

To the Editor:

Former President Johnson does himself and Arthur J. Goldberg an inexplicable disservice by suggesting in his memoirs that the Justice desired to leave the Supreme Court in 1965 to become United States Ambassador to the United Nations. Neither is this a service to the Court, nor yet to the confidence with which the public will read "The Vantage Point."

In his book former President Johnson states that en route to Ambassador Stevenson's funeral on July 19 he mentioned to Justice Goldberg that, "I had heard reports that he might step down from the Court and therefore might be available for another assignment." The Justice, we are told, indicated that the reports had "substance." The next day the Justice is said to have called Mr. Valenti to say that "the job he would accept was the U.N. Ambassadorship, if I offered it to him."

This cannot be so. At about 4 o'clock on Saturday afternoon, July 17, 1965, I received a call from Justice Goldberg asking me to come to his home. I arrived and was told the President had asked him to take on Stevenson's post. The Justice was in the turmoil one might expect. He had not the least desire to leave the Court. I am as certain of this as one man can be of another's feeling. I was then editing his public papers, later published as "The Defenses of Freedom." We had weeks earlier reached agreement not to include any of his court decisions, preferring to wait another five to ten years when a second volume might be devoted solely to these. He cared for the Court as for few things. Only an urgent and pressing appeal from the President of the United States could

weigh more heavily with him, and even then he was not certain. I remained with him for most of Saturday and Sunday, drafting statements, trying, I like to think, not to influence his decision. I was then a member of the subcabinet and had no business countering the President's wishes. But neither would I encourage the Justice to act against his own.

Only one other Justice in history, James F. Byrnes, had left the Court to accept a further Presidential assignment. By the end of the weekend the Justice had pretty much decided he would have to be the second.

Six months later, in the introduction to "The Defenses of Freedom," I wrote of that weekend, "in terms Jefferson had used two centuries earlier (and which Goldberg was to recall) it was necessary to find a successor to Stevenson: no one could replace him. . . . President Johnson found his man. Stevenson died on Wednesday. On Friday Arthur J. Goldberg was asked would he leave the Supreme Court, where he had only just begun 'the richest and most satisfying' period of his career, to re-enter the Cabinet, and to assume the unrelenting responsibilities of his nation's representative at the U.N. He accepted, in his words, 'as one simply must.'"

To learn now that the U.N. post was not mentioned until Tuesday, and then on Justice Goldberg's initiative, is to gain further insight into what we have been through. On that very day, July 20, Mr. Johnson announced the appointment, stating, "At the insistence of the President of his country, he has accepted this call to duty."

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