"It is my opinion, therefore, that the ordinary court costs, such as the fees of the clerk and the sheriff, are not properly taxable against the state in condemnation cases. But the specific charges referred to in your letter—the appraisers' fees and the printing charges— are not 'costs,' within the strict meaning of the term, but are amounts due for services rendered by parties who are not obligated to render services as officers of the court as are the officers above mentioned, and such charges, in my opinion, are properly taxable against the state and payable out of the state highway fund."

We wish to concur in and approve the above opinion as given by Attorney General Gilliom and affirm that it correctly states our opinion as to the costs in condemnation proceedings.

ACCOUNTS, BOARD OF: Whether gasoline license fees and motor vehicle registration fees must be appropriated by county council.

January 24, 1933.

Hon. Lawrence F. Orr,
State Examiner,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter submitting the following questions:

"Do the gasoline license fees and motor vehicle registration fees distributed to the counties under authority of chapter 12 and chapter 11, respectively, of the Acts of 1932, have to be appropriated by the county council?"

"If not, on what authority would the county auditor draw warrants on these funds?"

In my opinion, your first question should be answered in the affirmative. Section 5876 of Burns Annotated Indiana Statutes of 1926, provides in part that:

"The power of making appropriations of money to be paid out of the county treasury shall be vested exclusively in such council, and, except as in this act otherwise expressly provided, no money shall be drawn from such treasury but in pursuance of appropriations so made."
Moreover, section 5883 of Burns Annotated Indiana Statutes of 1926, after enumerating various cases in which prior appropriations are not required, none of which are applicable to your question, provides as follows:

“In all the above enumerated instances, payment may be made out of the county treasury upon the authority and in the manner prescribed by law without appropriations by the county council. In all other instances, no warrant shall be drawn upon, or money paid out of, the county treasury, unless an appropriation by the county council therefore has been made for the calendar year in which the payment is made; and which appropriation remains unexhausted.”

I do not think it can be said that chapters 11 and 12 of the Acts of 1932, exclude the funds referred to in your question from the requirements of the above quoted general provisions of the statutes with reference to county business which are clearly in full force and effect.

Your first question being answered in the affirmative, the second requires no answer.

MINING DEPARTMENT: Duties of mine boss in reporting accidents.

Mr. Albert C. Dally,
Chief Mine Inspector,
421 State Capitol,
Indianapolis, Indiana.

January 25, 1933.

Dear Sir:

Your letter of January 23 addressed to me with regard to the death on December 23, 1932, of Mr. James Roach by electrocution at the Princeton Mining Company’s King Station mine in Gibson County, by a high tension wire running through the mining property, while the deceased was engaged in the operation of a hand crane drawing material to the top of a building which was being erected on the mine property, has been received.

It is my opinion, that the duties of the mine boss under section 10032, Burns R. S. 1926, sub-sections “e” and “f” and of section 10050, Burns R. S. 1926, apply peculiarly to the operation of coal mines and do not apply to any acts which do not occur in the actual operation of mining coal.