

Project Name: *Immigrant Alexandria: Past, Present and Future*

Title: *Interview with Phil Hirschkop*

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Interviewer: *Dan Lee*

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Abstract: Philip Hirschkop was born on May 14, 1936 in Brooklyn, New York, the youngest of three boys in an Orthodox Jewish family. In the interview he talks about his early education, military life, and his life in Alexandria. He undertook cases on Mildred and Richard Loving as clients in a landmark case (Loving v. Virginia) that ended the enforcement of state bans on interracial marriage. Hirschkop went on to argue five additional cases before the Supreme Court in the 1970s. The cases also include Kirstein v. University of Virginia, Cohen v. Chesterfield County, and Landman v. Royster. Other clients have included Norman Mailer, the American Nazi Party, PETA, and "numerous anti-war protesters during the 1960s and 1970s." Hirschkop has served on the ACLU's national Board of Directors and as Chair of the ACLU of Virginia, which he helped found in 1969. In the 1960s, after the McCarthy era, he served as the vice chair of the National Committee to Abolish the House Un-American Activities Committee, which now is the Defending Dissent Foundation. He also remembers Justice Warren. Also talks about the Prison Rights Movement and the Peace Movement.

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INTRODUCTIONS 00:00	
Dan Lee	Hi, I'm Dan Lee with the Office of Historic Alexandria. Today is May 22nd. It's 1:45 in the afternoon. I'm here with Phil Hirschkop who is council among many cases for Loving v. Virginia , for Kirstein v. University of Virginia , Cohen v. Chesterfield County , and Landman v. Royster . He has also been a Professor of Law at the Georgetown University Law Center, and he continues to practice today. Thank you so much for having us, Phil.
Philip J. Hirschkop	My Pleasure.
CHILDHOOD AND EDUCATION 0:00:42	
DL	Can you tell us a little bit about before law school what was your life like?
Philip J. Hirschkop	When I was a kid in Brooklyn, when I was seven, my father packed me and my brothers up; we moved to Central New Jersey, the chicken farming area. Galloway was a tough, tough neighborhood we lived in. He wanted to give us a better break in that. I went to a small country high school and because of that I really had it go into the Army. We were poor, couldn't afford to go to college. So, I was in the military for two years. I got out of military, went to Columbia College in New York. I got my Liberal Arts Degree, and then I got a mechanical engineering degree at the Engineering School of Columbia University, and then went on to Georgetown Law School.
MILITARY LIFE 0:01:33	
DL	So, let's go back up for a couple of parts. Where were you stationed when you were in the Army?
Philip J. Hirschkop	Well, Fort Dix was my boot camp in New Jersey, and I went to Georgia for Signal School. While I was there I signed up and joined the first of the Green Berets units, the seventy-seven special forces at Fort Bragg , North Carolina. So that was my chief base most of the time I was in the military.
DL	Okay. And what years were those?
Philip J. Hirschkop	I was in the military 1954 to 1956.
EARLY EDUCATION 0:02:12	
DL	Okay. And so you got the Mechanical Engineering degree at Columbia. So, how did you end up in law school?
Philip J. Hirschkop	Well, quite serendipitous. I was not happy with the engineering. It just wasn't exciting enough for me. Maybe just I wasn't very good at it, I don't know. But I didn't want to be an engineer. I was walking across campus in my fifth year at Columbia, went three years to the college, and then two years in the engineering civil combined program. I saw my advisor, Jim Shenton ; he's a world famous historian. And I never met him. I was an ex-Green Berets Paratrooper, so I wasn't looking for advisors. I went and introduced myself to him, and we sat down, and he said, "How come you never came to see me?" I said I never needed you very much and I was busy doing what I was doing. He asked what I am going to do? I said I didn't know. He said they're giving the law boards next week, why don't you take them? I never thought about being a lawyer, it never even occurred to me. So I went and I did extremely well in the law boards. I said okay, I'll be a

	patent lawyer. That's how I ended up in law school.
DL	And why Georgetown?
Philip J. Hirschkop	Well, it had an excellent coursework for if I wanted to be a patent lawyer. I could work in US Patent Office during the day and I went to Georgetown Law School at night. I was accepted in a number of other law schools, but that fit my plans then.
LIFE IN ALEXANDRIA 0:03:42	
DL	Okay. And after law school how did you end up in Alexandria?
Philip J. Hirschkop	<p>In those days, you could take the bar before you graduated law school if you met certain academic standards, which I met. So, I was already a member of the bar in my senior year, and I got deeply involved in Civil Rights. One day I was just going to evening class. My wife and I had been married about two years. It was the first time we'd been apart. She went to a family reunion in New Jersey. I was going to the evening class. I ran into my Con Law Professor, Chester Antieau on the street corner near the law school. He invited me to a party.</p> <p>That was the party of the lawyers who met that day with President Kennedy after the four young girls were killed in Birmingham, the bombing there. He called together the white and the black lawyers that can we make peace through the law, through the efforts of the lawyers because a lot of the Civil Rights Movement was involved in the courts. At that party, I met some wonderful lawyers from Detroit. They asked me to go to Danville the next day. I had nothing better to do. It was a Saturday. My wife was in New York, so I went to Danville.</p> <p>I saw the videos in Danville of probably the second worst mass beating we had in the South, Pettus Bridge being the worst. Maybe it was as bad as the Pettus Bridge. I mean these people were coming from the demonstration. Danville was the second seat of the Confederacy. They're trying to integrate the library down there. So they're coming from a demonstration, and the police channeled them into a little alley, and the alley was lined with policemen and firemen. They put high pressure hose on these people.</p> <p>And the Reverend Campbell who became Bishop Campbell—Reverend Campbell's wife who was pregnant described it as like trash being washed down the street after heavy rain. As it went by the firemen and police went in with clubs and there were some very injured people taken to the hospital. The white hospital left them lay on the lawn. They weren't treated. This is all on video footage. So, I went there and I was interviewing witnesses. I was a law student and I met [??? Inaudible 0:06:09] two great Civil Rights lawyers. By the time I came home at the end of that weekend I decided that's what I wanted to do.</p>
LOVING V. VIRGINIA 0:06:19	
DL	Okay. And then how did you end up involved with the Loving case?

Philip J. Hirschkop	<p>As a result of my civil rights work in Danville, I met with other students, and we formed the Civil Rights Research Council. It supplied law students and paralegals to all the civil rights offices across the South for the Legal Defense Fund, for the National Lawyers Guild, a lot of interns who later became very prominent lawyers were funded by the Law Students Council. I was the national coordinator in 1964, so I traveled around the south supervising a hundred different law students as I was doing other work.</p> <p>I filed a case in North Carolina, my first civil rights case on behalf of teachers being able to take part in civil rights demonstrations. My Con Law professor, the same one who got me into Civil Rights, Chester Antieau went on the papers with me to help revise me. It was only a month before I graduated that I filed that lawsuit. So I was meeting with him at the faculty lounge at Georgetown about two months after I graduated law school.</p> <p>Bernie Cohen who had the Loving case came in, and he wanted me with Professor Antieau because he didn't know what to do. He had filed a petition and it was going nowhere. So, Professor Antieau introduced Mr. Cohen and I. We walked across the street to the old juvenile court in D.C., and he told me what the story was. I thought he needed to file a federal lawsuit given the experience I had. Very little at that stage. I was still two months at law school but, I had been exposed to some of the great legal minds in the Civil Rights Movement.</p> <p>So I had a plane to Mississippi. The next night I drafted the lawsuit. I sent it to Bernie Cohen. He then asked to meet with me. The next week or two when I came back D.C. because I spent much of that summer in Mississippi. I went over and met the partners in the office. They offered me a job, and I ended up in Virginia.</p>
DL	And was this office on King Street?
Philip J. Hirschkop	Yes.
DL	In Northern part of King Street?
Philip J. Hirschkop	1513 King Street, now it's Andrew.
DL	Okay. And what was the name of the firm at the time you joined it?
Philip J. Hirschkop	Well, it was Leinoff and Cohen. There were two Bernie Cohens and they were unrelated. It was Leinoff and Cohen. The next year it became Leinoff, Cohen & Cohen. Then the second came Leinoff, Cohen, Cohen and Hirschkop, and then I suddenly quit. Bernie Cohen has to go with me, and we went a different one—
DL	Okay. And where was this in relationship to the lawsuit as far as—?
Philip J. Hirschkop	When I filed the federal lawsuit, I joined their firm. It was Leionff and Cohen.
DL	Okay.
Philip J. Hirschkop	That would be 1964.

DL	Okay.
Philip J. Hirschkop	We left there in '67, Bernie and I, and we just were about argue in the US Supreme Court, and we had moved down to Royal Street [??? Inaudible 0:09:33] of Bob Hall, a very well known lawyer in Northern Virginia, and nationally and internationally. Then the opinion came down where I went to North Royal Street.
DL	North Royal Street. Okay. At what point did you meet the Lovings?
Philip J. Hirschkop	When I drafted the lawsuit, I asked to meet with them because you go over a lawsuit before you file it with somebody. And so they would understand what the possible consequences, the possible dangers, possible liabilities, the possible benefits. So I met with them in September of 1964. It was the only long meeting I ever had with the Lovings.
DL	What were your impressions of them?
Philip J. Hirschkop	Well, mostly I did the talking, and I did get a deep impression. The impression that was lasting though from other meetings also. She was very soft spoken, very demure, very bright, extremely likable, the kind of person you meet and you want to help. He came across as a real southern grunt. I mean, he didn't say much. He seemed not to like that because he didn't like to be involved in lawsuit. Very few people do. But he wanted to nothing to do with it. He didn't want to get involved in Civil Rights. He went to a segregated school down there. Many of his family believed in segregation. Although it was a very un-segregated place in many ways between that Caroline County and down to Northern [??? Inaudible 0:11:11]. So the people know best. The territory between Richmond and Norfolk. But there were a lot of native Americans down there, and they had integrated a lot between the African-Americans, the native Americans, and the Caucasian population down there. On the other hand, the sheriff, the judge they could be worse segregationists, so they really belonged in Alabama or Mississippi.
SEGREGATION IN ALEXANDRIA 0:11:40	
DL	Speaking of segregation, Alexandria at that time was also segregated. What were some of your memories of that?
Philip J. Hirschkop	Well the bar was segregated. There had been real segregation. The schools had been desegregated long before that. Yeah I went through the law firm, and I said I am going to sue the bar. They have no black members. I've gone very friendly with Sam Tucker . He is probably the greatest Civil Rights lawyer ever come out of Virginia. Oliver Hill gets a lot of credit. Oliver was Sam's partner. Sam was the activist.
DL	Right.
Philip J. Hirschkop	After Spottswood Robinson left the firm—Spottswood Robinson was one who argued the Brown v. Board case from Virginia, the Davis case. There were five cases in Brown v. Board of Education that went through Supreme Court simultaneously. Sam Tucker's brother, Otto was a practicing lawyer in Alexandria who

	<p>couldn't get in to the Alexandria Bar. So, I threatened to sue the bar. They called me in, Mr. Leinoff and Bernie & Bernie and the Cohens, and said we don't want to lawsuit against the bar. These are people we know. We're a very firm—small Jewish firm also because the Bar was mostly controlled by large firms that will attend the Episcopal Church in those days in Alexandria.</p> <p>So, we petitioned to get these two people into the bar. They were refused on segregation basis, but they took in two other African-American lawyers who never got any Civil Rights work, who just got along with everybody. So I didn't belong to Alexandria Bar for thirty years.</p>
DL	<p>So, I mean, it seems like you have this really big case coming up or working its way through the courts. In the middle of this you decide to sue a local bar association. Did other people say listen like maybe you should keep your eyes on the bigger prize or was this really consistent with your character?</p>
Philip J. Hirschkop	<p>There were damn few people who knew who I was. I was just a young lawyer in this firm at Upper King Street. I had to make a living. They hired me. I think they paid me 4,000 dollars a year and one-third of everything I can bring in. Well, I'm a kid from New York. I'm twenty years old. I was older than that as a veteran, but late twenties, I didn't know anybody. What was I going to bring in? What a fool then because that very first case that I was with Chester Antieau, the teacher case North Carolina. The National Education Association became very invested in that case. As a result of which they hired me to be chief counsel for the DuShane Fund which was the Civil Rights fund nationally for the NEA.</p> <p>So the two years-three years, I went all over the country doing major teacher cases as a result of which I brought a large income to my firm, and that's how I got to be a named partner. They didn't want me at that deal with one-third anymore. I was going to make more money than they were going to make. But I didn't know many people in Alexandria, so no one really knew. I just went to the firms that I'm going to sue them. And then, we petitioned to get these two lawyers in the bar, Sam Tucker—and sitting here today I just don't remember the other lawyer's name. [Hugh Watkins] became a very prominent lawyer. But they were the two key lawyers for the African-American community in Alexandria. They didn't belong to the bar, it didn't really affect their lives that much one way or the other, but I would not belong to the Alexandria Bar for many years. It didn't cause any problems.</p>
DL	<p>Okay. Did you also live in Alexandria at the time?</p>
Philip J. Hirschkop	<p>No, I lived in Alexandria mainly at the time. When I first met Bernie Cohen, I was living in Arlington, and commuting to the law school. When I first met him, I had just graduated. I had just stopped taking courses. But after meeting him, I moved to Hollin Hills here just south of Alexandria. I lived there for ten years. So, I never lived in old town. I have owned a lot of</p>

	property old town.
DL	Okay. And so, as time is going on, how is the case working through the courts, and what was that experience like?
Philip J. Hirschkop	Well, you can't really draw the experience on the court procedures from the Loving cases, rather simple case in many ways procedurally.
DL	Okay.
Philip J. Hirschkop	<p>When Cohen first got the case, he filed a petition in the State court, this trial court, the circuit court of Caroline County to vacate the judgment. It went for about a year and nothing happened. The Lovings wrote to him saying remember us with Lovings. So he went to his Con Law professor. And then I filed the federal lawsuit in Richmond division of the US District Court for the East District of Virginia. We had one hearing in US District Court. When you see the film footage they have with Lovings, that's where they attended. They never attended any State court hearing.</p> <p>The federal court gave the State ninety days to either issue an opinion in the petition calling a file or if not they were going to take it over, and they assured us they would get bond if they were arrested. The first thing I've done after filing the lawsuit so I got the Federal Court's permission they could continue living in Virginia. They were illegally living in Virginia at the time. Then when they issued the opinion from the State Court, we filed an appeal for the State Supreme Court. It was a twenty-minute argument States record, and then we filed an appeal to the United States Supreme Court.</p>
DL	What was it like going to the Supreme Court for the first time?
Philip J. Hirschkop	The US or State?
DL	The US?
Philip J. Hirschkop	That was exciting. It's the only time my pop ever heard me argue a case.
DL	Okay.
Philip J. Hirschkop	And the only picture I've had at my desk for fifty years with my father and I standing in front of the US Supreme Court on that day. And looking up at the Chief Justice, Chief Justice Warren maybe the greatest Chief Justice we ever had certainly in terms of societal progress he is. Justice Black—it was John Harlan, the great conservative and the others. Brennan and Potter Stewart. It's just a collection of minds and people are just hired in the—what you can ask to do in the legal profession.
DL	Speaking of that I do want to ask a question because one of my graduate student professors wrote a book about anti-miscegenation laws in California. Did the court case Perez v. Sharp ever come up in your argument?
Philip J. Hirschkop	It's in our briefs.
DL	Okay.
Philip J. Hirschkop	Not in the argument, not that I recall. I mean, it's an argument fifty-five years ago. I had a lot of arguments since then. What did come up though is I was talking about the history of the laws going back to the 1920s when this

	country went crazy. We had the sedition laws. We had clan riding loose right after the conclusion of the First World War we had.
DL	Red scare.
Philip J. Hirschkop	<p>General MacArthur riding into the park trying to knock off the labor people and the Wobblies. It was a horrible time. We had the Yellow Peril with the Chinese coming into West Coast working on railroads. We had the Catholic Wars going on in Oklahoma. We had the Irish in Boston and the Jews and the Italians in New York. It was a horrible time the laws would pass over.</p> <p>And I commented about the Yellow Peril, and Chief Justice Warren said, "Move on, Mr. Hirschkop." Chief Justice Warren was the Attorney General in California who signed the Nisei Commitment Papers and put the Japanese-Americans in prison.</p>
DL	Okay. So how long between the arguments did the decision come?
Philip J. Hirschkop	A couple of three months.
DL	And where were you when you got the notification of the decision?
Philip J. Hirschkop	I had a call from a reporter at the old Washington Star . He was their Supreme Court reporter that would be coming down the next morning. So, we're not in our office. We had clerical in those days. We didn't have electronic ability to send over, to pick up the opinion as soon as it came down. But we were sitting in Mr. Cohen's office. Oh no, that was the State Court opinion. The federal opinion were sitting in the library on the Royal Street—
DL	Okay.
Philip J. Hirschkop	—when we got that opinion. And I spoke with the reporter because he had a chance to read it and see it before we already got it from their office. So I knew what was in it. And then we had a secretary place a call to the Lovings.
DL	And there was a press conference. Was it the next day?
Philip J. Hirschkop	The next day.
DL	And it was at your offices in Alexandria?
Philip J. Hirschkop	Yes, 110 North Royal.
KIRSTEIN v. UNIVERSITY OF VIRGINIA 0:21:49	
DL	Okay. And obviously this led to other cases. Can you talk about—well, let's talk about Kirstein. How did you get involved with that and how did that go forward?
Philip J. Hirschkop	<p>In 1959 when the Lovings were sentenced there was no ACLU in Virginia nor was there in 1963 when they first wrote to the Attorney General and he referred them to the ACLU. They were sent to the ACLU in D.C., National Capital Area ACLU which had the Northern Virginia suburbs and the Southern Maryland suburbs as part of their clientele membership.</p> <p>And so in 1968 as a result of a number of things I was involved in, I got together with the some law professors, we formed the ACLU of Virginia. And that led to Kirstein, a lawyer in Shawsville, John Lowe. His secretary had applied to University of Virginia. They didn't admit any woman at the</p>

	college there. Virginia was highly segregated in those days as far as women getting into higher education.
DL	Can we repeat again what year this was?
Philip J. Hirschkop	1970.
DL	Okay. So in 1970, women could not attend University of Virginia.
Philip J. Hirschkop	There was a fifteen percent quota at Virginia Tech . It was forty percent quota at William & Mary . Women went to Radford or Longwood where they learned to be teachers. They went to Mary Washington, which was the sister school to the University of Virginia. But they couldn't get into UVA and then some graduate schools and the nursing school there. This young lawyer came up and he wanted to do some—bring a suit and he wanted the ACLU's help. John Lowe and I met him and we co-counseled the case. I drafted a lawsuit. I had the legal end of it because we do that kind of work. He handled—the dealing with the personnel, the people down at UVA. We brought a suit in the US District Court in Richmond. It was the first case of its kind for women in higher education.
DL	Now, I've heard that this court testimony and this court case was pretty dramatic. Can you talk about perhaps like Kate Millett and also the telematics.
Philip J. Hirschkop	<p>Yeah. I asked Kate Millett who was a professor at Barnard College, New York—and a great, great woman and feminist. She had done a study for nationalization for women. I think it was called the Red Apple Study. And the effects of women in higher education by being denied equal access to higher education in the United States. And it was just bringing and that we were really looking for.</p> <p>But before that we had taken a series of depositions. You go to someone's office and you have a court reporter, and you take testimonies same as you would in a courtroom, but it's in a private setting. There is no judge there. So we deposed the chancellor of the University of Virginia. The chancellor at Tech. Tech was the larger school. We asked the chancellor of Tech, "Why do you have a fifteen percent quota?" He said that's all the dorm space we have for women. We asked, "Why can't you put the women in the men's dorms?" "Well, women need diminutive furniture, and women eat snacks at night." Because fifteen percent women dorms have kitchenettes because women need iron so they have snacks at night. I mean it was bizarre.</p> <p>And we asked them diminutive furniture. He said he wasn't in charge of buying furniture. We went down to the chancellor at William & Mary. William & Mary is the second oldest land grant university in the United States. Second to Harvard. Why that forty percent quota? He said, "Well, during the Second World War, we had sixty percent women, and we found out that having stag line at social events was a good learning experience. We thought it was better to have sixty-forty the other way." The effect of that</p>

	<p>was horrendous. Women could not get an education period very often, and they could be housewives. That was their choice. It's an honorable thing to do, but it may not be the choice of every woman.</p> <p>And then there was the testimony about women need closet space. They don't have any dorms because they need gowns for balls and things like that. Then went to UVA and deposed the chancellor there. And the Chancellor at Tech and the Chancellor at UVA were internationally known. T. Marshall Hahn who was at Tech had run for governor. He ended up leaving being the executive vice president of Weyerhaeuser Corporation, but a renowned scholar. UVA was very well known. "Why can't you put women in men's dorms?" "Well, men's dorms have wall-hung urinals." So I suggested you could plant geraniums, and it would be very ornamental, and you have regular water, just flush in regular water. I did it with colorful language. Their lawyer was Harry Michaels who went on to become judge in the United State District Court in the Western District of Virginia. A real country gentleman and an excellent lawyer. I was very fond of him. I used rash language—being an ex-paratrooper I thought four letter words some days when I was really pissed. So we had to stop the deposition at times.</p> <p>But then, he said that women in Virginia gentility wouldn't expect me to understand. And so they have gang showers. It's okay for the men, not the women. So I said the real truth is you have nothing against homosexuality, but you hate women doing it. It was that sort of thing. By the time we got to the three-judge Federal Court it was easy to do, but other things were in our favor also to be honest with you. Chapel Hill, Princeton, a number of major schools had faced it and already crossed the bridge of integrating women and men.</p>
DL	<p>It seems a little bit as if your argument for could be in terms more scientific and theirs could be more on tradition. Would that be a fair?</p>
Philip J. Hirschkop	<p>Yes. And Virginia's answer was well we are in the process of putting in a system but it would have taken ten-fifteen years. We've got 11,100 women in the next year in the freshmen class. Those 1100 women and the thousands that had been denied entrance in those ten years was vital to their well-being. When you looked at statistics—they said, well, we make separate but equal. They can go to Mary Washington, it's a wonderful school. Well, it is a wonderful school, but Mary Washington doesn't have a faculty loaded with internationally recognized scholars. And it doesn't have a library with 2.5 million volumes in it. It doesn't have thirty some different majors. It doesn't have the students with a high intelligence quota that you get because they weed them out. UVA had the highest choice on how did on the aptitude test and all. It was a massive difference in the type of education and equality of education what you would get out of it. And that really was the key though I mean not the funny things we got from the deposition.</p>

DL	Can you talk a little bit [about the student body's] vice president's report?
Philip J. Hirschkop	Yeah. Again, it came and recognized that they would have to at some point fully admit women, but that they couldn't turn away the men who had been looking forward to coming here. It didn't go so far as I recall saying that men are still the main income providers in the households although they argue that privately. But it was putting it off as long as they could. That was the problem with those reports.
MOTIVATION TO KEEP ON 0:31:03	
DL	Do you think you have like a very strong sense of what you call fairness? Is that what gets you passionate forty-five years later about these cases?
Philip J. Hirschkop	My pop saw anything as right and wrong. It's a quality in ways and it's a defect in ways. It's sort of grays. My mom everything was gray. I mean, she hugged everyone she could get her hands on. She was very sweet, loving woman. Somewhere between the two of them, yeah I'm really poor— wrongful conduct towards people especially by government conduct. I think I value kindness more than anything else in life.
COHEN V. CHESTERFIELD COUNTY 0:31:57	
DL	Okay. So after Kirstein, you went on to do Cohen v. Chesterfield County. What can you tell us about that case?
Philip J. Hirschkop	<p>Yeah. Well, again, a young man in Richmond had a case out of Chesterfield County just south of Richmond. John Mann, he was just out of law school. He had no background ability to take it through Federal Court. He was hired by a teacher who was a eleventh grade English teacher. She was pregnant. Then every school board in Virginia had a regulation because it came down from the State Board that a woman had to stop teaching in the fourth or fifth month of pregnancy. It might be four months or five months depending on the school.</p> <p>So, he had brought a suit, and she didn't want to involve the ACLU. She didn't want to make a big deal out of it. She didn't want to fight with a school board. She just wanted to be able to finish teaching. She was from New York. Her husband was studying somewhere. They were both going to leave that county within two or three years at best. But he was very friendly, John Mann, he was very friendly with the new executive director we found a day or so in Virginia two years before. That director put him in touch with me. I agreed just to go on the papers and help. It wouldn't be a formal ACLU thing. Mrs. Cohen was agreeable to that.</p> <p>First thing we did, we filed a separate lawsuit in the Paxman case, which would go to all other school boards in the United States. So we went through the Chesterfield School Board. By then, I was on the ACLU National Board. I went to the Civil Rights Commission because they were changing their regulations as to whether or not that would come under the Civil Rights Act and they can enforce rules against that kind of discrimination. They were in the process of changing. We were able to get two expert witnesses from the Civil Rights Commission who worked with the Civil Rights Commission.</p>

	<p>They were going to testify our case in Richmond.</p> <p>I went down and deposed these school board members. We asked the guy in the—Columbia yard as I recall, he's an elderly gentleman. I'm not sure he had one high school degree himself, why he proposed this thing rather than truthfully saying, well, it was sent down by the State board and someone had to make the motion that night. He said, "We didn't want these children thinking that this teacher had a water melon in her belly." When I said that before the Chief Justice Warren, when I argued his report, he told me, "Move on, Mr. Hirschkop, we don't want to hear that sort of thing."</p> <p>But that was their argument when we deposed the superintendent of schools. There men with two PhDs. I don't know why he was chased from into perfidy to go down there. But he said, "Well, it was a fire hazard because women couldn't run when they were pregnant in the fire drill." I said what would have happened to, you know, walke don't run?" But at the hearing at the trial, we did subpoena the fire warden who was like 350 pounds. We brought in the judges—we brought in an expert medical witness who was the doctor who was going to handle the birth by then. He also happened to be the doctor who was the doctor to the birth of Judge Merhige's two sons, which the other side didn't know.</p> <p>So they were trying to qualify him as an expert. Merhige is quite upset with me that I brought his own doctor in. We had a good laugh at the bench about that. But the doctor testified that a woman has any disability being nauseous and things in the first trimester. Kicking her out in the second or third trimester didn't accomplish anything. Her disability from pregnancy, if any is far less than a man who breaks his leg or hurts his back or continues teaching with a cast from any number of types of injuries. There was just no sense to it. When I went to the Court of Appeals, Judge Haynsworth who then was miffed at the ACLU for blocking his going on to US Supreme Court issued a crazy opinion that we treat the sexes differently on beaches. Women can't go topless, but men can on a beach that we recognize their difference in the sexes, and that had really nothing to do with our case. Then I went to the Supreme Court and had a seven to two opinion up there.</p>
<p>MEMORIES OF JUSTICE WARREN 0:36:56</p>	
<p>DL</p>	<p>You talked about Justice Warren telling you to move on a couple of times. What are some of your other memories of him?</p>
<p>Philip J. Hirschkop</p>	<p>Those are only two I have. I've argued it about a half a dozen times. The only two I have where he actually spoke up; in Loving he was very active. I've never seen a Justice more active. It was a discourse between him and the Assistant Attorney General for the State of Virginia because the argument they made was just absolute lies and they knew it. They made the same argument in Brown v. Board of Education thirteen years before. But having been before him several times, he was a great Justice. He understood the</p>

	Constitution. I mean, Justice Scalia as bright as he was had no idea how a constitution works compared to Chief Justice Warren.
DL	And in these six experiences, did you feel every time that you had an airtight case? I mean, you talked about you won nine-zero, the second one you won seven-two.
Philip J. Hirschkop	No. I lost several since then, difficult cases.
DL	Okay.
Philip J. Hirschkop	He wasn't chief justice for some of these later cases. One was a major drug case, a criminal case. One was a case involving Iran, one of these very large cases. You get these 300 million dollar judgments you will never collect for terrorism against the Iranian government. But he was a unique Justice. He came from a position no one ever dreamed he would be what he was.
PRISON REFORM OR PRISON RIGHTS MOVEMENT 0:39:22	
DL	So, let's talk about your involvement in the prison reform or prison rights movement and how did you get involved with that? I know that there are multiple lawsuits involved in it.
Philip J. Hirschkop	Yeah. In 1965, I first got involved with the peace movement. There were a lot of major—worked as chief counsel to every major anti-Vietnam war group in D.C., so all the major marches I negotiated partners with John Dean. And then, Loving was decided in 1967. I got very little publicity out of Loving. We didn't want publicity. We thought it was a threat to them. So, we really tried talking everyone out of it. But a lot of publicity from the war movement. And as a result of those and a couple of other Civil Rights things, I was involved in Mississippi as I told you. We formed the ACLU of Virginia. I'm trying to put it altogether how the things came together. Ask me the question again. We'll redo that?
DL	Sure. After or almost concurrently with Loving v. Virginia, you became involved with the Prisoners' Rights Movement .
Philip J. Hirschkop	Okay. I became very active in the peace movement in 1965. It was the first march on the Pentagon in '66, Norman Mailer, and I've got involved in the Bergen brothers. And then Loving was decided in '67. As a result of all those efforts and other Civil Rights work I was doing, we formed the ACLU of Virginia. There was a statewide strike in the penal system on segregation in 1967. They came to the new ACLU and the people formed the ACLU. We actually formed the ACLU around that case Mason v. Peyton . And so, I went down and I met this guy. The normal thing would be the NAACP they handled that but they were just swamped with so much Civil Rights work they couldn't do that much more prison work.
DL	Can you describe like the segregation in the penal system at the time?
Philip J. Hirschkop	Yeah, I mean at the penitentiary there were the worst cells and the coldest cells were black prisoners. The only people who could be trustees were

	<p>white prisoners in the governor’s mansion. Inside, the only staff people who worked there were white prisoners because they had—but people outside working putting the coal in the bins in the freezing cold were black prisoners. The road gangs were mostly black prisoners. It was that sort of thing. We never executed white men for rape, but a lot of black people.</p>
DL	<p>What about parole?</p>
Philip J. Hirschkop	<p>It’s the same thing. It was across the board.</p>
DL	<p>Okay.</p>
Philip J. Hirschkop	<p>So I brought this statewide anti-discrimination case as a result which I got the then chief writ writers. They were just a handful of people in the prison system who helped writing writs for a lot of other prisoners most of them were uneducated by and large. One was a man named Landon. And so we brought a suit on his behalf, and it was the first statewide suit on overall prison conditions brought in the United States, and the conditions were horrendous. The Virginia system then was as bad as you heard about Arkansas and Parchman prison, and the Angola in Louisiana and Raiford Prison in Florida. If a man wrote to the ACLU and complained that you couldn’t get a lawyer, they hung him from the bars by his hands so just his toes could touch the ground. And he would be like that for three days urinating down his legs and standing in his defecation and maybe getting some bread and water and be put in solitary.</p> <p>In those days, a warden could just with a stroke of a pen put people in jail for years and years and years because they are entitled to so much good time or eligibility to parole. But he could take it away administratively because he didn’t like that so the guy wrote to the ACLU and said the warden has been beating people and doing this and that. All of a sudden he had another ten years to serve in prison.</p> <p>So, we had to break that up. So we used that particular case, Landman v. Royster to attack the overall prison treatments that are in the system—administrative treatment in the system. As a result of that we brought [??? Inaudible 0:44:26], we brought—that was a suit to integrate all the state jails across the state, and Ari v. Oliver was the suit to first amendment rights that a prisoner could write to someone else. In course of the Landman case, I was deposing a CC patent who was the superintendent of the prisons at the time—the superintendent of the State Penitentiary at the time.</p> <p>He had a rule that a prisoner could not write to a single woman, an unmarried woman, and I said that’s crazy. My paralegal here is unmarried. What if she was a lawyer? Well, we make an exception for a lawyer. I said why do you have the rule? He said, "Well, you have to have rules. How can you run a prison without rules?" So it was a rule for the sake of having a rule is a perfect Catch-22. And I harped on it. I spent hours. I keep coming back to it. He left that deposition with chest pains, and he died that night from heart attack. I have no regrets of it. I knew it. His cruelty to prisoners was</p>

	<p>abysmal. It was a combination those five or six lawsuits brought massive change to the Virginia prison system ultimately led to the closing down of the penitentiary at Spring Street.</p> <p>Out of that lawsuit, I met with some other lawyers and we formed the National Prison Project of the ACLU which became the Power and Prison Reform for two decades. I was chairman of that board of directors with the other lawyer who I formed it with. And many others got me to the penal reform work. As a result of bringing the anti-discrimination case <i>Mason v. Peyton</i>, I started getting a lot of letters. Well, I felt constrained to answer these letters. You know, God forbid, one of them was true, and most of them were [??? Inaudible 0:46:29] do it.</p>
DL	Right.
Phillip J. Hirschkop	<p>But we found people who are innocent and didn't do it, if you look hard enough. So, I enlisted all my neighbors down the hall and said, "Come to my office two nights a week and we'd read prison letters and we'd answer them." There wasn't the ability or the facilities to investigate so many of them. But too much are going to hear but some horrendous stories of one man who was serving a life-term and never had a lawyer from the—down the eastern shore. It wasn't a murder case even. So that got me into the prison reform where I spent a good deal of time bringing major cases around the United States, and as I said went to the—I formed the Penal Reform Institute. Ramsey Clark was my Chair in my board of directors. I got to know Ramsey through the peace movement. He is an ex-attorney general and his father had been a Supreme Court justice. It was also a big prison riots in New York at Attica.</p>
DL	Right.
Phillip J. Hirschkop	<p>So the professor handling Attica had this movement, and we took my movement and the head of ACLU, Aryeh Neier brought us together, and we formed the National Prison Movement for the ACLU.</p>
PEACE MOVEMENT 0:47:58	
DL	<p>So, let's talk about the peace movement while we still have time. You were in the military. Did that create any conflicts for you?</p>
Phillip J. Hirschkop	<p>None whatsoever. I got to know John Kerry. His sister, Peggy worked for me actually. No, I was an ex-Green Beret and very patriotic. I still am but it was just such a horrible war. So many people being killed for wrong reasons. So, I was very proud to do that. I believe wasn't just really representing the client; I really believed in it. It was the most gratifying thing I've ever done in my legal career with Loving and all the others. None compared to that because it was our country, and it's the very best moment we stopped that war. It was the people in the streets that basically stopped that war. I believe that to this day fully, and stopped it best utilizing the democratize process albeit kids got killed at Kent State and other horrible things had happened.</p>

	<p>I mean, I look at yesterday's Internet, and I see these lovely women wearing these American flag blouses and people with American flag hats. But I remember being at the House Un American Activities Committee. One of the lead peace demonstrators came in American vest. He was arrested and prosecuted for felony. You couldn't do that now. Now, why then was it a felony and now it's okay at everything because it didn't make sense having a felony then. It didn't make sense to stop people from burning the American flag. It's the same thing with people kneeling at the athletic things. It really has nothing to do with the flag whatever. It is those people exerting what we live for in this country, in this democratic right of free speech, which is our great power.</p> <p>And so going back to your question, what I did in the peace movement was the best thing I ever did with my law degree, the most rewarding. It was our government at its best doing some terrible things, but nonetheless the system worked. People did demonstrate. There were tens and thousands— hundreds of thousands of demonstrations.</p>
DL	You started this when you were in law school?
Philip J. Hirschkop	<p>No, in law school, I had no time because I was going to be an engineer. Now, one day I got a call from Bill Kunstler. Bill is kind of my mentor in the Civil Rights— one great civil rights lawyer here—that there was going to be a demonstrational march on the Pentagon. It would be led by three very well-known people. David Dellinger is one of the key leaders of the peace movement. Staten Lynne [phonetic] who was a professor at Yale who again played a big role in different peace demonstrations, and Bob Paris who I've known from Mississippi, a civil rights leader down there. They're marching—would I help—there were very few lawyers with any background with mass demonstrations. We had seen it because we represented the snick kids across the South in civil riots. But had never seen it in Washington. We got skilled at it.</p> <p>So, he referred them to me and Bill called me, and I met with Dave Dellinger. It just happened. It wasn't anything I planned to do. The American Nazi Party who I represented also at a terrible price to my family. Terrible story. Anyway, American Nazi went through red paint on them, and it looked like blood. It was on the cover of Life magazine, and it really, really moved you. These people were just marching to the Pentagon on a National Mall, and it looked like they had been hardly bloodied.</p>
WORKING WITH A CLIENT YOU DON'T LIKE 0:52:30	
DL	You talked about having a client that perhaps you didn't particularly like. Why take him as a client?
Philip J. Hirschkop	George Lincoln Rockwell was the head of the National Socialist White People's Party that was based on Wilson Boulevard in Arlington at an old farmhouse there. He got assassinated in Arlington. He had been a lieutenant

	<p>commander in the Navy during the war and so was qualified to be buried in the federal cemetery. When they went to bury him in the Culpepper National Cemetery, they wore Swastikas and armbands, and the marshals won't let him into the cemetery with that. So they came to the ACLU. The ACLU couldn't even take the case so they called me up, and they said, "Phil, you know, you are teaching constitution litigation." All you've done, put the money where your mouth is—and I hate Nazis. I refuse to go to Germany at any time. So I said I'll represent it with a straight free speech.</p> <p>If they can stop them from wearing a Swastika, they can stop me from wearing a Jewish star. They can stop you from wearing a Cross or him from wearing a cross or whoever may want to wear a Cross, or some wear in an elephant or donkey. It couldn't be more straight free speech. We went to court—and we had Oren Lewis. Lewis is quite famous. He is called Roarin' Oren as being unpredictable federal judge. And I had the head of Nazi Party, Mr. Koehl on the stand, and he said, "Get him off the stand. I read about it in papers and I got a message." "Judge, we're not here to try things in the papers." And he made a comment about me and my friends and Nazis. I rejoined, "Judge, I'm here to bury Rockwell, not to praise him." I sort of took a little license from the Great Bard. It made the front page of the Miami Herald.</p> <p>The next morning there is a knock on my mother's door. My mother and father lived in Miami at the time. You have a son, Philly. This is my mother's best friend. And my mom said yeah, and she invited her and she showed her press clippings all the famous cases I had, and she showed my mom this article. My father, good God, his family was wiped out in Germany by the Nazis. So my mom called me—I was very close to my parents. She said, "Philly, do you represent the Nazis?" I said, "Mom, please let me explain." "Just talk to your father." My father, same question, and he hung up on me. They didn't talk to me for two years. It was horrible two years. My brothers probably helped make peace between me and my parents, but it was devastating two years.</p>
DL	Do you still feel that that was the right decision?
Philip J. Hirschkop	Yes. I remember walking out of the courtroom and Koehl saying, "When we take charge, the first thing we'll get is the Jew lawyers." Being an ex-Green Beret, I just wanted to rip his head off. The government was spending all this money training to kill people. It was wonderful time to use that skill, but I didn't think. It didn't seem like the thing to do at the time. Yeah if you believe in the First Amendment, it couldn't be a more clean First Amendment case, and we lost it on purely political grounds.
DL	Are you always able to remove your personal opinions and do the cases purely based on what do you think the law provides?
Philip J. Hirschkop	No one is able to do that. We're all human. I mean you try and do that. I mean, judges try and do it, but they're human too. If you're a skilled trial

	<p>lawyer, you'd say who is my judge? What's his foibles and what's [??? Inaudible 0:56:34] What's his or her strong points? What can we say that would appeal to them? That's normal human thing you're going to do within bounds. You don't make up things and you don't fabricate evidence. But you try sometimes to put aside. On the other hand, the work I do most of the Civil Rights work, I did it because I believed in it. Had I not believed in the peace movement, I didn't take that like you would—a criminal case and guy selling dope who deserves a lawyer. You don't believe in what he's doing at all. I'm not talking about somebody giving marijuana to a friend. I'm talking about selling cocaine to a kid in the school or something. It's hard to do especially cases where principle is the essence of what you do.</p> <p>What I do mostly for the last ten years is represent the animal rights. I taught animal rights in the George Washington Law School, and I've been PETA's chief counsel for forty years. I love animals. I live around animals. It's creative law. The changes are so enormous. Of course, I like how we treat our fellow creatures. As the change has been in civil rights, in women's rights, in prisoner rights, in the rights of the elderly and so many things—immigration.</p>
DL	Disabilities.
Philip J. Hirschkop	<p>Yeah, you know, I see what's happening to the immigrations' country, and I tell them my father was a wetback. My father jumped ship from a British merchant rig in Boston Harbor in 1915. He was here as an illegal alien for thirty years till the year I was born. He paid a Congressman some money and became a citizen. And he loved this country. My mom was born here. They loved this country. They really did. Both myself and my brothers have given back. We try to contribute. We don't have a greater demand or right to be here than any guy coming or woman or child from Central America who just wants a better life.</p>
CONCLUSION 0:59:00	
DL	<p>Perhaps in conclusion for this session at least, what would you tell young law students today who aspire to making the world a better place and making this country a better country?</p>
Philip J. Hirschkop	<p>To go out and do it and not talk about it. Over the years, I've had numerous people apply to me for jobs. There is always a dividing line. I don't believe what people tell me. I believe what I see. I believe what they do. So I ask people, "Well, you say you really believe, have you ever actually stood on a picket line? Have you ever gone down and just stuffed envelopes late at night to send out a flyer so some woman can get an abortion or have the right to do something about some horrible thing if you don't agree with the abortion situation?"</p> <p>And so when youngsters come, I say, "You know, you might not be able to get a job right away. So go down to the ACLU and volunteer. Go down to</p>

	<p>the National Organization for Women and volunteer. They have lawsuits. Go to the LGBT lawyers." When I first started, perhaps one of the first clients I had was the Mattachine Society. It's the gay rights society in those days, and there was no one to represent them in Northern Virginia. I didn't do it because I believed in it or didn't believe in it. One day, a guy came to me and he was getting screwed, and he said, "Would you help me?" And I said, "yeah, I'll do it." And then there was another guy. Any time there was a problem, they called me, and I tried helping them get away most of the time. I started making a living. I started to respond to my law firm, but it was a blend. So, my advice would be that don't talk about it. There's plenty of ability to do it. There're plenty of groups that could use your help. You just get down to a courthouse and sit for one day in General District Court and see the poor people who get put in prison for no other reason, but they can't afford to pay the fine. And we did away with that as persons, fight that. And if you're any good, it will come out and you'll be free seeking your level.</p>
DL	Great. Thank you so much for having us here and sharing your thoughts with us.
Philip J. Hirschkop	My pleasure.

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