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Merton 'Mert' G. Henry

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Recommended Citation

Henry, Merton 'Mert' G., "Interview with Mert Henry by Andrea L'Hommedieu" (2008). *George J. Mitchell Oral History Project*. 129.

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George J. Mitchell Oral History Project

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Merton G. “Mert” Henry
(Interviewer: *Andrea L’Hommedieu*)

GMOH# 031
September 4, 2008

Andrea L’Hommedieu: This is an interview for the George J. Mitchell Oral History Project at Bowdoin College. The date is September 4, the year 2008, and I’m at Jensen Baird Gardner & Henry in Portland, Maine, and today I’m interviewing Merton Henry. Could you start just by giving me your full name?

Merton Henry: Merton G. Henry.

AL: And what is your place and date of birth?

MH: Hampden, Maine, February 4, 1926.

AL: Did you grow up in the Hampden area?

MH: I grew up in the Hampden area until I went to high school, and my family at the beginning of WWII moved to the South Portland area, and I went to South Portland High School.

AL: What was Hampden like during those early years? It was just outside of Bangor.

MH: It was a farming community when I was growing up, a very, not a very large community and agriculture was the principal activity. My father ran the family farm, and one of my grandfathers had died before I was born. The other grandfather ran a small general store in Hampden center in the ‘20s and ‘30s, early ‘30s. And when I grew up, I guess I knew almost, it was a small town, you went to a, I went to a country school with two rooms in it, no indoor plumbing, no central heat, just wood stoves in each of the two rooms. And all of the years that I went to school in Hampden, the teachers I had were always cousins or some relationship, in that period before, in the pre-WWII period. Hampden today is just a suburb of Bangor. In those days it was a rural farming community and you knew almost everybody. And my family on both sides had lived there for several generations.

AL: So you had deep roots in that community.

MH: Oh yes.

AL: And were you close enough to your grandfather’s general store to frequent it and sort of hang out?

MH: We lived about three miles away from my grandfather's general store, but I was there a great deal and by the time I was seven or eight I was allowed to help out in the store because it was a, everybody knew everybody else in town in those days.

AL: What sorts of things did you get to do to help out?

MH: Waiting on customers, running the cash register, you know, stacking stuff on the shelves.

AL: And getting to know your grandfather. And so did he sell the store, or he just kept it until he was retired?

MH: He died in 1936 and my grandmother sold the store after he died, and by the time WWII came around, small country stores went by the boards anyway in most of the rural communities in Maine.

AL: And your parents, what did they do?

MH: My father was a farmer originally; he came to South Portland and worked for a company called Maine Steel. My mother was a school teacher before she was married, and I was an only child. My mother had poor health and died in 1936, the same year her father died.

AL: And so you came to South Portland. That must have been a bit of a culture shock.

MH: It was a pretty different world, to come from a rural area where you knew everybody to a city, in those days.

AL: What sort of adjustments did you have to make?

MH: Well, I think mostly it was adjusting to school. My father had remarried and I suddenly had a step-brother and a step-sister. And they, one of my problems in coming from Hampden to South Portland was that starting school in South Portland, I was ahead of everybody in class, because in country school there were only two of us in my grade in West Hampden, and so we were always sort of pushed ahead with the students ahead of us, and we were taking more advanced work. So the first year I found school in South Portland slightly boring.

AL: And after high school where did you go and what did you do?

MH: In 1944 I went right into the army out of high school and WWII, and ended up going to, being sent to the Philippines and was there until '46.

AL: And then you came back to Maine?

MH: Came back to Maine and went to Bowdoin in '46. I'd been accepted at Bowdoin when I

was still in high school, and in those days admissions was much more informal than it is now.

AL: And so you could defer the start of your college to go -?

MH: Right, everybody was deferring in those days, because of WWII.

AL: So what did you study at Bowdoin, what interested you?

MH: I was a history major at Bowdoin, and was, thought I wanted to go on and teach history when I started college, and then changed, deciding I wanted to go to law school after I graduated, so I still continued my history major.

AL: And then you went to law school?

MH: Went to law school. Actually I graduated from Bowdoin in June in 1950, and I had stayed in the Reserves and I got called back to active duty. The Korean War started two days after my graduation, so I got called back, but I got assigned to the Pentagon and I worked at the Pentagon on a military history project that I got assigned to, rather than getting sent to Korea or some place. But I was again bored with just sitting around, not much to do, so I started going to law school nights and finished up in ['55].

AL: And did you come back to Maine to practice law?

MH: No, I got through law school and got out of the army, I went to work for Senator Frederick Payne, who was, had just been elected to the Senate the year before, and worked for him for five years. He ran for reelection in 1958 and when he, and was defeated by Ed Muskie. Senator Payne, who was a very middle-of-the-road moderate Republican, really didn't want to run for reelection. He'd had a massive heart attack while he was in Washington, and there really wasn't anybody else to run that year and President Eisenhower twisted his arm to run for reelection so he finally agreed to. And those were the days when the elections were in September in Maine.

AL: Right, and so you were working for -

MH: I was working for Senator Payne, and I came back to Maine in the spring of 1958 and ran his campaign for reelection.

AL: And what was that campaign like?

MH: Well campaigns were very, very different in those days, to say the least. There was almost no television, there were some radio ads; most of the advertising was done in newspapers. The candidates in those days, the custom was of both parties that the candidates for major office: the Senate, governor, Congress, would tour around all sixteen counties, and they would go, the three of them together, and pick up the local candidates to the legislature and things. And they

would spend, say, three days in Aroostook County campaigning, hitting all the highlights, then they'd move on to Washington County, and it was sort of circuit campaigning. And it was all, had to be done in August and early September because of the September elections.

AL: And most states were having their elections later.

MH: In Maine we had the September election. That's why, you know, 'As Maine goes, so goes the nation' came from. It was changed in 1960 to a November election for the first time. But up until 1960, Maine voted in September, so that people could get to the polls, it was a question of whether they could in the winter time prior to that, in the rural areas particularly. They always voted for president in November, but that was all.

AL: Right. Well, were you close enough or involved enough in 1960 to know what those reasons were for changing it to November?

MH: Oh yes.

AL: What were they?

MH: Well, the reasons were economy, one. Having two elections cost – and people in Maine are always being frugal. And I think there was really a feeling that it had, it was an antiquated procedure to have the election in September so close after the summer season, and the tourism really was blooming and it was, you could go out, go to some places like Boothbay Harbor to campaign and you'd see more tourists on the streets than you would natives. So it was not a very efficient way to campaign in those days. And I think it was just the whole changing climate, people really felt that, one, it would save money, and two, that it would, the reasons for having it earlier had gone by the boards, as far as Maine being agricultural and worrying about the winter weather and things.

AL: Now you tell me Senator Payne's health wasn't very good during that campaign. How did he handle the rigorous travel around the state?

MH: He handled it fairly well. We tried to have him campaign on a, well we restricted the amount of speeches and things he had to make. And he had always done this when he had been governor before, and when he'd been elected to the Senate previous to the '58 campaign. But in '58 we really tried to conduct the schedule so that he wasn't under too much pressure.

AL: And how did it evolve, did he get a sense that Ed Muskie was gaining ground?

MH: I think we always, the Democrats in 1954, when Ed Muskie was elected governor for the first time, I think, I've always thought that it was the Republicans, Ed Muskie won not because of a great Democratic groundswell, but the Republicans were so divided and they were so, ran such a lousy campaign in '54, was the reason Ed Muskie won, and I think one of the primary reasons he won in '54. And Maine had had only two Democratic governors since the Civil War,

one in the Depression, and one in World War, in the split in 1912, the Republican split in 1912 between Taft and Teddy Roosevelt.

So it was a big thing, and the Democrats were on the rise in Maine. We were in a period in 1958 where the textile mills, they were all going south, literally. (*Unintelligible*) Sanford and, you know, Biddeford, the mills, Lewiston, all of the textile mills were going south, and the economy in Maine was very poor in that period. It was a period of major adjustment in the state economy.

AL: So was it just that campaign that you worked on, or what did you do after that campaign?

MH: Well, I worked on Senator Margaret Chase Smith's first campaign for the Senate in 1948, when I was at Bowdoin, I worked as a volunteer on that campaign and got to know her very well and worked on all of her subsequent campaigns, so I've actually been involved in most major Republican campaigns in Maine since 1948, except when I was in the service from '50 to '52, '53.

AL: Well, what were some of the things that impressed you about Margaret Chase Smith? I know she served for a long time.

MH: Well she, I was very impressed by her integrity, her independence, and you know, her service to Maine as far as constituent services – nobody has ever done it the way she did it or anywhere nearly as well as she did it. She just was a very unusual, brilliant woman, and I think she was, really set the stage for sort of moderate politics in Maine, because when, in 1948 when she was elected to the Senate and Fred Payne was elected governor, both of them were moderate, middle-of-the-road Republicans and it really was the first time the more conservative old guard Republicans had lost out in Maine.

AL: Now, in the early '60s you got to know George Mitchell, or how did that happen?

MH: It happened through Professor [Albert "Jim"] Abrahamson, Jim Abrahamson. Jim had been one of my mentors at Bowdoin and had been, it was the person who got me involved originally in working on Senator Margaret Smith's campaign in 1948. And he had been, was always very much involved in activities off campus, and he kept in touch with an awful lot of Bowdoin alumni around the country. He had been impressed by George when George was an undergraduate at Bowdoin, and I remember in 1961, I guess it was 1962 when George was working for the Justice Department, I did not know him at all, I don't think we had ever met, Jim Abrahamson one day was in Portland, I was having lunch with him, and he said, "There's a young Bowdoin alumnus who's a lawyer in the Justice Department who's thinking about coming back to Maine. Do you folks have any possible openings?" And I said, "Well we are beginning to look to expand." We had just started Jensen Baird Gardner & Henry in 1961, formed the new firm, which was the first new firm in Portland in many years. And he said, "Well the next time I'm in Washington I'll tell George to look you up if he comes to Maine." And then the next thing I knew, I had a call from George, who said he was going to be in Maine and he would like to just stop by and talk.

He came and talked, and we were very impressed by his resume and what he had done. But at that point in time he had just had an offer to go to work for Senator Muskie, and he was debating whether, what he wanted to do, whether he should come back to Maine to practice law or go to work for Muskie, and he really was seeking my advice, having gone through the same process, or the same sort of schedule. And he, I guess I told him I thought he ought to take the job with Senator Muskie for a couple of years, but not to make it a career in Washington, because working on Senate staffs can be a very tenuous sort of situation; if the senator loses or something, you have to start all over again.

And so we talked about it some time, and I introduced him to the other people in the firm, and he took the job with Senator Muskie but always with the thought that after Senator Muskie's '64 reelection campaign was over that he would come to Maine, if we still wanted him to come. And he planned to come anyway. And so we kept in touch for the next two or three years, and then when, after Muskie was reelected that November, George had been in Maine and pretty much ran the campaign. He resigned from Muskie's staff and joined Jensen Baird that January, '65.

AL: So can you tell me a little bit about the formation of the law firm and who the principal people were who joined with you to begin?

MH: Well, the law firm has lots of roots going back way beyond 1961. When I came back, when I started practicing in 1959 in Portland, I joined a firm called Sheriff and Baird. Saul Sheriff had been a, was a lawyer in Portland who I knew slightly, and I went to work for them in January 1959. In 1960 Saul Sheriff died very suddenly at forty-two of a heart attack. And we had been, several of us were working with savings and loan associations in Maine in that period, which were very active in doing all the mortgage loans in Maine, for all intents and purposes. And we – Ray Jensen, who was not part of the Sheriff and Baird firm, was head of one of the savings and loan associations and had been their lawyer for many years – and we were working on a revision of the savings and loan law with him and a committee, and so we just got talking and he decided (he was a sole practitioner) he would really like to have some backup and support, so he came and joined Ken Baird and Bob Donovan and myself and we started the new firm as of January 1, 1961.

AL: So what sort of work did Senator Mitchell, was he given when he first started with your firm?

MH: Well, we had a program in those days, when you first started at Jensen Baird you had to learn to search titles in the Registry of Deeds, because that was what was the bread-and-butter of doing all the mortgage work for the savings and loan associations. And he learned it, George learned to do that, he really, he had had some trial experience when he'd been with the Department of Justice and he really wanted to do trial work, and we really encouraged him to get involved in doing trial work, and he developed a trial practice to get himself out of having to go to the Registry of Deeds, I think. And he would, George is a very good trial lawyer, he was very meticulous in his preparation and won cases that nobody thought he ever possibly could win. He

was just a very good lawyer.

AL: I wondered, what were some of the characteristics? Being well prepared is one of them; what are some of the other things that make you persuasive in front of a judge and a jury?

MH: Well, I think it was his personality. He was a warm and friendly person, without being ingratiating, and I think that that had a good influence on juries in Maine. And I think in that period of time some lawyers tended to underestimate George's trial abilities and his preparation and things. I remember this lawyer who was with Bernstein Shur in town by the name of Herb Sawyer, who had been a debate partner of mine at Bowdoin, and George had a case against a client of Herb's and Herb was just convinced – Herb was representing an insurance company – that there was no possibility that the plaintiff could win in that case. And George, by very meticulous preparation, won the case, and Herb said afterwards, "Boy, I learned I've got to be better prepared if I'm going to have him on the other side."

AL: So how long did George stay with your firm?

MH: He was here from January of '65 until he became the United States attorney, which was in 1977; he was here twelve years.

AL: And then he had to leave full time for that position.

MH: When he became U.S. attorney. He'd been an assistant county attorney for a year in Cumberland County, which was a part time job in those days, in about 1970, '71. But when he became U.S. attorney, that was a full time job and he had to leave, and was U.S. attorney for two years and then was appointed federal judge by President Carter.

AL: And during those twelve years that he was in the firm with you, did you get to know him on a personal basis as well as professional?

MH: Well, our offices were right next door to each other, and when you have lunch together for, almost every day for twelve years, you get to know somebody very, very well. We became very good personal friends and have remained that over the years.

AL: I can imagine some great political discussions.

MH: Oh, we talked politics a great deal. George was always supportive of my activities as a Republican, the Republican Party, and I was supportive of his activities in the Democratic Party. While he was here, he left, took a leave for three or four months when Muskie ran for president in 1972, and a couple of other times, and we always encouraged George to pursue those things. He had a great interest in politics, one; and two, it was good for the firm to have the publicity and have him out doing these things.

AL: Were there any, do you have any recollections of stories about your times in the law firm

together?

MH: Well, I don't know, it's hard to remember now; he left thirty years, thirty-one years ago. I think there were a lot of, the one I mentioned about Herb Sawyer and the accident case that they were trying was typical of George's service. When he ran for governor in 1974 and lost to Jim Longley, I was not, I did not participate that year in politics. My wife had just become a judge in '73, and in those days there was a question whether spouses could still be involved in politics if they had a judge that was, a spouse that was a judge, and I was not very active in that campaign.

I remember George was in and out of the office a great deal that summer while he was campaigning, although he was on leave of absence. And I know he came in the day, Election Day – there isn't much candidates can do on Election Day except go around to polling places or something – he came in that day and he told me he thought that it was going to be very close, that Longley was coming – everybody assumed George was going to win in '74 and succeed Ken Curtis as governor – and he said that Longley seemed to be coming up fast and it was hard to say what was going to happen. And they were having their, he had his headquarters that night at the Eastland, the old Eastland Hotel, and said, "Come on up to the Eastland tonight." And I said "Well, I don't think I'll come up unless there's a problem or you're in trouble." And he was worried about, we talked about if there had to be a recount or something, how to proceed, because I had been involved in some Republican recounts. He had not been involved in any recounts. We talked about that that day.

I went home that night and didn't think anything more about going in to the Eastland until it was very clear, about ten thirty, quarter of eleven that George was going to, was losing. So I got dressed – I was watching TV in bed – I got up, I got dressed and went in to the Eastland, and George was in his suite upstairs and I went (he had told me where he would be), I went up and when I knocked on the door, Sally, his wife, looked at me with a big, with sort of a smile – she was not a, she did not like politics and she did not, had not been really enthused about his running, although my wife had really sat on her and told her that she had to do this, and she'd done it with good spirit. But Sally sort of smiled, and I went in and, I don't know, there were, I think Bill Hathaway was there, and Peter Kyros and a couple of other people with George. And George took me over in the corner to talk, and he said, "Well, what am I going to do now?" And I said, "You get your butt in the office tomorrow morning at eight o'clock." And he said, "Okay." And he was here at eight o'clock the next morning, you know, and we then shipped him off to the Virgin Islands, to St. Thomas for a week, ten days, so he and Sally could really recuperate from [the campaign]; he was totally exhausted at that point. And then he came back and started practicing law, and so picked up.

AL: So he bounced back pretty well; that was his first time out.

MH: Oh yes, yeah.

AL: Besides those things, were there things you did outside of work, social activities, or were

you one who played tennis with him?

MH: I am not a tennis player and I did not play tennis with him. He played a lot of tennis with Harold Pachios and Sidney Wernick, who was a Superior Court and then a state Supreme Court judge, and some other people. I think George's tennis group was pretty much all Democrats, I'm not sure. But no, we did do some socializing, we saw George and Sally with some frequency and were good friends, and the firm always has had a, has social events, various people entertain all the lawyers and their wives a couple times a year, and there are things like that going on. But George and Sally would come to our house for dinner or we would go to their house for dinner in those days, you know, two or three times a year. We were very good friends, and worked together on an awful lot of different other things, in the firm, we worked on a lot of different projects together.

AL: How did you find him to work with, what was it like to work with him?

MH: Well George was always very easy to work with. He was extraordinarily conscientious and hard working, and he would, he and I worked on a couple of major housing projects and I did a lot of the real estate part of it, he did a lot of the going to planning board hearings and things of that sort. We would divide up the work on it, projects such as that. And it was always a great pleasure to work with him, because you knew he was always going to have his part of it done right on time.

AL: And have you maintained the friendship with him since he went on to the Senate?

MH: I've maintained some contact with him, but not a great deal. When he was appointed to the Senate by Governor Brennan, that was one of the things, he was then a judge, and my wife and I were in Florida at the time. Ed Muskie was appointed secretary of state and Governor Brennan offered to appoint George to the Senate seat. And I think I probably spent I don't know how many hours on the telephone with George; he kept calling because he wanted advice and he wanted to, was really trying to think through whether he should do this or not, because he was giving up a full time, a lifetime appointment as a federal judge to jump into the – and he wanted, you know, he was just seeking advice and counsel. And I don't know, I must have spent four or five hours with him on the phone over a period of about three days. He was really, and he didn't – George had only a few people that he really could talk to about that sort of thing, and I was very flattered to be one of those in that period.

AL: And what was your advice?

MH: My advice to him was that the decision was really his, and I wasn't going to push him one way or the other, and I tried to point out to him the pros of staying on as a judge and, you know, and that he might end up getting appointed to the Court of Appeals in Boston, we talked about those possibilities and things, and there wasn't much of a possibility of that happening because Maine has never had more than one person on the Court of Appeals in Boston at one time, and Judge Coffin was there and was, you know, obviously ensconced for the foreseeable

future – as he still is at ninety-something now. He’s retired now completely, but he served for a long, long time.

We talked about that, we talked about the upcoming election, who prospective Republican opponents might be, what their strengths and weaknesses would be. It was a very open and frank discussion, and I think, I guess I, George has always had sort of in the back of his mind the dream of succeeding Ed Muskie in the Senate, I think, and this was an opportunity for him to do so. You know, at that point he was two years away from having to stand for election in ‘82.

AL: Which I think means those questions would be important to ask you, about Republican opponents.

MH: And at that point David Emery was, who was his Republican opponent in 1982. In 1980, ‘81, the Republicans had taken over the White House of course and everything, and David Emery looked like a very strong candidate for the Senate in ‘82, two years earlier. He and his staff did a lot of stupid things in 1981 and ‘82, and he made himself very vulnerable, and George ran in 1982 I think probably the best campaign I have ever seen anyone run in Maine. I was not involved in it in any way, shape or manner, but -

AL: But from the outside, what could you see as -?

MH: Well you could see the organizational work that went on, the get-out-the-vote efforts and everything, he put all the lessons he had learned working for Muskie and working on prior campaigns to good use in 1982. They had the best get-out-the-vote effort I think I’ve ever seen in Maine in ‘82, the Democrats put on the best one. I was involved in ‘82 as chair of Charlie Cragin’s campaign for governor against Joe Brennan and was, so I had an opportunity to really see what - Brennan wasn’t doing a lot of hard work but George was doing a great deal of hard work. George also, I think, between ‘74 when he was running for governor and when he ran for the Senate, became a far better candidate. He was much more relaxed; he had learned to be more relaxed speaking on the stump and so forth by ‘82.

AL: I wonder how he, he must have had some experiences that helped him develop that more, I don’t know if it’s confidence.

MH: I think it was the confidence of having been U.S. attorney and being judge, and then being in the Senate and so forth gave him a lot more confidence. It also gave him more, he relaxed more about how he was proceeding on things. And he became, in that period, in 1974 when he ran for governor, he had all these position papers on issues and stuff and emphasized that, and that can be a little bit dull sometimes if you do it too much, and he became a much more inspiring speaker, better relaxed speaker, and he would tell some jokes and, you know, and self-deprecating and things in ‘82, and again in ‘88 when he ran for reelection.

AL: What are some of the things that I haven’t asked you about Senator Mitchell or your time that you feel is important to add?

MH: I don't, I guess there isn't much I can add to it. I think that George has made, had a very, very distinguished career, and we're all very, very proud of him in Maine. And I'm just amazed that he is about six years younger than I am and he's going full steam even now. Every time I see him, he's got a couple of speaking dates lined up in Maine already for this fall. And he's, you know, he has become one of the, a major national leader, and I guess I'm a little sorry that I'm not seeing more evidence that the Obama campaign or the other campaigns in Maine this year aren't utilizing him more than they are. I think they – you know, time marches on.

AL: Right. I have noticed Tom Allen's has a couple commercial.

MH: Yeah, Tom Allen mentions that he worked for George Mitchell. Well, he never really worked for George Mitchell except as a volunteer on his campaigns. There's a little bit of a make-believe in some of those, in some of these TV ads that you see. And you know, when I started in politics in 1948, nobody had heard about TV hardly, and there was absolutely no TV until, '58 was the first year that television ads were really used in Maine at all, and Horace Hildreth, Sr. was running for governor again in 1958 as the Republican candidate, and he owned the Channel 8, the TV station at Poland Springs, and he had – and it's one of those things in politics you never forget – he had a very brief TV ad with a rocket going off saying, "Aim high with Hildreth." It was one of those TV ads that was, nobody knew how to make sophisticated TV ads in those days. I can still see pictures in my mind of that rocket going off with "Aim high with Hildreth."

AL: Well that's neat, that's nice history. Now we're, it's just 24/7 political ads.

MH: Oh, yes. Last night I just, I was appalled just watching some of the convention and stuff, all the ads that are interspersed in there on the commercial stations are just unbelievable. I finally switched to Public Television because there's no ads. Otherwise, you're seeing more of Tom Allen and Susan Collins or Governor Shaheen, Jeanne Shaheen in New Hampshire, than you're seeing anybody else.

AL: I know; what a change fifty years makes.

MH: Well I think they're all, I think they're overdoing it. I think people are going to get turned off by the ads eventually. They're repetitious and there isn't that much variety in them, and if you see one of these ads, you know, twenty-five times watching the news and stuff, over the course of a month you're going to get turned off.

AL: Yeah, I think that's going to cycle around with the election process. Thank you very much.

MH: Oh, you're more than welcome.

End of Interview