NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.,* 200 U. S. 321, 337.

# SUPREME COURT OF THE UNITED STATES

Syllabus

## ROBERTSON, CHIEF, UNITED STATES FOREST SERVICE, ET AL. *v.* SEATTLE AUDUBON SOCIETY ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 90–1596. Argued December 2, 1991—Decided March 25, 1992

Respondent environmental groups filed separate lawsuits challenging proposed timber harvesting in certain forests managed by the United States Forest Service and the Bureau of Land Management (BLM). These forests are home to the northern spotted owl, an endangered species. Between them, the two lawsuits alleged violations of five federal statutes. The lower courts preliminarily enjoined some of the challenged harvesting. In response to this ongoing litigation, Congress enacted §318 of the Department of the Interior and Related Agencies Appropriations Act, 1990, also known as the Northwest Timber Compromise. Section 318 both required harvesting and expanded harvesting restrictions. Subsections (b)(3) and (b)(5) prohibited harvesting altogether in various designated areas, and subsection (b)(6)(A) stated in part that ``Congress hereby determines and directs that management [of the forests] according to subsections (b)(3) and (b)(5) . . . is adequate consideration for the purpose of meeting the statutory requirements that are the basis for [the two cases,]'' which were identified by name and caption number. Both District Courts rejected respondents' claims that subsection (b)(6)(A) violated Article III by purporting to direct results in two pending cases. The Court of Appeals reversed, holding the provision unconstitutional under *United States* v. *Klein,* 13 Wall. 128, on the ground that Congress directed a particular decision in the cases without repealing or amending the statutes underlying the litigation.

*Held:* Subsection (b)(6)(A) does not violate Article III. Pp.7–11.

(a)The provision compelled changes in law, not results under

old law, by replacing the legal standards underlying the two original cases with those set forth in subsections (b)(3) and (b)(5). Before its enactment, respondents' claims would fail only if the challenged harvesting violated none of the provisions of the five statutes that formed the basis for the original lawsuits. Under subsection (b)(6)(A), however, the claims would fail if the harvesting satisfied both of two new provisions. Thus, subsection (b)(6)(A)'s operation modified the old provisions. Moreover, there is nothing in the subsection that purported to direct any particular findings of fact or applications of law to fact. Section 318 reserved judgment on the lawfulness of the timber sales under old law. It did not instruct the courts whether any particular timber sales would violate subsections (b)(3) or (b)(5); and it could not instruct that any particular BLM timber sales were lawful, because subsection (b)(5) incorporated by reference the harvesting prohibitions imposed by a BLM agreement not yet in existence when the Compromise was enacted. Pp.7–9.

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(b)The three textual features of subsection (b)(6)(A) cited by respondents do not support their argument that the provision directed findings under old law, rather than supplying new law. The inclusion of the preface ``Congress . . . directs that'' does not undermine the conclusion that what Congress directed—to both courts and agencies—was a change in law. Nor is it significant that the subsection deemed compliance with the new requirements to ``mee[t]'' the old requirements. Although Congress could have modified the old laws directly, its enactment of an entirely separate statute modified the old laws through operation of the canon that specific provisions qualify general ones. Finally, the subsection's explicit reference to the two pending cases served only to identify the five statutory requirements that were the basis for those cases. Pp.9–10.

(c)The Court of Appeals' alternative holding that the provision could not effect an implied modification of substantive law because it was embedded in an appropriations measure is also without merit. Congress may amend a substantive law in an appropriations statute if it does so clearly, see, *e. g., United States* v. *Will,* 449 U.S. 200, 222, and it did so explicitly here. In addition, having determined that the provision would be unconstitutional unless it modified previously existing law, the court was obligated to impose that saving interpretation as long as it was a possible one. See *NLRB* v. *Jones & Laughlin Steel Corp.,* 301 U.S. 1, 30. Pp.10–11.

(d)Since subsection (b)(6)(A) did amend applicable law, there is no reason to address the Court of Appeals' interpretation of *Klein.* The argument of one of respondents' *amici*—that the provision is unconstitutional even if it amended law because it swept no more, or little more, broadly than the range of applications at issue in the pending cases—was not raised below, squarely considered by the Court of Appeals, or advanced by respondents here. P.11.

914 F.2d 1311, reversed and remanded.

THOMAS, J., delivered the opinion for a unanimous Court.