

## Arthur Goldberg: proof of the American dream

*Throughout his career as lawyer,  
labor leader, soldier, jurist, and ambassador,  
Goldberg was ever devoted to serving  
the American people and the Nation*

Edward B. Shils

On December 12, 1995, Arthur J. Goldberg, President John F. Kennedy's first Secretary of Labor and principal architect of the 1955 AFL-CIO merger, became the 19th American to be inducted into the U.S. Department of Labor's Hall of Fame. Goldberg passed away on January 19, 1990, at the age of 82. He had been born August 8, 1908, into a blue-collar neighborhood on the west side of Chicago—an area described by a distinguished Goldberg biographer, David L. Stebenne, professor of history at Ohio State University, as “a neighborhood, like other urban slums [replete with] more than a little social unrest, which found expression in radical politics.” As we will see, Goldberg's early experiences in such an environment instilled in him a talent for peacemaking and a true sympathy for the working man, which found expression in a lifetime of public service.

### The early years

Goldberg's father, Joseph, was an educated man who had been a town clerk in the Ukraine. Seeking refuge from the anti-Semitic pogroms of his homeland, he fled his village, northeast of Kiev, and embarked for the New World. He journeyed through such then-exotic places as Alaska and California, and wound up in Texas in 1890. Stebenne tells us that Joseph then demonstrated the true pioneer spirit by driving a horse and wagon to Chicago. There, he found that the only job available him, educated man though he was,

was that of a peddler or produce deliverer. Even so, as soon as he could earn enough money, he sent for his wife, Rebecca, and daughter, Mary.

Arthur was youngest of 11 children who would be born to this immigrant family of the Chicago ghettos. He was the only one of the siblings destined to graduate high school or college. Goldberg had a rough trail to follow to reach the heights he finally achieved. His father died when he was only 8 years old, and he worked in all sorts of low-paying jobs while in elementary and high school. These included working in a fish market, working as a shoe salesman, and also being a vendor at Wrigley Field. One of his favorite jobs was as a part-time library clerk. In 1924, he graduated from high school at the age of 16, with a distinguished record.

But school was not the only instructional arena for young Goldberg. In his book, Stebenne reminds us that Goldberg loved to reminisce about the neighborhood in which he grew up, with its frequent strikes by workers, a thriving left-wing press, crime, political corruption, and racial and ethnic conflicts between the earlier and later immigrant families. In Goldberg, the tensions of the ghetto would contribute to the development of a man whose watchwords were conciliation, tolerance, and public service.

*College and law school.* Encouraged by the achievements of such American Jews as Supreme Court Justices Louis Brandeis and Benjamin Cardozo, the highly motivated Goldberg, early

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in his life, doubtless must have considered a career in law. After high school, he embarked on the route to a college education by first securing a scholarship to Crane Junior College. Despite his almost full-time work schedule, in 1926, he was able transfer to Northwestern University on a scholarship, graduating a year later at the age of 19. It seems he felt he had no time to lose.

Goldberg then received a scholarship to Northwestern University law school, and was on his way to his chosen career. While in law school, he survived by performing hard labor on a part-time basis in the construction industry. A first step in his long-time association with unions was taken when he joined a construction union. Despite working almost day and night, Goldberg graduated from law school in 2½ years—with honors and as Editor-in-Chief of the *Illinois Law Review*. Because he was only 21 years old, he had a problem being admitted to the Bar (because of an underage rule), but he ultimately found his way around this restriction: he sued the Illinois Law Bar Association, arguing his own case, and was then admitted to the Bar by court order.

*Early law practice.* Goldberg practiced for several years after graduation with the conservative Chicago law firm of Pritzger & Pritzger, founded by a family of German Jews. Because of the nature of the firm, his assignments were mostly in the field of legal finance, which failed to excite the activist side of his personality. He was good at his work and his legal scholarship was so sound that he won several appeals to the State Supreme Court. However, his growing interest in small, rather than large, businesses and his mounting opposition to concentrations of economic power in the country led him to join the regional Civil Liberties Committee, later to become part of the national American Civil Liberties Union. Within this group, he made many new friends among the leading intellectuals and activists of the day.

In 1933, recognizing his inherent need to fight for civil and political equality for all citizens, and at a time of severe economic depression with a “New Deal” in prospect, Goldberg resolved to leave his corporation-oriented employer and to start his own small law firm. (The little firm would grow, both before and after World War II, and its founder would eventually become the senior partner of the firm of Goldberg, Devoe, Shadur, and Mivka.) Also during this period, his increasing interest in protecting civil liberties led him to make the acquaintance of liberal intellectuals such as economist Paul Douglas and philosophy professor T.V. Smith, activists who ultimately would be elected to the U.S. Congress.

Around this time, he became friendly with union leaders in the Amalgamated Clothing Workers, a leading CIO union, and was invited to become a public director of the Amalgamated Clothing Workers Bank of Chicago. At the bank meeting, he met the Clothing Workers president, Sidney Hillman.

(Hillman and David Dubinsky, president of the International Ladies’ Garment Workers Union (ILGWU), later served as close advisors to President Franklin Delano Roosevelt throughout the Depression and during World War II; both of these men preceded Goldberg into the Labor Hall of Fame.)

In his solo practice, Goldberg at first represented small manufacturers, often European refugees who, in their pre-entrepreneurial careers, generally had been blue-collar workers. But in his association with Sidney Hillman and the Clothing Workers, Goldberg began to notice that labor had a role in a process of providing a market system that could be more efficient and less unstable than that which had formerly characterized the apparel industry. Hillman impressed Goldberg with his plans to eliminate anarchy in the clothing industry: he wanted small and large manufacturers alike to be profitable. His strategy for accomplishing this goal was to standardize wage rates and improve working conditions, and, through efficiency, to increase company profits, improve working conditions, and boost workers’ take-home pay. (This economic philosophy would soon find expression and acceptance as part of President Roosevelt’s New Deal.) Goldberg liked these concepts of planning and efficiency and came to view employer-union agreements as a kind of “social contract.”

A worthy student of Rousseau, Hobbes, and Locke, Goldberg came to believe that a “social contract” philosophy was viable for the new industrial age. (He may also have found it a good fit with the cultural heritage he shared with the immigrant Jewish workers who had entered the apparel industry in increasing numbers during the pre-New Deal Depression.) A “social contract,” in an industrial relations sense, may be

### A valuable resource

As part of the preparation for this article, the author was permitted to read and study an important biography of Justice Goldberg by David L. Stebenne, professor of history at Ohio State University. Stebenne spent about a decade meticulously researching Goldberg’s life and his professional accomplishments. The biography is entitled *Arthur J. Goldberg, New Deal Liberal*, an impressive scholarly work published by Oxford University Press in 1996. There are few statements in the work that are not supported by specific notes and memoranda taken from actual labor conference records and a host of other primary research materials. (The text itself covers 384 pages, while the notes section consists of an additional 139 pages.) The book is an outstanding historical work, and this writer is deeply grateful to have had access to it as part of the research for the present article.

viewed as a set of agreements and principles under which employers and workers unite for mutual motivation and surrender their individual sovereignty—not through force, but by mutual consent.

In the mid-1930s, Goldberg joined the National Lawyers Guild (NLG), which had been established by attorneys who found the American Bar Association's continuing and strong opposition to the New Deal unacceptable. The NLG, unlike the ABA, supported Social Security and the National Labor Relations Act, even when the constitutionality of those laws came under fire in the Federal courts. However, in the late thirties, Goldberg and his fellow New Deal liberals in Chicago resigned from the Chicago chapter of NLG because of their growing concern about and their opposition to the radicalism of the American Communist Party, which continued to have considerable influence in the NLG. This marked the beginning of Goldberg's opposition to the influence of Communism in American unionism, a sentiment that only grew stronger throughout his career.

Goldberg's association with Hillman, his activities with nonradical liberal causes, and his growing skills as a lawyer brought him to the attention of the leaders of the Council of Industrial Organizations (CIO). In 1938, he was asked to advise the American Newspaper Guild on its strike against the Hearst Newspapers in Chicago, a work stoppage that would last more than a year. The strike resulted in serious financial costs to the union in terms of legal fees, court costs, and strike benefits. The unionists had defied an injunction against the strike that had been granted to the Hearst organization, and physical clashes began to take place. Circumstances became so bitter that even the local AFL unions were upset by what was happening. However, the national AFL leaders were more worried about the growing CIO strength in Chicago than about losing the fight to the Hearst empire. The rivalry within the labor movement between CIO and AFL unions was a characteristic of the times, and it would not be until 1955, under Goldberg's leadership, that a merger of these powerful coalitions was to take place.

A powerful local labor leader, Van Bittner, the CIO's Western representative, asked Goldberg to defend the Guild pickets in court. This he did as a public service and as a civil libertarian. It was clear not only that he was interested in the labor struggle as a lawyer, but also that he would demonstrate sympathy and compassion for the workers, as well as an evident distaste for violence.

By 1939, Goldberg had realized that the unions had legal justification to fight the Hearst Empire, resulting from the passage of the Norris-LaGuardia and Wagner Acts. Hence, his strategy was to challenge the Hearst organization's overwhelming power in the workplace, with the assurance that the CIO's courtroom fight could be backed by labor law.

He won the legal struggle against the Hearst empire by

questioning the validity of the laws that the workers were accused of breaking, and he forcefully accused the Hearst Corp. of having acted illegally itself. Goldberg's arguments resulted in an injunction against the publisher, preventing the corporation from employing violence as a weapon against the strikers. When Hearst ignored the order, Goldberg brought contempt charges against the publisher.

Goldberg emerged from the Guild controversy with flying colors, and was then invited to represent the Steelworkers Organizing Committee. At this time, Goldberg was only 32 years of age, and the assignment would ultimately give him the opportunity to become nationally recognized as a labor lawyer and union leader. It placed him in position to become involved with two great national CIO leaders, John L. Lewis, then CIO president as well as president of the United Mine Workers, and Philip Murray, who headed the United Steelworkers of America and who also was to become the head of the CIO.

*Goldberg's concern over Europe.* As the Guild Strike came to a close, Germany declared war on England and France. France was quickly invaded, and within a few weeks the French army was defeated. The menace of Hitler became a concern for all Americans, but particularly for Jewish Americans. It created in Goldberg a belief that Hitler was a menace to humanity.

Goldberg joined a council of intellectuals who, after observing the threatening events in Europe, became extremely active on behalf of U.S. intervention in the spreading conflict. That group included Adlai Stevenson, whom Goldberg had first met casually in the 1930s. The two men had had very little to do with each other until they began to work with the so-called "White Committee," founded by Republican progressive William Allen White, who initially had supported only a "lend lease" policy for providing military assistance to Britain, but who later became an activist for U.S. military involvement in the war.

Goldberg's friendship with Stevenson blossomed over the years. Stevenson was a wealthy aristocrat and the grandson of a Democratic Vice President of the same name. By the late 1930s, Stevenson had become a senior member of an important Chicago law firm. However, despite their disparate backgrounds, both Stevenson and Goldberg began to work closely together in the face of the danger of Hitler's domination of Europe. This somewhat odd friendship, begun in the early 1940s, would have important echoes in Goldberg's later life.

The alliance of Stevenson and Goldberg became well known in Chicago, as they recruited increasing numbers of professional persons to take issue with Chicago's traditionally isolationist establishment. They were in the forefront of opposition to the ideas of Robert R. McCormick, the publisher of *The Chicago Tribune*, who was leading the fight to

keep America out of the war. In the midst of this turmoil, Goldberg was becoming more visible in his own right, in part because of his friendship with Stevenson. This probably led to an important offer he received in 1940 to represent the United Steelworkers of America as the counsel to the Steelworkers Organizing Committee, at a time when the union's future was quite uncertain. Upon accepting the offer, he worked closely with the union's general counsel, Lee Pressman, in putting pressure on the smaller, less powerful steel companies to cooperate with the rising organizing momentum of the Steelworkers. During this period, Goldberg remained an independent attorney in the labor movement, generally representing as clients both small unions and small manufacturers alike.

## War and its aftermath

Events of December 7, 1941, changed Goldberg's life. When he read about the attack on Pearl Harbor, he decided that he had to do something for his country. At this time, President Franklin Delano Roosevelt had appointed a prominent New York attorney named William Donovan to form the Office of Strategic Services (OSS), which would ultimately evolve into a military agency with the mission of providing information for the armed forces. As such, it would become the first civilian-run intelligence agency in modern U.S. history, precursor to the Central Intelligence Agency. Goldberg had really wanted to join the Marines but he was not able to meet the physical standards, so he decided to take another route. He joined forces with General "Wild Bill" Donovan, first as a civilian and then as a commissioned officer, ultimately obtaining the rank of major. He began his tour of duty in New York, assisting Donovan and Allen Dulles as they opened up an OSS field office. Soon Goldberg was focusing his attention on the International Transport Workers Federation, especially its merchant seamen members from neutral countries whose ships frequented German ports. As a result of his labor contacts, he was able to provide important secret information on what was happening in Europe.

An important part of Goldberg's job involved getting support from European labor unions. Using London as a headquarters, he was able to procure information on the nature of Nazi transport in Sweden. He was also instrumental in arranging a strike at a Swedish company that, despite Sweden's neutrality, was secretly making ball bearings for Germany.

From time to time, Donovan requested that Goldberg go overseas on other secret missions of tremendous importance to U.S. intelligence. In 1942, he asked the young officer to set up sites and develop channels of communication with underground labor camps on the continent that kept in touch with London-based governments in exile. To assist him in this task, Goldberg took along letters of introduction from

such leaders as Jacob Potofsky of the Amalgamated Clothing Workers of America. (He would later admit that, during his flight to Europe, he entertained visions of an exciting future for himself in international espionage.) Goldberg also carried on intelligence work with Spain, a country that was a base for information exchanges with the Nazis. As a result of his intelligence gathering, Goldberg wrote a special report to OSS headquarters, indicating that Spanish dictator Franco might allow the German military to move troops through Spain. This report reinforced concerns that the German high command might strike British and American forces from the rear after they landed in Morocco by moving troops through Spain, with the result that Generals Mark Clark and George Patton asked the OSS to find out more about Franco's intentions if possible. In response, Goldberg returned to the United States and sought out Spanish republican exiles with integrity for undercover work in Spain. These recruits were instructed to reach Spain via Morocco and told to investigate German activities, which they did, providing excellent information until they were captured.

After the Spanish venture, Goldberg settled for a while in Washington. There he developed an intelligence gathering operation, based upon a spy network. Among the challenging projects that the OSS asked him to undertake was a secret mission to Palestine. While in that region, he met with leaders of the illegal army of Jewish settlers, the Haganah. This operation was of particular importance to Goldberg because he had, rather late in life, become a Zionist. The Haganah worked with him and the OSS to mount a joint parachute mission into Italy in order to gather critical intelligence information. After the Palestine experience, Goldberg returned to London to recruit anti-Nazi Germans, who had been captured for use as spies when the allies invaded France.

Even before D-Day, Goldberg was heavily involved in the elaborate U.S. efforts to aid the French Resistance. He was designated paymaster for monthly remittances of thousands of dollars to the underground French Confederation of Labor. These funds helped keep the resistance alive until the end of the conflict.

Throughout the war, Goldberg continued to fly back and forth to London on OSS business, but never forgot his concern over the thousands of Jewish refugees who had somehow survived Hitler, but were unable to enter the United States. He was disappointed with President Roosevelt's failure to take more overt action with respect to the problems of the Nazi persecution of Jews and the plight of the refugees. However, he realized that all of Roosevelt's weakening energies had to be conserved to defeat Hitler.

Goldberg's wartime experiences provided him with an international education that was to be important in his future role in politics and labor relations. Among his new friends he numbered leading figures in international trade unions, in-

cluding Socialist Party leaders from every nation in western and central Europe and Scandinavia. These contacts encouraged his continued belief in the value of a “social contract” among employees, unions, and government.

His experiences also refined his opinions about the value of truly democratic societies in raising the level of living in their respective homelands. After sharing intelligence efforts with famous labor leaders such as Walter Citrine, general secretary of the British Trade Union Congress (TUC), and Ernest Bevin, the Dockers leader, as well as European Socialist leaders, Goldberg returned home imbued with a hope that U.S. labor unionists would continue to work with employers and government, as they had demonstrated they could by participating in the War Labor Board during World War II. His OSS experience encouraged him to pursue such a model, because in setting up the organization, he and Donovan had invited corporate leaders, labor leaders, and government officials to work together in gathering worldwide intelligence to help the allies win the war.

*Need for a new “New Deal.”* Goldberg returned to Chicago in the fall of 1944, expecting to have a difficult time reopening his law office. To his welcome surprise, his former union clients, the Steelworkers, knew about the outstanding work he had performed for the Nation as an OSS officer and the about the important relationships he had developed during the war with many international labor unions. Indeed, the legal, corporate, and labor sectors of the Chicago area were quick to pay him the respect he was due as a wartime volunteer.

Upon his arrival in Chicago, Goldberg immediately became an active participant in both the National Citizens Political Action Committee and the CIO Political Action Committee in working toward President Roosevelt’s re-election. He then attended the CIO’s national convention in Chicago in November 1944 and re-established his links with former labor clients. Among them was the Steelworkers, which, during Goldberg’s wartime absence, had prospered, growing from 460,000 members in 1942 to about 1 million, if one counted the prospective military returnees.

The “Little Steel Formula,” a wartime economic stabilization measure that had been promulgated by Professor George W. Taylor, Chairman of the War Labor Board, had recognized union maintenance-of-membership and dues withholding payments for the industries in which unions had existed prior to World War II. In essence, the plan rewarded unions for not striking during the war. Organized labor had thus continued to enroll millions of new members throughout the conflict, and the regularization of dues payments had permitted unions such as the Steelworkers to amass powerfully large strike funds.

However, the tripartite nature of the War Labor Board (involving business, labor, and the public) meant that the

government had become deeply involved in labor relations in a supervisory fashion, and this frustrated union ideas of sovereignty. No-strike agreements among unions, management, and government during World War II were generally adhered to by the large CIO unions (with the exception of John L. Lewis’s United Mine Workers.) Nevertheless, there were hundreds of unauthorized “wildcat” strikes during the war.

It was estimated that, in the year 1942–43, there were at least 800 such strikes in the steel industry alone. Wartime government supervision had limited the union’s freedom of action to such an extent that, by war’s end, the stage was set for an unprecedented outbreak of labor strife in the industry. While Steelworkers president Philip Murray had remained quite loyal to President Roosevelt’s wartime program, he and other CIO leaders had become troubled by what they perceived to be anti-union animus in the Congress. Another problem that had plagued the Steelworkers during Goldberg’s absence was the frequent jurisdictional disputes between their organization and the United Auto Workers, a union in which Communists had made substantial inroads. Also contributing to postwar labor tensions were the continuing discord and competition between the CIO and AFL unions. (During the war, AFL membership had risen to about 7 million, while the CIO camp had grown to 4 million.)

So, Goldberg had arrived back in Chicago at a time of considerable national uncertainty about the future of labor-management relations in the United States. This made him consider taking an important position with the U.S. Department of Justice, rather than remaining with his small law practice. However, Roosevelt’s death deterred him from making the move back to Washington.

Characteristic of the times was the CIO’s social agenda, which was in part Keynesian and thus looked to the government for help in achieving Social Security, better housing, and health care for American workers. The AFL was somewhat less enthusiastic about such government intervention in the labor-management arena. At the same time, the business community was itself divided about the roles of government and unionism. A few managers, including the liberal-minded Henry Kaiser, favored postwar accords of the sort that would ultimately be recommended for the steel industry by Goldberg and his client, Philip Murray, Steelworkers president. This agreement was predicated on the assumption that the industry’s unions and employers could be trusted to work together for the welfare of the Nation. Chiefs of other large corporations, led by U.S. Steel executives, opposed what they viewed as further government concessions to labor unions, but evidenced no hardened intentions to break unions. A third group, which included such companies as Montgomery Ward, Republic Steel, and the southern textile manufacturers, generally represented smaller firms who feared union recogni-

tion. They did not want to bargain with unions and, in the main, appeared to ignore the “Little Steel” formula.

*Postwar troubles.* It is probably not surprising, then, that there was an outbreak of strikes in January and February of 1946. These exceeded in number all of the strike activity that had taken place during the war years. “Strike fever” spread rapidly through the steel, oil, auto, glass, trucking, rail, textile, coal mining, electrical, and meat packing industries, and on to others as well. Contributing to the vehemence of the outburst was the fact that governmental wage and price controls had resulted in a decline in workers’ real income, and union members were growing impatient for the government to authorize further wage adjustments. It must be said, however, that most of the strikes that took place at this time were not authorized by union leaders.

In January 1946, the Steelworkers engaged in a 4-week walkout. There was an early settlement, however, when an 18.5-cents-per-hour wage increase was granted, and the parties agreed to a continuation of the maintenance-of-membership and check off processes that Philip Murray had deemed a crucial item in the dispute.

*Believer in arbitration.* Goldberg and Murray’s 1946 steel contract tended to define the future roles of government economists who had guided the economy through the turbulent war years: they were to become the mediators and arbitrators of the new generation. Among them were such eminent economists and lawyers as David Cole, Archibald Cox, John T. Dunlop, Nathan Feinsinger, Clark Kerr, Wayne Morse (later a U.S. Senator), Sumner Slichter, George W. Taylor, and Willard Wirtz. By the end of the war, these “neutrals” had acquired great negotiating skills, and most believed that labor peace was best attained by government leadership and sponsorship of mediation.

Goldberg had always been impressed with the importance and the role of arbitration over other forms of alternative resolution. He noted its great history in formalizing grievance procedures in the apparel industry, and hoped that it would travel well from a wartime setting, with its compulsory controls, to peacetime. The war was over, he felt—controls must be lifted and an effective private-sector approach to dispute resolution must be established. To this end, he developed and maintained strong friendships with the academic experts who had proved their mettle during the wartime wage control period.

*The Taft-Hartley Act.* Goldberg’s legal maneuvering and his activities in the Midwest were important in the resolution of the 1946 steel strike. Also part of his task was to help overcome the power of the radicals and the Communists in the union, who remained opposed to a realistic settlement.

Goldberg was always the moderate. According to associates, he believed that the 1946 strikes in steel, autos, and other industries, combined with a widespread perception that unions were radical and “left wing,” had led American voters to support anti-labor candidates in the congressional elections held that year. The result was the so called “do-nothing 80th Congress,” which would pass the Taft-Hartley Act in 1947.

The Steelworkers leadership was quite disturbed by the new Act, which they saw as whittling away the right to organize, reviving—to a small extent—the use of the labor injunction, outlawing secondary boycotts, and giving the States legislative permission to pass “right to work laws.” Although the Taft-Hartley Act was vetoed by President Harry Truman, it was repassed over his veto.

At the time, the left wing of the CIO was led by Lee Pressman, a brilliant lawyer who served as general counsel for both the Steelworkers and the CIO. It began to appear that the Pressman faction would support Henry Wallace, rather than Harry Truman, for President in the 1948 elections. After a majority of the CIO Executive Board had indicated that it favored re-electing President Truman, CIO president Philip Murray made it very clear to Pressman that he must either support Truman or resign as general counsel of the CIO and the Steelworkers. Pressman resigned and Murray, impressed with Goldberg’s talents, recommended his appointment as general counsel to both the CIO and the Steelworkers. The Goldberg appointment was strongly supported by the presidents of two strong CIO unions—Jacob Potofsky of the Amalgamated Clothing Workers of America, and David McDonald of the Steelworkers.

Murray’s nomination of Goldberg was a popular choice within the CIO. His victories on behalf of the Guild, the sound legal work had he produced for the Steelworkers Organizing Committee, his OSS service, his knowledge of international labor unions, and his stated hostility toward the Communist Party all were viewed as pluses. Moreover, the unions felt that they needed his legal knowledge to cope with the passage of the Taft-Hartley Act. On March 5, 1948, he won final approval as general counsel to both the CIO and the Steelworkers. This national recognition was the first foundation of a bridge he was slowly building to bring about a merger of the AFL and CIO.

One of Goldberg’s great accomplishments during his early service as Steelworkers general counsel was to get the steel industry to bargain over pensions. Murray had insisted that Goldberg explore ways to make a breakthrough on this most important fringe benefit. Goldberg concluded that striking over fringes would be illegal despite the master contract’s reopening clause, but that appealing to the National Labor Relations Board (NLRB) on “duty to bargain” might be the way to go. The NLRB recognized and approved of Goldberg’s legal approach. The steel industry then appealed to the courts to overturn the NLRB ruling, but the U.S.

Court of Appeals for the Seventh Circuit ultimately upheld the Board's decision.

In April 1949, Goldberg's victory in the Seventh Circuit U.S. Court of Appeals became final when the U.S. Supreme Court denied the steel industry its request of review. Hence, the NLRB ruling that management had a "duty to bargain" over pension demands, and that a union had a legal right to strike over a refusal to bargain, became clear. The payment of fringe benefits, which had been permitted by the Latimer Commission in the face of wage freezes during World War II, thus became a permanent and important part of the U.S. labor scene by virtue of Goldberg's victory.

President Truman's surprise victory in the presidential election of 1948 appeared to justify the support given him by Goldberg and Murray and by other moderates in the CIO. In his executive capacity, Truman in a sense nullified the new power of injunction over national strikes granted by Taft-Hartley, and instead substituted fact-finding boards, which Goldberg found acceptable. In fact, Goldberg believed that labor could live with the Taft-Hartley Act. He was a sensible conciliator and saw Taft-Hartley as providing a balance between the rights of labor and management that had not existed under the Wagner Act.

Goldberg's role as general counsel for the CIO became even more important in the post-Taft-Hartley period when Murray became seriously ill soon after the Truman victory. His illness left a vacancy that Goldberg had to fill. The presence of Goldberg as leader in contract negotiations led ultimately to patterns of industry-wide bargaining in steel and in the other major industries in which the CIO was dominant. While the Taft-Hartley era was not a comfortable time to be a trade unionist, that fact never deterred Goldberg from fighting for those interpretations of the Act that would be most favorable to his chosen constituency.

According to Marvin Miller, a Goldberg associate who would later serve as chief economist for the Steelworkers during the difficult steel negotiations of the 1960's, Goldberg's role in the postwar negotiations was vital:

Few people realize the important role that Arthur played in the labor movement. It would be difficult indeed to find a record of a general counsel who was not only a great legal mind, but who served as the leader of a negotiating cadre, which he assembled and led in contract negotiations in basic steel, aluminum, metal fabrication, can manufacturing, and nonferrous metal industries. He was more than a general counsel—he was the supreme activist.

## The turbulent fifties

Shortly after the election of Dwight D. Eisenhower as President in 1952, both William Green, president of the AFL, and Philip Murray, president of the CIO, passed away within weeks

of each other. AFL secretary-treasurer George Meany, who had been a member of the War Labor Board in World War II, was elected president of the AFL. Meany's ideals were not very different from Arthur Goldberg's. Both men were anti-Communist in their politics, and both favored a kind of "social contract" between workers and employers.

When Philip Murray died, the CIO lost a "New Deal" liberal. Goldberg found himself in the middle of a struggle for CIO leadership between David McDonald, president of the Steelworkers, and Walter Reuther, president of the United Auto Workers. Reuther was ultimately elected president of the CIO. He was a labor intellectual who did not get along well with McDonald, who had succeeded Murray as the Steelworkers president, and who had begun to depend more and more on Goldberg to manage the Steelworkers. However, despite the continuing rift between McDonald and Reuther, Goldberg managed to work very well with the new CIO president without losing his clout with the Steelworkers.

About this time, Senator Joseph McCarthy of Wisconsin began his congressional investigations of the role of Communists in the Nation's life and institutions. Goldberg initially supported these investigations, but soon changed his mind when it became apparent that McCarthy's excesses could destroy the labor movement. In 1954, the CIO leadership threw its support behind the investigation of McCarthy by his Senate colleagues, and the worst of the hysteria was over by the time Goldberg got the CIO executive board to vote a close majority in opposing any wire-tap law that might be proposed in Congress. The CIO strongly supported the Senate's decision to censure McCarthy in December 1954.

Closer to home, Goldberg cooperated with Murray and Reuther to secure the support of both of their unions for a "no raiding" agreement. He favored arbitration for the settlement of jurisdictional disputes, and was instrumental in selecting George W. Taylor, another Labor Hall of Fame inductee, as the first arbitrator of such disputes among member unions of the CIO. The resulting "no raiding" agreement would ultimately lead to the 1955 AFL-CIO merger, which was what Goldberg had in mind all the time. While the "no raiding" pact was soon approved by both union conventions, it took several years for the member unions in both the CIO and the AFL to ratify the pact. By June 1954, all ratifications were complete—another triumph for Arthur Goldberg.

*Merger of AFL and CIO.* December 1955 marked the culmination of enormous negotiating efforts mounted by Goldberg since the end of his military service in 1944. The event was the official merger of the AFL and the CIO, for which he deserves most of the credit. His one-to-one relationships over the years with such important players as David Dubinsky, Philip Murray, George Meany, Walter Reuther, John L. Lewis,

and David McDonald, as well as his personal leadership and legal expertise, were instrumental in effecting the merger. There is little doubt today that Goldberg unified the Nation's trade union movement. When asked to name the new organization, Goldberg was quick to see the importance of parity. His speedy recommendation was "AFL-CIO," of course.

Goldberg was concerned that jurisdictional disputes and raiding by various unions would destroy the fledgling AFL-CIO. Consequently, he supported the selection of Professor George W. Taylor and Professor Nathan Feinsinger, Taylor's successor as CIO arbitrator, for key roles as arbitrators in the "no raiding" procedures he was able to draft between the AFL and CIO. In so doing, he showed his preference for the use of alternative dispute resolution, rather than the judicial process or NLRB decisions, in settling the internal squabbles that were certain to arise within the new organization.

*Arbitration advanced in "Lincoln Mills."* In September 1957, a labor problem arose at a small, unionized steel company, Lone Star Steel. The company had an angry relationship with its unions, and had rejected a labor arbitrator's ruling in a dispute related to filling temporary vacancies with union members according to seniority rule. All of the Nation's major steel companies supported Lone Star management on the issue.

Goldberg decided to submit the entire dispute to arbitration on a system-wide basis, rather seeking rulings from hundreds of individual arbitrators. When the case finally went to arbitration, Goldberg argued the union position, which prevailed with the arbitrator. The victory in the Lone Star case reassured Goldberg that his support for arbitration was a winner.

This victory came on top of the U.S. Supreme Court decision on June 3, 1957, that Federal courts had the power to enforce arbitration clauses in labor-management contracts, thus reversing a lower court decision. The case of *Textile Workers Union v. Lincoln Mills of Alabama*, in which Goldberg had represented the union before the Court, and two companion cases were decided on the same day. Goldberg won the case with his argument that, because workers implicitly surrendered their right to strike over arbitration issues, arbitration clauses should, as a matter of Federal policy, be legally enforceable to promote industrial peace.

*Landrum-Griffin.* In 1959, Goldberg continued to resist further anti-union efforts on the part of Congress. While troubles in the steel industry were to take much of Goldberg's time, he also devoted massive efforts toward modifying the most anti-union provisions of the Landrum-Griffin Bill of 1959, as it further amended the Taft-Hartley Act. Goldberg felt that Landrum-Griffin had been passed because of the only superficial interest in the union's position evidenced by then-Senator Lyndon Johnson. (Goldberg's criticism of Johnson on this

point may have been the cause of subsequent hard feelings between Goldberg and President Johnson.)

At the time, Goldberg saw the passage of the Landrum-Griffin Bill—heralded as a union "Bill of Rights" against "corrupt union leadership"—as a forerunner of Big Steel's efforts to win a major victory over the Steelworkers in its negotiations for a new contract. During the Senate preparations for the passage of Landrum-Griffin, he met on many occasions with Senator John Kennedy to preparing an alternative anti-corruption bill. Their friendship would date from this period.

*The steel strike.* In 1959, the steel industry undertook a series of confrontational clashes with its workers. In particular, industry management began challenging the control of "rank and file" over local working conditions. The onset of a depression in the U.S. steel business earlier in the decade had only made matters worse. But as the economic picture began to improve, Big Steel recalled fewer workers than had been laid off. This resulted in a unilateral reduction in the size of work crews, which was forbidden by Section 2B of the industry's master contract. Goldberg would play a key role in subsequent developments.

During the 1950s, the Nation's steel industry lagged behind European manufacturers in automation, and it had higher unit costs than overseas competitors. Goldberg blamed this sorry state on managers who would not implement new technology. Roger Blough, chairman of the board at U.S. Steel, blamed the union for obstructing technology change and for otherwise contributing to rising prices and inflation.

By 1959, however, Big Steel was reporting reported big profits, causing Goldberg to demand wage increases in accordance with the productivity formula specified in the existing contract. R. Conrad Cooper, the chief industry negotiator, stated that Section 2B of the contract was harming the steel companies' competitive position worldwide, and that management would not provide increases in wages or benefits until the section was eliminated from the contract. Along with the emergence of the Section 2B issue came a series of selected management demands for greater freedom in arranging for work schedules. McDonald labeled the steel management strategy as one designed to end unionism in the industry. After this exchange of statements by the industry and union leaders, negotiations came to a halt, and the 3-year master agreement in the industry expired on July 1.

President Eisenhower asked both sides to extend the current agreement and continue bargaining. The union then offered a 1-year extension and proposed creating a joint committee to study possible changes in work rules and benefits. Cooper turned the proposal down. On July 15, 1959, more than 500,000 steelworkers stopped working and one of the Nation's single largest strikes began, making labor history. The strike,



which was to last 116 days, closed down practically all of the country's steel capacity, and the U.S. Department of Defense began to voice its concern that a lack of steel would threaten America's military preparedness, particularly in light of the tensions in Berlin and elsewhere in the world.

The main issue in the 1959 steel strike continued to be Section 2B of the expired agreement. Neither side was willing to budge. There was little AFL-CIO union support for the strike. In particular, the Auto Workers were adversely affected as steel became scarce for auto manufacturers, and shortages affected other industries as well. President Eisenhower became quite concerned over the dwindling supply of steel and on September 28, 1959, he called Goldberg and McDonald in for a meeting. The President threatened to use the injunction-emergency dispute provisions of Taft-Hartley in the event there was no bargaining progress. Despite further meetings of the parties with U.S. Steel, Republic Steel, Bethlehem Steel, Jones and Laughlin Steel, and Inland Steel, the impasse continued.

Frustrated at last, President Eisenhower appointed a Board of Inquiry, as authorized by the Taft-Hartley Act. The Board was to be chaired by Wharton's Professor George W. Taylor. The President limited the new Board's powers to mediating and clarifying issues, rather than recommending or negotiating a settlement. The legal establishment of a Board of Inquiry finally forced management to make a perhaps more realistic offer, which consisted of a 3-year contract providing minimal improvements in pay and fringes and a proposal for binding arbitration on unsettled work-rule issues.

Goldberg turned down the industry's proposal and instead offered a 2-year contract, with somewhat greater pay and fringe benefit increases. He also proposed forming a committee to review the work-rule issues. His committee proposal was unique and furnished the outline for the establishment of the Kaiser Steel Plan, an idea that Goldberg conceived jointly with Marvin Miller, David McDonald's chief economist and future founder of the Major League Baseball Players Association Union. Goldberg's proposal was for a nine-member tripartite committee, to consist of three members each from labor, management, and the public. The committee's mandate would be to study and resolve work-rule issues, as well as the long-term problems confronting the steel industry. Shortly after the proposal was offered, it was rejected by R. Conrad Cooper.

An interesting development during the strike was the budding friendship of Goldberg and Edgar Kaiser, son of Henry Kaiser of Kaiser Steel. The two met frequently. The Board of Inquiry, under the chairmanship of Taylor, reviewed Goldberg's proposal plus additional suggestions from Edgar Kaiser, but in its final report, issued on October 19, 1959, said that it found no sign of a possible agreement between the steel industry and the union. Big Steel also remained indifferent to the solutions

proposed jointly by Goldberg and Kaiser, and the possibility of a Taft-Hartley injunction loomed.

On October 20th, the Government petitioned for an injunction, creating a major rupture in the Administration's liberal attitude toward unions in the postwar New Deal. Goldberg began legal maneuvers to stop the injunction, claiming that it was unconstitutional. When the Federal District Court for western Pennsylvania rejected his appeal, he appealed to the 3rd Circuit in Philadelphia, and lost by a margin of 2 to 1. He then filed a petition for *certiorari* to the U.S. Supreme Court, which was accepted, and hearings were scheduled for November 1959. The injunction was temporarily stayed as a result of each appeal.

Meanwhile, the Steelworkers and Kaiser Steel bargained independently and reached a settlement not binding on the rest of the industry. As part of the settlement, a Kaiser Steel Plan was established along the lines of the committee plan proposed earlier by Goldberg and Miller, to be administered by a tripartite board. The three seats on the board designated for the public were given to George W. Taylor, as chairman, John Dunlop, professor of industrial relations at Harvard University, and David Cole, former head of the U.S. Federal Mediation and Conciliation Service, all proven mediators. This plan was to serve as a model for subsequent national industry negotiations.

On November 7, 1959, the U.S. Supreme Court upheld the 3rd Circuit's findings and the constitutionality of the injunction, and negotiations resumed. With the injunction in place, the bargaining was somewhat fruitless. (However, Goldberg's 3 weeks of presentation before the Supreme Court had attracted favorable public attention.) Union members returned to work, but there was great hostility between workers and management. The Taft-Hartley Act required the union members to vote on a "last offer" by management. Steel management offered a modest improvement in wages and benefits, but still resisted retaining Section 2B. As the bargaining and legal work grew, David McDonald gradually turned over most of the management of the Steelworkers union to Goldberg. Goldberg and other Steelworkers leaders influenced the membership to turn down the Taft-Hartley "last offer."

Finally, aid came from an unexpected source: Vice President Richard Nixon, who planned to run for President in 1960. Nixon met privately with the leaders of the principal steel companies and forcefully explained the Administration's impatience with the strike. He urged Big Steel to accept a version of the Kaiser settlement because he believed the economy was beginning to suffer. During the last week of December 1960, the industry finally acceded to Nixon's demands for a settlement, in part because management believed that subsequent congressional intervention might damage management's prerogatives permanently. The union member-

ship and Steelworkers president McDonald viewed the settlement as a union victory, and Goldberg received both union and public commendation for his arduous efforts during the strike.

*The 1960 Presidential election.* When, in 1959, it appeared to Goldberg that the Republicans would nominate Nixon for the Presidency, he began to take an active interest in backing a Democratic candidate. First, he offered political support to his old Chicago friend, Adlai Stevenson. However, Stevenson wanted him to back Senator Hubert Humphrey. Goldberg decided that if Stevenson would not run, he would support Senator John Kennedy, with whom he had worked on union anti-corruption legislation earlier in the decade.

Goldberg finally won reluctant support for Kennedy from his labor allies, who also were influenced by Kennedy's early primary victories in Wisconsin and West Virginia. In fact, he became Kennedy's principal labor advisor. However, he was unhappy with Kennedy's choice of Lyndon Johnson as his running mate, favoring Humphrey for the post. This may also have contributed to the future unhappy relationship between Goldberg and Johnson.

## On the go in the 'sixties

*The labor trilogy.* Goldberg appeared to be backing winners of all sorts during 1960, particularly when the Supreme Court that year handed down decisions in three cases brought by the Steelworkers. All of these cases, collectively known as the "Steelworkers Trilogy," affirmed the importance of arbitration in union contracts, in essence reinforcing the results of the 1957 *Lincoln Mills* decision. The three cases were *USA v. American Manufacturing Co.*, *Warren and Gulf Navigation Co.*, and *Enterprise Wheel and Car Co.*

Goldberg's associate, David Feller, argued the cases successfully before the high court. However, each of the decisions was evidence of Goldberg's great and continued influence in the cause of arbitration and alternative dispute resolution. Goldberg believed that the courts generally would be much more supportive of management than of unions and workers, and that arbitration was thus more certain to provide industrial "due process" than was litigation. By the time the Supreme Court ruled on the Trilogy, arbitration clauses were integral parts of more than 90 percent of all union contracts. Had employers won the Trilogy cases, it would have been difficult indeed to maintain grievance procedures requiring arbitration as the first step in a dispute. The Trilogy decisions were generally conceded to be a victory for the U.S. labor movement.

*The 1961 steel negotiations—Round I.* On January 13, 1961, after Goldberg had become President Kennedy's Sec-

retary of Labor, his influence on the Kaiser Committee began to be felt in the preparation for negotiations for a new steel contract. On that date, the Steelworkers and Kaiser Steel announced the signing of a supplemental agreement giving the Kaiser tripartite committee the right to engage in collective bargaining. The "public" members would act as mediators and factfinders, and could make recommendations publicly, if an impasse were to develop. The union, of course, opposed any process of compulsory arbitration.

Marvin Miller, who had formerly worked closely with Goldberg in the Steelworkers union, kept in close communication with the members of the Kaiser Committee throughout the negotiation progress. Miller explained to them what the union leaders saw as a basis for a settlement package: the union would tacitly agree to automation in return for the retraining and re-employment of displaced workers, who would receive financial support in the interim. He also proposed a cost-of-living additive clause, and the diversion to the union of a share of the profits stemming from automation. Finally, he made it clear that the union would never countenance reduced earnings. Management, however, continued to insist on amending the Section 2B clause to make it easier to introduce new technology.

Meetings with U.S. Steel offered little grounds for optimism in using the Kaiser Committee approach. The several tripartite committees continued their activities, but Roger Blough refused to use public members when the committee was assigned the task of studying the larger problems facing Big Steel. Although David McDonald and R. Conrad Cooper chaired the committees, the actual day-to-day supervisory role was assigned to Marvin Miller and to Heath Larry, who represented Cooper.

From his vantage point as Secretary of Labor, Goldberg saw that the steel negotiations seemed to be going no better than they had 3 years earlier, when events had led to the 1959 strike. Marvin Miller reported to him that management's attitude was just as rigid as it had been in 1959, regardless of the enactment of the Kaiser Plan and its establishment of Human Relations Research Committees. The lack of progress in the Kaiser and U.S. Steel Committees during their first year of operations suggested that the steel industry might never recover from the discord occasioned by the 1959 strike. The discouragement occasioned by the turmoil soon led Miller to accept the position of first executive director of the new Major League Baseball Players Association. It would be up to Goldberg to cut the Gordian knot of troubled labor relations in the steel industry.

*The new Secretary of Labor.* Goldberg's support of Kennedy's campaign and his prior relationship with Kennedy in the Senate had established a solid enough relationship with the new President that Goldberg was chosen to become Sec-

retary of Labor in the new Cabinet and to be a key Presidential advisor. Goldberg had actually wanted to be Attorney General, rather than Secretary of Labor, perhaps because he wanted to get on the road to becoming a Supreme Court Justice. However, Robert Kennedy stood in his way. John Kennedy made it clear he favored his brother for the position of Attorney General.

Goldberg received a promise from the new President that he would not interfere with his new Secretary's own appointments for the top jobs in the Labor Department. For the second spot in the Department, Goldberg chose a friend of Adlai Stevenson's, Willard Wirtz, a Northwestern University law professor who had served on the Wage Stabilization Board and who later had been recognized as a leading arbitrator. For the post of Under-Secretary for Labor-Management Relations, he chose James J. Reynolds, an industrialist who had been a member of the NLRB under President Truman. Other key appointments favored minorities and women; appointments of industrialists were balanced by those of key union officials, which had been distributed equally between the former AFL and CIO.

The years 1960–61 included an economic downturn, and Goldberg took on the major assignment of fighting the recession on behalf of President Kennedy. His proposed weapons included increasing the minimum wage, extending unemployment benefits, creating opportunities for youth employment, and establishing a distressed area program. On Goldberg's advice, President Kennedy appointed a Presidential Committee on Equal Employment Opportunity, which was destined to become stronger and more meaningful over the years. Lyndon Johnson, the new Vice President, was the chair, but the committee was energized by Goldberg as vice chair. The new Presidential Committee and the major unions, coming together with Goldberg, began to attack racial discrimination among employers. Goldberg also chose to move vigorously against employment discrimination in the Federal Government as well.

The work of the Presidential Committee ultimately led to the passage of a bill sponsored by Congressman James Roosevelt to create a statutory commission with subpoena and investigative powers. The legislation was to be known as the Equal Employment Opportunities Act. Goldberg's efforts also resulted in the establishment of the President's Committee on the Status of Women in the spring of 1962.

A major accomplishment for Goldberg was selling Kennedy on the idea of establishing a President's Advisory Committee on Labor-Management Policy, in which corporate leaders, labor leaders, and public members (academicians and lawyers) would try to determine the best ways to improve both labor-management amity and productivity. Both Truman and Eisenhower had planned to create such a committee, but had not done so. Goldberg intended for the new

board to "advise" and "recommend," but not to become a third legislative body like the Economic and Social Council of France. From business, Goldberg selected and recommended the following persons for his new Committee: Elliott Bell, editor and publisher of *Business Week*; Joseph Block, chief executive officer of Inland Steel; Henry Ford II; John Franklin of U.S. Lines; Spencer Love of Burlington Industries; Richard Reynolds of Reynolds Metals; and Thomas J. Watson, Jr., chief executive officer of IBM. Representing labor were: George Meany, former AFL president; Walter Reuther, former president of both the CIO and the Steelworkers; David McDonald, Steelworkers president; David Dubinsky, Garment Workers president; George Harrison of the Railway Clerks Union; Joseph Keenan from the Building Trades Department of the AFL-CIO; and Thomas Kennedy, president of the United Mine Workers. The public members included the Secretary of Labor and the Secretary of Commerce, on a rotational basis; Arthur Burns, chairman of the Council of Economic Advisors; David Cole, a leading arbitrator; Ralph McGill, publisher of the *Atlanta Chronicle*; Clark Kerr, president of the University of California; and George W. Taylor of the Wharton School, former chairman of the National War Labor Board and the U.S. Wage Stabilization Board, and one of the most distinguished academicians in the field of industrial relations.

The new group met for the first time in the Cabinet Room of the White House on March 21, 1961. That they met at all was, in a sense, a tribute to Goldberg, who had played a leading role in setting the agenda. Goldberg's early projects for the Committee included a study of the likely impact of automation on employment, and another on the potential benefits of government-stimulated retraining programs for workers.

*The 1961 steel negotiations—Round II.* Secretary Goldberg had monitored the steel talks from a distance during the first year of his term as Secretary of Labor. However, when he heard of impending price increases for steel, he pressed President Kennedy to write to the head of each major steel corporation, requesting that his company refrain from price hikes. Goldberg arranged for a meeting between the President and steel industry leaders, during which Kennedy was to suggest that the industry agree to hold price increases to between 1.5 and 3 percent per year. However, Kennedy failed to secure the cooperation of the steel industry leadership—and Goldberg and the Federal Government began a series of coercive tactics to bring about a settlement of the industry's problems. President Kennedy was terribly angry about what he believed were broken commitments by the industry to hold the line on prices.

Goldberg achieved the middle-of-the-road solution that he and President Kennedy desired when a master steel contract

was signed on March 31, 1962. It appeared at first to be a real vindication of the Kennedy-Goldberg policy of restraint—at least with respect to gains made by labor. In the first year of the new contract, workers would receive only a 2.2-percent pay increase. However, the joy in the Administration was quashed when Roger Blough of U.S. Steel Corp. announced that he was raising prices \$6 per ton—a 3.5-percent rise. Goldberg confronted Blough angrily because he felt that he had been led, in earlier meetings, to understand that U.S. Steel would live up to President Kennedy's request for pricing moderation. Although the Government could not legally enforce the guidelines it wanted, an irate Kennedy asked Senator Estes Kefauver to convene his antitrust subcommittee to investigate probable price collusion in the steel industry. As an indication of his frustration and chagrin about the way things were going, Goldberg offered to resign as Secretary of Labor if the steel companies raised prices—but Kennedy refused to accept his resignation.

Goldberg's offer to step down was, in a sense, a strategy that worked. The steel industry feared repercussions in Congress if Goldberg were to resign, and retreated from their pricing decision. The Administration's victory was a fleeting one, however: it caused industry to fear wage and price guidelines, and industry executives to harden their attitudes towards the Federal Government, and thus ultimately weakened President Kennedy's Advisory Committee on Labor-Management Policy. The increasing fear of government intrusion affected the viewpoints of union leaders, as well. Both sides wanted to steer clear of the types of labor market controls that had been imposed during World War II and the Korean conflict.

*Goldberg on the Supreme Court.* In the last week of August 1962, Justice Felix Frankfurter, the only Jewish Justice on the Supreme Court, decided that he wanted to retire, and he communicated his wish to Chief Justice Earl Warren. President Kennedy conferred with Attorney General Robert Kennedy and they settled on Goldberg as their first choice to fill the vacancy, thus ensuring that a strong legal mind would assume the mantle of a Jewish Justice on the Court. On August 29, 1962, President Kennedy made a public announcement of the new appointment. Kennedy hated to lose Goldberg as Secretary of Labor, but once offered the justiceship, Goldberg would not think of turning down what had been his dream since law school.

During the period from 1962 to 1965, in part as a result of Goldberg's presence, the Supreme Court responded to pressures aimed at whittling away the New Deal. Justice Frankfurter had been a strong conservative, believing in judicial restraint. Goldberg's views were different, and he became the fifth vote in a group of Justices, headed by Earl Warren and William Brennan, which came to be known as the "activist

bloc." Besides Goldberg, Warren, and Brennan, the bloc also included at various times Justices William O. Douglas, Byron White, Tom Clark, and Hugo Black.

Although Goldberg's specialty was labor-management relations, he had little influence in the labor cases coming before the Court during his 3 years as Justice. He had to recuse himself many times because of former associations with the people and events that had brought labor-management cases to the Supreme Court. Even so, the majority of labor-management rulings seemed to favor unions during his stay on the Court. Over this period, the Court also seemed to consistently favor arbitration as a remedy in labor-management disputes.

Goldberg's judicial philosophy was that the Constitution did not permit the Supreme Court to avoid addressing important social problems out of concern for its own survival. Goldberg also continued to take a strong position in several important cases involving labor's contention that it should not be subject to antitrust laws, despite formidable management offensives in this area. During his tenure, he was always found aligned with a majority supportive of labor against the strictures of the Taft-Hartley and Landrum-Griffin Acts.

Outside the Court, it was clear that the Steelworkers and the CIO missed Goldberg when he went on the Court. Steelworkers president David McDonald ultimately lost his position to treasurer I.W. Abel, who had used changes in election procedures dictated by Landrum-Griffin to win the contest for the union's presidency. And, without Goldberg as their general counsel, many of the former CIO unions many experienced internal turmoil.

*Goldberg as UN ambassador.* On July 14, 1965, Goldberg's old friend, Adlai Stevenson, who was serving as U.S. ambassador to the United Nations, suddenly passed away, leaving an almost unfillable vacancy in President Johnson's Cabinet. The loss was particularly great because of diplomatic problems caused by America's ongoing involvement in the Vietnam War. Stevenson had been highly respected by the representatives of most nations in the UN Security Council and General Assembly. President Johnson needed a strong ally to represent the U.S. position on Vietnam during this troubled time. He had relied on Stevenson's prestige as a former U.S. presidential candidate to carry considerable weight before the UN, but even so, the Administration was on the defensive with respect to the growing conflict.

Following Stevenson's death, Johnson thought he could appease the antiwar liberals by offering the UN post to John Kenneth Galbraith of Harvard University, who had served as President Kennedy's ambassador to India. However, Galbraith saw the job as one offering almost unsolvable problems and, having heard rumors that Goldberg missed his ac-

tion-oriented career, he suggested Goldberg's name to President Johnson as Stevenson's successor.

Johnson jumped on the suggestion, believing Goldberg to be the strong negotiator he needed at the UN, and also seeing a chance to fill the new Supreme Court vacancy with his old friend and advisor Abe Fortas. President Johnson appealed to Goldberg to serve his country in this time of need, insisting that Goldberg's experience as a labor negotiator was essential to restore America's prestige before the UN. Goldberg rejected the offer at first, comfortable with the dignity of the Supreme Court position. However, Johnson was persistent and invited Goldberg and his wife to fly with him aboard Air Force One to Stevenson's funeral in Bloomington, IL. Ever the great persuader, Johnson used the trip to appeal to Goldberg's patriotism, and finally convinced him to resign from the Court and accept the new appointment.

Goldberg insisted on reassurance with respect to Johnson's objectives: namely, was he agreeable to a negotiated, rather than a military, solution to the Vietnam conflict? The answer was "yes." Secondly, Goldberg insisted that, as UN ambassador, he be accepted as Johnson's principal advisor on all decisions leading to a Vietnam settlement. At the time, Goldberg also believed that once the job was done, he would be reappointed to the Supreme Court, and would possibly succeed Chief Justice Warren upon Warren's retirement.

In his biography, Stebenne describes Goldberg's thoughts in making the decision to accept Johnson's offer:

Nobody can twist the arm of a Supreme Court justice... We were in a war in Vietnam. I had an exaggerated opinion of my own capacities. I thought I could persuade Johnson that we were fighting the wrong war in the wrong place [and] to get out... I would love to have stayed on the Court, but my sense of priorities was [that] this war would be disastrous.

Although Goldberg was able to score a number of important victories as UN ambassador, his frustration mounted as the Administration changed positions on Vietnam and the conflict escalated. All through his UN service, it appeared that Goldberg seriously regretted his departure from the sheltered and highly respected life of a Supreme Court Justice.

Nonetheless, as a key member of the Johnson Cabinet, Goldberg appeared to have a stronger voice than Adlai Stevenson had had in his first year as UN ambassador. He had a reputation as a capable negotiator and a man who had the President's ear. Some of his early accomplishments:

- He helped to resolve a crisis over UN finances, which had become a major problem with respect to the voting rights of those nations on the Security Council who were delinquent in their financial obligations to the organization. In essence, his flair for mediation helped to keep the UN intact. He went on to secure bipartisan support for his plans to solve the financial issue from the U.S. Congress.

- When war broke out between India and Pakistan in August 1965, Goldberg, who was President of the UN Security Council at the time, helped immeasurably in negotiating a cease-fire agreement.

- He led UN opposition to rule by a white minority in Rhodesia.

- He won UN support for his efforts to end South Africa's legal authority over Namibia. His leadership on this issue terminated a South African mandate authorized by the defunct League of Nations.

- His most important accomplishment was negotiating the adoption of a formula he had designed for a Mideast peace agreement to end the Arab-Israeli War of 1967. He pushed several resolutions through the Security Council, including a demand for a ceasefire. He also fathered a major related Security Council Resolution, Number 242, which passed unanimously on November 22, 1967. However, Goldberg did not seek credit for his Mideast accomplishments, and gave the British more credit for the settlement than was due them, because he knew that was the best way to get his resolutions adopted.

- He was instrumental in stopping the war between Greece and Turkey over Cyprus and, in November 1967, he produced a coercive UN resolution that proved effective in terminating hostilities on the brink of war.

- In a crisis involving the United States and North Korea, in which the latter nation seized the U.S.S. Pueblo, Goldberg's powerful presentation to the Security Council helped resolve the dispute peacefully.

- In 1968, he was instrumental in moving the Nuclear Non-proliferation Treaty through the General Assembly. He also negotiated an agreement to ban the stationing of nuclear weapons in outer space.

Despite his clearly defined successes, Goldberg's real objective in taking on the UN assignment was not attained: namely, negotiating a Vietnam peace agreement. Why did he fail? At the time that Goldberg was appointed UN ambassador, the Johnson Administration had begun a strategy of large-scale bombing raids over North Vietnam. The number of troops sent to Vietnam had been increased, and plans had been made to boost the U.S. military presence in that nation to between 500,000 and 1 million men. Goldberg opposed Johnson's decision to escalate the war, both because he sensed eroding popular support for the conflict at home and because he saw the escalation as undermining foreign and domestic support for America's Cold War policies vis-a-vis Russia. A brief history of his dilemma is in order.

In a July 1965 meeting at Camp David, shortly before Goldberg resigned from the Supreme Court, U.S. Secretary of Defense Robert McNamara recommended that President Johnson call up the reserves, so that the Nation would realize

that it was at war. Goldberg objected, and indicated that he would refuse the UN assignment if that were the Administration's plan. For the time, McNamara's recommendation was rejected.

During Goldberg's early months as UN ambassador, Johnson did meet frequently with him and discussed many important foreign policy issues. However as time progressed, the President followed a peace formula that excluded offering concessions of the sort that Goldberg believed were necessary. Goldberg repeatedly warned Johnson of the danger of the military escalation, and wrote several letters to the President advising him not to listen to various military leaders. He was concerned that the increased bombing would generate Chinese intervention similar to that which had taken place during the Korean War. Goldberg kept advising the President that there could be no decisive military victory in Vietnam, and that the war should be limited to preventing North Vietnam from overwhelming the South. Although Johnson reacted negatively to this advice, Goldberg continued his attacks on escalation policies at meetings of the National Security Council, in which discussions touched on U.S. bombing of individual targets such as oil storage tanks in Hanoi and Haiphong.

President Johnson began to restrict his contacts with Goldberg and ignored him completely at Cabinet meetings during the summer of 1966. Unhappy with his changed relationship with the President, Goldberg considered resigning his UN position. However, such a resignation would have meant a clean break with the President, and would have ended any possibility of Goldberg's being reappointed to the Supreme Court.

The Tet Offensive, launched by North Vietnam on January 30, 1968, changed the opinions held by many Administration insiders about the war. Aligned opposition to the war grew as the likelihood of a quick and decisive U.S. victory began to vanish. Ultimately Goldberg's views on de-escalation came to be supported by major administration figures, including General Matthew Ridgway. After a series of meetings on de-escalation strategy, President Johnson agreed to do that which Goldberg had been recommending for years. However, it was a Pyrrhic victory for Goldberg because Johnson remained terribly angry with him for his public antiwar stance.

On March 31, 1968, the die was cast for a resignation when President Johnson announced that Averill Harriman would be the chief negotiator on peace arrangements with North Vietnam, rather than Goldberg, who originally had been promised that role by Johnson when he had resigned from the Supreme Court. On April 23, 1968, Goldberg resigned his UN ambassadorship. Johnson coolly accepted the resignation, without a word of thanks for Goldberg's dedicated service.

At about this time, Chief Justice Warren wanted to resign from the Supreme Court and was concerned lest a Republi-

can President name his successor. So he wanted to resign quickly, hoping that President Johnson would name Goldberg as the new Chief Justice. Warren met with Goldberg to encourage him to solicit the appointment. Given the bad blood between himself and the President, Goldberg felt it would be useless to compete for the position, but Warren then went to see Johnson and recommended Goldberg as his successor. As many had expected, Johnson instead nominated his old friend and personal advisor, Abe Fortas, for the position.

Goldberg never made public his feud with Johnson, and history suggests that his position on Vietnam was consistently correct and highly ethical. Even though his opinion may have cost him a return to the Supreme Court, he sustained his reputation for integrity and honor through this troubled time.

*Back to "civilian" life.* Upon leaving public service, Goldberg accepted a senior partnership with a prominent New York law firm of Paul, Weiss, Rifkin, Wharton, and Garrison. When Fortas was turned down for the Chief Justice appointment, Goldberg might have opted for an attempt to return to the Supreme Court. It was not to be, however.

Marvin Miller, who had served as chief economist for the Steelworkers and who had worked closely with Goldberg during the formation of the Kaiser Steel Plan, the 1959 strike, and numerous negotiations, had the good fortune to work with Goldberg during litigation of professional baseball's contractual reserve clause before the Supreme Court. Miller, who had become executive director of the Major League Baseball Players Association in 1966, knew that the Players Association had to be represented by a person with a brilliant legal mind and experience in antitrust matters. He contacted his old friend and colleague, Goldberg, who had been a baseball enthusiast since his childhood in Chicago. Taking into account the fact that the Players Association had limited financial resources, Goldberg agreed to take the case without a fee, asking only for reimbursement of his staff.

Goldberg did a competent job before the Supreme Court, and as a result of his presentation, the Court did not continue to recognize baseball as "interstate commerce" (contrary to a 1922 decision). Nonetheless, on a basis of *stare decisis*, the Court decided against Curt Flood, the player on whose behalf the case had been brought, by a vote of 5 to 3 with 1 abstention. Even so, Goldberg's participation in this case added publicly to the cause of Major League Baseball Players Association, in that the trial led many judges and lawyers to recognize that major league baseball was after all a monopoly, and they began to wonder why that should be.

*'Goldberg for Governor.'* In 1969, Goldberg considered running for elective office. He finally decided to run as a Democrat against Nelson Rockefeller, the New York Governor seeking his fourth term in 1970. It was to be a tough cam-

paign. Goldberg was attractive to liberals, but Rockefeller, a liberal Republican, enjoyed support in both major parties.

Goldberg was able to win a narrow victory in the Democratic primary only after a rough fight that left a divided party for him to lead. This made contending against the very wealthy and popular Rockefeller an even greater challenge. (Surprisingly, even the AFL wing of the AFL-CIO supported Rockefeller.) On November 3, 1970, Goldberg lost the election by 700,000 votes, but most observers agreed that he had maintained his self-respect. In retrospect, it seems that Goldberg's years of association with the labor movement may actually have hurt him at the polls because organized labor had begun to lose its influence with the general electorate by the early 1970s. With Goldberg's hopes for the governorship gone, so ended his full-time prominence in public life.

*Post-election activities.* After his defeat, Goldberg returned to Washington, where he let his name be associated with many worthwhile causes. He did return to the practice of law, writing newspaper columns, teaching at law schools, serving on international commissions, mediating international disputes, and in general comporting himself as a model citizen.

Among his academic appointments were those as Charles Evans Hughes Professor at Princeton University; Distinguished Professor of Law at Hastings Law School in San Francisco, CA, and chairman of its Center for Law and Public Policy; Distinguished Professor of Law at Columbia University; and others equally impressive. He was active on behalf of such causes as outlawing the death penalty, promoting arms control and disarmament, and fighting for women's rights before the law. He also chaired a committee to address the troubling actions taken by the Federal Government against Japanese citizens during World War II.

President Jimmy Carter honored Goldberg with an appointment as ambassador to the Belgrade Conference on Human Rights in 1977–78. It had been said that, in Belgrade, Goldberg fought the Russians like a tiger. At the conclusion of his service there, Carter awarded him the Medal of Freedom in recognition of his many contributions to the Nation.

*Labor Hall of Fame inductee.* This writer had several opportunities while a colleague of Goldberg's close friend, George W. Taylor, to meet Goldberg when he was at the height of his labor leadership as general counsel to the Steelworkers and the CIO. His intelligence, intellectual strength, sense of humor, quick wit, and vast knowledge of labor law made him an impressive figure, indeed. Throughout his entire career as lawyer, labor leader, soldier, jurist, and ambassador, he was always devoted to serving the people and the Nation. Among his numerous honors, it is only fitting that he has been elected to the Labor Hall of Fame.

Goldberg was voted this honor posthumously on December 12, 1995. At the subsequent Hall of Fame induction ceremony, Secretary of Labor Robert B. Reich extolled Goldberg's vision and compassion, which "are as relevant today as they were [in 1963] 33 years ago." He quoted Goldberg as having said, "Wages and profits and taxes and private and public purposes of all sorts are there to serve a greater public need—the dignity of the individual and of the family." Reich also described Goldberg as the "Davy Crockett of the New Frontier" because of his wide-ranging activities as President Kennedy's Secretary of Labor in 1961 and 1962.

Former Labor Secretary Willard Wirtz chose to discuss Goldberg's many facets. Despite the fact that he was Secretary of Labor for only 20 months, he said, Goldberg demonstrated himself to be a supreme prolabor activist during that time. He participated in 15 labor disputes and settled most of them. He even intervened in the Metropolitan Opera strike. He marched boldly where other Secretaries of Labor feared to walk. When Kennedy nominated Goldberg to the Supreme Court, the President said that it was a most generous act on his part because he was giving up his "right arm."

Senator Edward Kennedy, a senior member of the Labor and Human Resources Committee of the Senate who also was present at the induction ceremony, cited Goldberg's close ties with the Kennedy family and revealed that his brother, President John Kennedy, had always respected Goldberg's "extraordinary talent as a lawyer, negotiator, and strategist." Senator Kennedy added "When Jack was elected President, he knew exactly who he wanted as Secretary of Labor," and that the President had particularly admired Goldberg for being the principal architect of the merger of the AFL-CIO in 1955.

Over many years, Goldberg was sustained by the love and affection of his many friends and family, especially his beloved wife, Dorothy. When she died of cancer on February 13, 1988, Goldberg was distraught and never recovered from the loss. Dorothy Kurgans Goldberg was Goldberg's full partner in everything he did. They drew from each other support and added strength. Dorothy and Arthur were the model of a happy husband and wife, and from their marriage in 1931 to her death 51 years later, she remained his love and inspiration. During her illness, he had his first heart attack, which was followed by a fatal attack on January 19, 1990.

The Goldbergs had two children—a daughter, Barbara, and a son, Robert. Robert, a labor lawyer like his father, asked those assembled at the induction ceremony to recall an old labor song: "Which Side Are You On?" According to Robert, his father always "knew what side of the bargaining table he was on!" As evidence, he urged the audience to take a look at his father's Supreme Court robe in the new Goldberg Exhibit in the Labor Hall of Fame. Prominently displayed on the garment are two union labels—one from the Amalgamated

Clothing Workers, a one-time CIO union, and the other from the International Ladies' Garment Workers Union, formerly an AFL union. "Which side was he on? The people's side," said his son. "My father stood for solidarity for working men and women everywhere."

In recognition of his services to his nation as a Supreme Court Justice, ambassador, and soldier, Goldberg was laid to rest at Arlington National Cemetery, near the grave of his old friend and judicial colleague, Chief Justice Earl Warren. His funeral ceremony included full military honors. □

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