insurance agent who produces business for the finance company.

OFFICIAL OPINION NO. 10

February 1, 1946.

Hon. Earl S. Cummings, Attorney,
For the Division of Public Safety,
State of Indiana,
Room 149, State House,
Indianapolis 4, Indiana.

Dear Sir:

Your letter of January 21, 1946 has been received in which you request an opinion on the following question:

"Under Section 4 of Chapter 355, Acts 1945, is an aggrieved party entitled to a Court Review of an order or act of the Commissioner?"

You further desired to know if the right of appeal granted in Section 3 (d) of the Act would carry over and be applicable to any act of the commissioner performed under the authority prescribed in Section 4 of said statute.

On the latter question it is submitted the right of review contained in Clause (d) of Section 3 of Chapter 355 of the Acts of 1945 is restricted to any order or act of the commissioner under Section 3 (c) or the statute or any other section to which it may relate. It is clear, however, that Section 3 (c) relates only to future responsibility and since Section 4 deals only with present responsibility, the specific provisions of Section 3 (d) would not apply to Section 4 of said Act.

However, on the main question presented as to the right of a review by a court of competent jurisdiction of an order or act of the commissioner under Section 4 of said statute it is submitted the question of the inherent right of review by a court of competent jurisdiction of orders or findings of an administrative agency was fully covered in an opinion and supplemental opinion of this office under date of March
29, 1944, to the Hon. F. W. Quackenbush, State Chemist, found in 1944 Indiana O.A.G., pages 116 and 134, the first opinion being Opinion No. 29 and the latter Opinion No. 33.

In said opinions it is pointed out the general rule is that an inherent right of judicial review is available to an injured party from the orders of the administrative body. The scope of such review is to determine the agency has acted within the scope of its power; that substantial evidence supports the factual conclusions; and that its determination comports with the law applicable to the facts found.

Warren v. Indiana Telephone Company (1939), 217 Ind. 93, page 105, page 114, and pages 117 to 119;

Indianapolis Life Insurance Company v. Lundquist (1944), 222 Ind. 359, 53 N. E. 2nd 338, 342;

Russell v. Johnson (1943), 220 Ind. 649, 46 N. E. 2nd 219, 222;

State Board of Medical Registration and Examination v. Scherer (1943), 221 Ind. 92, 46 N. E. 2nd, 602, 603.

Under the foregoing authorities I am of the opinion the person aggrieved by an order or act of the commissioner under the provisions of Section 4, Chapter 355 of the Acts of 1945, would not have the right of statutory review under the Act, but would have an inherent right to present such matter to a court of competent jurisdiction for a review of the commissioner's actions therein to determine if the commissioner has acted within the scope of his powers; that substantial evidence supports the factual conclusions; and that his determination is in conformity with the law applicable to the facts found.