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In the summer of 1998, the Senate Majority leader, a Republican from Mississippi named Trent Lott, explained his opposition to homosexuality by explaining that the Bible considers it a sin.¹ Senator Lott (no relation to the biblical resident of Sodom) then went on to draw a comparison between being gay and being a kleptomaniac.²

I'm not quite sure what Senator Lott meant by the second analogy, but his first argument—that as a legislator he should treat conduct as worthy of legal prohibition simply because a purportedly literal reading of the Bible says that such conduct is wrong—strikes me as particularly dangerous in a democracy like our own.

The following essay takes up that idea, but draws its inspiration from an event that occurred at New York University Law School the year I was teaching there. Since the essay well explains the context, I'll end this introduction here and let the essay speak for itself.

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One day, during the spring semester of the year I taught a course on lawyering at New York University Law School, a small slip of paper bearing the heading “ABOMINATION” was placed in the mailbox of every student. Beneath that eye-catching title, was an English translation of the 26th and 27th verses of the first chapter of Saint

[†] This piece was originally a chapter in an unpublished manuscript of homilies by Professor Cicchino, entitled *Arguments for Goodness*.

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1. See 144 CONG. REC. S67372-01 (daily ed. June 16, 1998) (statement of Sen. Wellstone) (asking that several articles regarding Senator Lott's interview with Armstrong Williams for the America's Voice Network be placed into the record); Marc Sandalow, *Firestorm over Lott Remarks on Gays, White House Calls His Views Backward*, S.F. CHRON., June 17, 1998, at A1 (discussing Senator Lott's comments regarding the nomination of gay philanthropist James Hormel as ambassador to Luxembourg).

2. See Sandalow, *supra* note 1 (discussing how Senator Lott viewed engaging in gay sex as a problem to be solved). After urging the public not to treat homosexuals as outcasts, he stated “others have a sex addiction or are kleptomaniacs.” *Id.*

Paul's letter to the Romans:

For this cause God gave them up into vile affections: for even their women did change their natural use into that which was against nature. And likewise also the men, leaving the natural use of the woman, burned in their lust toward one another; men with men working that which is unseemly, and receiving in themselves that recompense of their error which was meet.³

Apart from the letters "R&R" in the lower right-hand corner, the slip of paper contained no signature or other identifying information. Entirely for the sake of melodrama, I like to refer to the whole episode as the "Romans Incident."

While it is hard to be sure, one can only presume that whoever distributed the scripture verse was responding to an earlier flyer distributed by New York University's Bisexual, Gay & Lesbian Law Students Association. That flyer listed a number of events occurring during that semester celebrating the progress made, and progress still to come, in the struggle for equality for all people regardless of sexual orientation.

The first thing to say about the Romans Incident is that one should not make too much of it. Indeed, one could interpret the deliberate anonymity of those who distributed the Romans passage as something to be celebrated: i.e., so strong is the moral consensus against homophobia at NYU Law School that those who condemn same-sex relationships have been reduced to the cowardly indignity of anonymous insults.

There are, however, at least two other points that seem worth making about the Romans Incident.

The first point has to do with what the Romans Incident says about the legal skills of those who distributed the passage. Both law and theology are fundamentally hermeneutical enterprises. Or, to put it in a less fancy and more comprehensible way, both law and theology are profoundly concerned with the interpretation of texts and the application of the norms (if any) to be garnered from those texts.

What is so surprising about the Romans Incident is that it assumes that a text of scripture can be taken on its face. The literal reading of a text—particularly a literal reading of a text *that has been translated*—is, practically speaking, an impossibility. Notwithstanding the views of some conservative Supreme Court Justices, there is always some interpretative element involved in the process of reading. This is especially true of the Christian Scripture which is written in a

3. *Romans* 1:26-27.

language no longer spoken, to people who no longer exist, under historical circumstances far, far different from our own.

Giving an adequate exegesis of the passage quoted in the flyer, Romans 1:26-27, would be impossible here. Suffice it to say that St. Paul has about as much to say about sexual orientation as he does about the internal combustion engine. St. Paul just assumes that everyone is “heterosexual” (attracted to the other sex), but some people choose to engage in same-sex acts. St. Paul’s assumptions, while entirely understandable for (but by no means universally held in) his time, are so manifestly contradicted by contemporary psychology and genetic biology, that those assumptions are no longer worth refuting.

What is worth saying—the second and more important point to be made, especially as citizens living in a democracy—is something about the fundamentally objectionable nature of appeals to purely religious or sectarian arguments in a pluralistic and democratic society like our own.

The problem with a bald appeal to revelation is that—by definition—it leaves only two responses: acceptance by faith or rejection through unbelief.

That is one of the reasons why religious sectarianism is so detrimental to democracy: it puts an end to discussion by brute assertions that one side knows God’s will. From there, where can the discussion possibly go? Perhaps one could argue about whether the particular injunction really is God’s will, but such arguments are unlikely to persuade the fundamentalist who claims to rely on a divinely revealed text. In the shortest terms, when it comes to this kind of religious argument, for those who have faith no argument is necessary. For those who do not have faith, no argument is sufficient.

To that extent, there is something appropriate about the anonymous distribution of the passage from Romans. It is only necessary to give one’s name—to be made known and to know—if one is interested in pursuing dialogue. If you really believe you are delivering God’s words, what’s to discuss?

In the end, that is the most troubling fact that remains with me from the Romans Incident. Had those who distributed the passage instead offered reasons against same-sex relations—arguments that homosexuality hurts the public welfare or frustrates human flourishing in some way open to examination through experience—then a real discussion could have begun. The lesbian and gay community has never shrunk from that discussion, though we may at times be unbelievably bored by it. Time and time again, however, the

case for the full dignity and equality of gay and lesbian people has won the day.

Perhaps, however, that is the problem. One cannot but suspect that the opponents of equality for lesbian and gay people so frequently resort to purely sectarian arguments—arguments that are, in principle, irrefutable because they are independent of any observable connection to the public welfare—because they have no rational arguments left.

In its own strange way, there is no finer tribute to be paid to the cause of gay and lesbian rights.