

**Building and Loan Associations—Fees—Certificate of
Incorporation—Secretary of State.**

The fee to be charged a foreign building and loan association for filing a certified copy of its articles with the secretary of state is governed by chapter 95, laws of 1925.

William Powers, Esq.,
Secretary of State,
Helena, Montana.

June 2, 1927.

My dear Mr. Powers:

You have requested my opinion on the following question:

"What fee should be charged foreign building and loan associations for filing certificate of incorporation with the secretary of state under the provisions of section 49, chapter 57, house bill number 4 of the laws of 1927?

Section 49, *supra*, provides as follows:

"Fees of secretary of state, superintendent of banks, Section 145 of the Montana Revised Codes of 1921 and section 221 of the said codes, as amended by chapter 236 of the laws of the Eighteenth Legislative Assembly, and as amended by chapter 98 of the Laws of the Nineteenth Legislative Assembly relating to the fees of the secretary of state and the state examiner, are hereby made applicable to the fees to be paid by all of the associations mentioned and described in this act."

The language of section 49, *supra*, is clear and unambiguous and it is a general rule of construction that "in construing the statute the expressed intention of the legislature must prevail." Applying this rule of construction, the conclusion must be that the fee provided by this act to be charged a foreign building and loan association for filing a certificate of incorporation is that provided for in section 145 R. C. M. 1921. This section insofar as it provides for the fee to be charged a foreign corporation, has been held unconstitutional and void by the supreme court of this state. *J. I. Case Threshing Machine Co. v. C. T. Stewart, Secretary of State*, 60 Mont. 380; *General Electric Company v. Stewart*, 60 Mont. 387.

We are therefore confronted with the same proposition as though the legislature had made no provision in the act in question for the collection of a filing fee. The question then is, No provision for the payment of a filing fee having been made in said act, is a foreign building and loan association required to pay any filing fee under the laws of this state? Section 1 of chapter 95, laws of 1925, provides in part as follows:

"That every foreign corporation required by law to file in the office of the secretary of state a certified copy of a charter or articles of incorporation shall pay to the secretary of state for filing thereof as follows: * * *"

A foreign building and loan association being a foreign corporation and now being required by law to file a certificate of incorporation with the secretary of state, clearly comes within the terms of chapter 95, *supra*, and it is therefore my opinion that since section 145, *supra*, is unconstitutional and void that there is no special statutory provision governing the fee to be collected from a foreign building and loan association for filing its certificate of incorporation, and hence the same is governed by chapter 95, laws of 1925, and you should charge the fee provided therein.

Very truly yours,

L. A. FOOT,
Attorney General.