

Court Gives Alger Hiss Pension Denied by Act

By Jim Mann
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A three-judge federal court ruled here yesterday that Alger Hiss, the former State Department official convicted of perjury in 1950, is entitled to receive a government pension.

The court ruled that the so-called "Hiss Act"—the 1954 law that effectively prohibited Hiss from receiving his pension—was an ex post facto law that punished Hiss retroactively for actions committed before the act was passed.

A second man to whom the Hiss Act also applied retroactively, Richard Strasburger, a former postal employee who was a Communist Party member from 1935 to 1945, was also granted his pension.

Hiss, 67, a printing salesman in New York City who is writing a book about the New Deal, said last night, "I can't lose them all. . . . This is one small step towards vindication. I shall keep up the efforts I've been making."

For some time now Hiss has been trying to have a public commission re-examine the perjury case in which he was convicted for falsely denying that he had passed secret State Department documents to Whittaker Chambers. He served three years and eight months in prison for the conviction.

Ironically, the federal judge who wrote the opinion granting Hiss his annuity, U.S. Court of Appeals Judge Roger Robb, was appointed by Hiss's old nemesis, Richard Nixon.

The opinion was unanimous and can be appealed only to the U.S. Supreme Court. A spokesman for the Justice Department said yesterday that the government has not yet decided whether to appeal.

The spokesman said there would be no further comment on the court decision.

The ruling will enable Hiss to receive about \$5,000 in back pensions, for which he became eligible on his 62d birthday in November 1966.

At that time, Hiss would have received a pension of \$61 per month. There have been

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six cost-of-living increases since then, so that the monthly annuity is now more than \$80. Hiss will receive the monthly payments until his death.

Hiss told a reporter last night that the money was not the motivating factor in the court case. "It was a matter of principle, I can assure you,"

he said. The American Civil Liberties Union argued the case on behalf of Hiss and Strasburger.

The Hiss Act contained a number of provisions, one denying a pension to any person convicted "before, on or after Sept. 1, 1954," of perjury in a national security case. That section applied to Hiss.

Another provision cut off pensions to anyone who made a false statement concerning Communist Party membership. Strasburger fell under this section.

In all, according to the government, Hiss and Strasburger are among seven persons who could have been denied pensions retroactively under these two clauses.

The three-judge court found that the law itself, when applied retroactively, was "penal rather than regulatory."

"There is substantial evidence . . . that the primary target of the Act was Alger Hiss and not general regulation of the federal service," Robb wrote.

"The question before us is not whether Hiss and Strasburger were good or bad men," Robb wrote, but merely whether Congress could legally deprive them of their annuities and the court did not comment on the law as it applies to offenses committed after 1954.

Instead, the court held narrowly that in the particular cases of Hiss and Strasburger, the law is not applicable.

Strasburger became eligible in 1964 for a pension of \$112 a month. At that rate, he would have already received nearly \$11,000. In addition, he is entitled to eight cost-of-living increases and accumulated interest. Like Hiss, he will receive monthly payments from now on.

Besides Robb, the other judges were William B. Bryant and John Lewis Smith Jr. of the U.S. District Court.

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