change of venue the fees, if any, of such jury commissioner so required and allowed by the court in such case, are a proper item of expense to be taxed and charged against the county from which said cause was venued.

Burns' R. S. 1933, Section 49-1311, and Burns' Pocket Supp., Section 49-1008, provide for the taxation of certain fees for the sheriff in summoning jurors and mileage fees when the sheriff furnishes his own automobile in such instances; and such specific items of fees and costs are proper items of costs to be taxed by the clerk against the county from which said cause has been venued.

In addition to the particular items above mentioned there may be other items of fees or costs which a particular section of a statute expressly authorizes to be taxed as costs, and in the case of any such specific item which may not be mentioned in this opinion, where the statute requires the same to be taxed as an item of cost, then and in such event, any such item should also be included in the costs to be charged against the county from which the cause was venued.

Answering your last question, it is my opinion that in cases where a second change of venue has been taken in a cause, the court in which the cause is tried and disposed of should certify the claim for expense contemplated by Section 2-1417, direct to the county in which the cause originated, and from which the change of venue was first taken, and not to the intermediate county to which the cause was venued and from which the second change of venue was taken to the trial county.

SECRETARY OF STATE: Corporations, fee chargeable to a foreign agricultural cooperative corporation for increase in proportion of its capital stock.

Mr. Warren Day,
Chief Corporation Counsel,
Office of Secretary of State,
Indianapolis, Indiana.

Dear Mr. Day:

I have your letter of the 24th in which you request an official opinion upon the following question:
"Is a foreign agricultural cooperative corporation, admitted under the provisions of Section 7 of Chapter 284 of the Acts of 1935 (Section 15-1631, Burns' Indiana Statutes Annotated 1933 Supplement) to operate in the State of Indiana, liable for a fee for increase in the number of shares of its capital stock represented in Indiana, as reflected in annual report filed with the Secretary of State?"

It is clear that, upon its admission to transact business in the State of Indiana, a foreign agricultural cooperative association must pay an admission fee provided for in Section 7 of Chapter 284 of the Acts of 1935 (15-1631, Burns' 1933 Supplement). It is provided in that section that the fees for filing with the Secretary of State of Indiana a copy of the articles of incorporation "shall be the same fees which would be required if the applicant were seeking to be incorporated under this act, except that any fee calculated upon the basis of capital or capital stock shall be calculated from the proportion of the same represented in this state: Provided, That such fees shall be not less than ten dollars ($10.00)."

No specific provision is made in the Agricultural Cooperative Association Act for the payment of a fee for increase in proportion of the capital stock employed in Indiana. By Section 8 of Chapter 151 of the Acts of 1939 (15-1629 Burns' 1933 Supplement) it is provided:

"Sec. 8. That Sec. 29 of the first above entitled act be amended to read as follows: Sec. 29. General cooperative corporation laws, when applicable to associations. The provisions of the general cooperative laws of the state, when and as enacted and in force, and as from time to time amended, shall apply to associations formed under this act, except where the provisions thereof are in conflict with or inconsistent with the express provisions of this act. * * *"

Unfortunately, the Legislature then failed to enact any general cooperative act to which reference might be made for those things not covered in detail by the Agricultural Cooperative Association Act.
Hence a more detailed examination of the Agricultural Cooperative Association Act must then be made in order to determine whether any provision of that act would justify the imposition of a fee for a proportionate increase in stock employed in Indiana.

Section 30 of the Agricultural Cooperative Act, by a 1939 amendment (15-1630 Burns’ 1933 Supplement), sets forth a schedule of fees in Subsection (c) which provides:

“For filing with the secretary of state a certificate of increase of capital stock of any association for an increase of not more than five thousand dollars ($5,000) of par value, five dollars ($5.00), and for each one hundred dollars ($100) of par value of increase above such amount, one cent (1c).”

That the Legislature intended foreign cooperative associations to pay all fees paid by domestic cooperative associations is apparent in the section first quoted wherein it was provided that the fees mentioned should be the same as those which would be required if the applicant were seeking to be incorporated in Indiana under this Act.

Further, by Section 9 of Chapter 284 of the Acts of 1935 (15-1633 Burns 1933 Supplement), the legislative intent is made clear. It is there provided:

“Any nonprofit cooperative association heretofore or hereafter organized under the agricultural cooperative law of any state of the United States other than Indiana and heretofore or hereafter admitted to do business in Indiana shall have authority to transact in this state (and) the business set forth in the certificate of such admission issued to it by the secretary of state and shall have the same rights, privileges, powers, and remedies at law or in equity now possessed by, or hereafter conferred upon, and shall be subject to the same liabilities, restrictions, duties and penalties, now in force or hereafter imposed upon, associations incorporated under this act.”

One of the liabilities or duties placed upon a domestic association incorporated under the Act is the payment of a fee
for increase in stock. It would seem to follow that a like duty and liability is imposed under the Act upon foreign corporations and that such associations, when it is revealed in their annual reports that there has been a proportionate increase in capital stock employed in Indiana, should pay the fee prescribed in the aforementioned Subsection (c) of Section 9.

BOARD OF EMBALMERS AND FUNERAL DIRECTORS:
Burial Associations. Construction of Section 63-727 Burns Indiana Statutes Supplement with reference to the insurance policy sold by Woodruff’s Life Insurance Company of Louisiana.

October 14, 1943.

Mr. Luther J. Shirley, Secretary,
Board of Embalmers and Funeral Directors,
946 North Illinois Street,
Indianapolis, Indiana.

Dear Sir:

I have your letter of September 20, 1943, enclosing considerable advertising material and an insurance policy of Woodruff’s Life Insurance Company of Louisiana, in which you request my opinion concerning the legality of a contract between a licensed funeral director in Indiana and Woodruff’s Life Insurance Company by which contract the Insurance Company agrees that the funeral director would handle all funerals of its policy holders within a certain territory. The plan seems substantially as follows: Woodruff’s Life Insurance Company of Baton Rouge, Louisiana, has specialized for a period of some years in funeral benefit insurance and has advertised that as an insurance company it contracts with a funeral director in each community, which funeral director, upon the death of one of the policy holders, takes up the policy and supplies the benefits under the policy for the insurance company. It is also advertised that the insurance company has more than three hundred funeral directors located throughout the United States. The policy submitted, known as a “Special 20-Year Term Funeral Benefit Policy,” provides as follows: