

MAINE STATE LEGISLATURE

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June 27, 1974

A. Temple Bowen, Jr., Deputy Director

Bureau of Forestry

Lee M. Schepps, Assistant

Attorney General

Rights of Indians to Cut "Basket Ash"

This is in response to your memorandum of May 23, 1974, asking whether or not Indians (Penobscot or Passamaquoddy) have the right to go upon private property not owned by said Indians and cut and take away "basket ash" or ash trees of any kind for the purpose of making baskets.

We have searched among early treaties between Maine and the Indian tribes and between Massachusetts and the Indian tribes, and we have searched among various laws and Resolves of the Legislature of Maine and Massachusetts and have been unable to find any treaty, Act or Resolve which purports to grant or reserve to either of said tribes any such rights.

It is my understanding that the Indians have entered upon land to cut basket ash for a long time and I am reluctant to say that such activity is not founded upon some early treaty or other legally enforceable instrument. Nevertheless, we are unable to find it and unless evidence of the right is produced for our inspection, we must conclude that neither of said tribes possesses the right to cut and carry away "basket ash" trees from lands which they do not own.

LMS/cmf