

Poster

An Antithetical Attorney

A Commentary

By Nicholas von Hoffman

There have been 25 attempts to disbar him but Phil Hirschkop was back in court the other day alleging that John Sirica, our national judicial hero, had committed perjury in the course of handling a burglary case. A number of lawyers here have as low an opinion of the Wellington of Watergate as Hirschkop, but they keep it to themselves.

At 37, Hirschkop, the ex-cellist, ex-mechanical engineer, ex-Green Beret and ex-legislative assistant to Rep. Richard Ichord, chairman of the House Internal Security (nee Un-American Activities) Committee, is the antithesis of the Washington Lawyer. Where the great wheeler-dealer law firms like Covington and Burling will have 65 partners and 146 lawyers in the office, Phil practices alone with but two young guys on the payroll.

He works out of a comfy office across the Potomac River in Alexandria, and is such a good lawyer that he can conduct his practice the way you've seen Gregory Peck do it in the movies, alone and independent, taking the cases he wants, not the ones he needs. "I turn away 90 per cent of the business that comes in—turn it over to younger lawyers I respect, and I don't take referral fees either," says Phil, a proud rollickingly cocky man who wants you to know that he has nothing in common with your average, run-of-the-mill jackal in his profession. "I have no great desire to make a lot of money."

He can when he wants. The son of oil billionaire H. L. Hunt pays him a couple grand a day, but his fee for the 12,000 people he got out of jail during the May Day antiwar demonstrations was nothing. Perhaps 80 per cent of his practice is for free, a fact made possible by having a certain number of clients like the Hunts. "I keep kidding them," says Hirschkop.

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who is not above relishing his own audacity, "that they've made the biggest single contribution to the American Civil Liberties Union in its history."

Be they Nazis, peaceniks or plutocrats, with money or without, people go to Hirschkop because his clients seldom go to jail. They don't go to jail because Hirschkop is competent, courageous and honest, three qualities you won't often find in one and the same lawyer. Even Warren Burger, the lead singer of the Supremes, has said that half the bar is professionally unfit, but competence without courage and honesty is wasted.

Naturally there are no statistics, but most lawyers probably sell out their clients rather than risk displeasing the judge—and yet judicial anger is frequently the price of acquittal. Hirschkop knows it since he's had to chance it in winning a 10-year string of major cases involving civil rights, women's rights, convict rights, teachers' rights and plain people's rights.

"The real corruptness of the law is the judiciary," he explains "Judges are like college presidents and penitentiary superintendents. Nobody ever looks over their shoulders, and most of the lawyers who appear in front of them spend all their time showing judges how polite they can be. You can't speak the truth to most judges. They're power freaks, and the system is corrupted by the enormous power we've vested in one man in a black dress. They have unfettered discretion to do anything."

If what Hirschkop says seems a bit *dé trop* it's because you haven't been in a courtroom or you've accepted what routinely goes on there without questioning it. Why, for instance, are we required to rise under threat of going to jail when a judge, any judge, enters his place of work? Respect for the office? We don't accord senators this quasi-regal courtesy, and yet the number of ignorant, alcoholic, capricious, cruel, corrupt and lawless judges far exceeds anything happening on Capitol Hill.

Hundreds of courtrooms in this country are run by arbitrary, eccentric tyrants, who delight in thinking up harassing, humiliating rules. In many courtrooms a lawyer, even if he's got 19 law books and 500 pages of notes to refer to, may not speak from his table but must drag it all to a lectern and address the court from there; in other places, if court's in session and you have to go out to the bathroom, the judge won't let you back in; and everywhere the judges are in cahoots with the police and the prosecutors.

Lower court judges often deliberately hand down rulings they know will be reversed in a higher court if the defendant can scrape up the money to appeal. A new wrinkle Hirschkop says he's running into is purposely not making transcripts of cops' grand jury testimony so they can switch their stories later without having to worry about having a written record which might impeach their testimony.

Another bit of judge-made injustice is the new federal court rule requiring defendants to be tried within 60 days. "But they'll take a year and a half to decide the appeal. So what's the hurry?" asks Hirschkop. "The prosecution can take up to five years to bring an indictment. These rules aren't designed to speed up the process but to convict, yet you don't hear any major criminal lawyers screaming."

Phil can't fail to hear. But as he says, "If I complain, they try to disbar me," and most of his colleagues are too chicken to try to make a living like that.