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Interview with Kermit Lipez by Mike Hastings

Kermit V. Lipez

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George J. Mitchell Oral History Project

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Kermit V. Lipez
(Interviewer: *Michael Hastings*)

GMOH# 172
November 20, 2009

Mike Hastings: This is Mike Hastings, I am the interviewer today. It is November 20, [2009], Friday, I'm in Portland, Maine, at Number Two Monument Square at the chambers of Judge Kermit Lipez. I'd like to begin if I could by asking you to state your full name, and to spell your surname.

Kermit Lipez: My full name is Kermit Victor Lipez, L-I-P-E-Z.

MH: And your date and place of birth?

KL: I was born in Philadelphia, Pennsylvania, on August 18, 1941.

MH: And your father's full name and your mother's full name.

KL: My father's full name is Abraham Hyman Lipez, and my mother's full name is Beatrice Mayerson Lipez.

MH: How do you spell Mayerson?

KL: M-A-Y-E-R-S-O-N.

MH: You were interviewed in September of 2001 for the Muskie oral history project, and the interviewer, Andrea L'Hommedieu, asked you a number of questions about your early years in Pennsylvania, but there wasn't much there on your mother and father. Can you tell me a little bit about their background? Were they descended from other people in Pennsylvania, or where did they come from and how did they end up in Lock Haven, your home town?

KL: My father actually was born in Russia, in a town called Lida. Actually I think, more precisely, it's probably Lithuania, I think it's one of those areas where the border kept changing, but the town was Lida. And his father, who was in the Russian army and who basically fled from the army at the time of the Russo-Japanese War, that's a fairly familiar story, his father came to the United States probably in around 1901 and found his way to Lock Haven, Pennsylvania. My father's father, his name was Max Lipshitz actually, he became a peddler – again, a somewhat familiar story – in central Pennsylvania, and then he earned a little money and then sent for his wife, Ellen, my grandmother, and my father, who was two, and at that point there was a younger sister Ida who was about six months old, and so they came to Lock Haven to

join my grandfather.

And so my father, from the age of two, grew up in Lock Haven, Pennsylvania, where he went to the local high school, and then went on to the University of Pennsylvania, the Wharton School, and took a year off to earn a little money so he could go back to law school. And then he went to the University of Pennsylvania Law School and while he was in law school he met my mother, who was born in Philadelphia, and her mother had come from Russia as well. I think she came from the Ukraine, and her name was Esther Russakoff and she came here, I think, when she was a teenager. And my mother was born in Philadelphia in 1905, my mother was a twin, and she and my father met on a blind date, when my father [] was probably in his second year of law school, and they fell in love, eloped.

And eventually my father, he graduated in 1929, which was not a great time to be graduating from law school, and he tried to make it as a lawyer in Philadelphia but it was just impossible for him. And he got some, turned out to be good advice, somebody told him, you should go back to your home town where people know you and try to set up a law practice. And so he went back to Lock Haven and set up a law practice, and he was there for a little while without my mother, but then he sent for her and she joined him there. Over time my father established a very successful law practice in Lock Haven, and eventually became the county judge in Lock Haven, so he was a judge, which was part of my growing up experience. [p/o]

MH: How often did he have to run for reelection to be judge?

KL: It was every fourteen years, as I recall.

MH: Fourteen years?

KL: Yes, that's correct.

MH: I had no idea that it would be that long.

KL: Well they treat judges a little differently, and he was first appointed to the position, the incumbent judge in Clinton County died in office and my father was appointed, I think this was around 1954, my father was appointed to fill that position. Then he had to run, and what you could do at that time, you could run on the tickets of both parties, so my father was successful on both, although he was Republican, he won on both the Republican and Democratic tickets, and so that sealed the deal for him. But I have very fond memories of campaigning for him as a kid; that was great fun.

MH: What did that involve?

KL: Well, among other things, I can remember Lock Haven had this tradition of the farmers' market, and everybody would come in from all corners of the county to the market on Saturdays. And I remember they arranged to put one of these like sandwich boards over my head, so I sort

of walked through the market with campaign posters for my father, everybody thought, 'oh, what a cute kid,' and sort of doing that stuff for my father. So I was the kid campaigning for his father, and I don't know that I did much more than that. I'm sure I helped stuff envelopes and distribute flyers and things like that, and it was very exciting, I have very fond memories of it. And that was really, I guess you could say, my introduction to active politics.

I know fourteen years later my father was unopposed, and in fact today in Pennsylvania I think they have what's called a retention process, so that the voters just decide up or down whether they want to keep you as a judge. That was not true then, I think he had to run again in what potentially could have been a partisan election, but he was unopposed as I recall, the second time around.

MH: Brothers and sisters, did you have -?

KL: Yes, I have an older sister Joy, she's nine years older than I am, and she is a very talented artist, and she has a Ph.D. in art education from NYU, but she's also a studio artist, she paints as well as teaches. She teaches young aspiring art educators, and she now does that at Columbia, and she lives in Scarsdale, New York, and we've been very close over the years, she's a wonderful, wonderful woman.

MH: In your interview in 2001, you mentioned that at some point you worked at a camp in Maine. What did the Lipez family do during the summer times, was that a common thing when you were growing up, that you'd go off to camp?

KL: Well no, [but] going off to camp was part of my growing-up experience, I went to a Boy Scout camp not far from Lock Haven where I grew up. I think actually, as a matter of full disclosure, even before that I went off to a camp in Vermont, at the age of nine, and my sister was the swimming counselor at the girls' camp, her boyfriend was a counselor in the boys' camp, and they thought it would be great if I could be in the boys' camp. And I did a lot of sports, I enjoyed it, they thought I'd be an ideal camper. But they didn't reckon on the fact that I was going to have an issue with homesickness, and so I spent a lot of time crying on my sister's shoulder, and I think I ruined the early part of her summer but I finally got my act together and it ended up being okay. So my initial camp experience was not great.

But then when I was a teenager I went off to a camp in Pennsylvania as a waiter, which was a good experience. Then after my sophomore year at Haverford College, the Haverford tennis coach was the tennis counselor at Camp Kennebec here in Maine and he needed some young men, this was in the boys' camp, to help him with the tennis program, so he invited me to come to Maine to be a counselor at that camp. So that was my first time I'd ever been to Maine, and I really loved it.

MH: I'm assuming that Camp Kennebec is somewhere near Augusta, but that's not always true, you can't always tell. Where is it?

KL: You're absolutely right; it was a Belgrade Lakes camp, so it was very close to Augusta and Waterville. And I had a wonderful experience, I was a decent but not a great tennis player, and I do remember that some of the young campers there were from Westchester County and they had gotten a lot of tennis lessons from these very fancy pros at some fancy Westchester country clubs, and they were frankly better tennis players than I was, so it was a little hard to get them to try to take lessons from me when they could actually beat me. I had a great time, it was a wonderful summer, and it was an experience that I remembered very fondly when some years later I would have a chance to think about coming back to Maine.

MH: So you go to Haverford. Were you coming out of, did you prepare for Haverford at public school, or private school?

KL: I went to Lock Haven High School.

MH: What were your activities in Lock Haven High School? You were an athlete.

KL: Well I played, yes, I did, I was on the basketball team all through high school.

MH: Boys State?

KL: No, I was involved in Key Club, I was president of the Key Club, I was the class president, I did some acting, you know, the usual range of activities for a high school kid, and had a very good experience there. I enjoyed Lock Haven High School, [although] it was academically, I have to say, very weak.

MH: When did you find that out?

KL: Well, it became very apparent to me early in my experience at Haverford. The moment of truth came in my freshman English course, when the professor told us, to my dismay, that every week we would have to submit a five-hundred-word essay on a book that we had read, and I remember saying to myself, "Five hundred words, I have to write five hundred words every week?" That seemed like a lot to me, because at Lock Haven we hardly did any writing at all. As a senior in high school I was still focusing on spelling and grammar. It was not all bad, but it was a somewhat limited educational experience in that sense. And that was still an era when schools like Haverford were accepting a fairly high proportion of private school students, so I did sense that classmates who had been at Exeter and Andover or Georgetown Friends and schools like that really had had a much better education than I had coming in. So I had to scramble my first year or so to catch up, but that wasn't all bad either.

MH: What drew you to Haverford, why Haverford and not Swarthmore or Pomona?

KL: Well, there was a lawyer in Bellefonte, Pennsylvania, named John Love, who was a good friend of my father's, and he had been a Haverford graduate and so I think he had spoken to my father about it. Because my mother was from Philadelphia, my father had spent a lot of time

there, they already knew about Haverford, and my parents, although we are Jewish, my parents had always thought very highly of the Quaker tradition. They thought that the Quakers made a lot of sense in their approach to life and the way they approached their worship. They liked the values of the Quakers, and they liked the idea of me going to a Quaker school. As to why Haverford rather than Swarthmore, I suspect it was probably just that association with this lawyer, John Love, who had gone there.

MH: Haverford is now considered to be a very strong school. Maybe it was then, but a very strong school in terms of social activism and the like. Was it when you attended?

KL: Yes, yes, that was part of the Quaker tradition. They have a very strong sense of mission, they believe that – I shouldn't presume to speak for the Quakers, but this was always our sense – that they have a strong sense that every individual has a responsibility to contribute to the larger society, and to try to do what one can to make life better. And so there was a, yes, there was a strong sense of social activism when I was there.

MH: By the time you finished, did you consider yourself a good writer?

KL: I was certainly a much better writer than I was when I entered. And I soon realized that five hundred words really wasn't a lot, so I did become comfortable with writing. And I think that was one of the better aspects of my experience at Haverford, I was an English major, and I took a lot of other courses that required me to write, so I got pretty comfortable with the exercise of writing by the time I left, and discovered that I had some ability for it and actually enjoyed it a lot, and that's continued to be an important part of my life. My job requires me to do a lot of writing, of course.

MH: When I was preparing for this interview, I thought to myself, I wonder why he wasn't in the army or in the navy or something, and then all of a sudden I realized you went to Haverford, so there probably wasn't a lot of pressure in that regard. But many people who graduated from college in the period that you did would go for a couple of years, so it was kind of a quiet time in the, or toward the end of the Cold War. Or not the end of the Cold War, but. You must have graduated in '63, '64, somewhere in that period? So was that ever on the horizon for you, spending some time in the military?

KL: No, [these were the years] of the student deferments, and so I had those student deferments and that's why I was not in the military.

MH: And you immediately applied to law school out of college?

KL: I did, I had a, well that was an interesting period for me. I did go directly to Yale Law School, and I decided the first week or so that I wasn't really sure I wanted to be in law school, so I actually withdrew from law school after about a week. [I] decided I was interested in journalism, and believe it or not I went to New York and walked into the *New York Times* and said, "I'd like to work here," which was almost impossible to do, but I was interviewed by this

woman who was the deputy to the chief of personnel for the newsroom, and literally while I was interviewing with her, she received a message that a news clerk at the foreign desk had some family emergency, or maybe he had received a draft notice, anyhow, he had to go. And she said, "Well look, this is very unorthodox, we have a long, long list of people who want these jobs, but you're here, I need somebody, I think you could do this. Would you like to do it?"

MH: Did you actually walk into the *New York Times* cold, without a referral?

KL: Absolutely, absolutely, that's exactly what I did. I literally walked in cold and -

MH: And what does a news clerk on the, was it you say foreign affairs desk?

KL: It was at the foreign desk and, well my job was -

MH: Like Max Frankel, or -?

KL: He was there then, yes, but the chief of the foreign desk was a man named Emanuel [J.] Friedman, Manny Friedman, and my job was to, if you're a news clerk you're one step up from a copy boy, so I was already one step up on the rung. And so I would come in very early in the morning, and all these proposed stories from correspondents around the world would come in overnight, and it was my job to place them in a certain order on this board that was adjacent to Emanuel Friedman's desk, so that when he came in a bit later in the morning he could quickly get a sense from his correspondents around the world about what stories they were proposing to file, and that he would make judgments about what stories he thought would be best to cover that day, and then he would communicate with his correspondents. And then after that I would move to another desk and over the course of the day the correspondents would begin filing these stories and the copy boys, copy girls, would drop the text of these stories into a basket, and then it was my job to then distribute this copy in a certain way to the various editors who were sitting at this big desk.

So my job was not intellectually particularly demanding, it was a somewhat mechanical job, but I got to sit in the midst of some rather remarkable people and listen to them talk about their work, and it was a fascinating experience. I remember that, well I have many memories, that's not what this is about so I won't belabor that experience, but there was one particularly interesting episode that I recall very well. This was a time when David Halberstam was the young, celebrated correspondent in Vietnam, and he was fearless, he was filing some remarkable stories, but he was very controversial at the foreign news desk because all these meticulous editors said his copy was terrible.

MH: He used to write in run-on sentences, as I recall, he would go on, a sentence would go into a paragraph, a long paragraph.

KL: Well it was their view that they had sort of made him, that is, the editors had, because they were the ones who had to really edit his copy in a way that would make it workable for the

newspaper. And so they, I don't know whether some of them were frustrated reporters themselves, but it was not a comfortable relationship, I remember that. But he was a very admirable person, for sure.

MH: Did you learn about how leaks are managed, I mean did you get into of that kind of thing, or anything about the sourcing of stories or anything while you were at -?

KL: No, I really do not recall that.

MH: No, I mean I just, I've never worked in a news room, but I've often wondered what it must be like to be on that side of the process and have people trying to manipulate the way things are presented.

KL: No, I didn't -

MH: Of course in the foreign affairs desk, it probably isn't as frequent. You did it for a year?

KL: I did it for just about half a year. I had two - This was a period of exploration for me. My other thought was that maybe I wanted to be an academic, I was very interested in an American studies program at Yale, and I thought maybe I wanted to be a professor. So I ended up spending the second half of the year at Penn State in a graduate program in English, and I actually wrote to Yale Law School and said that, it was very good of you - they told me I could come back, they held a place for me - and I told them, 'thank you very much but I think I'm going to go on to graduate school.' And then I did that for a number of months and I had this revelation, you know, I'm not sure I really do want to be a university professor, maybe I really do want to go back to law school.

So then in the spring, I drove back to New Haven to see a man named Dean Tate. I remember him well, he was the dean of admissions at Yale Law School, and his reputation was he could be rather severe, demanding, and could be difficult to persuade to your point of view, and so I thought he might be reluctant to say, 'you can now come back to law school.' So I drove back there, I prepared my plea, and I made it and I just remember him looking very hard at me after I was finished and saying, "Well, do you really mean it this time?" And I said, "Dean Tate, I do mean it, I will not let you down." He said, "Okay, you can come back." And I was thrilled, and so I went back to Yale that fall and had a wonderful experience, it turned out to be the right decision. But I needed to do some exploring so that I felt that law school really was the right choice for me, and it turned out to be the right choice.

MH: Any particular courses that you particularly enjoyed at law school?

KL: Not surprisingly, I was drawn, like a lot of law students I think, to the constitutional law courses. There was a drama and a significance to those that immediately appealed to me, and I have to acknowledge I [was] less drawn to some of the technical business law. It was pretty clear to me that was not the direction, whether it's commercial or transactional law, that was not

the direction that I was going to take. But I really loved law school, it was a great, it's a great place.

MH: Now both you and George Mitchell, upon finishing law school, went to work for the Justice Department. Can you tell me how you got that job and what were your days like when you were performing it?

KL: Yes, I was in the Civil Rights Division of the Justice Department, and I was drawn to that work partly as an outgrowth of my interest in constitutional law, I took some courses in the Civil Rights area. And I perhaps should mention that after my first year of law school, I actually spent a summer teaching English at Dillard University in New Orleans, an all-black college, and that was an era when it still seemed appropriate to ask well-intentioned young white men and women from the north to come down to try to help with these enrichment programs at the black colleges. And it was a great experience for me, it gave me a kind of close-up view of these ongoing problems in the Civil Rights area, and I think that experience contributed to my decision to want to go to the Justice Department and work in the Civil Rights Division, and that was a good experience.

I only stayed there for a year. I went there at a time when the focus of the Civil Rights Division was moving from education to employment discrimination. A decision had been made that it was time to begin to enforce the civil rights laws dealing with employment. [p/o] The two states that I was responsible for with others were Kentucky and Tennessee. I did do some work in the enforcement of the Public Accommodations Law, [and] some education work, [and] there were cases involving abuse by police officers of defendants and I did a little work in that area as well. But most of my work was on these very large employment discrimination cases, which required us to spend hours and hours and hours pouring through employment records of some large employers in Memphis and Louisville, and looking at files involving job applications and how they had been handled, and promotional practices.

And I have to acknowledge that that work got a little tedious for me. You knew that the objective was important, and there was a lot at stake in breaking down these barriers to employment for minorities, but building those cases was very labor and very fact intensive, and I did not particularly enjoy that kind of work. I did leave after a year. I think the fact that I was doing a lot of that type of work might have contributed to it, but that was also the period when it was the end of the Johnson administration and Richard Nixon had been elected, and it was clear that the enforcement policies of the Civil Rights Division were probably going to change significantly.

MH: So you had gone in under [Nicholas] Katzenbach, was he the AG?

KL: No, Ramsey Clark was the attorney general, and John Doar, who was kind of a legend in the Civil Rights field, had just left as the chief of the Civil Rights Division, just before I went there, and a wonderful man named Stephen Pollak became the assistant attorney general for civil rights. It was clearly a period of change, but I must say some of my most vivid memories,

unfortunately, [involve] the Martin Luther King assassination, and I do remember that feeling that we at the Justice Department were under siege because there were buildings burning only blocks from the Justice Department, [which was] on Constitution Avenue. And I do remember that in the wake of the assassination we were all called back to the Justice Department and a number of us were called upstairs to, I guess it was an office of the FBI in the Justice Department, and they were monitoring the outbreaks of violence in cities across the country. And I remember this big map up on the wall where there were stickers being put on the map to indicate where violence had erupted.

It was a very difficult time, and of course the days afterwards were very difficult, too. And I can remember in the wake of that, walking from my apartment in southeast Washington, to the Justice Department. There were National Guard officers or Army officers on the streets for some weeks afterwards. Those were very difficult times.

MH: You describe your going to Maine as being somewhat serendipity, or based on serendipity, but you never, in the earlier interview, ever got an opportunity to kind of explain that. It looks like a professor referred you to Ken Curtis?

KL: Yes, it's a little less direct than that but at Yale Law School I had become friendly with a professor named Fred Rodell. His son Mike had gone to Haverford. Fred Rodell had gone to Haverford and then Yale Law School. His son Mike had gone to Haverford, I knew Mike a little bit at Haverford. Mike then went on to the Peace Corps for two years, so he and I ended up being in the same class at Yale, along with another good friend named Bill Schaefer. And when I was then at the Civil Rights Division in Washington, Bill was working for COMSAT, and Bill tells me – I had remembered that I got the call directly from Fred, Bill says that's not correct, and I think he's got it right. Apparently Fred called Bill to tell him that he had heard about a possible job with the governor of Maine, Ken Curtis. Another student of Fred's, Walter Corey (who's here in Maine and an important figure in my life in a lot of ways), Walter had contacted Fred to ask him if he knew of anybody who might like to come to Maine to work for the governor. Walter had worked for Ken Curtis, because he had gone directly to Maine after law school.

Fred called Bill, Bill was not interested – this is how Bill recalls it – but mentioned it to me and asked me if I would be interested, and I immediately was, remembering that wonderful summer I'd had at Camp Kennebec. I also was very interested in politics, and really had, I'm not sure why, I'd always thought working for a governor would be a great experience. And so that immediately appealed to me, and so I followed up on it and I got in touch with the governor's office, and I was invited to come to Maine for an interview. Now, I was still working at the Civil Rights Division, but I was starting to look for other opportunities because I was not entirely satisfied with the work I was doing for the Justice Department, and it was pretty clear that there was going to be a change in administration.

In fact, the first time I ever saw Ken Curtis was on television, as I recall, because he made one of the seconding speeches for Senator Muskie at the convention in 1968, that summer, and I think I knew that I was going to be meeting him personally not too long after that because I was going

to come to Maine to interview. And so I did, and we seemed to hit it off well, but Ken also asked me to talk to a wonderful man whom you may know, Al [Albert A.] Mavrinnac, who was a political science professor at Colby College, active in Democratic politics. Ken had asked Al to help him prepare his legislative program for the 104th legislative session, Al was doing that on a part-time basis but Al felt he needed somebody to work with him full-time to help him prepare that legislative program. And so I met Al and we got along well, and I think it was Al who said to the governor, "I think Kermit would be a good person for this position, I would like you to hire him," and so he did.

MH: Looking back over forty years, I find it very interesting that Ken Curtis, whose undergraduate degree was in maritime, as a maritime engineer or some such thing, at Maine Maritime Academy, that he's the one who brought all these enthusiastic, very bright people into the State House. The model that I've seen, before and since, is that governor's office staff seem to be drawn from the people who prove themselves to be effective in the political campaign, or they had had some, or they had shown themselves to be in earlier administrations effective administrators in state government agencies. Why do you think that Ken Curtis brought these people from outside in?

KL: Well, as I understand the decision to do that, Ken's first two years as governor were difficult, and I think he realized that the very able people who helped get him elected as governor, and who then helped him as members of his staff those first two years, were not necessarily the best people to help him govern. It doesn't mean that they were not very capable people and very well-intentioned, but the skills are not necessarily transferable, that is, the kind of political skills that help somebody run an effective campaign, that's one skill set, and then it's a different skill set perhaps to actually do the governing. And I think Ken realized that he needed to supplement the skills of those individuals with perhaps the skills of others who might be able to help him meet his governing responsibilities.

And so that was the impulse, just a little bit of maybe fresh blood, fresh perspective and so forth. And again, that doesn't denigrate at all the folks who helped get him there, but he felt he needed more. And that's why he reached out to Al Mavrinnac, for example, and that's why he was open to having others who did not have a lot of history with him or with Maine, but who seemed to have some of the skills that could help him do what he wanted to do, why he was open to that. He certainly didn't set out to say, "I want folks from Yale Law School"—that just happened to be because Walter Corey had gone there, and that led to Peter Bradford, who of course is an enormously talented and important figure in the history of the state. Peter and I came about the same time; I think Peter literally might have preceded me by two weeks.

MH: For those who don't know him, could you tell me who Peter Bradford is?

KL: Sure, Peter came to Maine to become the federal state coordinator, a position that Walter Corey had had, and Walter was moving on to other responsibilities as I recall. But Peter, from that staff position, subsequently became the chairman of the Public Utilities Commission in Maine, where he served with great distinction. Later, in the Carter administration, Peter became

a member of the Nuclear Regulatory Commission. He's one of the leading authorities in the country on utility regulation. Peter went on to be chairman of the Public Service Commission in New York, and has had a standout career in the whole field of utility regulation.

And he and I worked very closely together in those early years, and his particular responsibility, beyond his federal state coordination responsibilities, was to be the point person for Ken on what was then a very controversial proposal to develop an oil refinery in Machiasport. Peter was the point person on that, and that of course ultimately did not happen. But Peter immediately got involved in those energy and environmental issues. And in addition to his great abilities, I think Ken was drawn to Peter for the Utilities Commission, because Ken wanted to shake things up, and Peter had been a Nader's Raider before he [] went to law school, or maybe while he was there. But he had done some work for Ralph Nader and was referred to as a Nader Raider.

*End of CD One
CD Two*

MH: - in the kind of Jim Farrell's, the congressional project I think he was involved in, wasn't he?

KL: I don't remember specifically what it was.

MH: Who were some of the others that were, I mean you think of, when you think of the governor's office and the people you were working with constantly in the State House, who were the, could you name the top two or three?

KL: [(significant revision):] Sure, well Allen Pease comes immediately to mind, Allen was Ken's administrative assistant for about seven of the eight years that Ken was governor. I spent one year as Ken's administrative assistant when Allen went back to teaching at the University of Southern Maine for a year and then he came back to be Ken's administrative assistant again. Allen was just, he was a marvel in many ways. He had this sort of folksy kind of 'aw shucks' manner, which concealed an absolutely brilliant mind, he's just a very smart man. And he had a capacity to keep in his head all these details about all these very complicated subjects. He was probably one of the three or four people in Augusta who really understood the school subsidy program, educational subsidies, and he could explain it, he understood it, and that exemplified the kind of mind that he had. And he was just a, and is, a wonderful man. So he was the administrative assistant, he was kind of the boss.

MH: Chief of staff, now.

KL: Chief of staff, I guess you'd call it.

MH: In today's terms.

KL: Right, right, and I think Allen, as I understand it, was part of that decision made with

Ken that, we need some help, we need to bring some other folks in here to help us do this job. So I was always very grateful to Allen that he was open to the idea of having people come in, and I was truly an outsider but Allen never treated me like that.

MH: Was there any hostility from others, legislators or things, to the people who were not from Maine, or were not part of the party mechanism?

KL: I have to say I never detected it. There may have been, perhaps there might have been some comments behind my back that I was not aware of, but no, I did not experience that at all. And the other person who was very important in Ken's administration at that time was Neil Rolde, who has gone on to do many great things here in Maine as a legislator and an author. Neil was the press secretary at that time, but I remember he had to leave, he left at some point to run for the legislature, as I recall. Although Neil by that point had been in Maine for a long time, he was not a native Mainer. Neil was originally from Massachusetts, but Neil was enormously talented, and I had a great experience working with him.

And there was Jo Gaccetta. Jo was sort of the gatekeeper for Ken, she was in charge of his daily schedule and his appointments and all of that. And Jo was wonderful too, I mean she was very open to me and did not hold it against me that I was from away. Nobody seemed to really have an issue with that. That probably reflected Ken's attitude, and Allen Pease's as well. Their attitude was that this is what the governor wants, if he thinks these people can help him then that's fine with us, and so I never had a problem.

MH: How did you meet George Mitchell?

KL: I don't have a specific memory of the first time that I met George, but I do know that my first probably sustained exposure to George was in the wake of the 1970 gubernatorial election, which was a razor edge victory for Ken Curtis, and then there was a prolonged recount and George was asked, as I recall, I think along with Severin Beliveau, to represent Ken and the Democratic Party in that recount. And so I have vivid memories of George's involvement in that, and giving daily reports to the governor on how that was going.

MH: It was all paper ballots, I assume.

KL: Exactly right, almost entirely paper ballots, and that -

MH: In some garage somewhere I suppose, in Augusta.

KL: Yes, I think that's probably right, and what people perhaps don't remember is that the recount wasn't really decided until sometime in December. It went on for a very long time. George was already a legend and people talked about how brilliant he was, and he was the go-to person when these difficult issues came up, and so when the whole issue of the recount came up he was obviously the person to go to, to represent Ken and the party in the recount.

MH: And his counterpart for the Republicans would have been Loyall Sewall?

KL: [] Yes, that's right.

MH: And so he was in private practice at that time right here in Portland.

KL: That's correct.

MH: Here in Portland, and active in Democratic Party affairs of the state. Was he a frequent visitor to the governor's office, I mean was he someone who would come by a lot?

KL: I don't recall that, I don't remember seeing George a lot. I have no sense of George having been a lobbyist, for example, I do not – I could of course be wrong. I don't think he did that kind of work, at least I do not remember him as a presence in the halls of the State House at all. I don't remember having meetings with him at all about legislation or legislative matters. I don't think he did that kind of work.

MH: When was your next memory of him?

KL: After Ken's term came to an end, there was then the election to be his successor and I do remember that I was asked by George to do some work in his campaign. And I did do some work, [but] not as much as I would have liked. I had returned to Maine, was in a solo law practice for myself here in Portland, I was trying to learn how to practice law (had never really done that), and [] Ken Curtis and I had talked about establishing a law firm when he left office, along with Walter Corey. And so I was trying to learn how to practice law, partly to make a living for myself, and also in anticipation of starting that law firm with Ken and Walter.

So I was doing that, as I recall, at the time of that election, the election to succeed Ken, and so George did ask me to do some work for him, and I did do some. I probably worked on some speeches for him, but I did not, [do] as much as I would have liked to have done, or perhaps he might have liked me to do, but I just had to try to make a living for myself and learn how to practice law. So I was not deeply involved in the campaign, but I did do some work for George as part of that campaign.

MH: Now, he was running against Jim Erwin, who had been attorney general while you were working for Ken Curtis in the State House, right?

KL: That's correct, and Jim Longley of course.

MH: What do you think went wrong on that campaign? It's a question I ask everybody who was around in that period of time.

KL: It is so hard to know. Like so many people, I was already a great fan of George's. His abilities were self-evident, and at a very personal level he was absolutely a delightful person, he

had a wonderful sense of humor and he could be as funny as could be. And we actually, in that period, we played a lot of tennis together. I should have mentioned that. I was part of a group that included Harold Pachios and Joe Angelone, and the four of us, we played doubles a lot, and so I guess that's probably how I spent most of the time with George, in that period, and that was great. And he was a lot of fun to be with.

There are those who say that that aspect of him, that very human, warm, funny side just did not come through in the campaign, and that for a lot of folks he appeared to be more distant and cerebral and formal than he really was. And so [] he just didn't project as well as people thought he might, and that contributed to the outcome. In pure electoral terms, it was the total collapse of Jim Erwin, who got a very meager vote, it may have been down in the twenty-four, twenty-five percent neighborhood, and a lot of those people flocked to Jim Longley, and Longley proved to be a vibrant candidate I guess, and had a message of cost containment that was appealing to a lot of people, and he may have been underestimated, that's certainly possible.

I'm sure it's hard to identify any one factor that contributed to that outcome, but it was a shocking outcome, there is no question about it. That's one of the longest nights of my life, that election night. Like so many Democrats, we just couldn't believe what was happening. We who were supporters of George, I think most of us thought it was a done deal. George obviously did not, I'm sure you've picked that up from talking to a lot of people. I've heard how George had a sense from his days on the campaign trail that it was not going well. He would be at the factory lines, the workers were not looking him in the eye, the way that they would do if they were truly supporting him, and he had a sense that this was coming. So for him, although truly devastating, I don't think it was the great surprise that it was to people such as myself who were not intimately involved in the campaign.

This may not be something that is widely known, and I see no reason not to share it with you. George had asked Peter Bradford, Andy Nixon, and myself to be on an informal, certainly not publicized, committee to start to plan the transition. And obviously that had to be. It was a prudent thing to do, the time period between election and when you have to govern was very brief. Other governors in the past had complained about how short a time you had to really get ready to take over, and I think George did not want that to happen to him. So he did ask the three of us to begin to address some transition issues. We met a couple of times, and of course it all proved for nought, but Peter and Andy, when we're together from time to time, will reminisce about the transition that was not to be.

MH: Describe George Mitchell's tennis game, and tell me if it reflects his personality.

KL: Well, I think -

MH: This may be far too personal.

KL: No-no, I suspect others have talked about it, but there was certainly an aspect of George's character that was revealed in his tennis game. First of all, I think George was always

too modest about his athletic ability. I know his brothers were great athletes, and he liked to portray himself as the non-athlete of the group. His brothers were great athletes, and I suppose George was not quite as good as they were, but he clearly was a good athlete. He was very well coordinated, he was fast, but he was not schooled in the game of tennis, he was self-taught. So most of his shots were somewhat unorthodox, particularly his serve, which was not a thing of beauty. But his serve was deceptively effective, because it was precise, he could put it where he wanted, and it was always brilliantly strategic because it was always designed to expose the weakness in his opponent's game, and he was tenacious, he was like a human backboard, he'd always get his shots back. And he was highly competitive, not in an unpleasant way, but his determination to win was unmistakable.

And so he was very smart, very determined, very competitive, but at the same time, just a delight to be with, and so I always thought that, yes, there was a lot of his character in his tennis game. And there was a lot of good natured kidding that would go back and forth and this is the side of him that just never came out in that first campaign.

MH: Now when you went back to Washington and you were, after the Ken Curtis years and you were working there, you ran into Mitchell.

KL: Oh, absolutely, yes, that's right.

MH: And did you have a, structurally, were you dealing with Mitchell a lot?

KL: Not very much, no. After Ken was reelected I spent a year as his administrative assistant, pretty much a full year, while Allen Pease went back to teaching, but it was pretty clear that Al was going to come back, so I'd been with Ken for three years and I wanted to [] do something else. And I was very drawn to the Muskie presidential campaign, and so George was my point of contact. And [I do] remember that he was the person that I talked to. George was very mindful of the budgetary constraints of the campaign, and I do remember we bargained a little bit about what my salary might be, but I felt I needed a little more than he was prepared to offer so I could live in Washington, and we finally reached an agreeable term. But I didn't see too much of George after that, because I worked in Senator Muskie's Senate office, and George was really with the senator off on the campaign. So in that year, I did not see very much of George [].

MH: I know we're kind of recycling, we're going back a little bit from the years you were playing tennis with him as lawyers here in Portland, but I do want you to, if you would, would you tell me a little bit about the people that you were working with in the Muskie office, kind of as you did with the governor's office. Who were the real personalities? You talked about John McEvoy in the earlier interview, who were some of the others?

KL: Well, I sat directly across the room from Maynard Toll, who was an advisor to the senator on foreign affairs matters. Just a little bit catty-corner to my desk is where Anita Jensen sat; and then in the back of the room, that's where Dan Lewis sat. Dan was the chief legislative

aide, I was one of the legislative aides, Maynard was another one, and I was never quite sure what Anita's title was—I think she was doing some legislative work.

MH: She originally started as, basically as a secretary to Madeleine Albright.

KL: Okay, I guess that's right.

MH: But I think that must have been earlier.

KL: I think that's right, yes. And they were all interesting and very engaging personalities. Maynard was perhaps more on the quiet side, obviously very smart, very funny, he had really a kind of rapier-like wit, and kind of a droll cynicism I would say. He always had a telling comment about a person or an event. I was very fond of him; he was great to work with. And Anita was an absolute wonder. Nobody, not anybody has ever been able to type as fast as Anita, and she would sit there at her desk pounding out these letters responding to constituents and interest groups and so forth, and she could talk almost as fast as she could type. She was an absolute whirlwind, and she also had this kind of biting wit. So it was a very enjoyable place to work. And Dan Lewis was a couple years younger than me, Dan was also a graduate of Yale Law School, and a very, very able fellow, and I very much enjoyed working with him.

MH: Did you live right on Capitol Hill, or did you live -?

KL: I did, I did.

MH: So you were close to work and it was -

KL: I did. A Muskie staffer was leaving at the time, a very nice woman named Judy Burnette (I believe was her name), and she was vacating an apartment on Constitution Avenue, really only a few blocks from the Senate office building, so I ended up taking that apartment, which was very convenient.

MH: How about Charlie Micoleau, was he a person there then? He later became one of your law partners, right?

KL: That's correct. I should be clear on that, [but] I do not recall. Charlie later became Senator Muskie's administrative assistant, but I do not, maybe Charlie was working on the campaign at that time, but I do not recall Charlie actually being - He certainly wasn't working in the group that I was working in, so I'm not clear on what -

MH: By this point I guess Muskie had a fairly large staff.

KL: Oh, he did, very large. There was a whole campaign operation, which was in a downtown Washington office building, which I almost never, ever saw, and maybe Charlie was involved in that. I don't actually remember, I'm not sure.

MH: There a wonderful Lee Metcalf quote, he said, “Ed Muskie,” with regard to staff, “is like the eagle on the American seal, he reaches out and grabs everything. He’s got the arrows, and he’s got the olive branch, he’s got everything,” because he had so many different people reporting to him during that period.

KL: Yes, I think that’s true.

MH: So you leave Muskie, you come back up, you set up your practice in Maine, you eventually have a practice with Ken Curtis, it’s still is a major firm here.

KL: That’s right.

MH: In 1985 you become a Superior Court judge. You do that for how many years?

KL: Nine years.

MH: Obviously, as a judge, you’re not as involved politically as you would have been before then. Can you tell me about your coming to the job you have now. How does, what is the process by which someone becomes a member of the Circuit Court?

KL: Well, I don’t think there’s any one process that applies, I think the process that led to my selection was perhaps somewhat unusual in the sense that at the time that a successor to Judge Cyr had to be found, there was a Democratic president, President Clinton, and the two senators were Republican senators, so there was no Democratic senator to turn to, to help with that process. But there were two Democratic House members, Representative Baldacci, and then Tom Allen had just been elected to Congress as well. And so as I understand it, the White House agreed to allow them to decide upon the appropriate selection process for Maine, and so Congressman Baldacci and Congressman Allen, they set up a merit selection panel of about eighteen individuals, something like that, it was a very large panel, and that panel was chaired by Warren Silver of Bangor, who of course is now on the Maine Supreme Court. And then there was a public announcement, I believe, about the formation of that committee, and individuals who were interested in applying for the position would basically file an application with the committee and indicate their interest. And I did that, and then the committee conducted interviews, had a day or two of interviews in Augusta, and then they just narrowed it down to several individuals and made a recommendation to the two congressmen, and then they had to convey it to the White House.

MH: How big is the court on which you sit?

KL: We are the smallest of the circuits, there are six active members on this court.

MH: And is there just one for each state?

KL: There are two from Massachusetts. The First Circuit consists of Maine, New Hampshire, Rhode Island, Massachusetts, and Puerto Rico, and there are two judges from Massachusetts, and then one each from Rhode Island and New Hampshire, Maine, and Puerto Rico, and those are the six members.

MH: There is a Puerto Rican on the court.

KL: Yes, yes, it's Judge [Juan R.] Torruella, yes.

MH: And has there been a Puerto Rican on that court for many years?

KL: No, actually, Judge Torruella was the first citizen of Puerto Rico, to sit on the Court of Appeals [p/o].

MH: When you deliberate, where do you go?

KL: The court sits primarily in Boston, except in November and March, we also sit in San Juan, Puerto Rico, and in those months we have simultaneous sittings, one panel will be in San Juan and another panel will be in Boston. Boston is the seat of the First Circuit.

MH: And what are the, is it a variety of types of cases that come there, or do you get, I mean do you get the same kind of variety that would go before a District Court judge?

KL: Yes, for sure.

MH: So you get the same -

KL: We do, we do.

MH: You're choosing from the same group.

KL: We don't choose, we are an intermediate Court of Appeals between the federal District Courts and the Supreme Court. With a few exceptions, there is a right of appeal from the District Court to the Court of Appeals, so we do not select cases that we choose to hear. We get virtually everything, so we get the same mix that the District Court gets, plus [] we also get appeals from administrative agencies, for example, that will come directly to the Court of Appeals, that don't go through the District Court. So we get an enormous variety of cases, and most of the federal law in this country is really the result of decisions by the Courts of Appeal, [including interpretations of many of the federal] statutes. The judicial decisions that are so important to the development of the law in this society, most of those judicial decisions do come from the Courts of Appeal. But the Supreme Court, they do pick and choose what they want to hear, and they hear really a very small number of cases over the course of the year.

MH: Do you have to maintain a residence in Boston?

KL: No, no, I've been able to continue my residence here in the Portland area, so I go down to Boston a week at a time, for the sitting week, or to San Juan, for sitting in San Juan.

MH: Has the number of cases on your docket really increased a great deal?

KL: It's been fairly steady. I was just talking to our deputy clerk yesterday. In the last year there was a slight dip in our cases, but nothing terribly significant. And I suspect it's an aberration and not a trend, I think it'll probably go back up. Our case load has really been pretty steady.

MH: I can recall, I worked in Washington in the 1970s, and one of things on which I worked was the Omnibus Judgeships Bill that added a second District Court judge for Maine, the one that Senator Mitchell ended up being the first person to fill that position. Now we have, what, we have four, do we, four or five?

KL: There are three District Court judges. There are two District Court judges from Portland and one in Bangor.

MH: And they seem to have a lot of work to do.

KL: That's certainly true, I agree.

MH: I'd like to ask you, and I know Andrea asked you the same thing in your earlier interview, do you have any episodes or stories you'd like to recount about George Mitchell and your relationship, or things that I haven't given you a question that you could, I haven't given you an opening for?

KL: Well, so many of the stories, I have to acknowledge involve tennis, of all things. And my wife is very fond of telling a story. I met my wife in California, and I had taken a leave of absence from my law firm and I was out there doing some research on a writing project, and we met out there, and Nancy came back to Maine with me and literally, she says, about the first person she met was George Mitchell. And she remembers [George and I] were playing singles, and she remembers him kidding her and saying, "Have you ever watched Kermit play tennis? Do you know how temperamental he can be?" Because I could, I had to acknowledge, I could be somewhat temperamental on the tennis court. And so he was kidding her to see if she really knew what she had gotten into, and she loves to tell that story about how George was literally almost the first person that she met when we came back to Maine.

And I also have these memories of when I was just starting out in law practice I didn't know how to do anything. And George was busy running for governor at the time, but I remember going to talk to him about how to draft a complaint, for example, and he was just enormously patient, sitting down with me and giving me some great basic instruction on how to draft a complaint. He was always very generous with his time, and a wonderful teacher.

When George was running for governor, I had written a book about Ken Curtis, and I remember, when the book came out, giving a copy of that book to George, and the inscription was, "To George, who will soon make his own history as governor." And I remember thinking at the time that I hope that this is not a [] bit of hubris on my part, to be so definitive about it, but I certainly believed it at the time. I've thought back on that. Was that bad luck or something, that I said that?

But it is so interesting the way history plays out. George would have been a wonderful governor, in the way in which he [was] a wonderful senator, and it seemed so devastating for those of us who were involved in politics, and for George personally, what happened there. And yet, look what's happened. He probably wouldn't have gone on to the positions that he has gone on to if he had been elected governor. And so I think it's a reminder to all of us that we [] have to be philosophical about setbacks that we experience in life, because they can open up other opportunities which might even be better than the ones that we were seemingly denied.

It's just fascinating the way George's history has played out. [p/o] When George [] had to run for office again, he clearly had learned the lessons of that gubernatorial defeat. He became in public, in many ways, the kind of person that he was in private, and he became just a superb candidate. [] That was just an act of will. He obviously had thought about and re-examined what had gone wrong in the '74 campaign, and he was determined that was not going to happen again. And of course, we know how David Emery, who had been thirty-six or forty points ahead in the polls or whatever it was, and then -

MH: That's when I joined the staff.

KL: Look what George did. He's just a remarkable, remarkable man.

MH: Well this has been great, thank you very much, Judge Kermit Lipez, thank you.

KL: Thank you very much.

End of Interview