



BY DAVID BOAZ

“So far as I know, you are the only 12 people in Nashville who have been forced to watch this movie.”

# Editorial Standing on Principle When It Matters

When I went to my first off-campus libertarian event back in my college days, I was mildly surprised that the first person I encountered was an ex-Marine of about 40, which seemed old to me at the time. How could someone so old believe in such radical ideas? Then another person arrived, a young woman in her late 20s. But her first question was, “Have you seen my parents?” I soon learned that her parents—who seemed really old at the time, but, alas, were in fact slightly younger than I am now—were the leading libertarians in Tennessee.

Philip and Myrle Carden were quite a couple. They raised six children, teaching them at home with the Calvert curriculum. He served in World War II and then became a newspaperman. Like my father, he got around to attending law school in his mid-30s. He became a great defender of the rule of law. When he was the Republican nominee for a statewide judgeship, his campaign brochure began:

### To Regain Respect for Law—Restore Respectability of Law

“No society can exist unless the laws are respected to a certain degree. The safest way to make laws respected is to make them respectable.”

—Frederic Bastiat, “The Law”

The most respectable laws the world has ever known were those developed within the common law traditions preserved in the Constitutions of Tennessee and the United States.

This is the tradition that was developed in Britain and spread around the world to bring more ordered liberty to more people over wider areas than any other legal system known to man.

Later he found a more comfortable home in the new Libertarian Party. The Cardens were especially known for their exuberant Fourth of July celebrations in their big family home.

I remember Phil Carden telling me a story that has stuck with me all these years. As I recall, he was engaged to defend the right of a theater owner to show the pornographic movie *Deep Throat* in Nashville. He and the prosecutor made their opening statements. The room was then darkened, so the jurors could watch the movie. Mr. Carden, as I always called him, conspicuously left the room because he didn't approve of such trash. Then, when the lights came back on, he turned to the jury and said, “So far as I know, you are the only 12 people in Nashville who have been forced to watch this movie.” The jurors rejected the attempt to ban the movie.

I recently discovered that he wasn't just a naïve country lawyer confronting the issue of pornography for the first time; as a student, he had published “The Supreme Court and Obscenity” in the *Vanderbilt Law Review*. No doubt he cited the law in his courtroom argument, but I prefer to think that his common-sense libertarian point was what convinced the jury.

I've drawn several lessons from this story. The importance of free speech, for instance, even offensive speech. Modern “liberals” have often defended the First Amendment rights of communists, atheists, pornographers, and other purveyors of ideas that might offend the majority. Unfortunately, in recent years liberals have not been so protective of speech that offends them—racist, sexist, and homophobic speech or speech by corporations, for instance.

Second, there's the principle of “mind your own business.” If you don't want to watch the movie, don't. But let other people make their own decisions. If you don't want to patronize a smoky bar, eat fatty foods, or marry someone of the same sex, then don't. Just don't interfere with people who do.

And of course, every story like this reminds us of the importance of the rule of law. Because of the common law and the Constitution that Philip Carden valued, kings and governors and prosecutors can't just shut down a movie they don't like. They have to go through due process of law. Too often, the law still allows coercion against innocent people. And our recent presidents have pushed the limits of the law in expanding their powers of arrest, surveillance, bailouts, seizures, and shakedowns. But we're far better off in a society governed by law, even imperfectly, than in a world ruled by arbitrary power.

And finally, the most important lesson was the importance of knowing what you believe and sticking to it. Phil Carden was a family man, a lawyer in private practice, in a Bible Belt city, and he was personally offended by a pornographic movie. But he believed in free speech, and he stood up in open court and defended the right of a business owner to show that movie to willing customers.

We all face tests of our willingness to stand on principle at some cost. For some—Cicero, John Lilburne, Sophie Scholl, Vladimir Bukovsky, Aung San Suu Kyi—the risks are very high. For most of us they're not that high, but they may still be very real. When faced with a challenge, I sometimes wonder, What would Phil Carden do?