STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1941--1942

It is the opinion of this office that an endorsement meeting the requirements of the act will comply with the statute when such endorsement is incorporated in the policy either by way of incorporation in the body of the policy or by attachment thereto as a rider.

It is my opinion that the following provision

> "Such insurance as is afforded by this policy for bodily injury liability or property damage liability shall comply with the provisions of the motor vehicle financial responsibility law of any state or province which shall be applicable with respect to any such liability arising out of the ownership, maintenance or use of the automobile during the policy period, to the extent of the coverage and limits of liability required by such law, but in no event in excess of the limits of liability stated in this policy. The insured agrees to reimburse the company for any payment made by the company which it would not have been obligated to make under the terms of this policy except for the agreement contained in this paragraph"

constitutes an effective endorsement to convert a standard provisions motor liability policy into a "motor vehicle liability policy" when certificate thereof is filed with the Secretary of State. While I am definitely of this opinion I should like to point out that the final clause of the first sentence of this endorsement "but in no event in excess of the limits of liability stated in this policy" is open to litigation in that it is conceivable though not probable, that the clause could be interpreted to mean the substantive coverage of the policy rather than the financial limitations of the policy. I am not of the opinion that this particular possibility warrants a requirement at the present time which would preclude litigation on this point but I would strongly urge that if there is any evidence of abuse of this provision by insurance companies doing business in this State either by way of litigation or by way of attempts to "whittle down verdicts" on the threat of an appeal to the law court involving this point the endorsement requirements should then be modified.

I would suggest that the Insurance Department make a recommendation to the insurance companies that the clause in the contract referred to in the previous paragraphs be clarified at the next revision of the standard form insurance policy.

Attorney General

From: April 28, 1942
Frank I. Cowan, Attorney General

To:
Honorable Sumner Sewall
Governor of Maine

The question has been asked by some sheriffs and police officers as to whether enforcement of the Executive Orders under the Civilian Defense Act is confined to such persons as are designated by the

Governor under the provisions of Sections 1 and 2 of said Act (Public Laws 1941, Chapter 305).

It should be clearly understood by all executive officers that the authority given to the Governor under the Civilian Defense Act to invest certain persons with powers, does not in any way lessen the authority of sheriffs, constables, police, wardens and other executive officers in the enforcement of all laws, including the Civilian Defense Act itself. In other words, violations of the Civilian Defense Act come within the authority of the duly constituted officers of the law even though there may be other persons named who shall possess limited authority for the enforcement of the orders and regulations issued under the Act. The fact that certain persons have authority to enforce the rules and regulations issued under this particular law, does not in any way lessen the authority of the regular law enforcement officers to enforce those rules and regulations.

Instructions to this effect should be sent out to all sheriffs and police heads.

Attorney General

From: April 28, 1942

Frank I. Cowan, Attorney General

To:
Honorable Sumner Sewall
Governor of Maine

I have been discussing with Adjutant General Carter the question of your authority to authorize the organization and enlistment as a part of the Maine State Guard of certain irregular bodies and groups and certain individuals who for one reason or another are not eligible to become regular members of the Maine State Guard or are not so situated that they can accept the training requirements of the Guard. Our difficulty in the past has been in the provision of Section 92 of Chapter 7 of the Laws of 1941 setting up the Maine State Guard which uses the words "provided that the organization shall not conflict with the laws of the United States."

General Carter has now shown me a copy of a War Department circular out of the office of the Chief of the National Guard Bureau, bearing date of April 13, 1942 and bearing number 421 (insignia) gen.-78. This circular quotes a "directive" issued by the Adjutant General of the Army to the Commanding Generals of all Corps Areas, etc.; refers to Article I, annexed to the Hague Convention No. 4, October 18, 1907, which classifies irregular or guerrilla troops as lawful belligerents; and sets up a set of suggested regulations.

It is very possible that the common law doctrine of militia, to wit, that it includes all males capable of bearing arms, is the law in Maine without regard to the fact that Section 1 of the Military Law restricts the militia to ages between 18 and 45. However, the Maine State Guard Act, as amended by Chapter 312 of the Public Laws of