

# Supreme Court reconsiders Endangered Species Act

WASHINGTON (AP) — The Supreme Court, in a spirited argument over the Endangered Species Act, debated Monday whether the government for 20 years has wrongly interpreted the law to ban destruction of wildlife habitat on private property.

Eight of the nine justices fired questions at lawyers for the timber industry and the Clinton administration. The case could lead to one of the court's most important environmental rulings since Congress

passed the law in 1973.

If the government loses the case, "it is going to make it very difficult to enforce the Endangered Species Act at all on private lands," Assistant Interior Secretary George Frampton Jr. said after the arguments.

The case centers on loggers in Oregon who want to cut trees in areas with the threatened northern spotted owl. The discussion before the high court Monday ranged from goats and butterflies to koalas and even

rare bugs splattered on car windshields.

"Couldn't we pick an uglier example ... than a koala bear?" Justice Antonin Scalia asked during a light moment.

Scalia argued for a narrow interpretation of the prohibited "taking" of threatened or endangered species.

"To 'take' an animal refers to hunters. Historically, I've never heard it used in any other way," Scalia said. "The whole spotted owl thing is based on

that notion that people who harvest trees are taking owls ... To say this is taking an animal seems to me just weird."

Breyer said he didn't read the law to apply only when an animal is harmed intentionally, as the industry argued. He suggested it might apply as well when "the person knows it is going, as a consequence, to kill a few rare birds."

Breyer said a farmer who set up a battery of guns to kill crows eating his corn and knew the guns also could kill rare birds

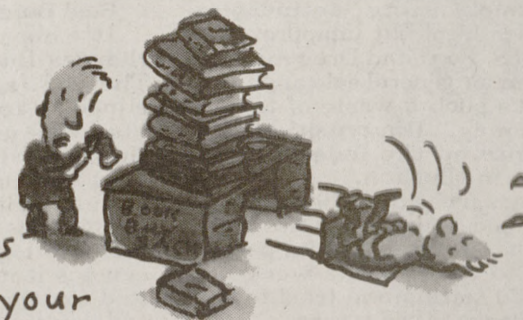
should be held responsible for the deaths of the rare birds. "I don't see how Congress could pass the act and not prohibit the person who, for reasons, is shooting guns at happens to wipe out species," Breyer said.

Justice Anthony Kennedy also suggested it was appropriate to consider "what are logical, likely ... consequences of the habitat destruction."

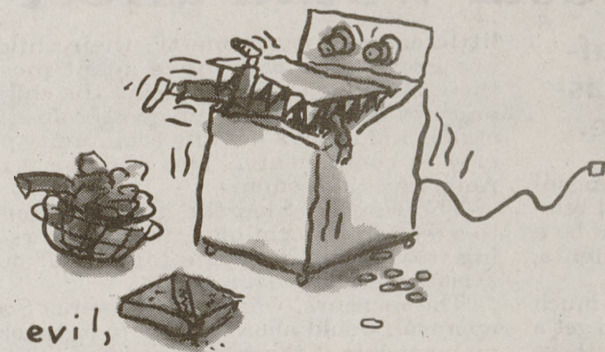
A ruling is expected as late as June.

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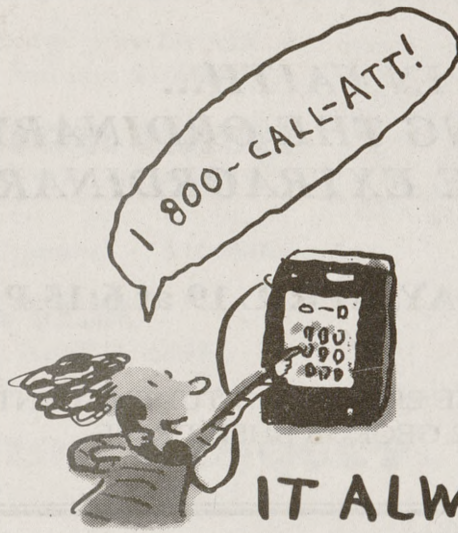
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## Supreme Court upholds ruling in two lawsuits involving reverse discrimination

WASHINGTON (AP) — In an affirmative action under scrutiny, the Supreme Court Monday left intact two victories won by white men said they were victims of reverse discrimination.

The court let stand a ruling that an affirmative action plan for promoting black firefighters in Birmingham, Ala., unlawfully discriminated against whites.

And the justices let a white man collect \$425,000 from a Pittsburgh company he accused of denying him a promotion because of his race.

Neither action was a reversal. Instead, the court made comment as it left intact the appeals court decisions in each case.

But Monday's action was amid growing debate in three branches of government over whether affirmative action still is needed to help minorities — and whether such aid should be limited to non-minorities.

Republican leaders in Congress are seeking elimination of most affirmative action programs. President Clinton has asked for a review of the 100-year-old federal programs that include affirmative action.

And the high court is expected to announce a major decision by July on a white-owned company's challenge to a federal highway program that provides special help to minority-owned small businesses.

In other matters Monday the court:

—Agreed to use a law stemming from the 1983 shooting of a Korean airliner over the Soviet Union to clarify what damages can be awarded to Americans die on international flights.

—Refused to shield a Secret Service agent from being sued for taking along a CBS camera crew when he searched a Brooklyn, N.Y., home three years ago. The lawsuit says he violated residents' right to privacy.

In the Birmingham case, officials and black residents argued that the plan for promoting firefighters was a valid effort to remedy past bias against blacks.

The city had agreed to settle a discrimination lawsuit by starting an affirmative action plan aimed at increasing black employment in the fire department to 28 percent — the share of blacks in the county labor force.

The plan set a temporary goal of promoting blacks to all fire lieutenant openings each year until 28 percent of those jobs were held by blacks.

A group of white firefighters sued in 1982, saying the promotion goal discriminated against them.

The fire department met the 50 percent annual goal in 1989 because it had met the percent overall goal. But the white firefighters' lawsuit continued because they were getting back pay.

The 11th U.S. Circuit Court of Appeals ruled for the white firefighters last year, saying the promotion goal violated the Constitution's guarantee of equal protection and a federal civil rights law.

The appeals court said it found no valid basis for the percent promotion goal because blacks made up a much smaller share of the firefighters eligible for promotion.

In the Pittsburgh case, the court turned down Duquesne Light Co.'s argument that an award won by Frederick C. ... should be overturned because there was no evidence of racial white bias.