

to do so, the clerk has no authority to demand or to receive a fee for such application.

State v. District Court, 24 Mont. 425, 427;

State v. District Court, 25 Mont. 1, 2.

Since no transcript was filed, no fee is due therefor. There being no fee due, there is no responsibility upon the clerk to account for it.

Opinion No. 160.

**Clerk of the Supreme Court—Public
Officials—Fees.**

HELD: The clerk of the Supreme Court, under the provisions of Section 372, is not authorized to collect a fee of \$10.00 for application of a party for permission to file a typewritten transcript on appeal and since the transcript itself has never been filed, the clerk is not authorized to collect the fee of \$10.00 provided by said section.

November 6, 1939.

Hon. A. T. Porter
Clerk of the Supreme Court
The Capitol

Dear Mr. Porter:

You present the question whether a party having made application to, and obtained an order from the Court permitting the filing of a typewritten transcript on appeal but who fails to file the transcript, is required to pay the fee of \$10.00 required by Section 372, as amended by Chapter 156, Laws of 1939. This section provides:

“He (the clerk of the Supreme Court) must collect in advance the following fees: For filing the transcript on appeal, in each civil case appealed to the Supreme Court, ten dollars payable by the appellant,
* * * .”

We are unable to find any statute requiring the payment of any fee for making application to the Court for permission to file a typewritten transcript. Under the familiar rule that no officer may demand a fee for any official service unless clearly authorized