Questions for Stephen Neale

1. **What is meant vs. what is said.** You make it clear in various places – e.g. section 7.11 – that what a speaker *means* by uttering a sentence on a particular occasion is constituted by certain specific interpreter-directed communicative intentions. You further indicate – e.g. in section 8.11 – that what a speaker *says* (states, asserts?) and *implies* are entirely determined by what the speaker means -- from which you draw the conclusion that *what a speaker says* (states? asserts?), and also *what a speaker implies*, are entirely determined by the specific interpreter-directed communicative intentions that go into determining what the speaker means. However, this is less than obvious. Even if speaker intentions are the sole factors determining *what the speaker means* by a remark, aren’t there other factors that play a role in determining what, if anything the speaker asserts, and/or implies, by a remark? (i) Mightn’t a speaker who has false, or unreasonable, beliefs about what the audience can, or can’t, discern, fail to say or assert what he means – either by failing to assert anything at all, or by asserting something other than that which he meant to assert – because of this? (ii) Isn’t it more reasonable to condition what, if anything, a speaker, text, or utterance asserts on that which a reasonable, and well-placed, hearer or reader would be in a position to identify as asserted?

2. **The goal of interpretation.** If what an agent asserts, or otherwise commits himself to, by uttering (inscribing) a sentence, or a connected sequence of sentences -- or by endorsing a text put forward by others -- sometimes differs from what the agent *meant* by the linguistic act in question, what is the goal of *interpretation* in such a situation? Are there cases in which we are primarily interested in what the agent meant, other cases in which we are primarily interested in what the agent asserted, or otherwise committed himself to, and still others in which we are interested in both? If there are such cases, might they occur in interpreting legal texts of various sorts?

3. In section 1.2, pp. 6-7, you seem to suggest that the interpretation of legal texts has the same objective, and relies on essentially the same conceptual tools and distinctions, as the interpretation of any other linguistic text, or performance. Would you agree that there are also be special features of certain types of texts, or linguistic performances, that distinguish the task of interpreting them from the task of interpreting other things? A case in point involves interpreting large, extended texts vs. particular utterances. Think about the literature on truth in fiction – where it is standardly assumed that certain propositions are tacitly presupposed, and so are parts of the content of the work, even though they don’t strictly follow from things that are explicitly stated. Also, minor – often inadvertent inconsistencies – may be excluded, or resolved, by interpreters in ways which, though consistent with the broader themes of the work, weren’t part of the author’s intentions. Hence, the content of a work is sometimes taken to diverge in certain ways from the author’s intentions – at least regarding the parts of the work taken individually. (One finds the same thing in interpretations of philosophical texts.)

Might something similar occur in legal interpretation, and, if so, is it not genuinely *interpretation*? In thinking about the interpretation of a statute, for example, factors that might seem to push in this direction include its length and complexity, the vagueness or unclarity of its different parts and the relationship they bear to one another, the potential for tension, or inconsistency between the parts, the construction of the statute by multiple authors, the uncooperative nature of some of what goes into drafting and adopting the statute, the need to fit it into the corpus of already existing law, and the later need for judicial resolution of disputed cases. Do factors such as these bring in new constitutive facts in determining the content of the statute, or what it states?
4. Is everything done by the courts in adjudicating disputes involving a statute interpretation? This is related to your point (j) (section 1.1, p. 3). What is the relationship between (i) the contribution made by the statute to the law, (ii) the content of the statute, (iii) what the statute means or states, and (iv) the proper interpretation of the statute.

5. Taking into account the issues raised above, do you stand by the view that interpretation is always a purely epistemic matter – concerned with figuring out what an agent meant, intended to convey, or perhaps said and implied? Does this capture the interpretation of works of art? Could it be that what would count as interpreting a text is partly determined by the reasons we have for paying attention to texts of that sort? Might those reasons vary from case to case, and sometimes have little to do with communication intentions of speakers?

When it comes to the law, could it be argued by Textualists (and others) that statutory interpretation partly depends on the reasons for respecting the authority of legislatures and? Might judges have reasons to ignore some aspects of what a legislature meant to convey by a statutory expression, even if it is clear what the relevant intention was?

Would you extend your point about the epistemic nature of interpretation and the focus on speaker’s communicative intentions, to cases in which the uncertainty of a legal text involves the application of vague words to borderline cases? If the legislature had a specific intention regarding the application of a general term to some borderline cases, would it count as communication intention contributing to the meaning of the statute?

6. In the last paragraph of the paper (p. 56) you express doubt that generalized conversational implicatures “should be treated as part of what statues state”. Do you recognize “conventional implicatures” (which are semantically encoded), and if so do you have the same doubts about their contribution to the contents of statutes? What are the reasons for your doubts about the contributions of implicatures to such contents? Are they epistemic, or do they involve normative questions pertaining to ways in which legislative speech ought to be understood? Would you have similar doubts about other types of implications and utterance presuppositions?

Your discussion of implicatures and other pragmatic aspects of speech centers on Grice’s analysis of conversational maxims – which are based on the assumption that in ordinary conversation the parties are engaged in a truthful and cooperative exchange of information. Do you think that this model applies to the legal context as well? Which legislative “conversations” are most relevant – those between the legislators themselves in formulating and adopting the statute, those between the legislature (as a whole) and the courts who will adjudicate how the law is applied, those between the legislature and the larger legal community, or the citizenry as a whole, or all such “conversations.” Does it make a difference that some of these “conversations” may involve strategic, rather than fully cooperative, forms of communication? Mightn’t this make a difference to the kind of implicatures one could draw from instances of legislative speech?