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Approaches and Perspectives

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Foreword

As Editor in Chief of the *Explorations in Language and Law* publication series, I would like first to thank the inaugural edition's contributing writers and extend a warm welcome to all of our readers. The first issue of *Explorations in Language and Law - Approaches and Perspectives* in the twenty-first century opens up with a strong commitment to the overall mission of the series, which is to address theoretical and applied research issues from a combined Language and Law perspective. Given this commitment, the diverse ways Language and Law interact represent an accurate account of interdisciplinary research agendas where different approaches and perspectives are meant to be descriptive and interpretive of the issues involved. Analysing Language for its relevancy to the Law thus provides new insights into the way we perceive the constitutive role of language in different legal contexts, where specific questions arise from the meaning and function of text, discourse, or talk manifested in (inter)culturally and socially significant sites of analysis and interpretation.

This first issue is divided into two sections: language-and-law research Articles and Comments. Such selections elucidate on the role that language as text/discourse/talk plays in the law contexts, and rely on varied theories, methods, and approaches to analysing data from both written and spoken sources.

In 'The legal consequences of personal beliefs', **Ross Charnock** brings the reader into the realms of judicial reasoning by showing the evolutionary developments of religious/moral belief in the established church of England. By reflecting, in general, the debate as to whether law is the product of internally constructed rules, procedure, and rationales or a consequence of external social forces and interests, the author argues for 'personal belief systems' to be precisely the result of social developments. The latter are accounted for by Common Law judges in their tasks of interpreting and defining socially relevant terms whose descriptive, analytical, or prescriptive understandings rely on little intervention by the body of people vested with the responsibility and power to make laws.

In her pragma-dialectical article 'An Argumentative Approach to the Burden of Proof in Legal and Non-Legal Discussions', **Eveline T. Feteris** illustrates

how the (Whately) traditional view of legal ‘presumption’ disapplies to the distribution of the onus of proof in ‘everyday mixed disputes’, where different issues are involved in matters of substantive law and procedure. This is shown from the perspective of Legal Argumentation theory which provides an informed method for dialogue about the acceptability of a legal standpoint. The latter is tested in relation to critical doubts raised by an antagonist or another critical audience.

In ‘Interrogation versus Interviewing in Fictional Police Procedurals’, **Bronwen Hughes** looks at the (investigative) interview room scenes in the British format *The Bill* and its equivalent Italian format *La Squadra* by outlining the specificity of the procedural features in such formats. The author argues for marked differences between the two format transferrals, seen in terms of British ‘procedurality’ and Italian ‘individuality’ inherent in the two national, cultural confines.

Similar to the informed Argumentation survey in Feteris’s article, **Harm Kloosterhuis** integrates a legal and an argumentative perspective in his article ‘The Logic of Indirect Insulting in Legal Discussions. A Speech Act Perspective’. The author moves from the heated legal debate on insulting generated by a recent Dutch Supreme Court’s decision to the ways in which the speech act of ‘indirect insulting’ allows for communicative and interactional effects created by argumentative strategies and linguistic choices.

‘Crossing the Borders between Legislative Drafting and Linguistics: Linguists to the Aid of Legislative Drafters’ is the focus of the co-authored article by **Helen Xanthaki** and **Giulia Adriana Pennisi**. In her innovative discussion, **Helen Xanthaki** claims that linguists provide a useful contribution to ‘phronetic legislative drafting’, on account of common areas of interaction where lexico-grammatical and discourse analysis help to understand the meanings and functions of text production. This is then examined by **Giulia Adriana Pennisi** who draws on the institutional legal discourse enacted in the Treaty of Lisbon to argue for divergent – yet indeed uniform – constitutional principles and values.

Finally, research devoted to the interactions between Language and Law changes in scope as we move to the explanatory note by **Lucia Abbamonte** and **Flavia Cavaliere**. The authors provide a state-of-the-art commentary on ‘restorative justice’ which becomes the topic for their own expansion in a research article outside this volume. Restorative justice, a form of criminal justice that emphasizes reparation to the victim or the affected members of the com-

munity by the offender, is therefore remarked by the authors on account of the inherent communication processes affecting the various members of the community. These processes, the authors claim, are relevant for language and discourse-based analysis and interpretation.

The publication of the first issue is a personal satisfaction as the contributing authors have produced an eclectic taste in the wide, social relationship between Language and Law, by offering thought-provoking articles and comments on some of the most difficult – yet indeed intriguing, issues that lie at the heart of interdisciplinary *Explorations in Language and Law*.

Girolamo Tessuto
Series Chief-Editor

The Legal Consequences of Personal Beliefs

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The law is not an autonomous discipline but affects and is affected by both social developments and matters of personal belief. The common law is kept relevant in a changing world not just by legislation but by the judges, through linguistic reinterpretation, and by introducing new semantic distinctions, as well as by overruling. However, as the law forms an integrated system, in which all elements are interdependent, these developments frequently cause new problems in other areas of the law. In the common law system, it frequently falls to the judges to provide appropriate solutions.

1. Introduction

Although, to outsiders, the law seems to be a separate branch of study, the plethora of university courses entitled ‘law and society’, ‘law and economics’, ‘law and literature’ or ‘law and language’, and so on, make it obvious to all that the law can never be an autonomous discipline. The variety of topics covered in Patterson ed. (1996) gives an idea of the breadth of the discipline.¹

One major function of the law is to impose norms of behaviour in society; yet at the same time it responds to changes in morality and developments in social organisation. It also has clear economic consequences; yet it also adjusts its norms in response to new forms of economic organisation. Similarly, the law is clearly fertile ground for fiction, with themes frequently involving opposing views of right and wrong, struggles against injustice and the triumph of good over evil. Yet, at the same time, the imagination of the judges is naturally

¹ These courses may have been originally introduced to cater for students having no knowledge of any other discipline. Less than 30 years ago, when the law was more a profession than an academic discipline, less than half of all legal professionals had studied at university at all. Most of the rest had graduated in another discipline altogether.

influenced by what they read or see in the theatre. Furthermore, quite apart from the dramatic nature of the trials themselves, legal judgments (or ‘opinions’, US) have a clear literary function, and be analysed as narratives. The law is therefore a fundamental source for the understanding not just of social history, but also of literature and economics.

As legal decisions depend primarily on interpretation, language is also fundamental to the law. To the extent that legal texts are interpreted in their (supposedly) literal and unchanging meaning, the language of the law thus constitutes a valid object of study for various branches of linguistics, including terminology, genre studies (see e.g. Tessuto 2012), as well as pedagogy. However, judges must also take account of the slippery notions of legislative intention and contextual understanding. Through its concern with various notions of meaning, the judicial approach to semantics frequently raises problems of interest to linguistic theory, most obviously in the fields of ambiguity and vagueness but also regarding problems of reference, modality or performativity, and thus contributes to the development of that discipline (see e.g. Charnock 2009, 2010, 2013). Indeed, the law may be seen as a vast linguistic corpus, which has the particularity of commenting on itself, analysing its own meanings and justifying its own interpretations.

The purpose of this article is to show that the law is not just affected by changes in society, but also by modifications in personal belief systems. The point is illustrated through a consideration of the legal consequences of the changing role of the established church in England following the *Act of Toleration* (1688). The history of the legal consequences of religious belief shows how the judges have been able to develop the law, with minimal intervention from the legislature, through their reinterpretations of legal texts and precedents, by developing new semantic distinctions, and occasionally by overruling. It is notable that, in their judgments, the common law judges do not hesitate to participate in the ongoing philosophical debate. It is also apparent that because the different fields of law together form a single, integrated legal institution, in which the all the different elements are interdependent, even minor modifications in one domain are liable to have unexpected consequences in other, apparently unrelated areas. These give rise to new problems regarding for example the admissibility of evidence, libel and contract. They also have consequences in probate, regarding charitable bequests, and in employment law, especially regarding questions of discrimination.

2. Established religion and the consequences of tolerance

In *R v Lilburne* (1649)² it was authoritatively stated that “The law of God is the law of England.” (*per* Lord Keble). Similarly, in *Taylor’s case* (1649) Hale CJ stated that “Christianity is part of the laws of England”. A century later in *R v Delaval* (1763), Mansfield CJ, whilst admitting that the Ecclesiastical courts no longer have the power and influence they once had, continued to insist that the courts should continue to observe the Christian tradition in controlling the morality of the people.³

The religious origin of the law is still trivially apparent today in the fact that the shops are closed on Sundays. It is also preserved in the (unwritten) constitution, insofar as the head of state cannot be married to a Catholic and that the Prime Minister still appoints Anglican bishops in the Queen’s name. There also remains a presumption that the law should be interpreted so as to conform to Christian teaching. Lord Mansfield’s dictum in *Delaval* was cited approvingly by Lord Diplock as late as 1972 in *Knulier v DPP*.

The *Act of Toleration* was passed in 1688. However, contrary to popular understanding, this Act did not legalise religious dissent. As can be observed in its long title, “An Act for Exempting their Majestyes Protestant Subjects dissenting from the Church of England from the Penalties of certaine Lawes”, it merely exempted protestant dissenters from criminal prosecution. It never applied to Catholics or Jews, who were still seen as a danger to the state. In *Da Costa v Da Paz* (1754), Hardwicke CJ made this point explicitly.⁴ The Act of Toleration, a rare example of a law associated with no sanction, inevitably gave rise to a number of anomalies with consequences in other fields of law.

In spite of the new statute, dissenters continued to be disadvantaged, the methods employed being sometimes ingenious. In one example, a London by-law required those elected to the honorary post of Sheriff to pay a fine if they

² Complete case references are given at the end of the article.

³ “Though there are species of indecency and immorality, particularly in cases of incontinency, which are confined to the Ecclesiastical Courts, (and I am very glad they are so); yet the general inspection and superintendence of the morals of the people belongs to this Court, as *custos morum* of the nation.” (*R v Delaval* 1763, *per* Mansfield CJ).

⁴ “As to the Act of Toleration no new right is given by that, but only an exemption from the penal laws. The *Toleration Act* recites the penal laws, and then not only exempts from those penal laws, but puts the religion of the dissenters under certain regulations and tests. This renders those religions legal, which is not the case of the Jewish religion, that is not taken notice of by any law, but is barely connived at by the Legislature.”

refused to serve. However, before taking office, they had to swear a sacramental oath, contrary to the beliefs of Protestants. It became a common practice to elect Protestants, some of whom were spectacularly unsuitable, precisely in order to collect the fine. In *Evans v Chamberlain of London* (1767) this practice came before Lord Mansfield, who refused to sanction it. He confirmed that religion was part of the common law, but added that, while atheism and blasphemy may be punished, there could be no prosecution for mere opinions.

A similar problem soon arose regarding witness statements. Before testifying, witnesses are obliged to swear on the Bible to tell the truth, the whole truth and nothing but the truth. For Lord Coke in *Calvin's case* (1572), because "all infidels are in law perpetual enemies", this meant that no 'infidel Jew' could appear as a witness. In *Omychund v Barker* (1744), concerning a gentleman of what was then known as the 'Gentoo' persuasion, Willes CB gave a more nuanced answer. He considered Coke's blanket refusal not just as contrary to the imperatives of trade and commerce, but also to "scripture and common humanity" and went so far as to deny that the oath was a specifically Christian act. The words "So help me God" could be spoken by "any heathen who believes in a god" as well as a Christian." To come to this conclusion, he rejected contrary precedents as mere obiter dicta dating from "very bigotted Popish times", and suggested that kissing the book was not truly part of the oath, but of merely ceremonial effect. His insistence on belief in 'a God', rather than no God at all, like Lord Mansfield's later exclusion of 'atheism' in the *Evans* case, was to develop a new significance as applied to charitable bequests.

Before the *Act of Toleration* it was illegal to question the revealed truth of the established religion. Even after that Act was passed such statements could still be prosecuted as blasphemous libel. This crime was closely associated with insulting behaviour and vulgarity, as is shown by *Sedley's case* (1663). This establishment figure was punished for causing a spectacular breach of the peace by appearing naked and throwing bottles from his balcony while pissing down on passers-by and using foul language. Hale CJ stated in *Taylor's Case* (1676) that ribald and profane words constituted crimes against religion and as such were punishable in the temporal courts. Such words were not only an offence to God, but also a crime against the government, as they were liable to "dissolve all those obligations whereby the civil societies are preserved". In *Curl's case* (1727), Coke CJ similarly considered that such behaviour was liable to disturb the civil order of society.

However, a century later, judges were more reluctant to condemn unchristian statements unquestioningly as blasphemous. In *Lawrence v Smith* (1822), it was argued that certain lectures delivered at the College of Surgeons should not be published as they included passages which were hostile to “natural and revealed religion” as they “denied the immortality of the soul”. The Lord Chancellor refused to grant this injunction, on the grounds that, if all doubt was declared illegal, no rational debate would ever take place.

This enlightened view was not universally accepted, however. In *R v Woolston* (1729), concerning a clergyman who joked with irreverence about miracles, it was argued unsuccessfully that mere difference of opinion should be tolerated by law. Although he claimed not to “meddle with differences in opinion” and only to intervene where “the very root of Christianity itself is struck at”, Lord Raymond rejected this argument as “an absurdity”.⁵

One judicial device allowing a distinction between religious debate and blasphemous libel was to distinguish rational criticism from mere indecency.⁶ In *R v Hetherington* (1840), the accused was indicted for publishing letters which argued that certain passages in the Old Testament were cruel or immoral. Lord Denman reinterpreted the precedents, considering that the true *ratio decidendi* of the earlier cases depended on indecency rather than on criticism of the established religion. He affirmed that, contrary to what had previously been supposed, the question of blasphemy had always been decided according to the “tone, style and spirit of the discussion”, and insisted that discussions on the doctrines of Christianity may be “by no means a matter of criminal prosecution”, on condition that “they be carried on in a sober and temperate and decent style”. He nevertheless considered himself bound by precedent, according to which “religion [...] contains the most powerful sanction for good conduct”. The accused was therefore sentenced to four months’ imprisonment.

Only two years later, the young Coleridge J, in *Shore v Wilson* (1842) suggested that it would be unsafe to consider the criminal law as depending on an unattainable state of perfect orthodoxy, and found that “reverently doubting” Christian doctrines should not be considered unlawful in itself. The ques-

⁵ “To say, an attempt to subvert the established religion is not punishable by those laws upon which it is established, is an absurdity. [...] I would have it taken notice of, that we do not meddle with any differences in opinion, and that we interpose only where the very root of Christianity itself is struck at.” (*R v Woolston* 1728, *per* Lord Raymond).

⁶ This legal development corresponds to developments in the history of the language, insofar as the religious origin of profanities like ‘damn’ and ‘blast’ is largely forgotten; they are now commonly used as mere vulgarities.

tion should depend rather on “the sobriety and reverence and seriousness with which the teaching, or believing, however erroneous, are maintained”. In later years, the same judge, now a distinguished member of the House of Lords, was able in *R v Ramsay and Foote* (1883) to take it as axiomatic that the mere denial of Christianity could not in itself constitute blasphemy, affirming in that case, though without citing any specific authorities, that: “The maxim that Christianity is part of the law of England true has long been abolished”. Whilst openly admitting that the principles of the common law had to be applied to “the changing circumstances of the times”, he nevertheless claimed this undeniably new approach remained consistent with the “established principles of the common law as observed in the precedents”.

A different anomaly appeared in *R v Gathercole* (1838). In this case, the defendant, a Protestant clergyman, had “fouly aspersed” a Roman Catholic nunnery. For Alderson B, only members of the established church were entitled to protection against such offences. This still remains the case today. Although the old *Blasphemy Act* (1697) was discreetly repealed in Schedule 4 of the *Criminal Law Act* (1967), blasphemy still remains an offence at common law. Yet, members of other religions still have no recourse to the law for offensive characterisations, for example, of Mahomed. In practice, it seems that even Anglicans are no longer protected, as no prosecutions for blasphemy have been attempted since *Whitehouse v Gay News* (1979), in which an offensive depiction of Christ engaging in homosexual acts was allowed. In that case, contrary to the other judges, Lord Scarman suggested that the offence should not be abandoned altogether. Instead, in the interest of the preservation of tranquillity, it should be extended to protect the beliefs of non-Christians. No such development has taken place.

The status of the established religion has also had unexpected consequences in the field of contract. One way of avoiding a contract was (and is) to plead illegality, as it is trite law that contracts made for an illegal or immoral purpose will not be enforced. Because failure to adhere to the established church remained technically illegal following the *Act of Toleration* (1688), this meant that certain contracts could not be enforced if they involved beliefs inconsistent with Christian doctrines. In *Pare v Clegg* (1861) it was argued that because the “Rational Society” had been founded for an illegal purpose, it could not enforce a contract in order to recover a debt. Romilly MR nevertheless allowed recovery, considering that although the society was based on ‘irrational’ principles, and sought to propagate natural religion to the injury of revealed religion, its aims were neither “irreligious or immoral”.

However, in *Cowan v Milbourn* (1867), the decision went the other way. Milbourn agreed to let rooms to Cowan, but changed his mind when he discovered that they were to be used for a series of “blasphemous lectures”, maintaining that “Christ’s teaching was misleading”, and “the Bible no more inspired than any other book”. It was held by Kelly CB that because Christianity was still “part and parcel of the law of the land” the publication of such doctrines could not be achieved without blasphemy. He concluded that the defendant “was not only entitled, but was called on and bound by the law” to refuse to sanction the use of his rooms.

In the same case, Bramwell B, concurring, recalled that while the denial of Christianity was no longer a criminal offence, it remained illegal “in the sense that it will not be recognised by the law as capable of being the foundation of any legal right”. The court therefore refused to enforce the contract on the grounds of public policy.

The persisting illegality of dissent also had unexpected consequences in the interpretation of wills, especially concerning charitable bequests. A ‘charity’ has long been defined as an institution which is for the public benefit. According to the *Charities Act* (2006), to acquire this status, and the favourable tax arrangements associated with it, the Institution must contribute to the prevention or relief of poverty; the advancement of education, as well as a number of other purposes, including notably the advancement of religion.

Until the second half of the 19th century, the charitable status of the established church was generally assumed. However, this was questioned in *Cocks v Manners* (1871), which concerned a legacy for the benefit of a reclusive order of nuns. The court refused to grant charitable status in this case, as private piety was no longer considered sufficient, and public benefit had not been shown.

It was also presumed that no other religious groups could be granted charitable status, so that gifts and legacies in aid of other religions were excluded. This was stated explicitly in *Da Costa v Da Paz* (1754), which concerned a will directing that “the investment of £1200 and the revenue arising therefrom should be applied for ever in the maintenance of a Jesiba, or assembly for daily reading the Jewish law, and for advancing and propagating their holy religion.” Lord Hardwicke decided that this could not be allowed, as, in spite of its close relation to Christianity, the Jewish faith was in contradiction to the established religion “which is part of the law of the land”, and on which “the constitution and policy of this nation is founded.”

In *In re Bedford Charity* (1819), where a legacy for the promotion of the Jewish religion was similarly held to be unenforceable, the defendants argued unsuccessfully that Secularism was “much more contrary to Christianity than the Jewish religion”. This view was later accepted by the courts in *Thornton v Howe* (1862), where, following Willes CB’s dictum in *Omychund* (1744), it was suggested that the courts should no longer distinguish between religions, as long as they involved belief in a god or some kind of supreme being, unless their tenets included irreligious doctrines, “subversive of all morality”. This was confirmed in *Gilmore v Coates* (1949), in which it was stated that the law was now neutral between religions, but still presumed, following precedent, that any religion is better than none.

3. The consequences of secular humanism

The common conviction that unbelief must be synonymous with immorality gave rise to an ongoing debate on the value of religious faith. In *Briggs v Hartley* (1850), for example, the court had refused a bequest intended to reward the best essay on “The subject of Natural Theology, treating it as a Science, and demonstrating the truth, harmony, and infallibility of the evidence on which it is founded, and the perfect accordance of such evidence with reason.” Shadwell VC considered that this bequest was inconsistent with Christianity, or indeed with any religion, and that it should therefore fail.

The question was not finally decided until the beginning of the 20th century, in *Bowman v Secular Society* (1917). This concerned a bequest upon trust to a society which explicitly denied the value of religion. Its main objects were “to promote [...] the principle that human conduct should be based upon natural knowledge, and not upon super-natural belief, [...] the secularisation of the State; [...] the abolition of all support, patronage, or favour by the State of any particular form or forms of religion; to promote universal secular education, without any religious teachings, in public schools; [...] and to promote an alteration in the laws concerning religion, so that all forms of opinion may have the same legal rights of propaganda and endowment.”

In Chancery (1915), Joyce J, while claiming that he had “not the smallest sympathy with the objects of the society” nevertheless declared the gift legal. In the Court of Appeal, Cozens-Hardy MR similarly considered that new philosophical theories had made the old view of blasphemy obsolete. Noting recent

precedents according to which denial of Christianity per se was no longer a criminal offence, Cozens-Hardy MR considered that this development should be extended to matters outside the criminal law. This implied the overruling of certain long-standing precedents, including *Briggs v Hartley* (1850) and *Cowan v Milbourn* (1867).

This judgment was confirmed by a majority in the House of Lords (1917), where it was held authoritatively that the propagation of anti-Christian doctrines, apart from scurrility or profanity, no longer constituted the offence of blasphemy and was therefore not illegal “in the sense of rendering the company incapable in law of acquiring property by gift”. The will was therefore held to be valid.

Although Lord Finlay, dissenting, considered that a change in the spirit of the time could not justify a departure from legal principle, Lord Dunedin thought it incoherent to persist in considering denial of the faith illegal though not prohibited.⁷ Lord Sumner went further, rejecting as “mere rhetoric” the long-standing, though frequently questioned, assumption that Christianity was part of the law, admitting only that for historical reasons, much of the law naturally corresponded to religious teaching. However, these principles were “material and not spiritual”, and could be applied “with equal justice [...] in heathen communities”.

This judgment formed an important precedent for a number of later cases regarding the charitable status of ‘sects’ or ‘Ethical’ or ‘Secular’ Societies.

In *R v Registrar-General ex p. Segerdal* (1970), the Church of Scientology had applied for registration of their Sussex chapel as a ‘place of worship’, in which marriages could be celebrated and which would be exempt from the rates. Denning LJ rejected the application, holding that, although the sect did claim to believe in a Supreme Being, it appeared to be “more a philosophy of the existence of man or of life, rather than a religion”. It did not display the essential characteristics of “reverence or veneration”, and did not correspond to the accepted legal definitions of religion, especially regarding moral or spiritual welfare. Even if, contrary to the judge’s view, the Church of Scientology did constitute a religion, the request would still not be granted as it could not be shown to be for public benefit.

In contrast, *In Re South Place Ethical Society* (1980) concerned a non-religious society that was nevertheless considered to be of benefit to the public.

⁷ “I cannot believe that there is still a terra media of things illegal, which are not criminal, not directly prohibited, not contra bonos mores, and not against public policy.” (*Bowman v Secular Society* CA 1915, per Lord Dunedin).

Although the court was unable to accept without contradiction that such a society could be for the advancement of religion, it allowed the alternative claim that its work was for the advancement of education. The Society thus succeeded in claiming exemption from the payment of rates relating to the building in which it was housed (now the Conway Hall).

In the United States the judges have had to contend with the opposite problem. Although Justice Brewer declared in *Church of Holy Trinity v US* (1892) that “this is a Christian nation”, the first amendment to the Constitution includes the “establishment clause” imposing a constitutional separation between church and state.⁸ Like Willes CB in *Omychund v Barker* (1774), the American judges have been forced to deny the significance of common religious symbols, like those which appear annually in Christmas decorations, or the phrase “in God we trust”, adopted as the national motto and which appears on dollar bills, or indeed references to God in the Pledge of Allegiance. For Justice Brennan in *Lynch v Donnelly* (1984), these could best be understood as “a form of ‘ceremonial deism’, protected from Establishment Clause scrutiny chiefly because “they have lost through rote repetition any significant religious content.”

The recognition of the rights of both believers in other religions and unbelievers has led to new, unexpected problems in the field of employment law. Since the incorporation of the *European Convention on Human Rights* into English law in 1998, because Art. 14 prohibits discrimination on religious but also on other grounds including sex, race, colour and language, it has no longer been possible for the courts to give preferential treatment to the Christian religion.

As a result, in *Copsey v WWB Minerals* (2005) it was held that the dismissal of a Christian worker who objected to Sunday working was not unfair. Later, in *LB Islington v Ladele* (2009) the court approved disciplinary measures taken against a Christian registrar who objected to being obliged to celebrate “gay marriage”. Elias J affirmed that there could have been no discrimination against the registrar, as she was treated “in precisely the same way” as all other employees. On the contrary she herself was engaging in discrimination on the grounds of sexual preference. This judgment formed an authoritative precedent which was binding on the lower courts in later cases.

⁸ “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” (USC, 1st Amendment).