

Act. In May 1990 the Supreme Court of Canada ruled in *Sparrow v. The Queen* that the Coast Salish right to fish is an existing aboriginal right protected by Section 35(1) of the Constitution Act, 1982. This included the aboriginal right to fish for food, social and ceremonial purposes, a right which takes precedence over other user groups and is second only to conservation of the resource. The court, however, was silent on the right to sell fish commercially. Since this ruling there were a number of lower court decisions concerning the sale of fish by Native people, some in favour, some against. As a result the Fisheries Minister initiated a policy to allow the sale of fish by Native people on a seven-year trial basis (1992 to 1998). In addition to the Sto:lo this policy has been extended to other Native fisheries throughout the province. The Aboriginal Fisheries Strategy has been one of the most contentious issues in the past five years. The Sparrow case hinged on wording in Section 35 of the Constitution which states that "the existing aboriginal and treaty rights of aboriginal peoples of Canada are hereby recognized and affirmed." This has been interpreted to mean rights in existence in 1982. Since the Coast Salish had fished for salmon continuously since British Columbia joined Confederation, albeit under federal provisions allowing a Native food fishery, the right was nevertheless an existing one and gained constitutional authority in 1982 (Sanders 1990:126).

In August of 1996 the Supreme Court of Canada ruled in the *Van der Peet* case that the sale of fish was not an aboriginal right for the Sto:lo. Based on a somewhat hazy test the court determined that selling fish was not "integral" to the culture of the Sto:lo and therefore not protected under Section 35 (1). The implications of this decision are still unclear. Some possible issues will be discussed below.