

**FINAL EXAMINATION  
CONSTITUTIONAL LAW II  
Peter Keane  
SPRING 2007**

You have three (3) hours to complete this examination.

This is a **closed** book exam. No outside materials are allowed.

The exam consists of one section of 20 Multiple Choice Questions and a section of 2 essay questions. The 20 Multiple Choice Questions are worth 1/3 of the total grade. Each of the 2 essay questions is worth 1/3 of the total grade. So you should budget your time to devote one hour and no more to each question.

**Essay: Question One of Two Questions**  
**One Hour**

Reverend Failbrain heads a nationwide church whose main tenet of faith is that Gay people are sinners who must be denounced and reviled whenever possible. The church newspaper publishes an article attacking California Assemblyman Ralph Jones, who is Gay, and who has been actively pressing for legislation on same sex marriage. The article falsely accuses Jones of sexually assaulting young boys. The article also says two other people assisted Jones in forcibly subduing the boys during the attacks and identifies them as Angela Peters, a young lawyer who works in Assemblyman Jones' office as the staff person in charge of publicity and co-ordination for same sex marriage legislation, and Arnold Jones, the Assemblyman's father, who is a retired pharmacist living in Arizona.

The article used computer generated and morphed images to falsely create pictures of what appear to be the assemblyman sexually assaulting young boys.

- (1) Assemblyman Jones, his father and Ms. Peters sue Failbrain for libel, punitive damages and for an injunction prohibiting any further publication of the article.
- (2) The local district attorney indicts Failbrain for:
  - A. Exhibition of obscene material.
  - B. Possession and distribution of child pornography.

**Discuss all Constitutional issues raised by these facts, state how these issues should be resolved and why.**

**In your answers, also deal with the application and effect, if any, of what Failbrain's assertion of the right to free exercise of religion may bear on these issues.**

**Essay: Question Two of Two Questions**  
**One Hour**

The San Francisco Board of Supervisors adopts the following ordinances:

1. The lobby of City Hall may be used for public events by groups who obtain a permit from the Mayor's Office. However, on Monday afternoons, when the San Francisco Board of Supervisors is in session, no permits shall be granted to any groups demonstrating either for or against any measure being considered by the Board of Supervisors.
2. Because of the increasing health care problems and costs to the City for city employees who develop sickle cell anemia, the City will no longer hire any person whose family health history shows evidence of the disease. (Medical research shows that African Americans overwhelmingly make up the statistics of people suffering from this disease).
3. It shall be a misdemeanor for any person to "offensively use lewd and lascivious language relating to explicit sexual conduct within 15 feet of any school building in which children under 14 years of age are enrolled."
4. Because of safety considerations and a recent history of tragic accidents involving high elevation construction cranes on building projects in the City, "no person who is determined to be mentally retarded by the City's Department of Mental Health shall be employed as a high elevation construction crane operator."
5. All companies selling newspapers within the City of San Francisco shall pay a "littering tax" fee of \$50 per year.
6. Golden Gate Park shall no longer be used as a public forum for any purpose.

**Discuss all constitutional issues raised by these facts. State how these issues should be resolved and why.**