

Review Questions

March 4, 2014

1. In descending order of priority, please list how federal courts will typically rank the following legislative history tools to determine Congressional intent:
 - ___ Testimony before a congressional committee by an outside academic expert during deliberation of the bill that Congress subsequently enacted.
 - ___ A Congressional Committee report on the substituted bill that ultimately passed both chambers.
 - ___ Statements on the floor by congressional member opposing passage of the ultimately enacted bill.
 - ___ A Presidential signing statement noting the president's disagreement with Congress' legislative findings within the enacted bill.
 - ___ A statement by the bill's author or sponsor during the debate when Congress passed the bill.
 - ___ Congress' failure to amend the statute after an agency adopted a controversial interpretation of its terms.

2. What intent-based tool of statutory interpretation led the Fourth Circuit to withdraw and reverse its decision in *Montana Wilderness Association v. U.S. Forest Service*?
 - a. The definition of "public lands" in section 1323(b) of the Alaska Lands Act included only lands in Alaska, and therefore the same limitation could be read *in pari materia* into section 1323(a)'s access language

for land located entirely within the National Forest System.

- b. The legislative history for the Alaska Lands Act was too sparse and ambiguous to support an interpretation that would expand its access provisions to the full United States because “Congress does not hide elephants in mouseholes.”
- c. The access provisions of Section 1323(a) applied nationally because the members who sponsored and authored the Alaska Lands Act stated during Congress’ passage of a subsequent bill that they believed the access provisions applied nationally.
- d. A and B.
- e. None of the above.