

SAUL WALLEN  
as remembered by Arnold Zack

The following comments are excerpted from my memoirs, "Arnold Zack: From A to Z" which is available from [www.lulu.com](http://www.lulu.com) either in soft cover or by a free download:

CHAPTER 4 Yale Law School

Looking for Work

[I]n my third year, I was beginning to worry about what I would do after law school, particularly which side of the table I should choose for my career. I excluded the prospect of NLRB work, since I really needed to make money and government service was not very financially rewarding. I also needed money to pay back some loans still outstanding from Tufts and Yale. Yale was fortunate in having many law firms come to New Haven to interview students. I went to those firms that did labor management work and in the end narrowed the field to a union firm in New Orleans and the labor department of Ford Motor Company. Yet arbitration was now in my mind, so during the Christmas break I asked for an interview with Saul Wallen, who was then President of the National Academy of Arbitrators and happened to live in Boston. On December 26, 1955, I went to his office on the walk-up 8<sup>th</sup> floor at 8 Court Street, where he had previously been a partner in an arbitration practice with James Healy. But they had had a falling out and Jim had returned to teach at Harvard Business School.

I'd never met Saul, who had been Chair of the New England Region of the War Labor Board and had known Dad, but he was most hospitable— although not very encouraging. When I suggested my clerking for him as a way to break into arbitration, he said, "Forget it. How many law clerks become judges?" So I returned to New Haven to decide whether I should work on the union or management side. In April 1956, I was in my room when I received a telephone call from Saul; he was at the New Haven Railroad Station during the switching of engines on the train to New York. He asked if I was still interested in working for him. When I said yes, he asked me to come to the station and said he would wait for the next train. I literally ran to the station for fear he might leave. When I got there he gave me the notes and files from two cases he'd just heard and told me to write them up. I protested that I didn't know how, and he told me to look up some of his decisions in Labor Arbitration Reports to learn his structure and style. I wrote up the two cases, sent them to his office, and waited for his response. There was none. It was several weeks later on April 16, 1956 that I noticed he was speaking at an ABA meeting at the old Statler Hilton Hotel in Hartford. So I borrowed a friend's car and went to the meeting, found him, and asked his opinion of my work. He lambasted me for the structure, style, and result I'd reached on the first case.

I sheepishly then asked, "What about the other one?" "Oh that one I signed and sent out." "Well, what about a job?" Saul replied, "Keep looking, but if you don't find something, come by after school and we'll try it out."

That was it; I stopped looking elsewhere and thus my entry into the field of arbitration. I had no firm offer from Saul and we had not even discussed salary but I thought things would work out. They did.

## CHAPTER 5 My Years with Saul Wallen

I owe my professional life to Saul Wallen. I don't know what changed his thinking from discouraging my entry into arbitration in December 1955 and then, a few months later, agreeing to hire me. I suspect it was the fact that an assistant he had been using, a Harvard Law graduate who had clerked for Mr. Justice Frankfurter, was about to go to work full time for the Boston law firm of Hill and Barlow. That predecessor was Frank Sander; he lived a block away on Amory Street in the same Brookline apartment building as we did.

Frank went on to teach at Harvard Law School. He became America's guru on Alternative Dispute Resolution and a long-time friend to whose classes I give an occasional talk. But regardless of the motivation, Saul called me to work for him, and it provided me the opportunity to launch my career.

### The Hiring

I arrived on Saul's office doorstep right after the Yale graduation, as he was about to go off for a week of arbitration hearings. I was relieved to discover that he recognized me and remembered our conversations (which were about as long as recited above). Most importantly, I was glad that he recalled his inference about taking me on. I asked the terms of employment, and he, in turn, asked what my newly minted LLB classmates were getting on Wall Street. When I responded that \$7,500 was the going rate, he said "Fine.

I'll pay you half that." Since I could cut costs by living with my mother and brother at 75 Winchester Street in Brookline (and also since I had waived all other job offers), I accepted. Saul's initial instruction was telling me to take the first week off as vacation because he would be out of town. Accordingly,

Mom, Mike and I went off on a road trip to Nova Scotia that included a stop at Peggy's Cove where I did the oil painting that hangs in our Boston dining room. The quiet fishing town later gained notoriety as the land closest to where the Swissair crash occurred in 1998.

After I had started to work, Saul gave me time off to take the Washington DC and Massachusetts Bar Exams. Saul was very helpful in letting me adjust my work schedule to take the Mass Bar Review course in anticipation of the October Exam.

In addition to squash, skiing, and painting, I also undertook some teaching. Saul sent me to talk with Jim Healy at the Harvard Business School. Jim urged me to undertake some teaching to enhance my credentials and bring in extra income. He made contacts for me at Northeastern University and I began teaching labor economics in fall 1959. I continued that evening teaching for several years. In 1960, I substituted for a day teacher at Simmons who was on sabbatical and taught labor economics there for a semester.

My work for Saul consisted of attending many of his hearings, helping him write some of his decisions, and being his office manager. He had a wonderful secretary, Margaret Connell, who was a lawyer herself. She welcomed my taking over the scheduling, billing, correspondence and

the like; the two of us got along very well. Our arrangement was for Saul to give me his notes after the hearing, with a minuscule "c" or "u" written at the bottom. I would then write up a draft opinion and decision crafting what I thought to be the cogent arguments for deciding the case as he had directed.

Sometimes there was no such directive and I floundered through the opinion and decision on my own. Our discussions of my drafts were a continuing education in practical labor relations. Saul really considered it his responsibility to train me as an arbitrator. He was patient and tolerant of my ignorance and taught me the practicalities of labor relations as seen by an arbitrator. He never used me as some arbitrators used mentees, keeping me in the shadows or the back room turning out decisions while he heard cases. Rather, he would take me to hearings, all the while encouraging his clients to use me. That was certainly against his self-interest, creating a competitor, but it showed the selflessness of Saul as mentor. As Arbitrator Peter Seitz used to say, "Show me an up and coming arbitrator and I'll show you an adversary with his hand in my pocket."

Saul tried to get me on the panel of the American Arbitration Association before I had any cases. I even went to NYC to see AAA Vice President J. Noble Braden. He scoffed at the idea, saying I needed at least five selections directly by the parties before I could be considered for listing. But somehow, with pressure from Saul, John Church, the AAA Regional Representative and (I suspect) former Chair of the NLRB Paul Herzog (then President of the AAA), I became listed.

After a year and a half with Saul, he persuaded Sam Angoff, the leading union attorney in New England, whom I had known as a friend of my Dad's, to try me on a case at the Brown Paper Company in Berlin, New Hampshire in November 1957. The company obviously agreed as well. It was my first case. I wrote up the opinion and award, which Saul reviewed, denying Sam's claim. When he got the award, Angoff hit the roof and complained to Saul, who pointed out he had reviewed the case and that Sam knew he should have lost it. Sam continually reminded me that I had made a bad decision, but he did, after a while, use me—as has his firm regularly ever since. But that first case, when I had just turned 26, was intimidating. Having Sam "on my case" didn't help matters, but it was my baptism under gunfire.

Saul also talked to the parties in the Peabody tanning industry into taking me on as their arbitrator with the assurance that he would review my awards to make sure they were not "off the wall." I did cases there for several years as the industry went under and the tanneries closed down. One of those tanneries, John J. Riley Co., was responsible for the toxic waste that was the basis for the lawsuit that led to the book and movie *A Civil Action*.

The Wallens introduced me to the Vineyard. Saul and Mary had been going to the Vineyard since the Second World War when he was Chair of the War Labor Board. They had rented in Gay Head and in recent years had been renting the Great House on State Road heading up island from Chilmark. In summer 1957, they undertook to build a house in East Pasture, Gay Head, adjacent to the home of Larry Spitz, a Steelworkers official from Providence. I helped do some of the paperwork and invoice keeping for Saul's building undertaking and when the house was up, became a frequent guest.

Saul also started taking me to meetings of the National Academy of Arbitrators. The first I attended was the meeting in Santa Monica in 1957 and I have not missed a meeting since then.

Saul was a consistent supporter of my desire to do more international travel, and, as I point out in another chapter, he encouraged me to take advantage of opportunities to go to the Communist Youth Festival in 1959 and to take annual summer trips to Africa in 1960 and 1961, as you will read later.

Work for Saul was a pleasure and an education. He was then teaching the arbitration course at the Harvard Trade Union Program, which had been started in 1947 by Economics Professor Sumner Schlichter with the help of a young economics teacher, John Dunlop. I used to sit in on Saul's classes as a

way of learning more about arbitration, and I often accompanied him to Schlichter's and then Dunlop's Thursday 4 pm Economics 284 lecture, to which notable practitioners in the field were invited. On one occasion in 1959, the guest was Art Ross, Director of the Institute of Industrial Relations at Berkeley and an arbitrator I knew from NAA meetings.

### Kennedy School

The Littauer School (now the John F. Kennedy School of Government) was the think tank to which high-level government officials from the US and abroad retreated for a year or two to get a graduate degree

(M.P.A) in government issues and return to government. Admission to Littauer enabled one to take courses throughout the university. John Dunlop pointed out the opportunities accompanying Harvard enrollment and said I should apply. I talked to Saul and told him I could still do writing for him on a half-time basis if I went to Harvard, and he was, of course, most supportive.

So I applied and was accepted into Littauer for the year 1960-61, after a summer working for the UN Mission to the Congo. I worked the Littauer class and study schedule into my work for Saul, making it a rather hectic year. The school was exciting because most of the class was made up of colonels and captains in the military, high-ranking U.S. government officials, and ministers from foreign governments. We had a remarkable faculty, which was decimated by Kennedy's inauguration as President in January 1961. I was taking a course in International Economics taught by Ken Galbraith, who left ,,,

Saul recognized my expanding interest in international activities when I became involved with Littauer and all that emanated thereafter. I did less office administration and more draft opinion writing. He was most cooperative as my work role changed, depending on how much time I wanted to allocate to his work. No one could have been more accommodating. The big move came when I announced in spring 1963 that I was going to take the Teaching Fulbright in Ethiopia. Saul was scheduled to give a lecture at Cornell for Jean McKelvey's arbitration class. He told her of my departure, and asked for a nominee to succeed me. Jean designated Marcia Greenbaum, who was then a senior. Marcia ultimately moved to Boston and took over my role with Saul.

I had always enjoyed total hospitality at the Wallens' whenever I wanted to come. Since Saul was perpetually on the road, I substituted for him in many family vacations such as a wonderful

ski trip to Quebec with his family and time at the Vineyard. It was sort of a given that eventually I would get a place on the island, though I really didn't have the money. I looked at a small A frame on a small lot for \$7,500, but Saul talked me out of it, saying just buy land with whatever money you have, the house will follow. Larry Spitz, the Steelworkers official who lived next door to the Wallens and who owned some 50 acres, offered to sell me a parcel for \$750 an acre. He said the lot was 12 acres and he would divide it in half since I didn't have the requisite money to buy it all at once. Despite the fact that some Gay Head old timers who remembered land at \$50 an acre thought the price was outrageous, I did buy the first half and the next year bought the other half. When the tax bill came it turned out I had no more than 10 acres, but Larry, a bit of an autocrat, insisted the town was wrong and that it was indeed 12 acres. I had lots of Wallen's friends as my own, and everyone seemed pleased that I would build in Gay Head. Joan Wallen, his eldest, put up a sign on the refrigerator urging, "Arnold go home." While I was in Ethiopia for 1963-64, I designed a house with help by mail from Larry Spitz, and I even had the chutzpah to have him ask a friend to come put in the foundation and frame the house in my absence. I returned from Addis in June 1964 to find the foundation dug. The frame was scheduled to arrive on July 20, 1964, the date I was scheduled to give a talk in Berlin for the Fredrick Ebert Foundation. Mother and Mike came down to supervise, staying at the Spitz's. I was gone two nights and returned to find the frame up. I did the walls, roof, floors, and interior with help from my brother Mike, his and my friends, and several ex-Peace Corps volunteers. Paul Tsongas tiled the bathroom. Since 1964, I have never vacationed elsewhere in the summer.

When I got back from Ethiopia that summer of 1964, there was of course no job, since Marcia had taken my slot. Saul was quick to say I could use his office as my base and gave me decision-writing jobs to fill in when my caseload had gaps, which it often did in those early years. So, from summer 1964 until spring 1966, I worked out of Saul's office. In addition AAA's Labor Management Institute In December 1965, Saul suggested I call Jesse Simons. He was a former newspaper man who had been head of labor relations for US Lines and then went with the AAA in a new Labor Management Institute to set up a voluntary dispute settlement structure for the NYC public sector, called the Office of Collective Bargaining. The Office was about to be launched and Jesse wanted to go into arbitration practice. He was looking for a successor to spread the OCB gospel of public sector unionization with procedures to resolve disputes, which in the private sector might have led to strikes. I recall his asking me at the interview whether I considered myself an innovator or an implementer. When I said I thought I could do both pretty well, he said I was hired. I became the Director of the Labor Management Institute with a \$20,000 salary, equal to that paid to AAA Vice Presidents.

## **CHAPTER 12 My Arbitration Career After Wallen**

When Saul died, I lost a wonderful friend and mentor. At the same time, his untimely passing at age 59 provided me an opportunity to proceed on a career on my own. I was 37; I had done pretty well in taking advantage of the support, contacts, and encouragement that Saul had provided. Now that he was gone, there was the challenge to see if I could do it on my own, without his contacts and pressure on clients to use my services.

[I]n 1985, Jim Healy approached me again about my interest in teaching the arbitration course at the Harvard Trade Union Program that Saul had taught when the program began in 1942. I used to sit in on the course when I first went to work for Saul as part of my learning curve. Saul taught it until he died, even coming up from NYC when he was with the Urban Coalition. Jim took over the course in 1969 and taught it until 1985 when, as he said, he was returning the course to the Wallen legacy. I have taught the course every January-March since; it has been among the most rewarding of my experiences. The course has shifted as has the union movement itself, and the course participants have become higher level union officials. Topics range from how to present cases in arbitration, to drafting contract provisions to assure fair arbitration, to mediation and interest arbitration over new contract terms to the use of ADR in the employment field, and most recently, how to avoid arbitration to keep costs down and relations smooth.