irregularity or illegality involves a mandatory and jurisdictional step necessary to constitute a valid appropriation.

STATE BOARD OF ACCOUNTS: Coroner—Fees. Entitled to fees for number of days services actually performed.

May 6, 1944.

Opinion No. 47

Hon. Otto K. Jensen,
State Examiner,
Department of Inspection and Supervision of Public Offices,
State House,
Indianapolis, Indiana.

Dear Mr. Jensen:

This will acknowledge receipt of your letter dated May 4th, 1944, which propounds the following question:

"In a case where a coroner filed his claim for services for one day for viewing body and one day for swearing witnesses and hearing evidence, we are asked whether he is entitled to receive compensation for an additional day for making his report, if dated subsequent to the day of hearing the evidence, and also for an additional day for filing his report and verdict with the clerk of the circuit court.

"I would like to have your opinion upon the question thus presented."

In considering the proper answer to your letter, I call your attention to two official opinions rendered by the Attorney General to you under dates of September 3, 1941; and October 28, 1941 respectively, and which said official opinions are found in Opinions of the Attorney General, 1941, pages 306 and 360 respectively.

In addition to what is said in these opinions, I call your attention to the language contained in Burns' R. S. 1933, Section 26-807, which reads as follows:

"The county commissioners shall examine into the the merits of all claims so presented; and may, in their
discretion, allow any claim, in whole or in part, as they may find it to be just and owing.”

The Supreme Court of Indiana, in the case of Stults v. Board, etc., 168 Ind. 539 on page 542, in speaking upon the question of the allowance of a claim for services rendered by a county coroner with the Board of Commissioners, says:

“* * * The board of commissioners is required to pass on the claim, and the allowance of it by the board depends, under Section 7846 Burns’ 1901, Section 5759 R. S. 1881, upon whether it be found to be ‘just and owing.’ Pfaff v. State, ex rel (1884), 94 Ind. 529.”

Therefore, in answer to your letter and in addition to what is said in the two former opinions of the Attorney General heretofore cited, it is my opinion that the proper answer to your question depends upon a question of fact and if the additional days are actually required to perform the services referred to in your letter, and such services are actually rendered, and in so doing more than one day is required to perform such services, then and in that event, under the provisions of Section 49-2917, the coroner is entitled to receive the sum of $5.00 for the first day and $2.50 for each additional day actually required, and upon which services are actually performed.

Under the provisions of Section 26-807, supra, it is necessary for the coroner to file his verified claim with the board of commissioners, setting forth therein the services rendered and the respective dates upon which such services are rendered, and performed, and it is the duty of the board of commissioners to investigate the merits of the claim and either allow or disallow the same in whole or in part, as disclosed by the evidence to be justly due and owing.