

128017-1 (Surrey)
33510-2-C (Delta)
Surrey Registry

**IN THE PROVINCIAL COURT OF BRITISH COLUMBIA
(BEFORE THE HONOURABLE JUDGE WINGHAM)**

Surrey, B.C.
November 25, 2010

REGINA

v.

**JOHN MARTIN CUMMINS et al
and
DALE WILLIAM ARMSTRONG et al**

**PROCEEDINGS AT
SENTENCING SUBMISSIONS**

COPY

Federal Crown Counsel:

J. M. Le Dressay

Appearing on his own behalf:

P. Eidsvik

BRUCE PROBERT

THE COURT: All right. Anyone who would like to say something, if you could sort of come up --

THE ACCUSED BRUCE PROBERT: It's Bruce Probert, sir.

THE COURT: I need you to come to the front, and the reason for that is we have microphones -- you don't need to go in the witness box --

THE ACCUSED BRUCE PROBERT: Oh, okay.

THE COURT: -- sir.

THE ACCUSED BRUCE PROBERT: That's fine, okay.

THE COURT: Just -- what would you like to say to me? Sir --

THE ACCUSED BRUCE PROBERT: Well --

THE COURT: Sir, again, first, your name.

THE ACCUSED BRUCE PROBERT: Bruce Probert. It might be under Frederick, my first name's Frederick.

THE COURT: But it's Probert, right?

THE ACCUSED BRUCE PROBERT: Probert, right, yeah.

THE COURT: Okay.

THE ACCUSED BRUCE PROBERT:

Well, I grew up fishing.

I'm third generation, like Dennis Brown. I was a member of the UFAWU for a number of years. I was one of the original area harvest -- Area E Harvest Committee members when they started the elections.

I've been -- well, generally I've spent about 60 days a year in meetings with, like Dennis Brown, ministers. I had no -- no remuneration to myself, right? Like I was a volunteer. And since spending all this times in these meetings, and when I originally started meetings with DFO, the -- the system was called FRAC. That's the acronym. It's the Fraser River Advisory Council.

Now, when I first started there, I took my father's seat, and it was a small board of about 12 people. It involved all different sectors of the fleet, and then you'd have the DFO biologists. And it was a give-and-take and it was a mutual respect, and there was actual consideration of our expertise, that we're -- they were actually asking for our advice, because they respected our knowledge, and my dad, he's 86 now -- I mean at that time he was 60. He had 60 years of -- a lifetime that he

learned from his father and everybody he's fished with his whole life.

Our whole family fished; my brother, my mother, my sister, my brother. Right?

Now, the Mifflin Plan, like it's -- when you look at the Native issue -- the thing about the food fish and the Treaty rights is because of the mistreatment by the Government not living up to their promises and land-claim treaties and such, and the treat -- mistreatment of the Natives, we have been treated the same way, **only it's legal to do it to us.**

We can be discriminated against because it's in the best interests of the Natives, you see? We've lost our livelihood.

I -- as an example, I know this is after the charges. I grew up fishing on the Fraser River, travelled the whole coast fishing. We used to have one licence. We could fish from the Mission Bridge, which is the upper boundary in the Fraser, all the way up to Kwantlen Canal, which is the border with Alaska, right? And one licence. When this whole plan came in prior to 2001, like I -- '96?

MR. EIDSVIK: [Indiscernible - overlapping speakers].

THE ACCUSED BRUCE PROBERT: When it came in, we had to buy three licences in order to fish the same area. So that means -- we call it cannibalizing the fleet. So we actually paid to reduce the number of boats, because we were promised the benefits from the reduced fleet. If there was a hundred -- 400 boats and there's a hundred left and we still catch the same number of fish, everybody catches four times as much.

That's what we were promised, and we never got that. The initial plan promised more time, more area. We got less time, less area. Right?

All these promises have been broken by DFO since -- I've got records at home that I didn't bring, but I've got letters from 1988 to -- to Tom Siddon at the time, when -- just before the start of this. I was at the original meeting in 1992 when John Crosby met with Marie Antoinette, flew me in. I think it was Ross or Russ James. He was the mayor of Chilliwack, and this was a meeting in Vancouver. I was there at the original meeting. We went to protest that. And so these protests are a result of 12 years.

I've attended a standing committee meeting in Ottawa, representing the fishermen I grew up with, and that was eight years ago, and I talked about the 12 years I had spent prior to that and had no effect. And here we are.

So I bought into the Mifflin Plan, 'cause out of ten years, we only fished four out of ten years, on Area E, which is the river now. Fraser. I changed the licence and bought another one for the other two areas, because we weren't fishing there in the Fraser, while everybody was fishing everywhere else. So I paid \$90,000 for a licence and that year, nobody fished. 2005. So you see, I'd already lost all those fishing years that I paid this money, 90 grand, to buy into the Mifflin Plan more time, more area, to -- you know, you -- you want to fish the coast, you have to pay 90 grand

three times now to fish the same areas.

And so after all this, I lost the house I was living in for 25 years. I had depression that I -- has forced me to drop a lot of the work I used to do as a welder, and do scientific sampling on fish -- fish studies on the Fraser, up and down. I've got history with DFO, I've met with all the regional directors, all of them. Right? Pat Seniw, you name it. Been to all the -- to [indiscernible - rapid speech], Peter Pearse twice, Don Fraser, Art May, Bluett Report. I've been to all of them. Right?

And now look. When we hit this wall, what are we supposed to do? What are we supposed to do?

I've tried everything legally I could possibly do without protesting, and they're selling them and we're not even fishing.

I asked this representative for a food fishery that we could legally do just to give some to our families. They would not allow it. They had done it on the East Coast for the cod, though. Right? But they wouldn't allow it for us. It's that bad.

Now, you understand the frustration? And so --

THE COURT: *I think that's the key word, Mr. Probert, and I think that's the key word that I got from the other witnesses and that's what Mr. Eidsvik's been trying to get across, is that you, and I presume the others here, were frustrated.*

THE ACCUSED BRUCE PROBERT: At the end of it, what --

THE COURT: **And I understand that that's where you were coming from.**

THE ACCUSED BRUCE PROBERT: That's the way I feel.

THE COURT: I'm not trying to cut you off, but I think --

THE ACCUSED BRUCE PROBERT: I understand.

THE COURT: -- everything you've said up 'til now was leading up to that word, I think.

THE ACCUSED BRUCE PROBERT: Yeah.

THE COURT: And --

THE ACCUSED BRUCE PROBERT: Well, that's what it was.

THE COURT: Okay.

THE ACCUSED BRUCE PROBERT: But -- years and years of frustration.

You have to understand. DFO lied to our face, say they consulted us and then take all the stuff that worked against us without taking any of our advice that helped us. You take all the bad -- worst of the policies for us and not take the compromise that

we agree -- made -- that led to the agreement. Anyways, that's my --

THE COURT: All right. Thank you, Mr. Probert.