

MAINE STATE LEGISLATURE

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March 4, 1948

To Honorable Ernest R. d'Amours,
Attorney General of New Hampshire

Receipt is acknowledged of your letter of March 2d. . .
I am sending you a copy of our statute, which provides for the
fees and compensation payable to executors and trustees.

In practice, judges of probate have allowed 5% to executors
and trustees, provided, however, that in a case where the execu-
tor or trustee named was a lawyer he was not allowed to retain
counsel and charge the estate therefor, except where the questions
of law were such that employment of counsel was necessary, and
then with the approval of the judge. If he did retain counsel for
the routine matters in administration, the judge allowed them to
split the 5% between themselves in such proportion as they saw
fit. However, where serious questions were involved for a deter-
mination by the courts, he was allowed by the judge to retain
counsel and pay reasonable counsel fees therefor, without af-
fecting his commission.

In the case of a trustee, the additional 1% has generally
been allowed, unless the will provided otherwise, in those cases
where he has the management of real estate and would not receive
sufficient reward for such service, because his commissions are
computed on the income, or the management of a substantial trust
where extra services are required in connection with the invest-
ment and re-investment of the corpus.

The chapter I am enclosing is 140, Section 44, of the Re-
vision of 1944.

Abraham Breitbard
Deputy Attorney General

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