



Sex and the Constitution: Sex, Religion, and Law from America's Origins to the Twenty-First Century

Author _ Geoffrey R. Stone

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Reviewer _ Robert P. Holley, Professor Emeritus of Library and Information Science,
Wayne State University, Detroit

The title, *Sex and the Constitution*, minimizes both the scope and importance of this book. Even the subtitle, *Sex, Religion, and Law from America's Origins to the Twenty-First Century*, does not completely correct the misimpression about its content. More than a legal treatise, this book examines sexual behavior from the beginning of Western civilization as well as how various cultures have informally and legally regulated sexual behavior. As the title indicates, the emphasis is on the US Constitution and its interpretation. In part 1, "Ancestors," Geoffrey R. Stone, Edward H. Levi Distinguished Service Professor of Law at the University of Chicago, summarizes sex and the law from the ancient world to the Christian era, concluding with the Enlightenment in England. Part 2, "Founders," crosses the Atlantic to recount the diverse, surprisingly unfettered sexual proclivities of the American colonists and how the founding fathers dealt with individual freedoms in the Constitution. Traditional morality returns in part 3, "Moralists," as religious beliefs, starting in the 1790s, dominate the culture and its laws; but cracks begin to appear in the 1950s at the conclusion of this section. The final three parts of the book focus explicitly on how judges have interpreted the Constitution in the areas of sexual expression, reproductive freedom, and sexual orientation from around 1960 to the present.

Stone has published a scholarly book that he claims to have worked on "for more than a decade" (xxiii). His endnotes span almost one hundred pages and give evidence of erudition not only in law but also popular culture, history, and literature. He cites a broad array of both primary and secondary sources. While a bibliography and a glossary of key legal terms would have been useful, I can understand the desire not to increase the book's length of seven hundred pages. The thirty-page index includes names, works, legal cases, and subjects. Furthermore, while the book clearly favors intellectual freedom, including separation of

church and state, it is not overly polemical and does not demonize the opposition. Stone takes great care in the final three legal sections to give the reasoning behind both the arguments of his intellectual adversaries and the judges' decisions, whether favorable or not.

Though scholarly, *Sex and the Constitution* is exceptionally readable, even gripping at times. I took the book with me on a four-day camping vacation and found myself spending all my free time reading this extensive text. Stone is an excellent writer who clearly explains the issues in a way those without legal training can easily understand. To use a cliché, this book reads like a novel. The decision to have the final three parts detail the court cases does, however, lead to some overlap with the more general sections that end in the 1950s because many important court cases took place in this earlier period. To my mind, the overall clarity and interest of the general sections also hooked me enough to accept the heavier going of the detailed study of recent court cases.

One excellent reason to read this book is the depth of its content. I thought that I had extensive knowledge about intellectual freedom in general and sex in particular, but Stone showed me that I was wrong. To give a specific example, my academic training focused on the eighteenth century. Little did I know, however, that the high point of sexual freedom in America was mostly likely during the years of the Constitutional Convention. The newspapers that the delegates read included advertisements for brothels, and bookstores carried detailed evaluations of the individuals who worked in them. Enlightenment values of individual freedom, at least for upper-class white males, undergirded the principles of the American Constitution even if these values were undone later during more religious periods and only returned to prominence in the later part of the twentieth century. That I did not know these facts about sex in eighteenth-century America may be an



example of the continuing reticence, even of serious scholars and defenders of intellectual freedom, to talk about sexual behavior that do not match current mainstream sexual norms of Middle America.

Part 4, “Judges: Sexual Expression and the Constitution,” has the greatest relevance for librarians because Stone traces the legal history of government attempts to combat obscenity. Issues discussed in the three chapters that make up this section include the definition of obscenity, literary merit, pornography, and the internet. After reviewing the many court cases that progressively defended the right to publish sexual materials, his conclusion is that “the practical reality is that essentially unrestrained adult obscenity is here to stay” (310) because of the impossibility of controlling access to pornography that is freely available on the internet and accessed by a substantial number of American men and women. He acknowledges that the courts continue to support convictions for child pornography and that porn is one of the factors that has energized the Christian Right in the current culture wars. The readers of this review may be disappointed to learn that Stone

does not say anything about the attempts of the American Library Association to support First Amendment rights.

This brief review cannot do justice to the broad scope of *Sex and the Constitution*. I concur with Stone that sex is often the flashpoint for the conflict between individual rights and government control. Laws are not immutable but instead reflect the cultural values of society. Some may find it jarring that Stone moves from a broad overview (Western civilization until the eighteenth century) to moderate detail (America from colonization to around 1950) to a close analysis of post-1950 developments including a detailed analysis of court cases. I will note that he also has the historical perspective that the current gains were often narrowly won and that they may be lost as political winds shift. His concluding message to those on the freedom side of the culture wars is that “we must fully embrace our moral, legal, and constitutional responsibility to respect the rights of others. This was, after all, what the founders of our nation counted on us to do” (537). The readers of this publication, however, must be vigilant in combatting the narrower view of freedom of those who disagree.

Was the Cat in the Hat Black? The Hidden Racism of Children’s Literature, and the Need for Diverse Books

Author _ Philip Nel

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Reviewer _ Sarah Patterson, MS, MSLIS

In today’s racially charged, post-election atmosphere it has become more important than ever to recognize and root out subversive and persistent forms of racism, especially racism geared toward society’s most impressionable members: children. In the book, *Was the Cat in the Hat Black? The Hidden Racism of Children’s Literature, and the Need for Diverse Books*, Philip Nel discusses in five chapters various ways that classic and modern children’s literature continues to perpetuate white supremacy. While not denying that children’s media has made great strides toward promoting a more diverse view, Nel insists and supports the idea that there is “legacy racism” promoted by classic children’s literature.

Nel’s book confronts head-on the uncomfortable idea of racism in children’s literature—uncomfortable because, as Nel points out, classic children’s literature evokes certain warm, nostalgic feelings in an adult, which can be difficult to dismiss when a reader is confronted with the idea that their wonderful childhood memories may be tainted by something as horrible as racism (25). *Was the*

Cat in the Hat Black? discusses racism in children’s literature through the use of fantastic supporting research, including paragraphs taken directly from children’s literature, both classic and modern, as well as ancillary statistics, infographs, and illustrations published in children’s literature that depict the racism Nel describes. Footnotes are peppered throughout the entire narrative and are both informative and interesting. The footnotes are an actual delight—a rare find in an academic-focused publication, and include personal narratives, citations, and textual explanations.

The main purpose of this publication is stated by the author:

If young people grow up encountering a much wider range of books, toys, movies and video games featuring protagonists of color, then this abundance of varied representations might help to counter the Gollies, the Uncle Remuses, and all the other racist tropes embedded in the culture we consume. What we learn as children shapes our worldview so