

**Corporations, Foreign. Filing Fee of. Foreign Corporations,  
Liability for Filing Fee. Fee, for Corporations for Filing.**

The corporations enumerated do not come within the interstate commerce clause, depriving the state of the authority to fix the filing fee.

March 14th, 1913.

Hon. A. M. Alderson,  
Secretary of State,  
Helena, Montana.

Dear Sir:

I am in receipt of your verbal request for an opinion as to what foreign corporations are affected by the recent decision of our supreme court rendered on March 8th, 1913, in *Chicago, Milwaukee & St. Paul Railway Co. v. T. M. Swindlehurst*, Secretary of State, holding that the plaintiff company in that case was not required to pay the filing fee designated in the statute for receiving and filing articles of incorporation of a foreign corporation, the decision being based upon the ground that the plaintiff company was engaged in interstate commerce.

The opinion and decision of the court in that case follows very closely the opinion and decision of the federal supreme court in:

*Western Union Tel. Co. v. Kansas*, 216 U. S. 1.

*International Text Book Co. v. Pigg*, 217 U. S. 91.

*Pullman Co. v. Kansas*, 216 U. S. 56.

And did not go to the extent of holding that commercial, manufacturing, productive, banking, trading and other corporations, whose business and assets may at will be changed from one place to another were engaged in interstate commerce so as to exempt them from paying the filing fee required by our statute. Such corporations may transact business with persons residing in different states, but their business is not necessarily interstate, in the sense that the operation of a railroad extending into two or more states is interstate business or interstate commerce. Hence, all such corporations as above mentioned should be required to pay the fee named in the statute for filing their articles of incorporation in this state.

Very truly yours,

D. M. KELLY,  
Attorney General.