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January 8, 2007

Letters to Editor
The Vancouver Sun
#1 - 200 Granville Street
Vancouver B.C. V6C 3N3

Dear Editor:

Re: Race-based myth, January 8, 2007

Hamar Foster creates straw men and blows them down with academic hot air.

The good professor implies that 30 years ago U.S. courts found an aboriginal right to 50 % of the salmon fishery when in fact the U.S. courts found themselves bound by the Boldt treaty and acknowledged a treaty right to 50% of the salmon. There is no Canadian counterpart to the Boldt treaty unless one turns to more recent treaties such as the Tsawwassen treaty signed on December 8th by Jim Prentice. The Tsawwassen treaty would guarantee a percentage of the Fraser River fishery to the Tsawwassen band. There are some 90 bands on the Fraser. If all were to have treaties similar to the Tsawwassen, virtually 100% of the Fraser River fishery would be guaranteed to those aboriginals who had signed such treaties and would exclude those fishermen, aboriginal and otherwise who are not beneficiaries of one of these new treaties.

Outside of the treaty process in British Columbia native fishing rights have been addressed by the Supreme Court of Canada.

In *Sparrow* the Court recognized an inherent aboriginal right to fish for food, social and ceremonial purposes, a right that has nothing to do with treaties.

In the *Van der Peet* and *NTC Smokehouse* decisions the Court concluded there was no inherent right to a commercial salmon fishery because the commercial sale of salmon was not an integral part of aboriginal society prior to the arrival of Europeans.

Aside from a native right to fish for food, social and ceremonial purposes in British Columbia, the push has always been for a single fishery open to all. The original constitution of British Columbia as set out in the grant of authority to the Hudson's Bay Company was specifically rewritten to provide for a common public fishery. A series of court cases and references to the Supreme Court involving the B.C. fishery have acknowledged that the right to a common public fishery is firmly rooted in our constitutional history and can be traced back to the Magna Carta. When the right to

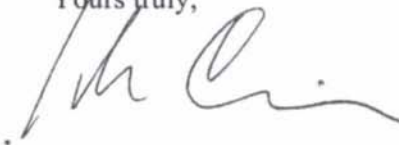
fish in a common public fishery is respected, every resident of the province has an equal right to participate in recreational and commercial fisheries.

Professor Foster mentions the confiscation of Japanese fishing boats during World War II because it fits his contrived argument but he fails to mention the racism exhibited by native and "white" fishermen in the 1920s. There, the racism did not arise from the confusion of war but from jealousy. The Japanese were too successful and both native and white fishermen wanted restrictions placed on them. It was the government of the day that turned that clamor into government policy. First Japanese fishermen were prevented from using motors on their boats. Then the government enacted regulations to take away the fishing licenses of Japanese fishermen. After protests and legal action by the Japanese fishermen our highest court rejected the King government's argument that the government had the authority to discriminate or segregate the fishery based on the race or ancestry of fishermen.

Professor Foster ought not to distort B.C.'s legal and constitutional history to create a case for dividing the fishery on the basis of race or ancestry. The darkest days in the fishery have been those when government thought it had found a good reason to segregate the fishery based on the race or ancestry of fishermen.

Prime Minister Harper's rejection of segregated fisheries last summer was a refreshing and welcome response to 14 years of racially divisive fisheries policies. Unfortunately the Prime Minister's advisors heeded the siren call of the likes of Hamar Foster rather than the historical facts that would have supported a racially-integrated fishery. Canadians are not well served when their national government supports and mandates racial segregation in the workplace.

Yours truly,

A handwritten signature in black ink, appearing to read 'John Cummins', written in a cursive style.

John Cummins, M.P.
Delta-Richmond East