

# Statutory Interpretation

Jonathan Green

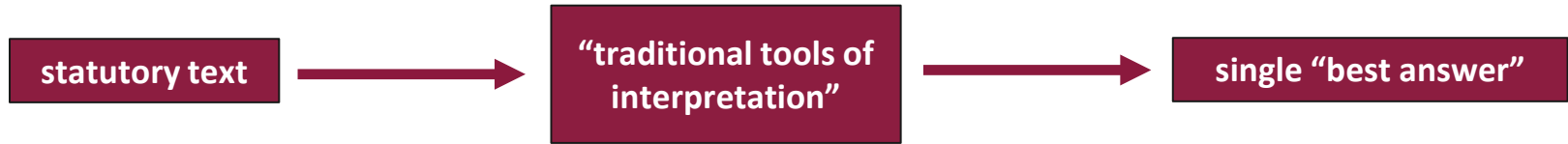
June 25, 2025

Courts ... routinely confront statutory ambiguities in cases having nothing to do with *Chevron*—cases that do not involve agency interpretations or delegations of authority. Of course, when faced with a statutory ambiguity in such a case, the ambiguity is not a delegation to anybody, and a court is not somehow relieved of its obligation to independently interpret the statute. .... [S]uch statutes, no matter how impenetrable, do—in fact, must—have a single, best meaning. ... So instead of declaring a particular party's reading “permissible” in such a case, courts use every tool at their disposal to determine the best reading of the statute and resolve the ambiguity.

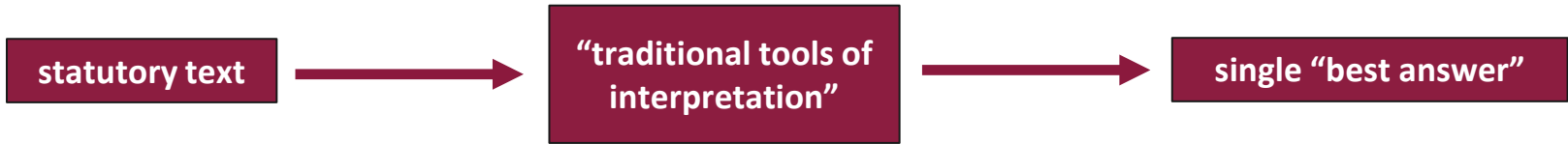
... [It] makes no sense to speak of a “permissible” interpretation that is not the one the court, after applying all relevant interpretive tools, concludes is best. In the business of statutory interpretation, if it is not the best, it is not permissible.

– *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 400 (2024).

# *Loper Bright's* legal determinacy thesis



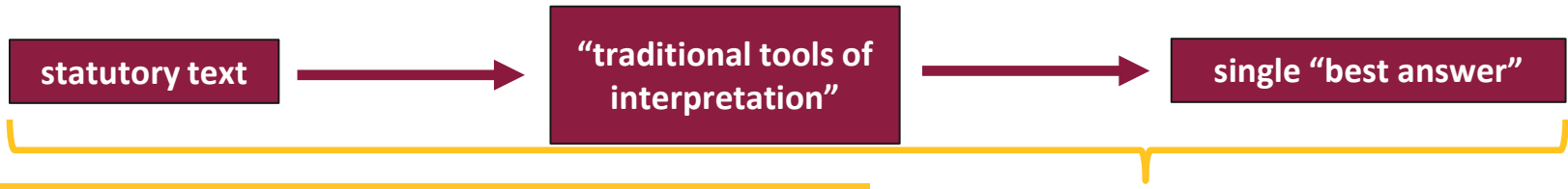
# *Loper Bright's* legal determinacy thesis



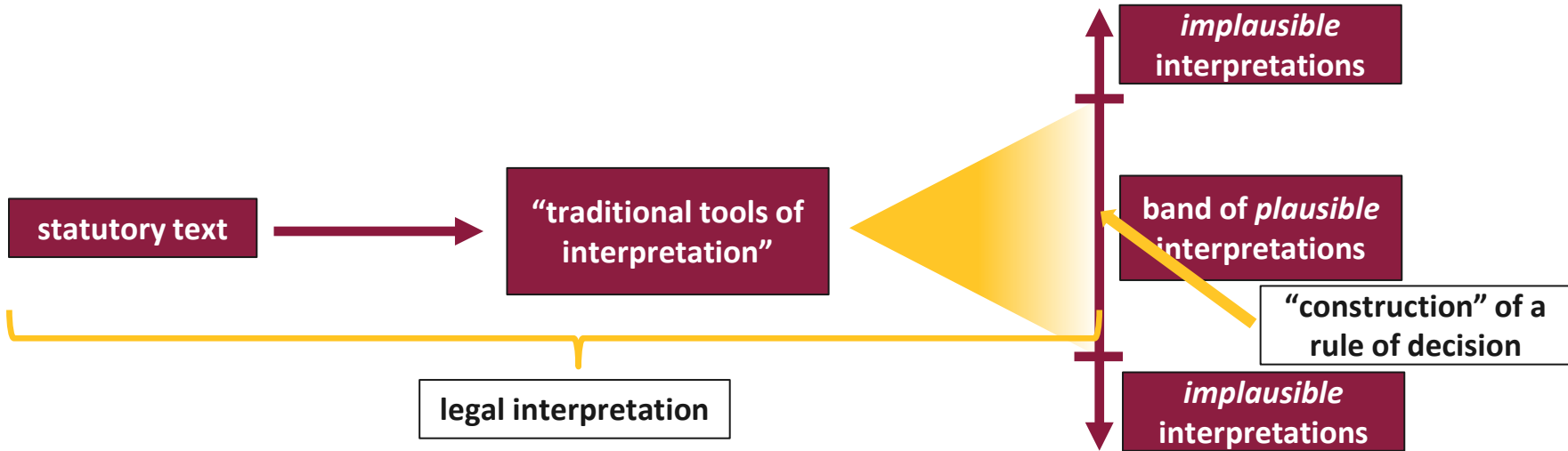
# The "soft realist" thesis



# Loper Bright's legal determinacy thesis



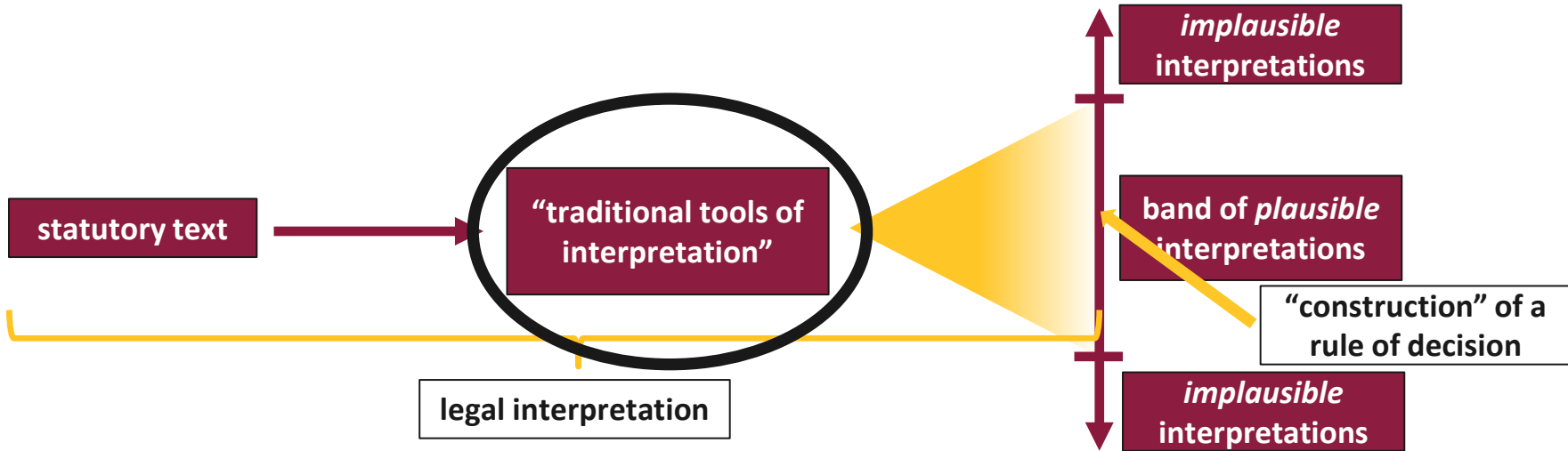
# The "soft realist" thesis



# Loper Bright's legal determinacy thesis



# The "soft realist" thesis



# *Pepper v. Hart* (1993)

Where in any year a person is employed ... and by reason of his employment there is provided for him, or for others being members of his family or household, any benefit ... [that benefit is] chargeable to income tax ... [in] an amount equal to whatever is **the cash equivalent of the benefit**.

The cash equivalent of any benefit chargeable to tax under section 61 [i.e., an in-kind employee benefit] above is an amount equal to the **cost of the benefit**...

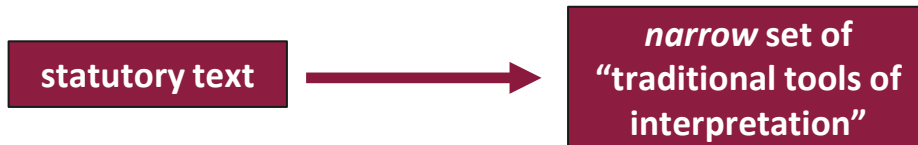
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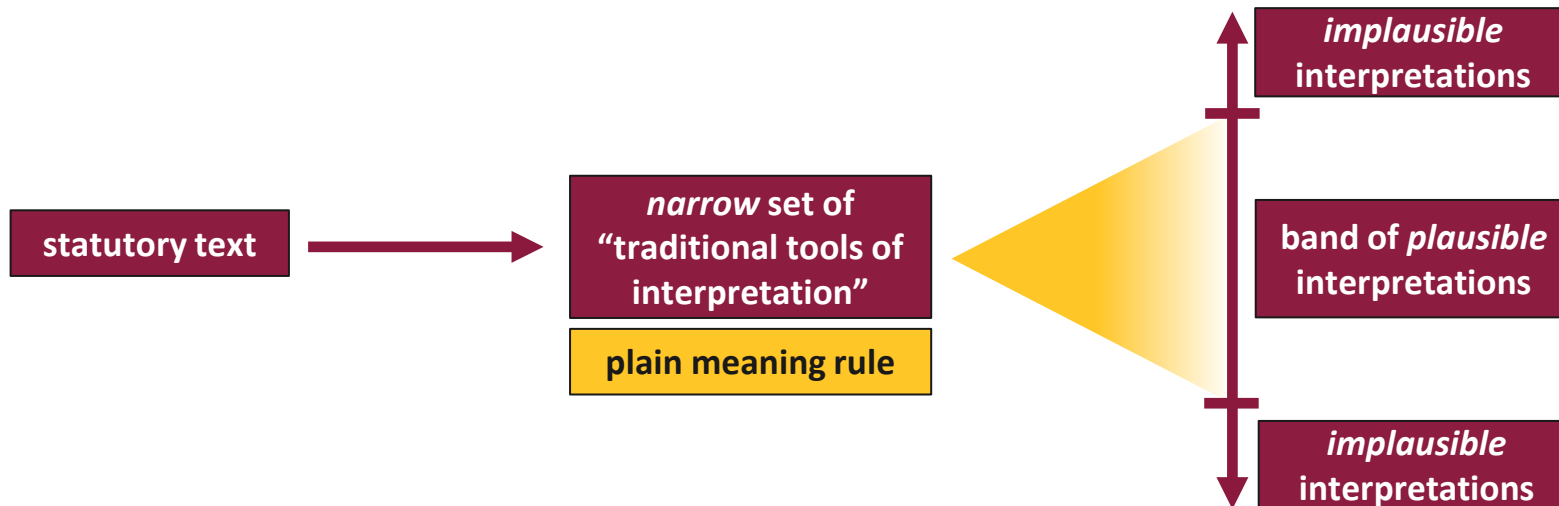


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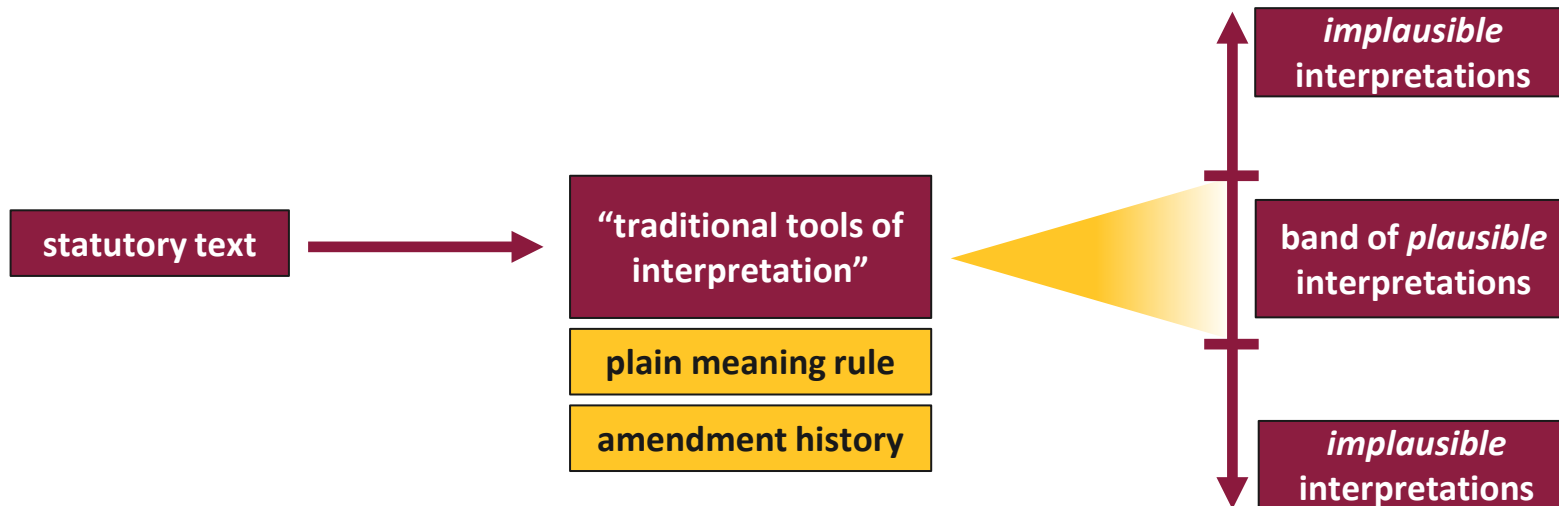


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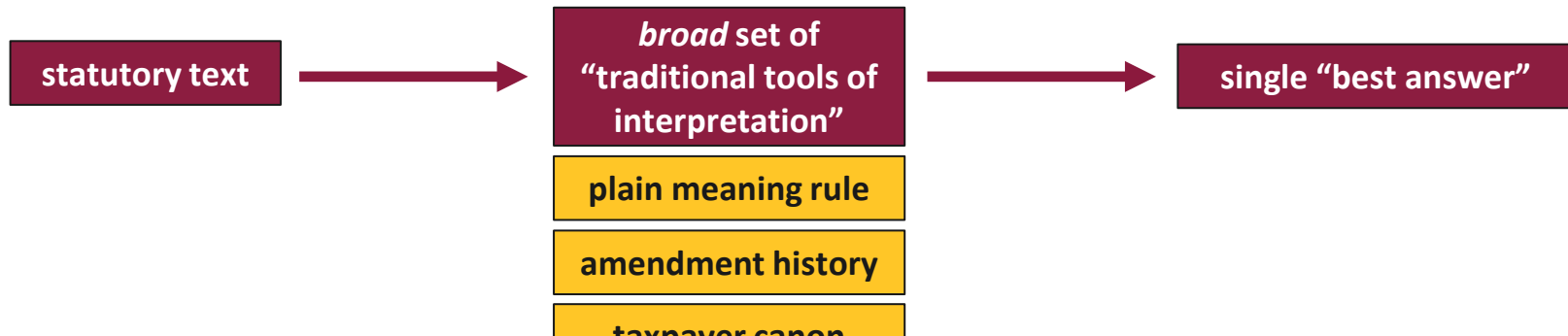


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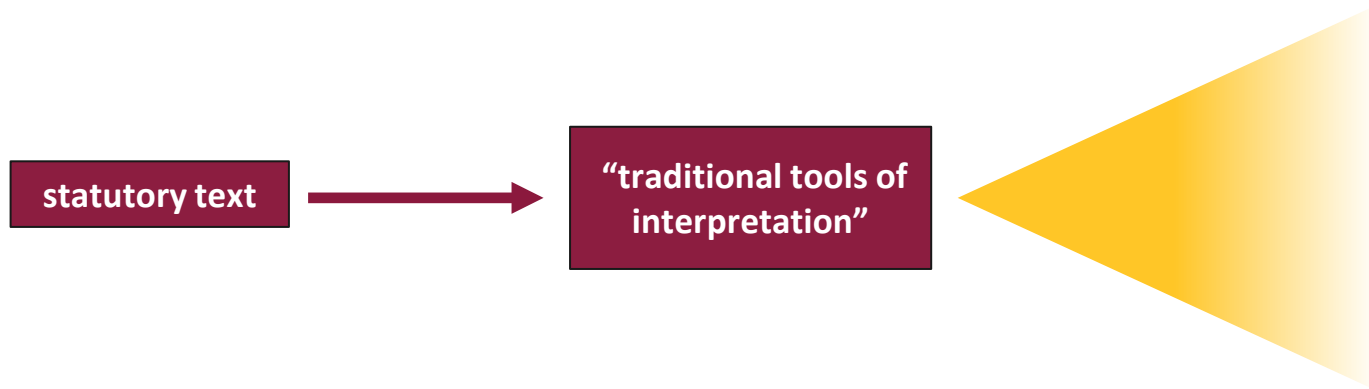


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Reading Law:  
*The Interpretation of Legal Texts*

ANTONIN SCALIA  
BRYAN A. GARNER

*Foreword by Frank H. Easterbrook*



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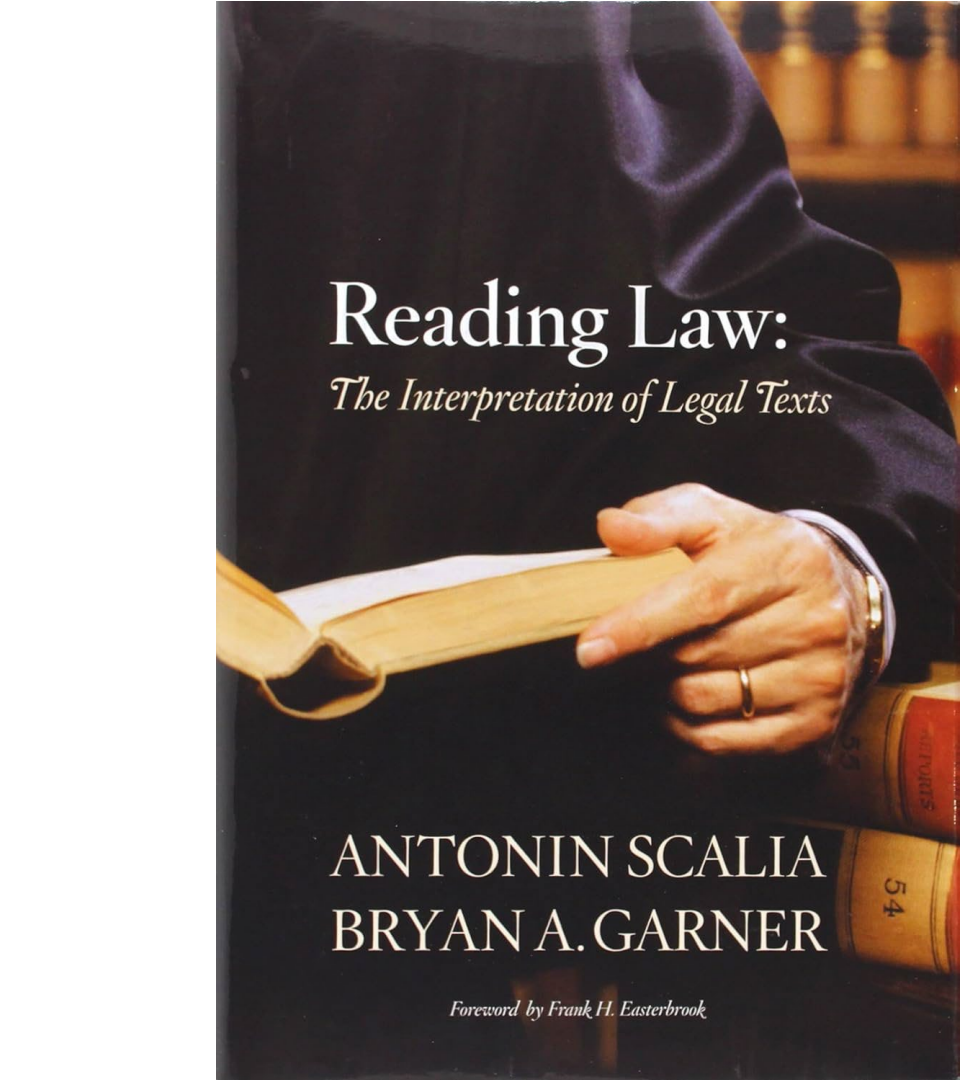
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- presumption of consistent usage
- surplusage canon
- *eusdem generis* (“of the same kind”)
- etc.



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- tie-breaking canons
  - constitutional avoidance
  - rule of lenity
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- clear-statement rules/implicit limitations
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## ***contested canons of interpretation***

- major questions doctrine?
- legislative history?

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No statute is retroactive unless expressly declared therein.

– Ariz. Rev. Stat. § 1–204.

The general rule that a penal statute is to be strictly construed does not apply to [Title 13], but the provisions herein must be construed according to the fair meaning of their terms to promote justice and effect the objects of the law....

– Ariz. Rev. Stat. § 13–104.

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In *Action Marine*, the Court stated that “[o]ur primary goal” in statutory interpretation “is to ‘discern and give effect to legislative intent[.]’” \* \* \* [I]n some cases we have remarked that the “statute’s text is the best evidence of [the legislature’s] intent....” \* \* \* [But] the words of a statute are not “evidence” of anything. They are the law. Our oath as judges does not send us on a cosmic search for legislative intent. \* \* \*

Legislative intent is at best amorphous and at worst illusory. \* \* \* The quest [for the legislature’s intentions] is inherently subjective and therefore corrosive of the rule of law, for it licenses judges to credit not what the legislature said through the words it enacted but what it meant to say. \* \* \* And as a *secondary* interpretative device, legislative history can often help illuminate statutory meaning. But legislative intent properly understood is only a means to discern statutory meaning and never an object in itself.

– *State ex rel. Arizona Dep’t of Revenue v. Tunkey*,  
254 Ariz. 432, 437–38 (2023) (Bolick, J., concurring).

***Questions?***