the statement that the general rule is that the liability of the reinsurer is solely to the insured; but that it is competent for the reinsurer to make the reinsurance contract inure directly to the benefit of the party originally insured, and in jurisdictions where a third party is allowed to maintain an action on a contract made for his benefit he may, in such case, recover directly from the reinsurer.

The Fort Dearborn Company could not cancel its policy liability without tender of the return of the unearned portion of the premium. No more could the Central Mutual cancel its liability on a policy issued by the Fort Dearborn without such tender, if the Central Mutual had in fact assumed such liability by novation or subrogation or otherwise. And the mere notice of cancellation without tender of the unearned premium, even though intended to effect a cancellation, nevertheless would not operate as a cancellation unless so treated by the policyholder.

In conclusion, unless the policyholder has assented to the cancellation, liability on the policy, and liability for the return of unearned premium, would still attach, either to the Central Mutual or to the Fort Dearborn. Which company would be liable depends upon the facts in each particular case. But it is sufficient that one or the other of the companies must tender a return of unearned premium before the purported cancellation can be effective.

ADJUTANT GENERAL: Armory board—authority and jurisdiction in its duties in connection with maintenance and operation of Indianapolis armory.

May 6, 1933.

Hon. Elmer F. Straub,
Adjutant General,
Indianapolis, Indiana.

Dear Sir:

I have before me a letter addressed to you by the secretary of the Indianapolis armory board under date of April 25, which you have referred to this office with a request for an official opinion regarding the matters therein contained.

The questions set out by said letter are as follows:
(1) “The authority for its existence and whether or not the state armory board as created by said law, has authorized or sanctioned or provided for the creation and organization of local armory boards—specifically, the armory board at Indianapolis—to which it has delegated any powers of control or supervision of this armory?”

(2) “Whether—if the state armory board has sanctioned the creation and organization of the Indianapolis armory board—has provided for the manner in which the members of the local armory board shall be selected, whether by appointment or election, and, if by appointment, by whom such appointment shall be made, or, if by election, by whom and at what time and place such election shall be conducted? And, whether the number of officers constituting such a board—if in fact such board has any legal entity or status—has been fixed or limited by formal action of the state armory board?”

(3) “What, if any, responsibility or authority exists in the local armory board for the employment and discharge of civilian help to be employed for the care and maintenance of the Indianapolis armory?”

(4) “What, if any, authority exists in the local armory board as to the collection and disbursements of the so-called ‘armory fund,’ which fund is derived from rentals on certain occasions of the armory facilities, and what responsibility, if any, devolves upon the membership of the board through the handling of such funds, if, in fact, no authority for the existence of said local board has been conferred by legal state authorities under the law, or, if the organization and creation of said board has in fact been authorized whether or not any authority has been conferred upon said local board for the custody and expenditure of ‘armory funds’?”

(5) “What, if any, responsibility exists as between the local armory board and the superintendent of the armory and which of the two (the superintendent or the local board) is primarily responsible, if at all, for the care, condition and maintenance of the armory, the employment and discharge of armory employees?”
I will attempt to answer the questions in the order in which they are propounded.

(1) Section 9929 Burns Revised Statutes of 1926 reads in part as follows:

"When such armory or armories are erected or provided, the said armory board shall have charge thereof, and arrange for its occupancy and use under the direction and responsibility of the senior officer in command of such company, battery, troop, battalion or regimental organization."

Section 9930 Burns Revised Statutes of 1926 reads as follows:

"The armory board hereby appointed shall also constitute a board for the general management and care of said armories when established, and shall have the power to adopt and prescribe rules and regulations for their management and government, and formulate such rules for the guidance of the organization occupying them as may be necessary and desirable."

These two sections give the state armory board adequate authority to adopt such rules and regulations as may be necessary and advisable to provide for the proper care and management of the various armories in the state of Indiana.

Under and pursuant to the authority of these sections, and particularly of section 9930, the state armory board on December 8, 1931, issued and published certain regulations for the management and care of armories, entitled "General Orders No. 15." Article I of such regulations provides for the creation and organization of local armory boards for the care and management of each armory under the direction of the state armory board.

(2) This question is answered by article I of "General Orders No. 15," issued by the state armory board on December 8, 1931, as above referred to.

(3) This question is answered by clause IV of said "General Orders No. 15," entitled "Caretakers." Paragraphs one to five inclusive under this heading place upon the local armory board the authority and responsibility for employment, supervision and discharge of janitors, caretakers, helpers or custodians.
(4) This question is answered by paragraph 5 of clause I of “General Orders No. 15,” entitled “Duties of Officers,” and by paragraphs 1 to 3, inclusive, of clause V, entitled “General Instructions.” That portion of the question which refers to the responsibility of the membership of the local board in handling the armory fund “if, in fact, no authority for the existence of said local board has been conferred by legal state authorities under the law” is answered by the fact that there is ample legal authority for the existence of the local board. (See answer to question 1, supra.)

(5) Full responsibility for the care, condition and maintenance of the armory and for the employment and discharge of armory employees rests with the local armory board, subject to such regulations as may be promulgated by the state armory board. By sections 9929 and 9930, Burns Revised Statutes 1926 (quoted supra), the care and management of all armories is vested in the state armory board. By virtue of “General Orders No. 15,” hereinabove referred to, the care and management of the armories have been delegated by the state armory board to each respective local armory board, subject to the orders and regulations of the state board.

I am at a loss to know to whom you refer by the term “superintendent of the armory” in your fifth question. But whether you mean the commander of the local national guard organization, or a person in the position of janitor or custodian, the answer is the same. That is, either of such persons to whom you may refer is responsible to the local armory board, with whom the ultimate local authority and responsibility rests pertaining to the care and management of the armory.

Under paragraph 11 of Article II of “General Orders No. 15,” organization commanders are made directly responsible for “the care and cleanliness of all rooms occupied by their organizations and for the care and protection of property under their control.”

Of course, the present local responsibility for the care and management of armories is fixed by the regulations issued by the state armory board, and is subject to change at the discretion of such board within the limitations of the statutes giving it the power to “promulgate such rules * * * as may be necessary and desirable.” (Sec. 9930 Burns R. S. 1926.)