

The Volokh Conspiracy

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Quite a Warning Label

Eugene Volokh • May 6, 2010 4:32 pm

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This book is a product of its time and does not reflect the same values as it would if it were written today. Parents might wish to discuss with their children how views on race, gender, sexuality, ethnicity, and interpersonal relations have changed since this book was written before allowing them to read this classic work.

The book involved? A reprint of The Constitution, the Declaration of Independence, and the Articles of Confederation. The language is apparently boilerplate from the publisher, and appears on (among other things) *The Wind in the Willows*, *The Federalist Papers*, Nietzsche's *Beyond Good and Evil* (good idea, there, especially as to "interpersonal relations," though have views really changed so much since then?), and Marx & Engels' *Manifesto of the Communist Party*. Thanks for the pointer to Walter Olson (Cato@Liberty), and to Cory Andrews.

Categories: Uncategorized

65 Comments

1. *mls* says:

Books written today, on the other hand, reflect eternal truth as revealed by Oprah.

Quote

May 6, 2010, 4:40 pm

2. **OpenVolokh says:**

Actually, this is really good advice. Consider section 2 of the 14 amendment:

Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the **male inhabitants** of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such **male citizens** shall bear to the whole number of **male citizens** twenty-one years of age in such state.

I think such discussions would actually be quite productive and interesting. I don't know if they would need to occur BEFORE reading such a work, though.

Quote

May 6, 2010, 4:42 pm

3. **h2u says:**

Books written today, on the other hand, reflect eternal truth as revealed by Oprah.

Peace be upon her. ;)

Quote

May 6, 2010, 4:44 pm

4. **Crunchy Frog says:**

mls: Books written today, on the other hand, reflect eternal truth as revealed by Oprah.

thread winner, on the very first post.

Quote

May 6, 2010, 4:45 pm

5. **Chris Travers says:**

So the Constitution is to be relegated to the classic literature

department?

Oh, how I wish our values were the same as those portrayed in the Odyssey or the I Ching.....

What does this say about St John of the Cross's "The Dark Night of the Soul?"

What do you bet this also appears in their reprint of "The Jefferson Bible?"

Quote

May 6, 2010, 4:45 pm

6. **Chris A. says:**

Wilder's 2007 publication of G.K. Chesterton's Heretics has a virtually identical disclaimer, and this for one of the only journalists of his day to oppose eugenics.

Quote

May 6, 2010, 4:46 pm

7. **c.s.b. says:**

To be fair, the part about "three fifths of all other Persons," modified by the 14th Amendment but presumably still printed, would also probably warrant some discussion.

Quote

May 6, 2010, 4:48 pm

8. **PersonFromPorlock says:**

...and does not reflect the same values as it would if it were written today.

They know this, how?

Quote

May 6, 2010, 4:49 pm

9. **Anonsters says:**

PersonFromPorlock: ...and does not reflect the same values as it would if it were written today.

To be fair, though, that bit is undoubtedly true.

Quote

May 6, 2010, 4:52 pm

10. **Angus says:**

"all *men* are created equal" is another good example. At the time, they really did mean it to exclude women, and even then only to include some men but not others (particularly Indians and slaves).

That is a very good discussion to promote, among others, about those founding documents. However, having the discussion before reading them is utterly silly.

Quote

May 6, 2010, 4:59 pm

11. **cityduck says:**

PersonFromPorlock: They know this, how?

Isn't that self-evident?

Quote

May 6, 2010, 5:02 pm

12. **arch1 says:**

- 1) Why the focus on values to the exclusion of (say) knowledge or technology, each of which has changed hugely?
- 2) Using today as the benchmark seems either inappropriately chronocentric (we're now at an ideal end state, for some def'n of "we") or disappointingly cynical (ok we've a ways to go, but it's hopeless to expect parents/children to consider what might still be askew).
- 3) The warning might even be affixed to works written within the parents' lifetime (of course with parent and child roles reversed: -)

Quote

May 6, 2010, 5:03 pm

13. **Constantin says:**

Does Wilder print the Koran?

Quote

May 6, 2010, 5:07 pm

14. **rachel says:**

Much of what's printed today is so yesterday tomorrow. And, yet, "Today's Values" is advertised on signage over dusty bargain book bins.

Quote

May 6, 2010, 5:08 pm

15. ***Tweets that mention Quite a Warning Label: (Eugene Volokh) © Wilder Publications 2008 This book is a product of... -- Topsy.com says:***

[...] This post was mentioned on Twitter by Moshe Glickman, The Volokh Conspirac. The Volokh Conspirac said: Quite a Warning Label: (Eugene Volokh) © Wilder Publications 2008 This book is a product of... <http://goo.gl/fb/GhkvA> [...]

May 6, 2010, 5:15 pm

16. ***Chris Travers says:***

mls: Books written today, on the other hand, reflect eternal truth as revealed by Oprah.

This is especially true of the porn reviews in Oprah Magazine a while back....

Quote

May 6, 2010, 5:23 pm

17. ***arthur says:***

"Daddy, what's manly firmness?"

For the Declaration of Independence this is a useful warning.

Quote

May 6, 2010, 5:31 pm

18. ***DjDiverDan says:***

Frankly, the advice that parents discuss the issues with their children is very good advice for nearly any literature, and is far preferable to the lazy out of simply banning the book. I've always thought that Huckleberry Finn was a classic children's book, and really disappointed to find that a great many school districts (operating under intense political pressure) have gone so far as to ban the book from their libraries because of its repeated use of the "N Word" — of course, anyone who reads Huckleberry Finn with any care can see that Twain was just using the vernacular of the period, and the book was in fact an indictment of slavery in particular and racism in general. With a little parental involvement, reading Huckleberry Finn can teach some great lessons, both as to historical norms and interracial relationships. Much better than simply banning the book because some parents can't get past the language used.

Quote

May 6, 2010, 5:33 pm

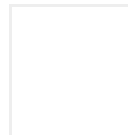
19. **Randy says:**

Amen, DiverDan! I recall many years ago when a production in Canada was proposed of the musical classic Showboat. It was picketed by idiots who thought it was racist.

Misry's comin' around, I tells ya.

Quote

May 6, 2010, 5:37 pm

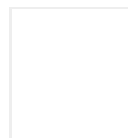
20. **Sam says:**

That same warning appears on the Sesame Street Old School DVDs with episodes from the early run of the show. Along with the episodes educational value being different and that they are more for entertainment purposes.

Did we start learning to count differently?

Quote

May 6, 2010, 5:54 pm

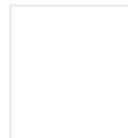
21. **Chris Travers says:**

Constantin: Does Wilder print the Koran?

Not that I could see, but they do print "The Jefferson Bible."

Quote

May 6, 2010, 6:05 pm

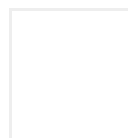
22. **Kevin R says:**

Did we start learning to count differently?

I don't know; I seem to remember in college always having to buy new editions of math textbooks. (And I'm not talking about anything esoteric, I'm talking about introductory calculus.) Surely the only explanation is that counting (/derivatives/Taylor series) are different today.

Quote

May 6, 2010, 6:10 pm

23. **Waste93 says:**

I picked up some Looney Toons DVD's for my son. A similar disclaimer is at the beginning of the DVD's. How the cartoon use racial and sexual stereotypes that are wrong now and wrong when they were

made. When did we become over sensitized and afraid to be offended?

Quote

May 6, 2010, 6:39 pm

24. **Mike McDougal says:**

This book [the Constitution] is a product of its time and does not reflect the same values as it would if it were written today.

The U.S. is probably politically incapable of creating a new Constitution.

Quote

May 6, 2010, 6:42 pm

25. **ray_g says:**

Reading the label, and attempting to interpret the mind set of the writer of the label (my alter ego is Nino the Mind Boggler), it seems like this should be slapped onto any book published before, say, 1980. I mean, it sure seems like "Coffee, Tea or Me" doesn't reflect the gender or sexual values of our time. Wait..considering some of the current popular female celebrities, maybe it does. I can't keep up with this stuff.

Quote

May 6, 2010, 7:10 pm

26. **gullyborg says:**

I would add the following warning:

"DANGER! Anyone who reads this WILL DIE!"

Because... eventually...

Quote

May 6, 2010, 7:20 pm

27. **bellisaurius says:**

My head asplode.

Nah. Once I get past the obvious implication that they were wrong when they wrote these things (that I feel personally, which is of course an attribution fallacy), I guess the actual point of the exact words is to consider the possibility of discussion about the morals of different times, and the ability for a parent to say either "you have to judge people by the standards of their own times", or "sometimes people realize that things are wrong after a while, and they change them".

Or, tell the "Vanity of vanities, all is vanity." and a discussion of how we have to use our own judgment in the end, which is probably the most important lesson.

Quote

May 6, 2010, 7:24 pm

28. ***r gould-saltman says:***

Since it seems to be boilerplate, and since Wilder seems to have a *huge* assortment of stuff in print to which they've attached it, can't say it's all that troubling.

That they've pasted it on the Constitution or DoI is a little odd.

On the other hand, since they've got Nietzsche in print, it's not all that odd that they might want to have a disclaimer in place for when little Johnny comes home and says "Go you among women? Forget not the whip!" to his mother and sisters, and then says "I read it in school!".

They've got a bunch of 18th and 19th Century stuff in their catalog; the occurrence of the "n-word" in contexts which are NOT, unlike Twain, obviously satirical could be a problem, too (it turns up, among places where it surprised me when I saw it for the first time, in "un-revised" Gilbert and Sullivan...) Ditto with "Chinamen" and "wogs"...

It occurs to me that Wilder simply didn't want to hire someone to READ all the stuff they're printing word-for-word, looking for potentially offensive language; this goes some way to solving the potential complaints from parents without incurring that expense.

Quote

May 6, 2010, 7:33 pm

29. ***Howard Gilbert says:***

Parents who discover their young impressionable children reading Nietzsche's Beyond Good and Evil should certainly discuss these matters. Perhaps their children will explain a few things to the parents who, statistically speaking, were probably in the living room watching American Idol.

Quote

May 6, 2010, 7:52 pm

30. ***ys says:***

In Soviet Russia there was no need for such nonsense. The government simply prohibited periodicals and publications on socio-political topics that were older than a certain threshold. For good measure, it also required to alter no-longer PC material that was still in

circulation, like encyclopedias. And trust me, people obeyed.

Quote

May 6, 2010, 7:57 pm

31. **ys says:**

On the other hand, in democratic Germany, the government needs to put disclaimers, but how! In the old imperial town of Speyer, where four holy emperors and four German kings are buried in the 1000-year old cathedral, there is a modest marble monument in the center of the town. It has the following inscription, carved in marble: "Deutschland muss leben, auch wenn wir sterben muessen" (Germany must live, even if we have to die [for it]). The monument was erected in 1920s to commemorate WWI. A smaller bronze plaque on its side reads: "The views expressed here reflect the thinking of those times and not those of the town council"

Quote

May 6, 2010, 8:07 pm

32. **Albatross says:**

I kind of like the idea of warning labels on books. Now if they just had a few that warned there was porn inside

Quote

May 6, 2010, 8:33 pm

33. **The Unbeliever says:**

Albatross: I kind of like the idea of warning labels on books. Now if they just had a few that warned there was porn inside

And spoil the surprise?

Quote

May 6, 2010, 8:55 pm

34. **ERH says:**

Chris Travers: So the Constitution is to be relegated to the classic literature department?

Well it is part of the great books series.

Quote

May 6, 2010, 8:59 pm

35. **Lior says:**

By the way, did anyone look at the *copyright* statement on the same page of the book?

Copyright 2008 Wilder publications

All rights reserved ... No part of this book may be used or reproduced in any manner without written permission except for brief quotations for review purposes only.

This is also "boilerplate" from the publisher. Is the making of false legal statements actionable?

Quote

May 6, 2010, 9:09 pm

36. **rmd says:**

The Unbeliever: The Unbeliever says:

Albatross: I kind of like the idea of warning labels on books. Now if they just had a few that warned there was porn inside

And spoil the surprise?

To avoid the surprise. Of there not being any.

Quote

May 6, 2010, 9:21 pm

37. **Angus says:**

This is also "boilerplate" from the publisher. Is the making of false legal statements actionable?

Specific arrangements and edits of documents (Wilder puts notes in the text of the Constitution indicating changes made later by amendment) can be copyrighted. It's actually pretty standard practice.

Quote

May 6, 2010, 9:34 pm

38. **chris says:**

What's the big deal? This is the free market in action. Is the sky really falling? Is the end really nigh?

Quote

May 6, 2010, 10:57 pm

39. **teaandbonbons says:**

I saw this “warning” several months ago when I intended to purchase “The Federalist Papers” on Amazon. I noticed it and was appalled by it. I decided not to purchase the Wilder version, but chose another publisher instead.

a) If any child were to read the book, that would first of all be a miracle.

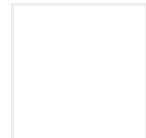
b) If any child were intelligent or curious enough to read the book, it’s likely s/he is also intelligent enough to figure out this was written in “the olden days” when things were different. A naturally curious child would ask lots of questions of his own.

c) The most likely readers of this material, adults, would also be intelligent enough to figure out that times have changed since the 18th century. The warning is unnecessary and insulting; moreover, it suggests that the material is somehow subversive or offensive.

And if you are offended by our Constitution and founding documents, then you are a sorry bastard and probably can’t be helped.

Quote

May 6, 2010, 11:06 pm

40. **Chris Travers says:**

Lior: By the way, did anyone look at the *copyright* statement on the same page of the book?

This is also “boilerplate” from the publisher. Is the making of false legal statements actionable?

Probably not.

First of all, specific edits and arrangements are subject to copyright provided that they reach a certain de minimis level of expressive content. The rules on this are not perfectly clear. It’s quite possible Wilder at least believes they hold the copyright to this edition and it’s a legitimate copyright. It’s also entirely possible they are wrong. I am not entirely sure you’d know until it goes to court.

In some cases the rules are clear. If, for example, I update the spellings to Contemporary Standard American English, that is probably not subject to copyright because all I have is a non-literal copy. If I further correct literal errors or other purely functional elements, that is still not subject to copyright. On the other hand, if I add footnotes explaining the content, adding references to other commentary, etc. that would seem to be copyright-worthy if enough of them exist.

On the other hand, they are unclear in others. Courts have occasionally surprised me with rulings based on de minimis expression.... (Lexmark v. Static Control is a good example, holding that certain code in printer

cartridges did not meet de minimis requirements for copyright protection.)

However, if I copy your updated spellings into my book when I quote a passage, unless your expressive changes enter into my work, I don't think you'd have a valid claim against me.

IANAL, but I know enough to know this area is VERY fact-centric, and also that courts can be somewhat unpredictable here.

Quote

May 7, 2010, 12:20 am

41. **LarryA says:**

"Daddy, does this part mean I can have a BB gun for Christmas?"

Quote

May 7, 2010, 12:36 am

42. **Alan K. Henderson says:**

That "boilerplate" looks like a Scott Ott prank.

Quote

May 7, 2010, 12:44 am



43. **Ken Arromdee says:**

Waste93: I picked up some Looney Toons DVD's for my son. A similar disclaimer is at the beginning of the DVD's. How the cartoon use racial and sexual stereotypes that are wrong now and wrong when they were made. When did we become over sensitized and afraid to be offended?

That's not boilerplate, though, and it's not on every cartoon either. There actually are cartoons that have bad enough stereotypes that they really are offensive by modern standards even to people who don't make a habit of being easily offended. And they shouldn't be shown to kids as normal entertainment any more than Birth of a Nation should be shown as normal entertainment.

Quote

May 7, 2010, 1:11 am

44. **DougInSanDiego says:**

mls: Books written today, on the other hand, reflect eternal truth as revealed by Oprah.

Well, yes, mls —

because nowadays we are all progressive and whatnot, and being transformed into higher beings are equipped to preach *correctly* — unlike the barbarians of any age past.

Quote

May 7, 2010, 3:01 am

45. **Chris Hallquist says:**

Constantin: Constantin

I had a similar thought, but about the Bible. I actually assumed that's what this post was about when I read the warning label. I say atheists steal that warning label, make a sticker out of it, and put it on all the Gideon Bibles in hotels.

Quote

May 7, 2010, 3:06 am

46. **Matej says:**

Marx & Engel's *Manifesto of the Communist Party*

A small quibble, but having lived in a communist country just long enough to become slightly acquainted with the authors, the second was not a Mr Engel but one Friedrich Engels (note the s and the placement of the apostrophe).

[D'oh! I knew that, but mistyped; thanks for the note — just corrected the post. –EV]

Quote

May 7, 2010, 3:20 am

47. **Eugene Volokh says:**

chris: What's the big deal justifying your posting your comment? My post, and the comments to it, is the free market of ideas in action. Is the sky really falling? Is the end really nigh?

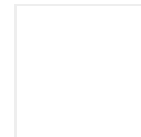
Quote

May 7, 2010, 9:58 am

48. **Instapundit » Blog Archive » SLAPPING A PARENTAL-WARMING LABEL on the Constitution and Declaration of Independence? Good grief... says:**

[...] A PARENTAL-WARMING LABEL on the Constitution and Declaration of Independence? Good [...]

May 7, 2010, 10:13 am

49. **Seamus says:**

ys: On the other hand, in democratic Germany, the government needs to put disclaimers, but how! In the old imperial town of Speyer, where four holy emperors and four German kings are buried in the 1000-year old cathedral, there is a modest marble monument in the center of the town. It has the following inscription, carved in marble: "Deutschland muss leben, auch wenn wir sterben muessen" (Germany must live, even if we have to die [for it]). The monument was erected in 1920s to commemorate WWI. A smaller bronze plaque on its side reads: "The views expressed here reflect the thinking of those times and not those of the town council"

So the Germans are now ashamed of a monument that basically says for Germany what Lincoln said about the United States, when he praised those who "gave their lives that that nation might live." Wow. Maybe it was a good idea to cut their balls off the way we did in 1945, but frankly, I find it a little embarrassing to see such a nation of eunuchs running making a virtue of ballslessness.

Quote

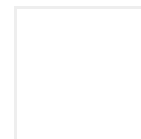
May 7, 2010, 10:22 am

50. **charles austin says:**

The never ending hubris displayed by folks who think we are so much smarter and in control today than everyone who came before us never ceases to depress me. We have better technology, that's about it.

Quote

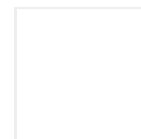
May 7, 2010, 10:28 am

51. **NotAsSmartAsTheyThink says:**

Can Wilder put a warning label on Liberal legislation passed since FDR?

Quote

May 7, 2010, 10:43 am

52. **David Boone says:**

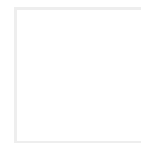
I grew up in the 50's. Part of my education included those subversive Looney Tunes cartoons. Guess that explains my racist tea party attitudes. I seriously doubt most kids of that era, took that politically incorrect stuff to heart. All I can tell you is that it was genuinely funny and loopy, which is more than I can say of modern humor.

Quote

May 7, 2010, 10:47 am

53. **Joe T. Guest says:**

Chris Travers: Oh, how I wish our values were the same as those portrayed in the Odyssey or the I Ching.....



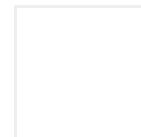
Damn your miserable stomach, Travers.

Quote

May 7, 2010, 10:52 am

54. **Richard Nieporent says:**

Thank goodness we now live in the best of all possible worlds. Where did Wilder get the idea that they are supposed to be our arbiter of values? Just publish the material and let the buyers decide what they think about it.

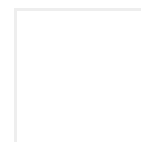


Quote

May 7, 2010, 11:13 am

55. **Horatius says:**

This book is a product of its time and does not reflect the same values as it would if it were written today. Parents might wish to discuss with their children how views on race, gender, sexuality, ethnicity, and interpersonal relations have changed since this book was written before allowing them to read this classic work. In particular, regarding interpersonal relations, and despite the actions of the personages in this book, today you are expected to do as those in Government tell you. Parents may want to discuss this with their children, explaining how some groups may attack them if they do otherwise, and that it is best to not make a fuss, because it's all for the common good anyway...



Quote

May 7, 2010, 11:32 am

56. **Reggie1971 says:**

You would think the miserable little people who foist this politically correct left wing stupidity upon us would considering applying for citizenship elsewhere. They obviously hate America, but just won't admit it. I guess they stay to afford themselves the chance to destroy it from within.



Quote

May 7, 2010, 11:33 am

57. **Blake says:****rachel:**

Much of what's printed today is so yesterday tomorrow. And, yet, "Today's Values" is advertised on signage over dusty bargain book bins.

Rachel, that is coffee on the monitor comedy gold.

Brilliant.

Quote

May 7, 2010, 11:48 am

58. **Dwight says:**

charles austin: The never ending hubris displayed by folks who think we are so much smarter and in control today than everyone who came before us never ceases to depress me. We have better technology, that's about it.

I don't know about smarter and more in control, but having women vote, slavery abolished, and minorities voting are not small things. No, all our problems are not solved, but we have come down a road that we were right in taking.

That having been said, we may need a new 3/5th Amendment which would give representative credit for a state's population of illegal aliens.

Quote

May 7, 2010, 11:55 am

59. **willis says:**

c.s.b.: To be fair, the part about "three fifths of all other Persons," modified by the 14th Amendment but presumably still printed, would also probably warrant some discussion.

I think the 14th amendment arose as a result of those discussions. Are you suggesting we reconsider the amendment or are you suggesting we rekindle the discussions to inflame a little hostility and guilt-tripping that comes in so handy for manipulating whites?

Quote

May 7, 2010, 11:59 am

60. **Lockestep says:****Ken Arromdee:**

That's not boilerplate, though, and it's not on every cartoon either. There actually are cartoons that have bad enough stereotypes that they really are offensive by modern standards

even to people who don't make a habit of being easily offended. And they shouldn't be shown to kids as normal entertainment any more than Birth of a Nation should be shown as normal entertainment.

So I guess "Bugs Nips the Nips" is right out, then.

Quote

May 7, 2010, 12:02 pm

61. **Mike H. says:**

The non-Wilder Constitution.

Quote

May 7, 2010, 12:09 pm

62. **Wuzzagrunt says:**

Waste93: I picked up some Looney Toons DVD's for my son. A similar disclaimer is at the beginning of the DVD's. How the cartoon use racial and sexual stereotypes that are wrong now and wrong when they were made. When did we become over sensitized and afraid to be offended?

There's a similar disclaimer on the DVDs of all the old Max Fleischer Popeye cartoons I bought. The Tom and Jerry DVDs even have a prologue by Whoopie Goldberg, lest we fail to read and fully internalize the lesson of inclusion contained in a written disclaimer.

Quote

May 7, 2010, 12:27 pm

63. **Chris Travers says:**

Lior: This is also "boilerplate" from the publisher. Is the making of false legal statements actionable?

Coming back to this, I think there's something really disjoint about the copyright statement and disclaimer.

Wilder is obviously stating that they own the copyrights to a version of the work that they edited, adding expressive content, which was copyright as of 2008 (two years ago), when they registered the copyright for THEIR work (which includes plenty of elements of an older public domain work).

They then claim that the book is a product of it's time. Which book? The book that was copyrighted? What's changed in the last two years? Wow, values change fast.....

Quote

May 7, 2010, 12:29 pm

64. **marcus says:**

Dwight: I don't know about smarter and more in control, but having women vote, slavery abolished, and minorities voting are not small things. No, all our problems are not solved, but we have come down a road that we were right in taking.

I do not deny the value of the expansion of the franchise, but methinks the founding fathers had one concept that we might consider readopting. Only those that paid taxes voted.

Quote

May 7, 2010, 12:40 pm

65. **quasimodo says:**

c.s.b.: To be fair, the part about "three fifths of all other Persons," modified by the 14th Amendment but presumably still printed, would also probably warrant some discussion.

Would today's parents be able to explain why 3/5 was much better for the slaves than 1, and 1/4 much better than 3/5 and 0 best of all?

Not very many would, I think.

Quote

May 7, 2010, 12:41 pm