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Hate Speech and the First Amendment

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Available at: https://works.bepress.com/alane_garfield/132/
This is the 12th year that The News Journal and Delaware Law School have teamed up to mark the observance of Constitution Day. The observance falls on Sept. 17, the date in 1787 when the framers signed the Constitution in Philadelphia.

This year, we are wrestling with the issue of hate speech. Should hate speech be protected by the First Amendment? If it is protected, how can we prevent the spread of these hateful ideas?

To get your mind going, try taking this survey. Please don’t answer the questions based on what you think current law allows the government to do. Answer them based on what you think the law should allow the government to do. There are no wrong answers. Many liberal democracies in Europe are more willing to punish hate speech than we are. You might decide that we should follow their example.

You also can take the survey online at http://delonline.us/2foMLaB. The survey is anonymous and results will be presented later this month.

HATE SPEECH AT PUBLIC DEMONSTRATIONS
Do you think that the government should be allowed to prevent any of the following public demonstrations?

1. A white supremacist rally in a community with a large African-American population whose members view the rally’s message as racist?
   a. Yes
   b. No

2. A neo-Nazi rally in a community with a large Jewish population if members of the community view the rally’s message as anti-Semitic?
   a. Yes
   b. No

3. A white supremacist rally in a community whose population largely supports the rally’s message?
   a. Yes
   b. No

4. “Black Lives Matter” rally in Wilmington if some members of the community believe that the rally’s message diminishes the value of white lives?
   a. Yes
   b. No

5. “Blue Lives Matter” rally in Wilmington if some members of the community believe that the rally’s message diminishes the value of African-Americans lives?
   a. Yes
   b. No

6. A rally in Wilmington in favor of the liberation of Palestine if some members of the Jewish community believe that the rally’s underlying message is anti-Semitic?
   a. Yes
   b. No

See QUIZ, Page 22A
The most notable Confederate monument
ishing slavery, until 1901. The state's
was also about justifying a racial order
rebellion as a glorious “Lost Cause.”

Then, as would later be the case, hon-
cy promoted a cult of the Confederate
from the 1880s to 1920s, a period that
them in historical context.

and lesbians view the rally as
lesbians?  
   a. Yes  
   b. No

A rally in Wilmington in opposition to laws allowing religious businesses to deny services to same-sex couples if some evangelical Christians believe that the rally constitutes hate speech directed at religious Christians?  
   a. Yes  
   b. No

HATE SPEECH AT PUBLIC UNIVERSITIES
Do you think that a public university should be able to forbid students to wear shirts on campus with any of the following messages?

   a. Yes  
   b. No

10. An image of the Confederate flag
   a. Yes  
   b. No

11. “If a man also lie with mankind, as he lieth with a woman, both of them have committed an abomination” (quote from the King James Bible)  
   a. Yes  
   b. No

HATE SPEECH IN PUBLIC SCHOOLS
Do you think that a public high school should be able to forbid students to wear shirts at school with any of the following messages?

   a. Yes  
   b. No

WHAT’S YOUR DREAM?

15. A swastika
   a. Yes  
   b. No

16. “Religion is the opiate of the masses” (Karl Marx quote)  
   a. Yes  
   b. No

17. “Use the bathroom of your sex at birth”  
   a. Yes  
   b. No

18. Martin Luther King, Jr. dreamed of a nation where people “will not be judged by the color of their skin but by the content of their character.”

   a. Like MLK, I too dream of a country where people are judged not by their race but by the content of their character.

   b. Unlike MLK, I think that a person’s race is related to a person’s character and may be a basis for judging someone.

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