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## **Southwest Airlines Did Not Censor**

**by Jacob G. Hornberger**

A recent decision by Southwest Airlines to [throw two passengers](#), a husband and wife, off a flight holds a valuable lesson about private-property rights, censorship, and the Bill of Rights.

The reason the couple was grounded was that one of them wore a t-shirt containing a photo of President Bush, Vice President Cheney, and Secretary of State Rice along with an obscene phrase that resembled the title of the popular movie *Meet the Fockers*.

While some would undoubtedly cry, “Censorship!” they would be wrong. There was no censorship in what took place here. There also was no violation of the First Amendment.

Contrary to popular opinion, the Bill of Rights does not operate as a control over private actions. Instead, its restrictions are limited to conduct by officials of the federal government. Read the First Amendment carefully. You’ll notice that it expressly prohibits Congress, not private individuals and corporations, from depriving people of such fundamental rights as freedom of speech, freedom of the press, and freedom of religion.

Why would our American ancestors see the need to impose such an express prohibition on U.S. senators and congressmen? Because they knew that Congress inevitably attracts people who believe in depriving people of such rights, especially during crises and emergencies. After all, if the federal government attracted people who believed in a consistent honoring of fundamental rights, why would the restrictions in the Bill of Rights be necessary?

As the owner of its own planes, Southwest Airlines has the right to set any restrictions it wants with respect to people who board its flights. One of the restrictions that Southwest has implemented is: No obscene attire on board their flights.

If a person chooses to fly Southwest, he implicitly agrees to the airline’s conditions for passenger behavior. By setting a “no obscene attire” condition, Southwest Airlines is not “censoring” its passengers. As the owner of the planes, it has the right to set forth the conditions under which the planes will be used by its passengers.

By the same token, while Southwest has the right to set conditions for passenger conduct on its airline, it cannot force people to fly its planes. If people don’t like the conditions, they are

free to fly some other airline or use some alternative means of transportation. People have no “right to fly” that would enable them to violate the conditions on passenger behavior set forth by Southwest.

As our American ancestors understood so well, ultimately a free society is based on the protection of private property rights. Thus, under principles of liberty and property, Southwest Airlines has the right to set conditions for passenger behavior and conversely passengers have a right not to fly Southwest.

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