

FolkTree ConcertMakers present

★ A GREAT TRIPLE BILL IN FOLK MUSIC! ★

**GREG BROWN** ★ **IRIS DEMENT** ★ **PATTY GRIFFIN**

Sunday November 15 • 2 shows: 4 & 8 PM • \$18.50 gen. adm.  
at the Unitarian Church (Mass. Ave. & Church St.) Harvard Square

For tickets, call FolkTree: 641-1010 Tickets are also available at  
Out-of-Town Tickets and Sandy's Music.


THE BIG APPLE

207 ARNOLD ROAD, WRENTHAM • 508-384-3055

Macintosh - \$5 1/2 bushel  
Cortlands Cider

Order Your Thanksgiving Pies  
Apple • Pumpkin • Blueberry • many other kinds

Farm stand open 7 days 9-5



★ **BOSTON'S BEST ENTERTAINMENT GRAMS** ★

★ **"The Stripper"** ★  
★ **STRIPTease GRAMS (R)-(G)** ★  
★ (male and female exotic dancers) ★

★ **FEMALE IMPERSONATORS (R)** ★  
★ (a riot at any party) ★

★ **SURPRISE BELLYGRAMS (G)** ★  
★ (mystical, moving, mesmerizing) ★

★ **BAGLADY COMEDY GRAM** ★

★ **BALLOON-A-GRAMS** ★

★ **396-0550** ★

★ **BOSTON BROADWAY BABIES** ★

★ **Rated G and Rated R Telegrams** ★

★ **Birthday Graduations** ★

★ **Bachelor Bachelorettes** ★

★ **Farewell Or Any Occasion** ★

★ **SAME DAY DELIVERY** ★

★ **Evening Shows 10:00am & 8:00pm** ★



# FREEDOM WATCH

## Cold War casualty

### Why the Hiss case still matters

by Harvey Silverglate

**W**hen it comes to judicial proceedings, it isn't over until the fat lady sings. Never was that more evident than this past week, when two events — one that now seems almost quaint, another that shakes our very understanding of the Cold War era — churned up issues long thought to have been settled.

First, the Roman Catholic Church, after 359 years of hemming and hawing, and after a 13-year investigation by a specially convened panel of scientists, theologians, and historians, absolved Galileo of the heresy for which he was condemned by the Inquisition in Rome in 1633.

Pope John Paul II announced at the Pontifical Academy of Sciences this past Saturday that in the struggle between the Church and the astronomer/physicist, it was Galileo who was correct in claiming that the sun, not the earth, is the center of our solar system.

gonov's word alone."

So why does Alger Hiss still matter some 40 years after his brilliant career as a lawyer and statesman was cut short? And what does Galileo have to do with all this?

The answer: Hiss is a prime example of the injustice of a judicial system that refuses to undo past mistakes. At the time Hiss was convicted of perjury — wrongly, it now seems — the country was in the midst of the red-baiting hysteria of the McCarthy era. When there is great pressure on the system, the system can misfire.

AP/WIDE WORLD



# TICKET WORLD

Red Sox, Celtics, Patriots, Bruins, Whalers, Giants, Jets, Mets, Yankees, Knicks, Rangers. All New York, L.A. & London Theatre Shows, including Miss Saigon & Phantom of the Opera.

## JAMES TAYLOR

Lowell Auditorium 11/19 & 20  
Orpheum Theatre 11/22 & 23  
Providence Performing Arts Center 11/25 & 26

## PATRIOTS FOOTBALL

VS. NEW ORLEANS 11/8  
VS. JETS 11/22  
VS. COLTS 12/6  
VS. MIAMI 12/27

## HARTFORD CIVIC CENTER

BRUCE SPRINGSTEEN 11/15  
LEGENDS OF ROCK N ROLL 11/20  
CELTICS VS. ATLANTA 11/23

BRYAN ADAMS 11/27

PERRY COMO CHRISTMAS SHOW 12/6

WWF WRESTLING 12/26

CELTICS VS. MILWAUKEE 2/9

BON JOVI 2/18

CELTICS VS. WASHINGTON 3/28

## BRUCE SPRINGSTEEN BOSTON GARDEN

12/13 & 14  
NASSAU COLISEUM 11/9 & 10  
SYRACUSE, NY 11/13  
HARTFORD 11/15

## WORCESTER CENTRUM

MEGADETH 11/8  
PHISH 12/31

## PHANTOM OF THE OPERA

ENDS NOV. 14TH

## PROVIDENCE CIVIC CENTER

KENNY ROGERS &  
EMMY LOU HARRIS 11/20  
BRYAN ADAMS 11/28

All Shows At All Area Venues including:

Orpheum • Wang Center  
Opera House • Avalon



Richardson Mall  
942 Main Street  
Hartford CT 06103

# (203) 249-1000

M-F 9:30-5:30  
Sat 10:00-3:00

THE BEST TICKETS TO ANY EVENT ... ANYWHERE IN THE WORLD!

... just a couple of days earlier, a high ranking Russian official, General Dmitri A. Volkogonov, chairman of the Russian government's military-intelligence archives, announced that after a thorough review he had found no evidence that Alger Hiss ever engaged in espionage activities for the Soviet Union against the United States.

"Not a single document, and a great amount of materials have been studied, substantiates the allegation that Mr. A. Hiss collaborated with the intelligence services of the Soviet Union," Volkogonov was quoted as saying by the *New York Times*. Hiss, now 87 years old, was ecstatic. "It's what I've been fighting for for 44 years," he said from his New York City apartment.

Hiss's antagonists and critics, and even some fairly neutral scholars, were not quite so happy nor entirely satisfied.

Harvard's Richard Pipes said that although he had no doubt Volkogonov was being truthful, it's possible there are records and files the general did not see.

Conservative publisher and commentator William F. Buckley Jr. said that "court after court after court after court" in this country had concluded Hiss was guilty. (Actually, Buckley is exaggerating, since the US Supreme Court refused all pleas that Hiss's conviction be reviewed.)

Hiss, for his part, understood that the likes of Pipes and Buckley would never be persuaded. "They're so committed to their point of view that it's psychologically impossible for them to be open-minded," he told the *Times*.

But others were more objective and dispassionate. Alexander Dallin, a professor of history and political science at Stanford University, said that although even someone as highly placed as Volkogonov could not be sure he'd seen every file in existence on the Hiss case, "disclosures of this sort gradually fill in the picture."

And Allen Weinstein, who wrote a book on the case in 1978 (*Perjury: The Hiss-Chambers Case*) and is now president of the Center for Democracy, in Washington, DC, said Volkogonov's statement, based as it was on the Russian archives, "means that every serious scholar has to take a fresh look," even if "we can't take Volkogonov's word for it."

**JUSTICE DELAYED:** Hiss, in 1948, swears to tell HUAC the truth.

And that's why a case should never be so tightly closed that it can't be reopened, even when new facts come to light. The Church admitted its mistakes, even though it took three and a half centuries. But the way the American legal system is set up, Hiss will wait longer than Galileo to have his good name returned to him.

Actually, Galileo was never subjected to a trial on the merits of the case against him. When the Inquisitors informed the elderly, ailing astronomer that if he persisted in his scientific conclusions he would be tortured and then burned at the stake, Galileo recanted — sort of — his own findings, saying they were "abjured, cursed, and detested." In short, Galileo never quite pleaded guilty, thereby leaving it for history to vindicate him. He was placed under house arrest, where he remained for eight years, until his death, in 1642, at the age of 77.

Hiss, who is already 11 years older than Galileo was at the time of his death, never pleaded guilty either. But so far he's been unable to get the court system to change its mind and admit error.

The newly opened Russian archives will doubtless be pored over, page by page, by historians and scholars. If nothing spectacular is found, chances are that Hiss will eventually be conceded by most observers to have been wrongly convicted in 1950 for lying to a grand jury when he denied he'd worked with Whitaker Chambers to spy against the United States. (Hiss was never actually charged with espionage, just with lying about his activities.)

But unless the American legal system undergoes some fairly radical changes, the official exoneration Hiss seeks is likely to elude him forever.

Galileo — or his ghost — was lucky.

Alger Hiss was the all-American upper-crust success story before his life was wrecked by Congressman Richard Nixon. See *FREEDOM*, page 26

**SPECIAL THURSDAY INTRODUCTORY OFFER  
TWO WEEKS ONLY! • SAVE 60¢ OFF COVER PRICE!**

**By Friday you  
need The  
Phoenix.**

**So beginning  
next week, you  
can get it on  
Thursdays.**

THE BOSTON  
**Phoenix**

WINTER IS IN THE AIR... WHISPERS OF  
SNOWMAKING AND FLURRIES UP NORTH...

**WBOS presents the definitive kick-off  
to the ski season at the**

**BOSTON SKI  
AND SPORTS CLUB  
ANNUAL SKI SEASON  
KICK-OFF PARTY**

**Friday, November 13**

## Freedom

*Continued from page 24*

admitted-Communist-turned-patriot Whittaker Chambers, and the judicial system, which was seeking, without much success, to keep its head screwed on during the anti-Communist hysteria of the late 1940s and early '50s.

The case started with hearings before the infamous House Un-American Activities Committee (HUAC) in 1948, which gave Nixon his start as a major public figure. Hiss's sworn denials that he worked with Chambers in an espionage operation in the 1930s resulted in his first trial for perjury in 1949, which ended in a hung jury. The second trial, several months later, ended in a conviction, and Hiss spent nearly four years in federal prison.

When Hiss got out of Lewisburg (Pennsylvania) Federal Penitentiary in November 1954, his marriage and his career were in shambles.

Hiss had had quite a head start in life. After graduating from Harvard Law School, he became a clerk to Justice Oliver Wendell Holmes Jr., then worked his way up the Washington power structure through a series of increasingly important jobs in the Senate and in the Roosevelt administration. He was a member of the US delegation at the Yalta conference, and was secretary general of the San Francisco conference that created the United Nations.

When Chambers accused Hiss of being a Communist and a fellow spy, Hiss sued for libel. Shortly thereafter, Chambers turned over to Nixon's committee two strips of developed 35mm film and three undeveloped rolls. The developed film was purported to contain pictures of classified documents given to Chambers by Hiss. These films became known as the "pumpkin papers" because Chambers said he hid them in a hollowed-out pumpkin before delivering them to HUAC.

As a result of these sensational revelations, Chambers and Hiss both appeared before a federal grand jury in New York. When Hiss denied he had supplied classi-

ber and civil-liberties advocate.) It is doubtful that the current Supreme Court, architect of habeas corpus restrictions, would look kindly upon another coram nobis petition from Alger Hiss, long one of the right wing's favorite punching bags.

Time — and age — are also working against Hiss. Once a claimant dies, there is no longer any chance that the courts will review newly discovered evidence, since the Constitution requires that federal courts act only in the face of an actual "case or controversy." This has been interpreted over the years as requiring a live claimant who has an actual beef with the system.

It is in this respect that Galileo was luckier than Hiss is likely to be. Although the Church may in some ways be a harder nut to crack than the American legal system, at least it does not impose artificial limits on the period of time in which errors may be corrected.

It is for this reason that Congress should enact legislation to overturn the Supreme Court's restrictions on federal habeas corpus jurisdiction — so that victims of the all-too-common miscarriages of justice in our legal system can, within their lifetimes, obtain justice.

AP/WIDE WORLD



**AMBITION:** Nixon found his ticket to fame in a pumpkin patch.

And this is, of course, a powerful argument against the death penalty, since in our system, dead people can't appeal and can't re-open their cases when new evidence is discovered.

Hiss remains tranquil despite his travails. "I learned through experience that courts can make mistakes," he told the *Times*. "I still think we have the best judicial system in the world."

# TICKET WORLD

Red Sox, Celtics, Patriots, Bruins, Whalers, Giants, Jets, Mets, Yankees, Knicks, Rangers. All New York, L.A. & London Theatre Shows, including Miss Saigon & Phantom of the Opera.

## JAMES TAYLOR

Lowell Auditorium 11/19 & 20  
Orpheum Theatre 11/22 & 23  
Providence Performing Arts Center 11/25 & 26

## PATRIOTS FOOTBALL

VS. NEW ORLEANS 11/8  
VS. JETS 11/22  
VS. COLTS 12/6  
VS. MIAMI 12/27

## HARTFORD CIVIC CENTER

BRUCE SPRINGSTEEN 11/15  
LEGENDS OF ROCK N ROLL 11/20  
CELTICS VS. ATLANTA 11/23  
BRYAN ADAMS 11/27

PERRY COMO CHRISTMAS SHOW 12/6

WWF WRESTLING 12/26

CELTICS VS. MILWAUKEE 2/9

BON JOVI 2/18

CELTICS VS. WASHINGTON 3/28

All Shows At All Area Venues including:

Orpheum • Wang Center

Opera House • Avalon

Richardson Mall  
942 Main Street  
Hartford CT 06103

# (203) 249-1000

M-F 9:30-5:30  
Sat 10:00-3:00

THE BEST TICKETS TO ANY EVENT ... ANYWHERE IN THE WORLD!

Just a couple of days earlier, a high ranking Russian official, General Dmitri A. Volkogonov, chairman of the Russian government's military-intelligence archives, announced that after a thorough review he had found no evidence that Alger Hiss ever engaged in espionage activities for the Soviet Union against the United States.

"Not a single document, and a great amount of materials have been studied, substantiates the allegation that Mr. A. Hiss collaborated with the intelligence services of the Soviet Union," Volkogonov was quoted as saying by the *New York Times*. Hiss, now 87 years old, was ecstatic. "It's what I've been fighting for for 44 years," he said from his New York City apartment.

Hiss's antagonists and critics, and even some fairly neutral scholars, were not quite so happy nor entirely satisfied.

Harvard's Richard Pipes said that although he had no doubt Volkogonov was being truthful, it's possible there are records and files the general did not see.

Conservative publisher and commentator William F. Buckley Jr. said that "court after court after court after court" in this country had concluded Hiss was guilty. (Actually, Buckley is exaggerating, since the US Supreme Court refused all pleas that Hiss's conviction be reviewed.)

Hiss, for his part, understood that the likes of Pipes and Buckley would never be persuaded. "They're so committed to their point of view that it's psychologically impossible for them to be open-minded," he told the *Times*.

But others were more objective and dispassionate. Alexander Dallin, a professor of history and political science at Stanford University, said that although even someone as highly placed as Volkogonov could not be sure he'd seen every file in existence on the Hiss case, "disclosures of this sort gradually fill in the picture."

And Allen Weinstein, who wrote a book on the case in 1978 (*Perjury: The Hiss-Chambers Case*) and is now president of the Center for Democracy, in Washington, DC, said Volkogonov's statement, based as it was on the Russian archives, "means that every serious scholar has to take a fresh look," even if "we can't take Volko-

## JUSTICE DELAYED: Hiss, in 1949,

swears to tell HUAC the truth.

And that's why a case should never be so tightly closed that it can't be reopened, even when new facts come to light. The Church admitted its mistakes, even though it took three and a half centuries. But the way the American legal system is set up, Hiss will wait longer than Galileo to have his good name returned to him.

Actually, Galileo was never subjected to a trial on the merits of the case against him. When the Inquisitors informed the elderly, ailing astronomer that if he persisted in his scientific conclusions he would be tortured and then burned at the stake, Galileo recanted — sort of — his own findings, saying they were "abjured, cursed, and detested." In short, Galileo never quite pleaded guilty, thereby leaving it for history to vindicate him. He was placed under house arrest, where he remained for eight years, until his death, in 1642, at the age of 77.

Hiss, who is already 11 years older than Galileo was at the time of his death, never pleaded guilty either. But so far he's been unable to get the court system to change its mind and admit error.

The newly opened Russian archives will doubtless be pored over, page by page, by historians and scholars. If nothing spectacular is found, chances are that Hiss will eventually be conceded by most observers to have been wrongly convicted in 1950 for lying to a grand jury when he denied he'd worked with Whittaker Chambers to spy against the United States. (Hiss was never actually charged with espionage, just with lying about his activities.)

But unless the American legal system undergoes some fairly radical changes, the official exoneration Hiss seeks is likely to elude him forever.

Galileo — or his ghost — was lucky.

Alger Hiss was the all-American upper-crust success story before his life was wrecked by Congressman Richard Nixon,

See *FREEDOM*, page 26