

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 executor 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 determination by the courts, he was allowed by the judge to retain counsel and pay reasonable counsel fees therefor, without affecting 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 investment and re-investment of the corpus.

The chapter I am enclosing is 140, Section 44, of the Revision of 1944.

Abraham Breitbard
Deputy Attorney General

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