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Interview with Gerry Petruccelli by Mike Hastings

Gerald 'Gerry' F. Petruccelli

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George J. Mitchell Oral History Project

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Gerald F. "Gerry" Petruccelli
(Interviewer: *Michael Hastings*)

GMOH# 117
July 26, 2009

Mike Hastings: The following is an interview conducted by the Senator George J. Mitchell Oral History Project, an activity of Bowdoin College. The date is July 26, 2009. I'm in Portland, Maine, at number 50 Monument Square in Portland. The interviewee is Gerry Petruccelli, and I'm going to ask him to pronounce that correctly and spell it for me in a minute. I'm Mike Hastings, the interviewer. Thank you for doing this.

Gerry Petruccelli: Thank you for having me.

MH: Could we start please by, could you state your full name, and spell for us your last name.

GP: Sure, my full name is Gerald F. Petruccelli, it's P-E-T-R-U-C-C-E-L-L-I.

MH: And your date of birth?

GP: February 24, 1943.

MH: And place of birth.

GP: In Boston.

MH: Your mother's full name?

GP: My mother's full name was Mary Rita Madden Petruccelli.

MH: And your father's full name.

GP: Was Gerald F. Petruccelli, Sr.

MH: Let's begin with them, can you tell me a little bit about your mother and father?

GP: Well, sure, my mother's family came from Ireland, her grandparents I believe are the ones who came, and she grew up in Dorchester, Massachusetts. And my father's father came to the United States when he was seventeen years old, which I've always marveled at, somebody seventeen just going to another country and speaking a different language. And my father's mother was born on the ship in New York harbor, before it arrived at Ellis Island, and at some

point my father and mother met, I'm not sure exactly when, where and how, and despite in those days the tribal loyalties of the Irish or the Italians, they got married. My grandmother used to say to her cronies, "Both of my boys married Irish girls, but they're nice."

And so they compromised, my father's family grew up in Weymouth, my mother's family grew up in Boston, Dorchester, so they compromised and I grew up in Quincy.

MH: In Quincy, okay, so you were there through high school?

GP: Through law school actually, well for most of, I lived in an apartment in Boston when I was in law school, but yes, that's right.

MH: What was life like growing up in Quincy?

GP: Well, it's pretty much a stereotypical 1950s suburb, you know, big deal when you got your first TV, which for us was I guess 1950, I remember the 1950 World Series only had four games in it, which disappointed me because we just got this TV.

MH: You're a baseball fan?

GP: Yes. And it was a pretty uneventful, regular life, and everybody had at least one job, and we just made our way through. In fact I went to Boston College because I was the first person in my family to graduate from college, and I couldn't afford the room and board to go away, so I commuted to BC.

MH: Stayed at home.

GP: Yes.

MH: The high school in Quincy, they have two high schools, don't they?

GP: Well they do. I did not go to either of them. North Quincy and Quincy are the two high schools. I went to Archbishop Williams High School in Braintree.

MH: Archbishop Williams, okay, and that's run by an order?

GP: No, it was staffed by an order of nuns primarily, with a few lay teachers. It was owned and operated by the archdiocese of Boston at the time. It's now been spun off, with all of the reorganizing of things that are going on, and so now it runs pretty much like any private prep school with a board of trustees and so forth.

MH: But back then it was under the archdiocese. All male?

GP: No, no, it was coed.

MH: Really? Oh, okay. Those were the days of Cardinal Cushing.

GP: They were indeed, yes. It was a big deal when he would come for a visit.

MH: Was Boston College your only choice, when you got -?

GP: No, actually I wanted to go to Georgetown, but as I say, when we did the math on the travel and the room and board and all the rest, just stayed home and went to BC.

MH: When you went off to BC as a commuter student, did you have law school in mind right from the beginning, or were you kind of looking around?

GP: I had law school in mind probably since I was conscious of the idea, as a very young child.

MH: To what do you attribute that?

GP: Probably watching the Perry Mason type TV shows and the like. I don't really know. I've always been interested in government and politics and policy, and I don't think there's any more important virtue than justice. I think if we had perfect justice there'd be no comprehensible definition of charity. And so it was just something that I always wanted to do.

When I was in college I thought of going to graduate school and getting a Ph.D. and being a political scientist, but by the time I got finished with college I figured out that law school had always been the first thing on my mind, and if I really wanted to teach I could be a law professor. So I went to law school with the idea that I would probably want to be in academic law, and if that didn't work out then I'd have a license and I could make a living. And in fact my first six years after law school, I was a law professor.

MH: Where?

GP: One year at the University of Toledo, '67 to '68, and while I was there I received an out-of-the-blue call from Dean Godfrey at the University of Maine Law School, who had an urgent need for somebody to come for one year, one year only: "You can't stay, the guy's going away for a visitorship, he'll be back, we have no openings, I don't want you to come here with any false expectations." I mean, Dean Godfrey was that kind of guy, he was not going to fool you. And I said, you know, we're unhappy here in Ohio, we're New Englanders, we're going to come for the one year and, we were young, we'll regroup.

MH: How did he know you?

GP: This was the last days of the 'old boy' network. He called a good friend of his who had been my contracts professor at BC, and one thing led to another. And so we moved to Maine in

the fall of 1968 for one year, one year only, and here we all are still.

MH: And the law school was very small then, having just been established, or reestablished.

GP: It was very small, yes.

MH: I know the law school, because I work in Orono, I know the law school existed in several forms in several places. The YWCA in Bangor is the site of the old school of law in Bangor, but it was, did Dean Godfrey begin it again, was he the -?

GP: Basically, yes. What happened was that the law school in Bangor, as I understand it basically went out of business as a result of WWI, in part because the then dean was associated with the Germans. And then I don't think there's a direct linear connection, in Portland there was an organization, or an institution called the Portland Law School, which was not affiliated with any university, and it had done well after the Second World War, with the G.I. Bill and all, and it eventually was tottering. And the University of Maine, there was not the University of Maine system at the time, the University of Maine, it seemed like a good idea at the time anyway, wanted to have a law school, and it picked up those pieces and it hired Ed Godfrey, who was at that time a fairly senior faculty member at Albany Law School. He came here and built the law school basically from scratch. I think he arrived in '63, so I got here five years after he had started it, and somebody should have done one of these oral histories about him. What a remarkably wonderful man he was.

MH: In conducting these interviews, I've talked with a number of people who were associated at various times with the law school and they frequently make a similar comment, that he was a remarkable fellow. Let me cycle back a little bit. Interest in politics, you said you were interested in government and the law, do you have any, as you were growing up in Quincy, did you have any interest in political life, parties, or did you do any work on campaigns?

GP: Yes, I think when I was in high school, certainly when I was in college, I did all the stuff that young guys do. I did the door-to-door leafleting, I did the sticking of signs in people's lawns, with their permission of course, and I would hang around long enough to get invited to the election night party at some hotel function room or whatever, or more likely []. One of the first guys I worked for was my city councilor, George Burke, who was a terrific guy; I had first met him because he was on my paper route when I was a little kid.

MH: So the beginning of networking.

GP: Yes, George's election night parties were in his house, and so I did some of that. And I was in the Young Democrats in college and we would do that sort of stuff.

MH: Now, I have to ask, when you were at BC Law, was Bob Drinan the dean?

GP: Absolutely, he was.

MH: What was he like? Did you have any contact with him?

GP: Oh, much.

MH: Tell me about it.

GP: Totally, totally remarkable man. He was, in the lingo, an ‘outside’ dean, and he was an institution-building dean. And we would, in an affectionate way, remark on how much time he didn’t spend in the law school. But he was constantly building, recruiting faculty, recruiting students, talking top-notch students into passing up some Ivy League school to come to BC, and with just the magnetism of his personal charm he did that for a lot of people. It was just an energized place, it was a very bright, up and coming young faculty, it was growing and it was vibrant.

And one short anecdote about him, he came back in one Saturday afternoon, one of those gray November days, five or six in the afternoon when the lighting is terrible, and I was in the library with a few other people, and the lighting was really bad in this part of our library. And he, you know, “How’s it going? How’s it going everybody? How’s it going?” He was constantly talking to every student he could engage and picking up information, anecdotes, vibes, all the rest. So, not being particularly prudent I said, “Well everything’s fine except the lighting stinks.” And, “What do you mean? Take me, show me.” So I did, I sat him down where I was studying. He looked at it, he says, “This is terrible.”

That was Saturday afternoon, five o’clock. Monday morning at eighty thirty there were electricians in there, improving the light. And so you had to love the guy. And it was at about the time, shortly after I graduated, that he ran for Congress, and of course that just set the whole thing to buzzing. But he was just a wonderful guy.

MH: He was a very active, I mean very energetic fellow. I can remember people used to say, I worked on the House side for a few years, and people used to say that, don’t get caught in the cafeteria between Ed Koch and Bob Drinan, he said, you’ll be exhausted by nine o’clock.

GP: Well we had him, he came up here, I was on the committee many years ago when we were planning a district court conference, which would be all the judges and other officials of the court, and all the lawyers who regularly practice in the federal court. And I remember David King, from Bangor, he’s an excellent lawyer and a great guy, who was on the committee and he said, “For a keynote speaker, I’d really like to have somebody who reminds of why I went to law school.” And I said, “I know just the guy for you.” So I called up Drinan and we talked about the date and all the rest, and, “Yup, I’ll come.”

And so I picked him up at the airport and I drove him up to, I forget where we were, Sunday River or someplace like that, and he gave this stem winding speech about what’s important and what’s not for lawyers in the system of justice, and went back to Georgetown, where he was then

living. But it was just a treat to be able to see him again in that setting.

MH: Did he remember that you were the guy that got the lights fixed?

GP: I don't know, he might have. There's no reason why he should have, but he might have.

MH: So you come back to Maine and work for Dean Godfrey for a year, and then you decided to stay, or did you leave again?

GP: Well, as it turned out another personnel shuffle at the law school got me a second year, and then the University of Maine, I mean Dean Godfrey was brought here with a commitment from President Young to add some faculty. We did not have enough faculty when I started to offer electives, we had exactly the number of faculty we needed to offer the number of credit hours you needed with no slack. And so it was intended that there be additional faculty.

And so one of the growth positions fell in our lap, and they offered that to me, and so at that point I accepted that and became a regular member of the faculty. And it was just a great, great time, that's when the building was over on High Street, and it was very small, we would take in fifty students a year. We had the benefit of the old New England Compact, and we could offer in-state tuition, which was \$400 a year when I started, to anybody in New England, and we had some brilliant but not wealthy students from Rhode Island and Connecticut and Vermont and Massachusetts and New Hampshire.

And over time the legislature, in its wisdom, wanted to know why we were subsidizing those people from away, and then law schools got started in Vermont and New Hampshire and we lost some of that. But it was a very exciting time to be at the University of Maine Law School.

MH: So, did you have any contact during that period with Judge Gignoux?

GP: Sure.

MH: Was he a supporter of the law school, and was there any connection at all?

GP: Yes, Judge Gignoux was a very gracious, generous, civic minded visionary kind of a man, and he quickly recognized what a treasure we had in Ed Godfrey, as did many people in Maine. And he was supportive in any of the kinds of ways that a federal judge can be supportive of a law school, I mean he was kind to attend to the people affiliated with it and all of that, but basically he was doing his judging, he didn't have a lot of time or energy or other resources to be building a law school.

MH: I've read your online biography, and I see where, when you were at BC you were on a couple of law reviews, or the Law Review, a part of it. That seems to be very important in terms of the law career, getting on law reviews is a big deal. Do you think that's appropriate, or do you think that's a, or do you think it's being, or is it overdone?

GP: Well, I don't think, I don't know that - Sorry, I don't mean to be tongue-tied about this. I think it is important because it is actual serious intellectual work or publication, for use by the profession. It's not a sheltered workshop; you're putting these things out there to be, you hope, used by lawyers and judges in actual cases and people's actual lives, and you really have to do it well. And in that respect, for kids coming out of college, to really feel that this is not just a safe place for you to flip pages in a book and see if you can be smarter than the other kid, this is now a place where you're producing a product on a deadline for use, you hope. And so I think that for the students who get to do it, it is an immensely valuable experience educationally, it makes you a far better lawyer, law professor, judge, or even business executive than you would have been otherwise.

Obviously not everybody can do it. Bigger law schools now have multiple journals – even the University of Maine has multiple journals because the experience is worth it. I think it got to be a little bit problematic in terms of opportunity distribution in some settings, because of the tradition. The tradition at BC was you graded on to the Law Review, and class rank was it. When I was in school, if you were in the top twenty of the first year class you got invited to join the Law Review, and if you were twenty-one, you didn't. And as was certainly true, in that top twenty there were a couple people who were smart enough but not really good writers, and twenty-one to twenty-five, or twenty-one to thirty were probably not that much different, and some of them could probably really write.

And after a while most law schools started to find ways to have multiple access points, and so now a small number grade on, and then a larger number get to compete by submitting some kind of a piece for review and some kind of evaluation is made of who seems to be serious about this, and who can write and who can't write. But I really think that it's an extremely valuable experience for people who get to do it, and I think the law schools have done a better job of trying to make sure that the opportunity is available to the people who can do it, and not everybody in a law school can. You can still be a pretty good lawyer without being able to do the work that's required for the Law Review, but the kind of work you have to do in a law review is going to make you better.

MH: Your biography says that you were involved in commercial law, international commercial law?

GP: No, it was, this was one of the more clever things that BC did.

MH: Uniform Commercial Code.

GP: Oh right, yes. This is a chronological kind of a happenstance, but the Uniform Commercial Code was one of the major law reform projects we ever had in this country, and the law of sales and the law of negotiable instruments and various other aspects of commercial law were just an enormous potpourri of doctrines from England and the various states. Some leadership was exercised by a number of people in the generation or two before me to organize a

major effort to collect the best thinking on all of these topics and codify it, and then shop it to every legislature. It has never been the federal law or the national law, and so it had to be adopted, if it's going to be uniform it had to be adopted by the fifty states, with the fewest possible local variations or else we'd be right back where we started.

Well, the chronological fortuity for me was that that document was first published in, I think, 1952 and then revised in 1954. I don't know anything about this; I'm in junior high school and going to high school at that period of time. It is then being pushed into legislatures, and Pennsylvania adopted it in the '50s, and a half a dozen states the late '50s, and things are moving along. New York is the important one, New York adopts the Uniform Commercial Code in 1965, and that's then the tipping point, and after that every state -

MH: That's about the time you came to Maine.

GP: No, at that time I was a second-year law student, I came to Maine in '68. But it ties in very closely, because that became the tipping point. Well somebody at BC Law School, including the guy who recommended me to Ed Godfrey and a couple of others, recognized that this was a major thing. So the Boston College Law Review, instead of being just another one of several dozen law reviews, and to be candid, after you're done with Harvard and Yale and Stanford and the big, big, big ones, there's an awful lot of them out there and getting a little differentiation is hard to do. Somebody had the brilliant idea that it would be the *Boston College Industrial & Commercial Law Review*, and it would have a section dedicated to the Uniform Commercial Code because this was the biggest thing happening in commercial law.

And so when I was an editor of the Law Review it was volume VIII, it started with that focus, and the genius of it was, there are very few topics that are off limits if you're an industrial and commercial law review, I mean we had articles about the labor unions and Major League Baseball, a lot of variety.

MH: Business has a lot of variety.

GP: Yes, but the focal point at about the time I was in school was the Commercial Code, and we had this whole section that was collecting and abstracting all the decisions of all the courts interpreting the Uniform Commercial Code, because the uniformity value could be undermined in a heartbeat if some court construed the language of the code eccentrically. Now, if we had two or three different interpretations of the same words, the uniformity's gone. And so that section of the Law Review fell to me and I was editor of that piece of the Law Review. I worked on it basically for two years; I was the staff grunt for the first year writing these things, and the second year I got to supervise the poor souls who had to write them.

And that was my key to becoming a law professor at age twenty-four when I graduated from law school, because now every law school needed to have somebody who understood this thing, and finding somebody who actually knew something about the Uniform Commercial Code was a priority. The University of Toledo at that point had just decided to open its day division, it had

been a night school from 1937 until about 1965 or '66 or whatever, was doubling its faculty. It needed somebody to teach Commercial Code, and once again I was fortunate that two of my professors at BC had friends on the Toledo faculty, they got me an interview, I went out and got interviewed, and so I got hired to be the commercial law teacher at the University of Toledo.

And for people who had never not lived in New England, it was just culture shock for us. My son – my wife was pregnant, we went there – my son was born there, we had no family nearby, with a new baby and all the rest.

MH: Was it a different, really different kind of law school than BC?

GP: Well yes, I mean it wasn't as good as the law school; the University of Michigan is only an hour up the road, that's the A-list law school. Toledo was kind of a journeyman's law school. I don't think any of the elite law schools were hiring twenty-four-year-old kids straight out of school to begin with, now let's be serious. I don't mean to downplay it, it was a good middle-of-the-road law school, it wasn't a great law school and it wasn't a bad law school.

And so we were sitting out there trying to figure out, you know, we weren't going to make our lives in Toledo, it just wasn't where we were from. That's when Dean Godfrey called, because again, the guy who took the visitorship to Texas was the commercial law teacher, and he didn't just need a teacher, he needed a commercial law teacher. And for a very few years in the 1960s there weren't that many of us, and so that's why I was a catch for [them].

MH: I'm not a lawyer and I apologize for the, this probably not a well-phrased question, but is there a difference between corporate law and commercial law?

GP: To a degree. Corporate law I think most people think of as the law governing the organization and operation of corporate entities, the duties of directors and so forth. Commercial law is about sales and financing of sales, and checks and notes and financing instruments and all that kind of stuff.

MH: So you're in Maine, do you get, you came here to teach commercial law.

GP: Right.

MH: And were you an advisor at all to the law review people?

GP: As it turned out, I don't think I ever did advise Law Review. I coached the Moot Court Team for a while.

MH: Okay, and how long did that experience, I mean that direct faculty experience at the law school last, you said, two years?

GP: No, I taught five years, I was on the faculty for two more years because I had an unpaid

leave of absence from '73 to '75 while I auditioned the practice of law. And so if I had not liked it and I was able, I had tenure by that time, I wasn't about to resign from a tenured full professorship before I found out I really wanted to be a lawyer, and so Dean Godfrey was kind enough to construct me a two-year safe harbor where I could come back if I didn't like it. So nominally, I was on the faculty until 1975, but I was on leave from '73 to '75.

MH: When did you meet George Mitchell?

GP: I was wondering when we were going to get to George. As one of my former partners told me, these events are not about how lucky George was to know me, but how lucky I am to know George, but thank you for asking. When I first came here, very soon after I arrived I met Joe Brennan, who was then the assistant Democratic minority leader in the Maine House, and we struck up a friendship and have been friends every since, and that was within weeks after I got here.

George at that time had just finished being Democratic state chairman, and George at that time was very busy, as you might remember, that was when Senator Muskie was running for vice president of the United States. And everybody in Maine was abuzz with this whole thing about Muskie for vice president, and I kept hearing all of these names of people who were involved in the campaign, and of course I heard about Mitchell. And Joe Brennan on a couple of occasions said something to George about how he'd just met this guy at the law school and you need to meet him, got to get him involved, and so forth and so on.

And at some point, and I can't peg it at all, but some point after the '68 election and before the '70 election, I made George's acquaintance through Joe Brennan at some circumstance or another and we got to be nodding acquaintances, and that's it.

MH: Now he was, George Mitchell was a lawyer here, just up the street.

GP: Jensen Baird, correct.

MH: Okay, did you, were you involved, I guess it must have been earlier, when Brennan was the district attorney?

GP: No, no, that was later.

MH: That was later.

GP: That was later. Joe I believe got elected, left the House and was elected Cumberland County attorney, I think, in the election of 1970. And by that time I had known George a little better, actually, if I can volunteer things here -?

MH: By all means.

GP: If you remember that in 1970, Ken Curtis was running for reelection, and Plato Truman (two great names, one great man) had lost the primary and was announcing that he was going to now run in the general election as an Independent. And at that point Severin Beliveau was the state chairman. And George called and he said, "Would you be willing to come to a meeting at my office on such-and-such an afternoon? Severin asked me to get together some bright young Democrat lawyers because something's got to be done about Plato." And so I said, "I'm flattered, I'll be there." And there were two or three or four of us, I wish I could remember who the others were, but all people of approximately my age with an interest in that, who were willing to hit the books for the party.

And so George had us all there at the office, and Severin being Severin came in just a little bit late. And so Severin, meanwhile, was late because he had had a press conference at which he had announced that the Democratic State Committee was filing suit against Plato Truman to enjoin his candidacy. Okay, so we're all sitting in George's office, kind of waiting for Severin, Severin breezes in and George says, "Severin, I understand you've announced that there's going to be a lawsuit. I've got all these guys here to do the legal work, you want to tell them a little bit about the grounds for the lawsuit?" Severin looks at George and says, "Why do you think I asked you to get all these guys here?"

And so, we sat there, bewildered, and there was one guy there who was not a lawyer, and I can't remember exactly for sure, I thought it was Gerry Conley, Sr., but I'm not exactly sure of that.

MH: Right, he's from Westbrook, right?

GP: No, he's from Portland; he was an old buddy of Joe's.

MH: Right, he was a state senator.

GP: Yes, and -

MH: Majority leader for a while.

GP: And he was just looking at the petitions, and he picked up a name, and I can't remember what the man's name was, but he said of the guy, "He would never sign Plato Truman's petition, guaranteed, you can take it to the bank, this is forgery." Now all of us lawyers are sitting there with our books, trying to figure out how we can enjoin a guy from running for governor, and the guy who's not afflicted with a legal education, is just looking at the evidence, and then he went and had an interview with the guy whose name he saw, the guy absolutely denied that and he was appalled, he was affronted, he was afraid Ken Curtis would think he had been disloyal. And the next thing we know is that every signature on that paper was a forgery.

And so Severin, I'm told, third hand, placed a call to Plato and said, "Plato, you'll be holding a press conference this afternoon to announce your withdrawal." "Why would I do such a thing?" says Plato. Severin explained why he would do such a thing, and Plato said, "Okay, I guess

that's what we'll be doing." And that was a very valuable lesson on how unimportant the law part was, but that was, I think, the first semi-substantive thing I did with George.

MH: I see, so did your involvement with the party grow during these years?

GP: Not a lot. I think it was George who organized, made it possible for me to get into a meeting when Muskie was running for reelection, also in '70 I believe -

MH: Right, that would have been, right, the Muskie election was in '70, because then he ran for president in '72.

GP: Yes, and I was still full time law faculty at the time. And so somebody decided to assemble academics to write position papers that Muskie could read at Rotary Club meetings, and I found myself sitting in a hotel room in Brunswick with economists and political scientists from Orono and Bates and Bowdoin and Colby, and Shep Lee and the Senator breezed in to let the Senator tell us how important our work was. Then we got our homework assignments and were told that anything we thought was worth the Senator talking about we should give it a fly or don't be offended if he doesn't read it. And so I went back and wrote a couple of things and I'm told he used some of it, which was flattering as could be, I mean I was still twenty-seven years old, it was a big deal. But I think George was the connection on that too, although he wasn't directly involved.

MH: And now, when Joe Brennan becomes county attorney, George Mitchell works part-time I guess in his office, and I'm told that you were around, or you were in the picture at that point. Can you explain what your connection was?

GP: Sure, when Joe took office in January of '71, he found a disgraceful situation left by his predecessor of just a mismanaged mess of cases, some of them serious, which were ripe for dismissal for failure to bring the defendants to speedy trial, and for other kinds of just deficiencies of prosecutorial performance. And Joe Brennan has probably gotten some credit but not enough credit for being a serious guy with some high standards, and Joe wanted to straighten that mess out, and to that end he did several things.

Now, everybody was part-time in the County Attorney's [Office], including the county attorney himself. Although Joe worked full time, it was a part-time job. It was always thought that some lawyer would stroll over there a couple afternoons a week and take care of it. That was a totally obsolete concept by the time Joe took office, it was that concept that had left such a mess when his predecessor was trying to actually run it that way. So Joe devoted full time to it, and having been in the legislature and having some skills and some connections, he got a supplemental appropriation from what was then the Governor's Council, which could do that when the legislature was out of session, and Joe started trying to get some talent in there to run the shop.

And George, I think, was interested in maintaining some kind of public connection. Several of us were interested in getting the trial opportunities, and there's no better place for a young

lawyer than a prosecutor's office, because those cases get tried. And you don't have to beg some private client who's paying a fee to let you try your first case, because every one of those guys will say, "Can't I have the guy who's tried twenty-five cases? Why do I have to use you?"

So anyway, George was already there. In about May of '71, as the academic year was winding down, Arthur Stilphen, the recently deceased Arthur Stilphen, who was working for Joe in that office, said to me, "We're going to get some money and it's going to hit just about the time the school year ends. What are you doing for the summer." And I said, "I don't have any plans for the summer." He said, "Why don't you come to work for us?"

MH: So you had a nine-month appointment.

GP: Right, I did, I had the regular standard nine-month academic appointment, and June, July and August belonged to me. And so right around the beginning of June the Governor's Council gave Joe some money and it was arranged, strictly as a paperwork matter, that I would be appointed as a special assistant attorney general, because there was actually no job slot in the county attorney's line up, which gave me a whole lot of false impressiveness about, you know, it was like they're sending a special assistant attorney general in here to clean up this mess.

And so George was already there, and had been there since, I think, right after January. And it was about that time that Al MacNichol, who had been valiantly trying to hold the place together before Joe got there, finally decided he'd had enough and left. Don Lowry was in there on a part-time basis at the time, because Don was transitioning from kind of a real estate office practice to what he then made into a very impressive personal injury practice. Chuck Rimmel was there, and Chuck is a first rate lawyer, Kelly, Rimmel & Zimmerman and, I'm sorry, I'm blanking on another – John Westhoff I think was in there at the time. Anyway, there were some very good lawyers.

And I was able to work full time under this scheme, because I did have a nine-month appointment, I didn't have a law firm wanting to know where I was every day, and I that's how they budgeted it, so was down there Monday through Friday, start to finish.

MH: Just for the summer months?

GP: Yes, just for the summer months, because it was a full time job at the law school. I suppose I could have conjured up some way to get one afternoon a week to go try a couple of cases out of the thing, on the grounds that it was broadening my professional skills or something, but no, once school started I just resigned and went back to school.

MH: So were most of those days spent in court?

GP: Yes, there was a pile of files that needed attention, and I said, many of them were old, and I don't think there was a day that I didn't go to court; there wouldn't have been any reason to go there if you didn't go to court, really. It was kind of exciting and a little intimidating for

somebody from an academic environment, the prep time was a little short.

MH: My son interned for the court in Bangor, the District Court in Bangor, and he was remarking, he was a high school student at the time, but he said it was remarkable to see how quickly people could go through the files and stand before a judge.

GP: You got to be a quick study, if you're not a quick study you don't want that job.

MH: So who were you looking at in terms of, were there frequently the same people on the other side, defending the -

GP: Yes.

MH: Who were the main defense attorneys that you were looking at?

GP: Oh, well, boy, I'll tell you, one of the best was Franklin Fox Stearns, just an old warhorse, just defended the heck out of those cases. In fact, the late Harry Glassman, who was the superior court justice here for many years, said to me one time that Frank Stearns was the most important lawyer in Maine because every time Harry sentenced a guy after Frank defended them, he did it with a clear conscience, because if Frank couldn't get him off, he was guilty. So Frank was definitely one of them, and Jim Connelan was another, and a lot of guys who have just recently died, Teddy Barris and Carl Trynor. That was the early days of Dan Lilley, who had just, Dan was coming onto the scene.

MH: Is still one of our major defense attorneys in the state.

GP: Absolutely, Dan is a gifted, brilliant, criminal defense lawyer, and he was I think, and I don't want to pin it down too closely, but my sense was that he was in his first couple of years at that time, and was impressing everybody then. Larry Mahoney was still doing some criminal defense work I remember. And Al MacNichol, having left the prosecutor's office, immediately started doing some defense work, and Basil Latty, who was another guy who had been around for a long time.

MH: Is that L-A-D-D-I?

GP: No, L-A-T-T-Y.

MH: L-A-T-T-Y, you will get a transcript after this is over, help us with the spellings.

GP: Oh, well great, I'll be interested to read it and see how stupid I sound.

MH: Was this a kind of arrangement where, would it just be the attorney working with the client, or did you work in groups of attorneys on any cases?

GP: Well, it varied from minute to minute. The office was ridiculous. Nobody had an office, I mean we just didn't, we had a space in which there was something resembling an outer office, it might not have been as big as this room.

MH: Which, for purposes of the tape is about, I would say it's about 18-by-12.

GP: Where the very, very talented but only legal secretary for the whole County Attorney's Office sat. And then there were three rooms set up, two of them were furnished as offices with desks and chairs, one of them was furnished with I think a table and chairs, and there would at any given time be more people than that looking for a place to work. And so over the course of a day, you might find yourself sitting briefly in all of those rooms, interviewing a detective, or interviewing a witness, or -

MH: (*Unintelligible*).

GP: Yes, exactly. And then, if you're in the courtroom, you didn't need it, somebody else was going to be using it.

MH: Where was this office?

GP: In the Cumberland County Courthouse, and it was on the second floor, out the back end of the old superior courtroom, and had its own door so you could go from, one of those three rooms had a door that opened into the superior court room, and then the other door took you out into the corridor, right across from which was the other door to the back of the superior court.

MH: What you're saying is that the only advantage to this office was location, location, location.

GP: Exactly right, and we had no books, we had to go upstairs to the Cleaves Law Library if we needed a book, but to be honest, ninety-five percent of this didn't need any books. When you've got a run of cases, there's a small number are very serious cases and a large number of not very serious cases, and a lot of that stuff is all fact driven, and the law isn't going to change from case to case. You might occasionally get an interesting point of evidence law, but it's not like there's a lot of scholarship involved in the vast run of the cases.

I remember George had one particularly long-running and challenging Superior Court trial, in which I did not get to sit in on at all, which I regret, and I do understand from Joe Brennan George did a fabulous job with. It was a very complicated fraud case with forensic accountants testifying on both sides, and George really had to understand a whole lot of accounting intricacies to be able to make the evidentiary connections to show how this set of books had been cooked or whatever the case was about. But that was not the usual case; the usual trial was less than a day long, sometimes less than half a day long.

MH: What were the kinds of topics that you would be dealing with?

GP: Mostly what I was dealing with, I mean I was the new guy, I had a lot of drunk driving cases and a lot of petty theft kinds of cases, the kind of -

MH: Breaking and entering.

GP: Breaking and entering kinds of cases -

MH: While drunk.

GP: Yes, and the attorney general of course did all of the homicide cases because, and still does I guess, and so the most serious cases we would have would be an aggravated assault kind of a case, or a very serious economic crime like the one George tried. But most of it was on horseback, grab a file and deal with this, and it's, you know, short lobsters, I remember trying some short lobster cases.

MH: Interesting. So after that, you're back to the law school?

GP: Back to the law school.

MH: Back to the law school, and you say you continued on the faculty with various different statuses over a period of seven or eight years.

GP: Well, I taught for five, and I was technically on the faculty for seven.

MH: And private practice?

GP: I started in '73.

MH: In your own firm?

GP: No, I went to Preti Flaherty in 1973, and I was there until 1980 and several of us left Preti Flaherty to make a smaller firm, and this is it.

MH: Tell me about your later contacts with George Mitchell, after this, and I really appreciate that characterization of the county attorney's offices. I haven't been able to get that in any other interviews. Actually, I have an appointment later today with a young man who was, who's now a lawyer here in Portland, who was an intern in that office, so I'll get a, I'm not supposed to give the names of people until they sign their release documents, this is completely confidential, so.

GP: Oh well, I release you, you can say anything you want about me.

MH: All right.

GP: Well, one of the interesting sideshows there, which didn't directly involve George, but Joe was a collector of talented people. Of all the politicians I've known, Joe Brennan was the least threatened by having smart people around him. And David Flanagan and John O'Leary, who were, I don't know whether they were in college at the time but they hadn't, neither of them had been to law school yet, they were in there all day every day as some kind of interns.

MH: And ended up going to BC Law, as you did, I believe.

GP: David did, I guess, I hope I'm not breaching any of David's confidences, but David asked me, he said, "You graduated from BC and you teach at Maine, and I have an opportunity to go to both. What would you recommend?" And I gave him my answer about the strengths and weaknesses of both and he went to BC. But he and O'Leary obviously were, as advertised, two brilliant guys who, notwithstanding the fact that they hadn't yet been to law school, were immensely helpful, but that was just all part of the energy around there. When you talk about 'how many chairs did we have,' we had those two guys to accommodate, too, and they couldn't go in a courtroom, so that was that.

But the next time I really had any, other than a 'how are you doing' interaction with George was the Democratic primary election in 1974, which I wanted to go to Australia for because Joe Brennan and George Mitchell were the candidates. And I had known Joe longer and better than George, and so instead of sitting it out, which might have been the smarter play, I did campaign for Joe, I was an original Brennanista, as they're sometimes called, and as we all know, George won that primary.

And one of the many things that have impressed me about George Mitchell was that it was only days before George called me. Now, I grew up in Boston, as we've earlier discussed. You're on the wrong side of a primary in Boston, and you are shunned unto the nth generation. They have the unity breakfast the next day, and that's the last time they talk to you. George genuinely, quite persuasively said, "Look, I understand, Joe Brennan's a quality candidate and he's your friend, and I'd have been disappointed in you if you hadn't supported him. But now that I've won this thing, I need your help and I hope that you'll get engaged. And actually, this is not a perfunctory call." And I was flattered to death that he would even call me, and I don't claim to have had a lot to do with that, only maybe it's my fault he didn't win, but I think Longley was a phenomenon of his time.

But I remember, for example, driving to Skowhegan in the snow with George, so that he could give a fifteen-minute talk to the Somerset County Democratic Committee, and then drive him back. And from time to time wondering what the cost benefit calculus was of that, but to be able to spend several hours in a car talking with George made it all worthwhile for me. I don't know that it was worthwhile for him. So that was the next time that I really had any dealings with him, other than just sort of socially in the square.

Then he became the United States attorney, in the Carter administration.

MH: Right, that would have been 1976 or, right, that would have been January of '77.

GP: And I went to Preti Flaherty July of '73, and from '73 until the early '80s, I did criminal defense work, maybe about ten percent, never more than twenty percent of my practice, and I eventually stopped because I realized you either have to do more of it or you should do none of it, because there's so much you got to keep up with, with all the search and seizure laws and all the drug laws and all the stuff that was going on. And so I haven't done any of it now for twenty-five years, but I was doing some federal criminal defense work while George was the United States attorney, and George and I tried what I think was the first major marijuana importation case in Maine.

And by major I mean that George had brought into the courtroom and piled around the well of the court, the gate, the bar of the court, all of these bales of marijuana. It looked like New Orleans and Katrina, it looked like the sandbags had been piled up. And I'm trying a case sitting in front of a wall of bales of marijuana. I don't think any of the testimony mattered a lot, but in the course of all of that, I got to work with George because, for example, we had to go to Boston, to the evidence locker of the DEA, and so we got to go on another long drive.

I happened to be a participant in a group that had Celtics season tickets at the time. I said, "George, at least we ought to go on a day when there's a game. And so we went to dinner someplace and we went to the game, and then the next day we had a conference with Judge Gignoux about some pretrial whatever. Well, George being George was absolutely determined that before we did anything more on the case, he was going to pay for that ticket. And you know, I said, "You don't have to," but he insisted; I respected that. And so as luck would have it, (and these tickets were cheap in those days, this is pre-Larry Bird tickets, I think it was like seven bucks) but as Judge Gignoux came out, as was his habit, to greet counsel, to invite us into his chambers, there's George handing me seven dollars. And Gignoux's just shaking his head saying, "I don't even want to know what this could be about."

But it was in that case also, and a little insight into the character and quality of George Mitchell, we had a two-day, I think, suppression hearing. This case was all about the search, because obviously if the search was good, those bags were going to convict my client. And the search really had some problems, and George, to his great credit, recognized that the search had some problems. And the trial, to the jury, was anti-climactic after the two-day suppression hearing before Judge Gignoux, and they had done, not, George hadn't been involved, but the DEA guys and some state law enforcement people had really done a lot of searching before they thought, 'maybe we ought to go get a warrant.' And I think even Judge Gignoux thought that was kind of a fifty-fifty call, and he eventually decided against my client in favor of the government and the rest is history.

But I was having a real problem with one of the state law enforcement guys, I think it was a sheriff or deputy sheriff from Sagadahoc County or someplace, just getting him to come in and testify to some small fact that I needed to connect my dots. And he wasn't a key witness, but it was a fact I really, without which I could have a problem. And so I was really starting to get

nervous and, how am I going to get a sheriff here? And, can I get the subpoena served? And all the rest of it, and George says to me, "What's your problem?" I told him what my problem was. He said, "Well is the fact you're trying to prove disputed?" And I said, "I don't think so, nobody contested, I just need to prove it." So George says, "Well just relax and wait a minute." He went and called the sheriff, the sheriff said, "Yeah, that's the fact." And George came back, he said, "I'll stipulate to the fact, don't worry about the sheriff, so we just go on from there."

Now, not everybody does that, that's the kind of thing that lets you know that George Mitchell was a special guy. It was all about getting it right.

MH: It saved you a lot of work and -

GP: Yes, and it was the fair thing to do, and so he never hesitated to think about whether he had an advantage here and that this fifty-fifty motion might go down on this little pebble of evidence that I couldn't get, it was, no, we're not going to play that way, either we're going to win it straight up or we're not. And that's the kind of thing that makes you a lifelong fan of a guy like George Mitchell.

So anyway, we tried the case and I lost and he won, although there's another little thing here that maybe is amusing only to me. In the 1974 State Convention, Joe Brennan took out after George for having hired a Boston advertising agency – it was whatever the current incarnation is Jack Connors' thing – but it was Hill, Holliday, Connors and Cosmopolos. And Joe's refrain was that, "I'm here to get jobs in Maine, and George Mitchell is going to Boston to hire Hill, Holliday, and so Hill, Holliday, Connors and Cosmopolos" was at the end of every paragraph of Joe's speech, about how George didn't respect the people of Maine, or some such thing. Didn't really get him anywhere.

But then we're drawing the jury for this case I'm talking about, and George had been running all over the place as U.S. attorney, every high school and Rotary Club, talking about the evils of drugs, I mean it was 'reefer madness.' And so I persuaded Gignoux that there was a risk that the jury pool would contain people who had heard or heard about some of these speeches and that my client would be prejudiced, and we needed to have the jurors individually interrogated about whether they had any knowledge of this. And of course you can't ask the question like: have you ever heard George Mitchell give a speech about the evils of drugs?

So Gignoux is asking the jury questions, and George has just lost to Longley, Gignoux is asking the jury questions about whether they know George Mitchell. And one of them after another is saying, "Oh, no, never heard of him, no." So the chairs are on wheels in the court, and I rolled my chair over to George and I just said, "Hill, Holliday, Connor & Cosmopolos," and he had all he could do not to just laugh out loud with all these jurors watching. So that's the end of my trial story.

MH: Were you involved at all in the Senate race?

GP: Well yes.

MH: From '80, it really went from '80 to, what, April, May of 1980 to November of '82.

GP: Yes, I was still at Preti Flaherty in the early part of 1980, we left there in October, and there's a story I want to tell you about we'll go back to, before that, but I was aware that my good friend Joe Brennan was going to be appointing somebody to the United States Senate. And of course my partner at the time, Harold Pachios was then running for Congress, and he's George's very good friend – I'm sure Harold either has been or will be interviewed. I don't know if you've got enough bytes on this thing to get all the Harold stories. But in any event, I had some 'peeking through the window' kind of perspective on this unfolding process of George getting appointed to the Senate.

And one of the things that I really treasure is something that means a lot to me, is that George called me personally, after he'd been in the Senate a while, and he said, "I have something really important that I want you to do for me before this '82 campaign." And it's hard for anybody who isn't old to put this into context, but the right wing hate machine wasn't then what it is now, and an outfit called NCPAC, the National Conservative Political -

MH: - Action Committee.

GP: Action Committee, which I guess has its descendants still running around in Washington, but they were starting these negative, often false, smear campaigns, hostile ads, and running them in various media markets against selected candidates. George anticipated that they might figure that, as an appointed senator, he might be vulnerable to some of this stuff and that they could rescue the seat for the Republican, whoever it turned out to be. I never thought they were associated directly with Dave Emery, I think they were just free-floating haters.

MH: It was organized, if I recall, by Richard Viguerie, who was the direct mail man for Richard Nixon.

GP: Right, and there was another guy whose name I have forgotten who was kind of the front of it all. But in any event, what George asked me to do was to go and meet personally with the managers of the three TV stations, 6, 8, and 13, and endeavor to persuade them that it would be beneath them to be airing this trash, it's not the Maine way: 'we don't do that here in Maine.' And I was somewhat intimidated at the responsibility, flattered to death that George had that kind of confidence in me, and so I went off to meet with the three station managers, which was an eye-opener kind of experience.

The first one I met, although I didn't know it at the time I subsequently reasoned was a Mitchell supporter, he wasn't having too much trouble with this, he kind of had a little twinkle as he was listening to me, like you're preaching to the choir and, that was a very uneventful kind of a meeting.

I went to the second station and the station manager there very carefully explained about how they would take every person who came forward with a proposal to buy time on the merits, and they'd have to work it into their budget and gave me this whole thing, and I'm thinking, 'this is not going well.' And at the end of it he said, but, he said, "There's only so many minutes in a day, we do have to make choices." And I said, "Thank you, sir," and I got that.

So then I went to the third guy, and he gave me this sophomoric first draft Fourth of July speech about the First Amendment rights of the media. So I had to go back and tell George, "I think we're okay in two out of three, I don't know about the third guy," but that was really my only significant involvement in that Senate race, that's what it was.

MH: Did you keep in touch with him while he was a senator?

GP: Not as much as I wish I had, although I don't think it would have been easy. I got to keep in touch with him indirectly, because his niece, Mary Mitchell Friedman, was here for several years. And in fact, it sounds odd to people now but around here we always refer to him as 'Uncle George,' because Mary would always call him Uncle George. And I hear myself now, I mean Mary's been gone for years, and I hear myself referring to 'Uncle George' and people are looking at me.

MH: Now Mary must, she's a daughter of which of the -

GP: Robbie.

MH: Robbie's, so Jim and Sue's [*sic*] sister.

GP: Yes, yes.

MH: Okay.

GP: And so I would vicariously try to keep in touch with George, and he would flatter me from time to time. When Clinton got elected I was one of the people he called to ask what I thought about his choice for U.S. attorney and, you know, I think it was more than a courtesy call, but even if it was only a courtesy call I was grateful to receive it. But I really didn't have ongoing, continuous contact like people like Harold Pachios and Shep [Lee] and those people did.

MH: Well tell me, let's go off of George Mitchell for a second, and tell me about the firm, is the firm a general practice of law, or do you focus now on specific areas? I mean the firm is now how old?

GP: Twenty-nine years in October.

MH: You must have quite an alumni club of attorneys and people like Mary Friedman?

GP: Yes, yes, that's true. We started out and for - I think we're still able to although it's getting harder in this market, we're trying to maintain the idea that we do big firm work in a small firm setting. And so when you say general practice, we don't do any family law, domestic relations, we don't do any criminal law. We do do some plaintiffs' bodily injury, that kind of work. Most of our medical malpractice work has been on the defense side. We still do some insurance defense kind of work. Most of what I do is business disputes, we call it business litigation, but many of them get resolved in negotiation or mediation or arbitration or whatever, and so it's probably a predominantly business related practice, more on the dispute resolution side than the planning side. We don't do a lot of permit applications for developers, we're more likely to be involved in some dispute that arises. We've done a lot of construction work, representing general contractors, say, but that's a lot of what we do.

MH: Any government relations and lobbying kind of functions?

GP: No real lobbying functions; the geography doesn't work. I mean you really got to be there to do that. We do estate planning and that kind of stuff for individuals. Government relations, we do represent people in disputes with towns, you know, planning boards and zoning boards. I did a lot of work, I represented the town of Jay for many years in their environmental issues; frankly the Department of Environmental Protection was more aligned with IP than public interest, in our opinion, in those days, and the town just took it upon itself to enforce the environmental laws on its own, and so I spent a lot of time in the DEP and in the federal court and in the state court, so there are those kinds of governmental interactions. But we don't do the political lobbying stuff, we leave that to the experts.

I wanted to tell you one story about [] George's public life, because nobody but me knows this story, and George. During the later days of the Carter administration, George and I were having lunch at F. Parker Reidy's, which is also not there anymore, and we're just having lunch and talking about this and that, and George said to me, this is close to a quote, as close to a quote as you can have after all these years, he said, "Well, it looks like I'm going to have to take that judgeship up at Bangor that Muskie's after me to take." He said, "I don't want to go back to the law firm, and my political career is over." That is very close to a direct quote.

Now on the morning after the Irish Easter celebration of George's great work there, I happened to be able to go into my classroom, because I've been teaching part-time at the law school ever since I left full time, I was able to go into my classroom, and I like to try to tell law students, "Don't be planning your career to precisely, because you don't really know where you're going to end up." And I was able to go in there and tell them, "There was this lawyer from Waterville, Maine, who told me that his political career was over. You may have been reading about him in the paper, he's been in Ireland, and you just don't know how things are going to go."

And so I have that story from George that I now use at the law school just about every year, but I'll never forget, "... my political career is over."

MH: At the end of these interviews I usually, this is a really wide open question, is there any topic or any other story about George Mitchell you'd like to tell me that I haven't given you a good opportunity to bring out?

GP: Well, let me see.

MH: We've got some very good ones here, and I don't mean to make light of them.

GP: No, I dread the thought that in about an hour I'm going to slap myself in the forehead and say, "Well why didn't you tell about [that]?"

MH: If that happens, I'll leave you my card and I can come back, even if I'm back only for fifteen minutes to get a story, I'd love to come back. These have been very good, and they've actually, there are a couple of us doing interviews in Maine now because we're trying to finish this, at least the interviewing stage by the beginning of next year, but this has really filled in some gaps in terms of the puzzle, and I do appreciate it.

GP: Well thank you very much; I'm honored to be included.

MH: Thank you, Gerry.

End of Interview