

**Seminar on Original Meaning:
Linguistic Analysis of Legal Texts
Syllabus Spring 2021**

Web Site Address: <http://www.clarkcunningham.org/JP/index.htm>

Course Information:

[Clark D.Cunningham](#)

W. Lee Burge Chair in Law & Ethics

Spring Semester 2021 Wed, 4:10 pm - 5:50 pm

Fall Semester 2021 Wed, 4:10 pm - 5:50 pm

This course is taught entirely online via Zoom.

Students must be available for class activities at the scheduled class time.

Course Number: Law 7293 3 credits

This course satisfies the upper level writing requirement

Prerequisites: Constitutional Law I and II, Criminal Procedure: Investigations, or
[permission of the instructor](#). Enrollment may be limited.

There is a short on-line application to request waiver of one of more prerequisites:
<https://www.surveymonkey.com/r/SOM-21F> . Please complete the application before registration.

This course is administered through a website on The West Educational Network (TWEN.) No textbook to purchase at bookstore. All required readings are linked to the on-line syllabus posted on TWEN.

Course Description

Interpreting a statute or constitutional provision may include investigation into evidence of the original meaning of the text as understood at the time of enactment. Recent developments in computational linguistics provide lawyers, judges and legal scholars powerful new, empirical methods for investigating original meaning. Students will learn how to look for and evaluate evidence of original meaning by using linguistic analysis of large datasets of texts from the period of enactment supplemented by historical research. The course will be of particular value to students interested in a judicial clerkship after graduation.

The course grade will be based on:

10% - Class participation

20% - Paper: First Draft

50% - Paper: Final Draft

20% - Presentation of Research Findings

The grade for either the first draft or final paper will be reduced by the equivalent of a full letter grade (e.g. A to B, D to F) if submitted late without good cause. Further grade reduction is possible depending on how late a paper is submitted. A failing grade for a paper may be entered if submission is very late without good cause. There will not be a final exam.

Required Materials

All required readings will be linked to the syllabus. There is no text to purchase at the bookstore.

Contact Information

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Class One (Wed, Jan 13, 4:10 – 5:50 pm – via Zoom)

Assignments:

- 1) [Students Present New Insights on Original Meaning of Constitution to Judges using “Big Data” of Corpus Linguistics](#), GSU College of Law News, May 21, 2018 (<https://news.gsu.edu/corpus-linguistics>)
- 2) Aaron Blake, [A big Trump case hinges on the definition of ‘emoluments.’ A new study has bad news for him](#) (Washington Post Jan 29, 2019)
- 3) Law Journal Editorial Board, [On Language, Lawyers and Judges Don’t Have All the Answers](#) (March 22, 2019)
- 4) Analyzing Legal Discourse in the United States (22 pages), read at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3554023.
- 5) Amicus Brief (original meaning of “emolument”), *Blumenthal v. Trump* (D.C. Cir. Filed Oct. 8, 2019) Read abstract and pp 1-27 of brief (pp 9-35 as filed) at : <https://ssrn.com/abstract=3475650> or <http://dx.doi.org/10.2139/ssrn.3475650>
- 6) [Create a free account](#) at Law & Corpus Linguistics: BYU Law to use Corpus of Founding Era American English - COFEA (complete this before class)

Each of these three assignments will be discussed in class – first in Zoom break-out groups and then in the whole class.

- 7) [Discussion Assignment One](#): Controlling conduct with constitutional text (whether to remove the President under 25th amendment)

- 8) [Discussion Assignment Two](#): Interpreting constitutional text (what is “treason” in the impeachment clause?)
- 9) [Discussion Assignment Three](#): Linguistic drift – or what in the world does this mean? (meaning of “Office of honor, Trust, or Profit under the United States” in case of impeachment).

Class Two (Wed, Jan 20, 4:10 – 5:50 pm – via Zoom)

Assignments:

Due 4pm on Jan 20

1) Emolument Quiz (4 multiple choice questions, using COFEA) Complete using TWEN Assignment Drop Box ([View instructions and questions](#))

Due at 4:10 pm on Jan 20

- 2) Complete [Student Questionnaire and Learning Contract](#) (3 quiz points)
- 3) Prepare five minute presentation on using COFEA to investigate “office of honor” or “office of profit”: [Instructions](#)

- 10) Prof. Eric Friginal, GSU Dept of Applied Linguistics: Overview of Corpus Linguistics (7 minute webcast – go to [Workshop on Law & Linguistics](#) (Oct 18, 2019), select **10:05 am – 10:50 am** [Watch video](#) and view time code 30:30 – 38:46
- 11) Prof. Jesse Egbert, Professor of Linguistics, Arizona State University, Case Study: Emolument (5 minute webcast – go to [Workshop on Law & Linguistics](#) (Oct 18, 2019), select **10:05 am – 10:50 am** [Watch video](#) and view time code 24:00 – 29:30

Class Three (Wed, Jan 27, 4:10 – 5:50 pm – via Zoom)

Integrating linguistic analysis with historical research

Guest speakers, [Professor Pamela Brannon](#) and [Haoshan \(Sally\) Ren](#)

Assignments:

Due 5:15pm on Jan 27 (late submission permitted without penalty)

- 1) Assignment: [Register to use GSU academic license for the English Corpora website](#)
 - 2) Quiz: English Corpora website (1 multiple choice question) Complete using TWEN Assignment Drop Box ([View question](#))
- 12) [Formation of the Constitution](#) (11 pp)
 - 13) Review [course research guide](#) prepared by Prof. Pamela Brannon: <http://libguides.law.gsu.edu/constitutionalhistory>
 - 14) Presentation on “Meaning of Cases” go to [Workshop on Law & Linguistics](#) (Oct 18, 2019), select **11:50 am – 12:35 am** [Watch video](#) and view time code 00:00 – 24:22
 - 15) Haoshan Ren et al, [“Questions Involving National Peace and Harmony” or “Injured Plaintiff Litigation”? The Original Meaning of “Cases” in Article III of the Constitution](#), 36 GSU L. Rev. 535-605 (2020) available at <https://readingroom.law.gsu.edu/gsulr/vol36/iss5/8>

Optional 10 Minute Individual Help Sessions with Sally Ren (via Zoom) for Class

Four Assignment due Feb 3

Reserve appointment in advance using Sign Up Sheet on TWEN

Sat, Jan 30: 2:00pm, 2:20pm, 2:40pm

Mon, Feb 1: 9:00am, 9:20am

Wed, Feb 3: 9:00am, 9:20am

Class Four (Wed, Feb 3, 4:10 – 5:50 pm – via Zoom)

Linguistic analysis of statutes, Cunningham/Roemer Working paper to be presented at Feb 5 Conference, Guest speaker, [Professor Ute Roemer](#)

Assignment: Practice corpus searches

Each student has a different assignment to prepare for class presentation (3-4 minutes) using Gales & Solan article as a guide (make sure to complete #17-20 below before doing assignment)

Due 4pm on Feb 3

- 16) Antonin Scalia, [A MATTER OF INTERPRETATION](#) (1997) (pdf 21 pp) (classic essay on statutory interpretation)
- 17) [COCA Overview](#) (pdf 11 pp), also available at https://www.english-corpora.org/coca/help/coca2020_overview.pdf
- 18) [COCA “5 minute tour”](#), <https://www.english-corpora.org/coca/help/tour.asp>
- 19) [COHA “5 minute tour”](#), <https://www.english-corpora.org/coha/help/tour.asp>
- 20) [Revisiting a Classic Problem in Statutory Interpretation: Is a Minister a Laborer?](#), 36 GSU L. Rev. 491-533 (2020) available at <https://readingroom.law.gsu.edu/gsulr/vol36/iss5/7/>
- 21) Clark D. Cunningham & Ute Roemer, Meaning of “misdemeanors” in the impeachment clause: [abstract](#) (working paper to be presented at the [Sixth Annual Law & Corpus Linguistics Conference](#), Feb. 5, 2021)