROBINSON

Attorney General