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NEW BRUNSWICK

AN INTERVIEW WITH MEL WULF

FOR THE

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INTERVIEW CONDUCTED BY

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Nicholas Molnar: This begins an interview with Mel Wulf on August 10th, 2015 in New York City. Thank you, Mel for having me here today.

Mel Wulf: Okay.

NM: Before we get into your time with the American Civil Liberties Union, I'd like to learn about your background. For the record, could you tell us when and where you were born?

MW: I was born in Brooklyn, actually [on] November 1st, 1927, which makes me eighty-seven, going on eighty-eight actually. [I] lived in Brooklyn until I was nine years old when the family moved upstate to Troy, New York for business reasons. I finished up grade school and went to Troy High School and then I went the New York State--the war [World War II] was still on actually when I got out of high school in 1945. I had applied to and been accepted to the New York State Maritime Academy, which trained Merchant Marine officers and naval officers. It was up in Fort Schuyler in the Bronx. I went there for two years. My family was in the clothing business, pretty successfully actually, although my father was an immigrant from Europe; he came over in 1906. Anyhow, it was always anticipated that I, like my other male cousins would go into the business. My father directed me to something called Lowell Textile Institute in Lowell, [Massachusetts] to train me for the textile industry. Well, I went there for three years, hated every minute of it and finally, came to my senses and left and came down here and went to Columbia undergraduate for two years and then Columbia Law School from which I graduated in 1955. Then I went on active duty in the Navy from '55 to '57. I was stationed out on the West Coast, legal officer to the navy base out there, which was sort of interesting. I didn't mind. I rather liked the navy actually. When I finished my term of two years I had no prospects actually and I was offered a job at a very good law firm in Albany, which is just down the road from Troy of course--O'Connell and Aronowitz. I was in the midst of a tumultuous love affair at the time. I began working at the law firm and as soon as I started working there, I wrote to the ACLU national office in New York and offered my services as a local cooperating attorney and I heard back from the then legal director, a man named Rowland Watts, who welcomed my offer and in fact, asked me to do something really quite early on to help them out with some issue he was working on. Then very, very recklessly, after four weeks at this top ranking law firm in Albany, New York, I quit. I didn't want to stay upstate. New York was my destiny and I came down to New York, no prospects. Again went up to the [ACLU]. Had been in touch with the then legal director, Rowland, and went up to his office, offered my services there and he accepted them again. After a few, I don't know, a week or two or three--I can't remember--he said he had just been authorized--he was the only lawyer on the national staff. He had just been authorized to hire an assistant. Would I be interested in a job? He said it would only pay one hundred dollars a week, which seemed to me like a lot of money actually. I said I would love to take the job. Thus, through pure serendipity, I joined the ACLU staff and this was in March of 1958. I started working with Rowland. We were the two lawyers on the national ACLU staff--not the New York Civil Liberties Union, the American Civil Liberties Union. We were two of the few lawyers employed by the ACLU at the time. There was a lawyer on the staff at the

Illinois Civil Liberties Union in Chicago and there were two lawyers in private practice who were on retainer in Los Angeles, Al Wirin and Fred Okrand. There were actually five staff lawyers in 1958 at the ACLU compared to how many hundreds they got at the moment. I'm out of touch, so I don't really know. Anyhow, so there I was 1958, the beginning of the Civil Rights Movement, and I went to work with Rowland. I worked as his assistant for four years, from '58--in '62, he left the ACLU and the then Executive Director, a man named Jack Pemberton, very nice guy from out in the Midwest--a lawyer from the Midwest actually. He had represented the Mayo Clinic. Where would that have been? [Editor's Note: The Mayo Clinic is located in Rochester, Minnesota.] I forget where. In any case, he offered me the job as legal director, 1962. I, of course, jumped at the opportunity and I became the ACLU legal director and stayed for fifteen years as ACLU legal director. That's my serendipity background with the ACLU.

NM: I want to ask a few follow up question because you brought up a lot from both the ACLU's perspective and an historian's perspective. I'd like to ask you some questions about your experience prior to your time at the American Civil Liberties Union. In 1945, you went into the Merchant Marines.

MW: Yes.

NM: Can you talk about your recollections of World War II growing up in the area?

MW: The war coincided with my years in high school. I mean the American participation, '41 to '45. I followed it very, very closely. In fact, as part of the advertising activities of my father's business, they issued war related maps every couple of months that were brought up to date which showed the battle areas and the battle lines and I followed it all very closely. A lot of my friends who were a few years older, everybody was going into service. They were all those going away pop tunes from the big bands that were very prominent in one's teenage life at that point in time. So the war was a major influence at that time in my life and I'm still sort of semi-obsessed with it. I still read--less than I used to--but I still have read an awful lot about the Second World War and it was a defining event in my life as it was in so many other men's and women's lives who grew up in that period. I wasn't in the war. I never got shot at, but still, Hitler and the Holocaust and all the terrible things that happened in the '30s and '40s, it never left my memory.

NM: You mentioned that you were being groomed essentially to come into the business prior to going to law school.

MW: Yes.

NM: I'd like to ask a few questions about the business because during World War II a lot of businesses had to adapt, for example, sell things to the government. How did the war impact your family business?

MW: Well the family business was men's clothing. They, in fact, spent the war years manufacturing military uniforms. I think they still continued to produce civilian clothing also, but I remember they made a lot of hood fur lined parkas and other sort of military uniforms. That's partially how they got through the war.

NM: Did you work in the business as a teenager?

MW: I did. When I was in high school I used to work part time. I used to go into the factory. We had a factory that employed a couple hundred people actually. It was one of the major industries in Troy at the time. The most major industry in Troy was the Arrow Shirt Factory, which was very large, which employed maybe a thousand people actually. But I used to go into the shop and I worked in the cutting room, helping to cut out the parts of clothing that were being made and yes, I must say working there with the guys on the job at the time--and I remember the names of a few of the guys in the cutting room. One was Tommy O'Brien and one was--what was his name? Another guy I can't remember, but I remember seeing the old--this affected me politically. I remember seeing their--Frank Trombley, that was the second guy. I remember seeing their pay records from the '30s and they were making ten, twelve dollars a week. I knew that I was sort of in a privileged position compared to them, but knowing the working class guys who were working in the factory basically affected my political attitudes and made me the leftist that I became and still am, actually. But it was significantly affected by the knowledge of guys like Tommy and Frank who were working in my father's business.

NM: Did you have any brothers or sisters?

MW: I had an older sister--still have an older sister. She's merely ninety-one and in good health. [laughter]

NM: You mentioned that you had cousins who went into the business as well?

MW: I had two male cousins. One of them went into the business. The other one did not. He was an engineer and he worked for the NCR, National Cash Register Company. I don't know what he did. I fell out of touch with him. I kept a little bit in touch with one of the cousins that went into the business and in fact took over the business. When my father and his brothers wanted to retire, he bought the business. My cousin Marvin bought the business from the brothers that wanted to retire. So, I'm a little bit in touch with him from time to time.

NM: Can you elaborate about your time in the Merchant Marine? You said you were there two years.

MW: Well, it was all classroom work, except three months each summer--there were two summers--the academy had its own training vessel and we went off on two cruises during the summer. The academic work was cargo stowage, meteorology, sea faring, navigation, all of that stuff, rules of the road. It was all very intensive actually, but the Summer of '46, our three month summer cruise took us through the Panama Canal, which was really

interesting. We went down the coast of South America and went to Lima and back and stopped. I remember on the way down and on the way back we stopped in Havana, actually and I went back to Havana about ten years ago and I kept telling everybody, "The last time I was here was in 1946." [laughter] They couldn't quite believe it. Anyhow, the second summer we took a cruise to the [Mediterranean], went to Nice and Cannes, went to Gibraltar. The Cadet Corps was the crew of the ship. We did all of the work aboard the ship that the regular Merchant Marine crew would do, including all of the painting and swabbing and chipping. I was a deck cadet, so I did a lot of navigation and actually steered the ship with the big wheel at the time. Now, of course, it's all computerized. I don't think they have a steering wheel on a ship anymore. [laughter] Anyhow, it was all sort of interesting, saw a lot of the world at a very young age. I don't think I made the most of it particularly, but made something of it. I remember it all quite vividly actually, although I mostly hated every minute of it. [laughter] Too much discipline. I never took to discipline very well.

NM: After this, you spent three years at the Lowell Textile Institute? After your experience in the Merchant Marines?

MW: From '47 to '50, yes. That was a terrible experience. It was a third-rate institution and I was there only because I thought you were supposed to do what your father wanted you to do. I learned shortly thereafter that you didn't have to do that. But it was a terrible academic experience. I didn't enjoy any of it at all, although I did learn to play bridge. [laughter]

NM: What brought you to Columbia University?

MW: I will say one thing. I have been very political all my life and always left and I think I became left at Lowell because I was in a fraternity and some of the guys were members of the CP [Community Party] actually. You remember this is in the late '40s when the CP was actually quite active in America, in [the] US, particularly in New York and these were a couple of New York guys who had been the CP and I had been pretty conservative politically at that time, but they had a real influence on my political outlook. They changed my whole political outlook from being sort of very uninterested in politics to give me a leftist view of the world, which I've stayed with throughout my life, up to the present day, actually. I was one of the few committed leftists on the ACLU staff actually, during all the time that I was there. I was never more than a good Democratic Socialist. I'm a little soft on the Soviet Union I think, but Joe Stalin was no friend of mine. I always say Joe Stalin gave Socialism a bad name. But I always had left politics and they influenced the work as I did it at the ACLU.

NM: Was there something specific that brought you to Columbia University?

MW: Well, I wanted to come down to New York. I wanted to be in New York. As I said before, New York was my destiny. I applied and I got accepted and I moved down to New York and said goodbye to my old Troy family-business-centered life and I started a new life here. I came down to New York in 1950, and spent two years undergrad and

then three years in law school and living on the Upper West Side. I'm still on the Upper West Side. [laughter]

NM: This is a technical question, but did your credits from the Lowell Institute transfer over to Columbia University?

MW: Yes, they accepted two years worth.

NM: Did your interest in law emerge as an undergraduate at Columbia University or did you have an interest in law prior to that?

MW: I didn't have much of an interest in law, but when graduation was upon me and as I said, I was political. I was left. I thought perhaps if I went to law school I could maybe eventually go to work for the ACLU. [laughter] I'm not sure that crossed my mind, actually. I'm just kidding. But it seemed to me--I had no technical skills. I wasn't going to be an engineer. I learned that soon enough after three years at Lowell Textile Institute, which was basically an engineering curriculum. I was always a pretty good writer, actually. Seemed to be that the law might be a place where I could find something that I'd be interested to do. As it turned out, it did, very much so. I think going to law school was sort of equally serendipity to getting to work at the ACLU. It wasn't a deeply thought out decision. It was there and I thought I'd try it and my family's pretty well off so they could afford to put me through law school as they had through college. Although, when I was an undergraduate at Columbia I worked at the bookstore, the Columbia bookstore for a dollar an hour for a couple of years. I enjoyed doing that, actually.

NM: During law school, did you have constitutional law or anything that had an overlap with your eventual career at the ACLU?

MW: Yes, I was interested in constitutional law, of course, and the federal system. I was interested in that because that all involved the Thirteenth, Fourteenth, and Fifteenth amendments, all growing out of the Civil War. I had a special interest in that, but I think I spent more time during law school sort of just feeding my political appetites and reading enormous amount, a lot of [Karl] Marx and a lot of other political works and sort of stoking my political furnace as it were. I wasn't a very good law student, actually. I did quite badly in law school as a matter of fact, but I overcame that. I became quite a good lawyer.

NM: You mentioned that you had two years of service.

MW: Yes.

NM: According to my notes, you worked in the legal department.

MW: In the Navy.

NM: In the Navy.

MW: Yes, I was the legal officer in the West Coast CB [Construction Battalion] base.

NM: Could you talk about that experience?

MW: Can I? There's not much to talk about. There really isn't. There's not much to say about it.

NM: You mentioned previously was that you found it interesting.

MW: I found it not uninteresting. I actually got rather bored at the particular job they assigned me to and I applied for sea duty. I thought that since I was in the navy I ought to go to sea. That was after I had been in for a year and they said they would put me on sea duty if I would extend my two-year term to two and a half years. I made a mistake. I said, "No, thank you." I should have agreed to the extension and gone on sea duty. I think it would have been pretty interesting, actually. I, in fact, had been at sea those two summers as a cadet at the Merchant Marine Academy and subsequently I'd made six, seven, eight transatlantic crossings on the old cruise ships, on the old--what do you call them? The Normandie, the Queen Mary, the ocean liners. So I did that. I've always liked being at sea, actually. The time in the Navy was not very eventful, actually. I was just outside Los Angeles and I used to spend a lot of time in L.A. and I hated L.A. I was in between L.A. and Santa Barbara. The countryside was quite beautiful, actually. I went up to Northern [California]. We skied a lot up in the Mammoth Mountains up in North California and went to L.A. As I say, I didn't like L.A. at all. It was a continuation of the un-eventuality of my lifetime experience until I went to work at the ACLU when everything became much more important.

NM: At what point did you become aware of the American Civil Liberties Union as an organization?

MW: I knew about the ACLU from when I was in law school. I think I joined the ACLU first when I was in Navy, actually, when I became a member. It was always out there and I always knew about it and I was always interested in it because it appealed to my very strong political instincts. I had a sense that the First Amendment was awfully important. I had a sense, which grew over the years, about racism in America, too. Although the ACLU was not particularly prominent in the Civil Rights Movement in the '50s--it was to some extent--I was very active in the Civil Rights Movement right after I became legal director. I spent a lot of time down South with the Civil Rights Movement, working with SNCC [Student Nonviolent Coordinating Committee] and CORE [Congress of Racial Equality] and all of the organizations involved in Civil Rights Movement. In the summer of '64, if your memory goes back that far, Mississippi Summer so-called, when SNCC and CORE and the NAA[CP] organized hundreds of mostly college students to go down South to try and register Mississippi blacks as voters. I organized something called the Lawyers Constitutional Defense Committee, together with other organizations to invite lawyers from around the country to go south for a couple of weeks during that summer to provide legal assistance to the students who were

doing the organizing. It was a very, very successful operation that brought a couple hundred lawyers from around the country, immersed them in the experience of seeing what Mississippi and Alabama were like in those days--somewhat like the Third Reich, actually if you were black. All of us got hassled to some extent or another because we were supporting the movement that summer. I played, if I say so myself, a rather prominent role in establishing the Lawyers Constitutional Defense Committee, as we called it--not entirely on my own, but I was the motivating force behind getting the other organizations to join us, the Legal Defense Fund, which did so reluctantly because we were competing with them. They thought they ran the legal movement down south. Jack Greenberg was very jealous--who ran the LDF, was very jealous of his organization's prerogatives. I got Bill Kunstler involved in it, CORE, American Jewish Congress, American Jewish Committee, a couple of other organizations. We all worked together very cooperatively to make the operation work.

NM: I want to come back to this time, but I want to backtrack a little bit. Let's go back to when you were at Albany. You mentioned you were in Albany and you wrote a letter to the National American Civil Liberties Union. Why did you do that?

MW: It was always in my mind to work in a civil liberties field. It seemed to me a way to serve my political interests, which were for liberty and freedom. I was always for liberty and freedom and I was always First Amendment obsessed--perhaps too strong a word, but incredibly interested in the First Amendment and the Civil Rights aspect of it. I thought I could do my little bit even being up in Albany to help out the organization, which is why I volunteered at that time. Of course, when I quit my great job and went down to New York and went up to the, it was a continuation of my aspiration to work with the ACLU, which was more than satisfying, actually, still often to my surprise.

NM: I'd like you to talk about your first few years before you took over as legal director. When you came to the American Civil Liberties Union, what were the most pressing issues for the organization at that point?

MW: Well, in 1958, I remember that we did a lot of work with police practices and I had a hand in *Mapp vs. Ohio*, which was the Supreme Court decision declaring illegal searches to result in the exclusion of evidence from trials. I had a little hand in helping to write the ACLU amicus brief, actually. What's interesting, actually, at that time, the ACLU's principle legal activity was only writing amicus briefs and we did that quite often, predominantly in the Supreme Court where they had some effect, but--and this is telling for a point that I'll get to a bit later on--the ACLU itself rarely in those days actually represented clients, which was an important distinction at the time. What we did, as I say, to repeat myself, a lot of amicus briefs, which was a very distant relationship with the whole world that was going on, all of the terrible things that were going on then and they're still going on. It was quite removed from the actual work that lawyers should be doing. In fact, my major contribution, and this has been acknowledged hither and yon, is that I changed the ACLU when I became legal director from an organization that almost exclusively did its work through the use of amicus brief into an organization that began to represent clients and took over cases, provided lawyers and moved over from

that detached amicus attitude to the deep involvement in the actual issues of the day through the use of lawyers and trials and everything that's involved in actually representing people whose civil liberties had been violated. That was my major contribution to the ACLU. It was thanks to me it became an activist organization.

NM: I would like to ask a few questions on that topic. Interviewing individuals from the '70s, I ask them how they would get cases. Sometimes they said people would just walk into the American Civil Liberties Union office. Did that sort of thing happen when you were there very early on?

MW: People were always walking into the ACLU offices. Then, we would hear about cases and we'd reach out and volunteer our assistance, actually. It worked both ways. As the ACLU grew and the number of lawyers involved throughout the nation attached to the ACLU grew, cases came in through them too and sometimes they'd be handled locally. Sometimes they'd pass them up to the national office, which might take them over but the stream of cases increased as the public began to learn that we were actually involved in representing people whose rights had been violated. It was sort of a self--what's the cliché? A self-executing experience of people coming to us asking for our assistance, in addition to our continuing to reach out.

NM: As the legal director, who implemented this change from amicus briefs to actively being involved, why did you decide to go that direction?

MW: Because I found it more interesting, personally. [laughter] I was much more interested in actually being involved in litigation and helping out litigation than just sticking to the detached role of writing amicus briefs in the Supreme Court of the United States. It really had a lot to do with my own personal--not exclusively obviously--it had to do with my own personal interests and also what I thought was the greater interest of the ACLU, in which I have been proved historically to have been quite right about that, because the ACLU became and still is very, very active on the ground in representing individuals whose civil liberties have been violated. Thank you, Mel, for having made that change at the ACLU.

NM: Before you become legal director, that four years--

MW: Two years.

NM: I'm sorry.

MW: I'm sorry, four years. You're quite right, '58 to '62.

NM: Are there any amicus briefs or issues that really stood out during that period that you were involved in?

MW: I can't remember, actually. I remember dipping my hands a little bit into the Civil Rights Movement, but not in a significant sort of a way. Although, in the early '60s, yes--

I started going to Mississippi in '61. I somehow got in touch--in the early '60s there were two black lawyers in Mississippi. One of them was named Jess Brown. Somehow or another, Jess--he was a very brave, oppressed guy, actually. Then the other lawyer, I think his name was--I can't remember the other black lawyer's name. But I worked entirely with Jess, who got in touch with the ACLU somehow or another. He was representing a couple of black guys who had been charged with raping white women. He wanted some help. I, at that time, had never tried a criminal case in my career. My career was not very long in any case, but at that time I wasn't a trial lawyer. But I went down south because I wanted to get involved in the movement. I hooked up with Jess and we began working together and my major contribution there--I've had some major contribution in my lifetime. My major contribution working with Jess in Mississippi in the earliest days of the 1960's was to raise in a compelling way the issue of the exclusion of black Mississippians from jury, from criminal juries. In fact, Jess and I represented three black guys, each of whom had been charged with raping white women and all of their predecessors had been executed. It was the standard procedure. If they weren't executed, they were hung by the local community. But I started to raise, in those cases in the Mississippi courts, the question of the exclusion of blacks--it was just men back then--of black citizens from the jury. I established in each of those cases that there hadn't been a black member of a criminal jury in each of those counties ever, and brought the issue to the federal courts through habeas corpus, but I also brought it to the Mississippi Supreme Court. In one of the cases I remember standing up and arguing, and saying to the Mississippi Supreme Court, which was then a total bunch of racist, fascist types, that if you don't set aside this conviction--this was on behalf of one of the guys charged with raping the white woman. I said, "If you do not set aside this conviction because of the total exclusion of blacks from your jury system, I'll get the federal courts do it." The chief justice said, "All right, Mr. Wulf, we've heard enough from you. Sit down." I mean, he really sneered at me and told me to shut up. So I did what he suggested. I stopped. I sat down, but took the case to the federal court and there was a federal judge in the [northern district]. The federal judge in the southern district was a racist pig. I forget his name. The federal judge in the northern district of Mississippi was, for that time and the area, a kind of a reasonable guy. He saw the jury exclusion issue and set aside one or two of those convictions based on that. So, the fact of the matter is that Jess Brown and I, through the use of the jury exclusion argument, succeeded in, and I say this modestly but accurately, for twenty years we abolished capital punishment in Mississippi because the courts came to realize that if they didn't have blacks on the jury, the convictions were going to be set aside, but at the same time if they didn't send these defendants, though convicted, to be hung that perhaps the federal courts would go easier on them. So they stopped imposing the death penalty in all of these cases involving capital crimes in Mississippi and imposed long or life sentences, which cut the heart out of the whole capital punishment movement. For fifteen or twenty years, as I said, because of the work that Jess Brown and I did, capital punishment was abolished in Mississippi. It reoccurred later on after the Supreme Court reinforced the validity of capital punishment, but for quite a while Mississippi didn't execute anybody. I'm quite proud of that fact, actually.

NM: How long were you in Mississippi?

MW: I was just going back and forth. I never stayed down for a very long time, a week or two or three. I mean, there were trials going on however long they might take. Then in '62, I got involved in Alabama through--there was one white lawyer in Birmingham named Chuck Morgan, who had spoken out against racism in Alabama. I called him on the phone and got to know him and went down and spent time with him in Alabama. He eventually became head of the ACLU Southern Regional Office, as a matter of fact. That was another active step that I took in getting involved in the Civil Rights Movement. All the time that I was going back and forth [to the] south I got to know the guys in SNCC, Student Nonviolent Coordinating [Committee] and CORE and the other Civil Rights Movements, and had something of a relationship with them, actually.

NM: When you become legal director, at what point does the American Civil Liberties Union start representing people versus the amicus briefs? Was that a process that happened slowly?

MW: Yes. It's a process that happened slowly but surely, actually. I couldn't begin to describe how it might have unfolded. I just don't remember. I remember agreeing when I would get calls from the outlying affiliates, the ACLU affiliates, suggesting that they might want to actually represent somebody but they needed some money. I had a budget and I would help them out by giving them money and encouraging [them] to take on the case. That was one of the critical ways that I actually implemented this new policy that I wanted to implement, by supporting the affiliate lawyers in doing actual representation. Likewise, the national office would get a lot of inquiries from people who wanted us to represent them on appeal and I did that myself often and farmed some of those cases out, but did the actual appeal--not just file amicus brief, but represent the party in court and did that increasingly. So it worked at both levels, at the trial level and at the appellate level and it was ... of those activities that started at ground zero and ended up--today, I'm sure the ACLU still files amicus briefs, but they do an enormous amount of actual representation, which is the way it should be.

NM: Within the organization, were there any hurdles or resistance in going that direction?

MW: There were. There was resistance. There were some board members, national board members, who thought the ACLU should just file amicus briefs. I can't remember anything--well, there was one really interesting episode in my career that sort of made headlines in the ACLU. When Dr. Spock and the four defendants were indicted by my subsequent law partner, Ramsey Clark when he was attorney general of the United States, for interfering with the draft by encouraging people to resist being drafted in the midst of the Vietnam War. I called Dr. Spock and the other defendants and offered to provide lawyers to represent them at trial. That was in the press and there were a couple of people on the national board who blew their stack and said, "We are not representing these people because what they are doing is not to be defined as protected by the Constitution." I said, "You're wrong." They said, "You have to [withdraw]." I was instructed by the board, which went on record as opposing our providing individual counsel to these five defendants. There was a revolution in the ACLU. The affiliates,

lots of them, got together to denounce the board's denunciation of what I had done, demanded a recount--so to speak--called a special meeting of the board of directors to consider the issue and over the board with additional representatives from the affiliates overturned the decision not to represent them and directed us to go ahead and do that by which time they were all represented by other lawyers, actually. Although it was moot in a practical sense, it had an enormous impact on the outlook of the ACLU in terms of providing counsel in politically significant, important civil liberties cases. Jessica Mitford wrote a book about Dr. Spock--I forget the exact title--but she has a whole appendix devoted to that event, which I just described to you about the revolution in the ACLU based upon my offering counsel to the Spock defendants. [Editor's Note: Jessica Mitford's book *The Trial of Dr. Spock, the Rev. William Sloane Coffin, Jr., Michael Ferber, Mitchel Goodman, and Marcus Raskin* was published in 1969.] So whoever might be reading the transcript of this interview or listening to it might want to take a look at her book and get all the details of it.

NM: I would like to jump back into when you become the legal director, into the 1960s. You already mentioned your personal involvement in the Civil Rights Movement. I would like to expand upon that. Can you talk more about the American Civil Liberties Union's involvement in the Civil Rights Movement? What do you remember? What things stand out?

MW: I think I already described what stands out. Our involvement in Mississippi in the summer of 1964. Then in 1965, we hired Chuck Morgan to open a Southern Regional Office in Atlanta, that office, which was very, very, independent of the national office, which is the way it should have been. He hired one or two or three lawyers to work with him and they worked exclusively in the Civil Rights Movement in a variety of ways, much of which now escapes me. But they [were] deeply involved in providing counsel in civil rights cases and propagandizing on the civil rights issues. Chuck was one hell of a-- he was a very, very colorful guy and attracted a lot of public attention, had a lot of press. Our involvement in the Civil Rights Movement from the mid-60s on was mostly through his office.

NM: It sounds like the American Civil Liberties Union in terms of staff and outreach is actually growing in the 1960s.

MW: That's true. When I went to work at the ACLU, as I already said, in '58, I was the second staff lawyer in the national office. There was one in Chicago and there two guys on retainer in L.A., but more and more the affiliates in the national office and the affiliates started--I think the New York Civil Liberties Union also had a lawyer on staff, actually. I forgot about that. Between the Civil Rights Movement and the war in Vietnam, the civil liberties world grew and grew in those years. The issues grew and grew and the ACLU grew along with it, actually. We did a lot of work with COs, Conscientious Objectors. We represented a lot of members of the military who refused to serve because of their opposition to the war. Between those activities in the Civil Rights Movement and the anti-war movement, the political issues exploded in America. The whole world of the '60s, as we now look back on it, exploded and political issues became

predominant in American life. The ACLU grew along with it, hiring lawyers, providing counsel. There's an expression, which I can't evoke at the moment--there was a close attachment between what was going on in the real world and what the ACLU was doing to meet those issues. We responded quite effectively, I think, and responded also in a larger and larger way.

NM: What are your responsibilities as legal director? You mentioned amicus briefs and choosing which direction you take in representing clients. Are there other duties involved, such as fundraising and recruiting?

MW: I didn't do any fundraising. I never did fundraising, actually. I did a lot of recruiting. I was the ACLU lawyer responsible for everything that happened in the Supreme Court. The affiliates couldn't go to the Supreme Court without my approval and review of the work that they were doing there, actually. My work, the job description was whatever I made it, actually. As I said before, providing financial support for affiliate activities, encouraging the affiliate lawyers to get involved in actual representation of clients, going around speaking publically--I wasn't a great public speaker, but I did my bit--encouraging and speaking to the press and speaking up for the ACLU's activities and the work that it did. It was public propaganda, if you want, and financial and encouragement of what I thought the work at the ACLU should be. I didn't have much supervision, for which I was grateful, actually. There [was] a group of three board members who were called the General Counsel. I think I would consult with them pro forma, pretending to consult with them, but I pretty much did what I wanted to do and let the chips fall where they may, and they generally fell in the right place. Actually, I remember one other thing. The ACLU has always been an anti-communist attitude, throughout its history, actually. Among one of its policies was a requirement that in every brief--this is in the days when it was mostly only filing amicus briefs--that every brief that it filed that involved issues involving the Communist party it had to include an official statement denouncing the communist party but saying we were defending its rights nonetheless. But we had to denounce the party. On my own, I stopped following that policy. It was still in the policy guide and I just ignored it and nobody said, "Boo," and it just disappeared. It eventually got repealed, actually, but not until a decade after I had stopped on my own including it, because I didn't think the civil liberties organization wanted to be denouncing the group that it was defending.

NM: One of the things you've been mentioning is how the Vietnam War impacted the American Civil Liberties Union. What issues emerged for the American Civil Liberties Union during the Vietnam War and how did you as legal director get involved in those things?

MW: Well, it was a lot of Selective Service issues, a lot of Conscientious Objector issues, a lot of issues involving men--since it was only men at the time--who refused to serve, refused to report for active duty based upon their political objections to the war, sometime their religious objections to the war. If they had religious objections they more or less fit it into the legal CO, Conscientious Objector status. More and more of them didn't have religious objection, they had political objection. That kept getting litigated,

not with all that much success, but still it was part of the whole ambience of the anti-war movement in the country. Then there were a lot of military issues. Members of the military who refused to do one or another--I can't remember specifically--to report for overseas duty, for example, because of their opposition to the war. I remember there were a couple marines who I represented myself. One of them was named Daniels. The other one was named--I can't remember--from Queens, actually. They were in the Marines and they refused to report to go to Vietnam and they were indicted for something or other and I represented them. I think I got them off at the Court of Military Appeals, but that was a growing field, of providing counsel to members of the military service who came into competition with the military service they were representing--some officers as well as enlisted personnel, actually. I would say that our representing members of the military was numerically fewer than our representing contentious objectors at every level. For a while, from the mid-late '60s on, it consumed a lot of the ACLU's efforts, the anti-war activities.

NM: You mentioned that the American Civil Liberties Union had an anti-communist slant.

MW: Yes.

NM: Did the war in Vietnam and representing the protesters impact that in any way? Was there an issue at some level in the organization?

MW: Well, the major event revolving around that was the one I told you about my agreeing to represent Dr. Spock and his co-defendants. I think there were members of the board who were very, very chary about touching anything that might involve--I mean, it was the middle of the Cold War and there were a lot of Cold Warriors in the ACLU at the time. Did you interview Burt Neuborne? Do you know that name?

NM: I don't know.

MW: Anyhow, he was one of my successors as legal director. In the '40s the ACLU kicked out--Elizabeth Gurley Flynn was a member of the board. She was a member of the CP and they expelled her from the board and it was a big public issue and Burt, who was one of my successors wrote a law review article approving the expulsion. I would never approve it in a million years. It was a terrible civil liberties position to expel somebody from your organization because of their politics. Anyhow, yes, I'm sure that the Cold War environment of the time had an effect on the personal outlook of some, maybe a significant number of members of the board, of the staff--less so of the staff perhaps than the board--but I overcame that, actually. I thought that whether you were in the CP or not was neither here nor there. Whatever the individual's attitudes towards the Soviet Union or the Cold War was, ultimately it played no role in what the ACLU did, I think, thanks to my position in that area.

NM: Going back to the summer you spent in Mississippi, I would like you to talk more about the committee you organized and your experience going down south. You

described it the Third Reich for African Americans. Can you elaborate on what it was like to be a lawyer in the South during that period? You mentioned various people were harassed by locals.

MW: Well, I'm not much of a storyteller I must say. When I went down on my own and made a connection with the SNCC people and the other civil rights movements down there, I would be in Jackson, Mississippi on my own. I remember going to the offices of the Civil Rights Movement. I distinctly remember meeting a couple of the guys from the Civil Rights Movement in some restaurant in the black part of town and some white state trooper walked in and threw me out of the restaurant because there weren't supposed to be any mixed clientele there. A guy, who I'm still friendly with, Oscar Chase, he was a law student at the time and he went south in '63. He got the shit beaten out of him by the cops for working with the Movement and spent a day or two or three in jail where they beat him up, actually. He's still in my poker games, part of my present poker game for the last thirty years. I remember the day, July 4th, 1964, when the public accommodations provisions of the Civil Rights Act was passed. The white lawyers used to stay in a motel in Jackson called the Sun-n-Sand. The day that the accommodations provisions went into effect, we went to have dinner and brought along a couple of black lawyers. All of the other patrons, all of whom were white, walked out of the restaurant and a cop came and sat at the table next to us, glaring at us, but we stayed there and they served us, although they rather threw the food on the table I must say. Then we went swimming in their swimming pool, the first time they had mixed race swimming at the Sun-n-Sand motel. There was always that looming threat of violence, which defined Mississippi in those days and Alabama and Louisiana and parts of Georgia, but it was an ever-present atmosphere. Jim Crow was enforced by lynching against the blacks. It was a hard system. It's a hell of a lot different now than it was then. I think Mississippi at some point, fifteen, twenty years ago, was said to have more black elected officials per capita than other state in the union, actually. So things have changed. We do have an African American president, for example. But back then, it was like Nazi, Germany, particularly if you were an African American or down there supporting African Americans. It was a cruel, violent environment.

NM: Talk to me more about your involvement in the Civil Rights Movement. How would you be involved in your personal life? Did you attend marches or sit-ins?

MW: Yes, I did that. I went on marches, but I did it mostly through my work at the ACLU. That was my political base and that's how I spent most of my energy working for civil rights.

NM: We talked about the Vietnam War. In the early '70s a whole set of new issues emerge as a result of the Pentagon Papers and [the] Watergate [scandal]. [Editor's Note: The Pentagon Papers refers to the top-secret study commissioned by the US Department of Defense, to evaluate US involvement in Vietnam from 1945 to 1967. A Defense Department analyst leaked details of the study to The New York Times, which began publishing stories about the Pentagon Papers in 1971. After a battle between the government and press over First Amendment rights versus national security, publications

regarding the Pentagon Papers revealed that military operations in Vietnam were carried out on a much more extensive scale than the government had divulged to the public. The US government lost credibility, and public sentiment reflected the widespread belief that the government perpetrated many lies regarding the Vietnam War.] Can you talk about what you remember about that period and how those events impacted American Civil Liberties Union?

MW: I had a specific role in that area because I somehow or other developed a reputation as the lawyer for CIA dissident agents. One of my major clients, who I represented for decades was a guy named Phil Agee. Does that name mean anything to you. Philip Agee was a CIA agent, who wrote a book called *Inside the Company*, in which he described all of his activities as a CIA operative in South America. He named all of the other CIA operatives in South America. His book got published here. The government went to court to prohibit its [publication]. It found out that it was going to be published--no, no, no. I'm sorry. His book got published here in its entirety. He wrote a second book--no, I'm sorry. I'm mixing it up. Agee's book got published here, but the CIA spent its decades trying to punish Phil for what he had done. In fact, I have a series of documents in which the Department of Justice Civil Rights Division had started a criminal investigation members of the CIA for activities they intended to take against Phil. We never found out precisely what they were, but they must have had plans to assassinate him. The Civil Rights Division heard about it and squelched that. But I also represented a guy named Victor Marchetti, who was another CIA agent who wrote a book with a man named John Marks, who had been a state department intelligence officer called Marchetti and Marks--I got it right here on my bookcase. [Editor's Note: Victor Marchetti and John Marks co-authored *The CIA and the Cult of Intelligence*, published in 1974.] What's it called? I can't even remember. The CIA, the government learned that that book was to be published. They went to court. They got an injunction against this publication without its being vetted by the agency. So we had to submit the manuscript to the agency and they took thirty days and they identified 360 passages of varying lengths that had to be deleted from the book. So I was given back the manuscript with the passages marked that had to be deleted and I sat in the room at the CIA with a representative from the publishing company, who was a former CIA guy himself and used a scissors and cut the passages out of the manuscript and put them in an envelope and they're supposedly still in some safe at the CIA now. Knopf published the book in its entirety with blank spaces indicating where the deletions had to be made. So that was another one of my--I mean this is all related to the war and the CIA's activities in the war. I developed a reputation as a friend of CIA agents who were dissident agents and represented a bunch of them either through negotiation with the agency or went to court a couple times. I developed that role as friend of dissident CIA agents.

NM: This time that you're working on these cases--

MW: I'm also very anti-war. I have a mantra about the Vietnam War. I wasn't against it; I just thought we were on the wrong side. We should have been supporting the North Vietnamese.

NM: I would like to follow up on this. Were you representing these former Central Intelligence Agency agents during your time as legal director for the ACLU?

MW: I was doing a lot of this after the ACLU. Well, no. I represented Agee and Marchetti while I was still at the ACLU. You're quite right to make the distinction between Mel Wulf attitude and ACLU attitude. They merged. What I did became ACLU policy and without any much objection from the organization, actually. It was my taste to do it, because it had to be done, it was the right thing to do, and it was--whoops--politically correct. [laughter]

NM: I'm trying to get a sense of some of the constitutional issues that emerged for the American Civil Liberties Union as a result of activities that the government was doing in the early 1970's.

MW: Well, it's all Pentagon Papers related, of course. It's all the question of how much control does the government have over publication of so-called national security classified information. It was always my position, and hence the ACLU's, position that it should have hardly any control over it. We were involved--I personally was quite deeply involved in an amicus level at this point with the Pentagon Papers case. I argued in the district court and I argued in the Second Circuit supporting the publication, supporting [Daniel] Ellsberg and the publication of the Pentagon Papers. The work around Marchetti and Agee and all the other CIA stuff also all revolved around secrecy agreements that the agency required its employees to sign, which made them swear that they wouldn't reveal any classified information, and all of which were evoked in all of that litigation involving publication of various CIA publication. It's all basic first amendment stuff. The question is how much power may the government have to suppress public knowledge of its activities, which they describe as classified and secret. Of course, over-classification is a scandal in American public life, as we can see from what's going on today with Hilary Clinton and her state department emails. But my position, hence the ACLU's position, was hardly anything should be classified and that whatever is classified has to be tested in the deepest sort of way. It has to be justified by the government.

NM: After the Vietnam War and the Pentagon Papers and the issues of over-classification and government secrecy, towards the end of the 1970s, when you stepped down as legal director.

MW: Yes, in '77.

NM: Could you talk about the circumstances of that transition? What did you do afterwards?

MW: I was forced out, actually, because I had made some enemies and people who had been friends turned out to be enemies and they wanted to kick me upstairs. Actually, I didn't get fired. They wanted to just take away all of my duties, except my involvement in the Supreme Court activities. That would have, of course, cut the heart out of the work

that I had been doing for nineteen years. I don't know whether I quit or whether I was asked to quit or what it was, but anyhow, it was time for me to go. I had become over those years a bit presumptuous, I think, and made a few enemies, who made their case, best they could, with the ruling class in the ACLU, which brought me to the end of my time there, actually. I could have handled that, my departure, a little better, but in any case, it was obviously time for me to go. If I had left a year or two earlier it would have been a much smoother transition, but I made a transition in any case and took some time off doing nothing after twenty years of hard work. A year after I left the ACLU, I started up this law firm with Ramsey Clark and my former colleague Alan Levine. That lasted five years, not very successful, because Ramsey was sort of a difficult guy to get on with. Thereafter I joined a law firm called Beldock Levine and Hoffman, which I was a member for thirty years. I continued during all those years. I hardly did any commercial stuff. I did a lot of libel defense. I did a lot of copyright, a lot of publishing, all First Amendment related stuff. I continued to do civil rights related activities, prisoners' rights and the rights of people arrested by the cops. So my private practice after I left the ACLU was pretty much a mixed bag, but still, it was down the civil liberties, civil rights turnpike.

NM: In 1977, you said you were forced out. Can you talk about the circumstances around this?

MW: You'd have to ask the people who forced me out. [laughter] They weren't that clear. I think much of it was personal animosity, actually. I had been a little dismissive of some people, as a matter of fact. It certainly had nothing to do with any policy related issue. It was all very personal.

NM: You said you spent almost two decades at the American Civil Liberties Union. Is there anything else you would like to add about your time at the American Civil Liberties Union?

MW: No, no. I think I've covered most everything that I have thought to be significant about my time at the ACLU, all of the issues that I was involved in, the influences I brought to bear on the organization, and the effect that I had, the positive effect I had on the organization. I think I spent nineteen useful years at the ACLU.

NM: After 1977, did you keep in contact with the American Civil Liberties Union?

MW: Not at all. I have not been in contact with the ACLU since 1977.

NM: That answers that question.

MW: Well, actually about ten years ago, the legal staff asked me to come to talk to their summer interns, which I did, actually. I gave this really interesting talk, to--I don't know--there must have been sixty or seventy people. Except for that, I've not been involved with the ACLU, the ACLU hasn't been involved with me, and they offered to give me some sort of award a year or two ago. I said, "No, thank you." The rupture was complete.

NM: Do you follow the American Civil Liberties Union?

MW: Well, I follow what's ever in the press. They've been doing good work. They're representing [Edward] Snowden, which is a terrific thing to be doing. They're very active. It's an enormous organization now compared to--to say nothing about the salary difference. When I left the ACLU in 1977, my salary was 32,000 dollars. The current legal director, his salary is 400,000 dollars, which I think is a disgrace. I think it's really disgusting. Other than that, I had no contact with the ACLU.

NM: In your career after the ACLU, you mentioned that you continued to work on civil liberties issues.

MW: Yes.

NM: You stayed involved with the former CIA agents. Did you continue representing them?

MW: I continued representing Phil Agee for thirty years. During those thirty years, my total fees were fifteen hundred dollars, which I got from an FOIA [Freedom of Information Act] request that I made on his behalf and the government paid my attorney's fees of 1500 dollars. Other than that, I never charged him a cent. He died a couple years ago, actually. He was the major continuation of my CIA-related work, Phil was. I didn't do much. I represented an occasional agent who perhaps was being harassed by the agency for one thing or another, nothing significant really. Victor Marchetti tried to keep in touch with me, except he went crazy right-wing, so I lost interest in him.

NM: Can you talk about any cases or issues that you worked on after your time at the American Civil Liberties Union that you felt continued some of your civil liberties work?

MW: Well, one of the cases I liked most after I left the ACLU, in the Supreme Court, I represented SDS [Students for a Democratic Society] in the only case that got to the Supreme Court, involving students for Democratic society and I won the case. They were barred from organizing in some Connecticut state college campus. They had been represented by an ACLU lawyer in the district court and when it got to the Supreme Court that lawyer asked me to take over the case, which I jumped at, actually, because I was a great SDS supporter, to some extent. I argued and won the only case argued in the Supreme Court of the United States on behalf of the Students for a Democratic Society, one of the country's most radical student organizations. I was very happy to do that and win it, actually.

NM: When did that case take place? I'm just going to pause the recording.

MW: Yes. Turn that off for a second.

[Tape Paused]

NM: We're continuing the interview with Mel Wulf. During the break, Mel showed me some of the Supreme Court cases that he worked on.

MW: That I actually argued in the Court.

NM: That he actually argued in the Court. You mentioned that when you were younger you didn't really have experience as a trial lawyer.

MW: That's right.

NM: What was the experience like to argue in front of the Supreme Court? Were there any strategies?

MW: Well, I never thought very strategically, actually, but arguing before the Supreme Court is a profound experience, I must say. I argued my first case in 1962 when I was, I guess, thirty-seven years old. I argued my last case, my tenth case, in 1982 on behalf of Phil Agee, as a matter of fact. It's an awesome experience. You stand up there. There used to be nine guys. It's now fortunately only six guys and three women--or is it four women? Back in the old days when you sat down at a counsel table they had a quill pen by your side as a reminder of how ancient the Supreme Court is. It's a wonderful, wonderful experience. I must say, I spent at least--for each case I argued, I spent three or four days in the Supreme Court library totally immersed in the case, preparing for the argument, reading every case that might conceivably refer to in the course of the argument. I thought it would be quite an intimidating experience, but it's more awesome than intimidating. If you're prepared, you're okay. I remember my first case, which was on behalf of some Nazi, as a matter of fact--free speech case. I made quite a good presentation, actually, and the government--the other lawyer read his argument. You're never supposed to read your argument in the Supreme Court. I had lots of notes and you weren't adlibbing, by any means, but you wanted to give the impression of something like spontaneity--not that you were making it up as you went along, but that you weren't just mechanically reading off a previously prepared argument and maintained your flexibility. I always welcomed questions, which gave you an opportunity to show your stuff, actually. I did very well in the Supreme Court. I argued there ten times and I think I did pretty well in each of those cases. Justice [Byron] White, I'm told, said of me to somebody that my presentations at the Supreme Court were, quote, "very professional," which I took as a good compliment, actually. It's a great experience. It's not to be missed, if you can arrange it. It's totally different than any other court appearance.

NM: You mentioned that a first case you argued was in 1962.

MW: '62 or '63, yes.

NM: The last case was in the early 1980's.

MW: Yes.

NM: In that twenty year span, were there noticeable changes?

MW: Well, it was noticeable to everybody. The court became more conservative during that twenty year period. I can't remember exactly who replaced who. The composition of the court--unless I really sat down and looked at the evolution of the membership on the court, there's really nothing useful that I could point out at this point, actually.

NM: The composition of the court in terms of conservative versus liberal, was that something you took into account when you argued your cases?

MW: Oh, sure. In most of my cases, [John] Marshall and [William] Brennan were on the court, and I always liked to argue to them because I knew I'd get a favorable response, actually. [laughter] It was not quite so easy with [Warren] Burger or [William] Rehnquist. Did I argue in--? Was [Hugo] Black still on the court in my first case? I think so. Anyhow, you didn't really fashion--I never was so clever as to be able to construct an argument that I thought would specifically appeal to one or another justices, actually. I made my case best I could. I won some and I lost some.

NM: You mentioned working in the factory with those two gentlemen early on and that gave you an idea of what a working person does. You also mentioned that you were politically involved your entire life.

MW: Politically interested. [laughter]

NM: Politically interested. Did that continue after your work with the American Civil Liberties Union? If so, in what ways did it manifest itself?

MW: In not very many ways, just endless bullshit about politics, endless talk about politics, and an occasional contribution, but nothing more concrete--an occasional demonstration, but I've always been a bit detached from life around me, actually. I'm still very, very political-minded and thought Bush was the worst president in the history of the world. I was opposed to the Iraq War, like the Vietnam War, opposed to all of these so-called wars for national security. My political involvement was at a distance, as a matter of fact. I didn't have boots on the ground, never--wasn't my style, except, all of my ACLU activity was, I suppose, boots on the ground.

NM: I have some history questions I would like to get your perspective on it.

MW: Go ahead.

NM: You have been a New York resident since at least '50's.

MW: Since eighty-seven years ago. I was born in New York. [laughter]

NM: You've lived in the city for many decades. September 11th, was an event that impacted New York. From your perspective, how did that impact everyday life being a New York resident?

MW: September 11th didn't impact me. It affected me emotionally, obviously. Three thousand people being killed is horrible, a horrible experience. I've led a very sheltered life, I must say. My wife and I, we have this wonderful apartment with that wonderful view out the window. We continually remark to each other how lucky we've been. We raised two daughters in this apartment, actually--and how lucky we've been to lead the life that we did, which I don't know how to describe it. I don't want to be smug. Smug as I am, I don't want to be smug. We've been very lucky in our lifetimes, actually. They've been interesting times. My wife, she worked in family planning and abortion rights for her career, actually. So we've both been involved in public issues, throughout our lifetimes. Our daughters are involved in public activities, too. We're one of those Upper West Side, left-wing, predictable family groups. [laughter] You name it, we're--[laughter]

NM: I'd like to give you the opportunity to add anything for the record, either about growing up, your time in the service, your career in the American Civil Liberties Union.

MW: Well, I don't have much to add, I must say. I think I've been very lucky. Given my background, my family history, and my very sketchy academic history, the fact that I ended up doing all the work that I did and arguing ten cases in the Supreme Court of the United States and being deeply involved in public issues involving civil rights and civil liberties, it was all sort of unpredictable, I must say. Here I am, eighty-seven, still intellectually involved and interested in what's involved and still giving Bernie Sanders a little money. A New York Jewish Socialist for President? I don't believe it, but I'll send him some money--my doppelganger. No, it's been terrific. I still support the ACLU at a great distance. I support their activities at a great distance. I hope that one day the people in Kansas will come to their senses and start voting on behalf of their own interests instead of the interests of the ruling classes, who don't serve their interests at all, and why Americans don't get it politically--although, they did with Obama, minor disappointments notwithstanding. I continue to be totally frustrated by the fact that there's very little working class consciousness in America. Everybody seems to want to become a billionaire or they got these abortion issues or these other right-wing issues that drive them to distraction and distract them from focusing on what their real interests are. You can be left-wing and I suppose anti-abortion, but as long as you know who's paying your wages. The disintegration of the unions has been a tragedy in America, although they brought a lot of it on themselves being too conservative for a trade union movement. Most of my outlook on politics in America has always been a bit depressing and continues to be a bit depressing. [laughter] But I'm not depressed. I'm in a pretty good mood actually. So, I'm very glad that I worked at the ACLU, and had a good time doing it, and my life afterward was interesting. Voila. There you are. End of thoughts.

NM: Thank you, Mel, for having me. It really has been a pleasure. I'm looking forward to transcribing this interview. It is a very valuable contribution to the oral history project that the American Civil Liberties Union is working on.

MW: Good. I'm glad you think so.

-----END OF INTERVIEW-----

Reviewed by Molly Graham 1/6/2016

Reviewed by Mel Wulf 1/15/2016