

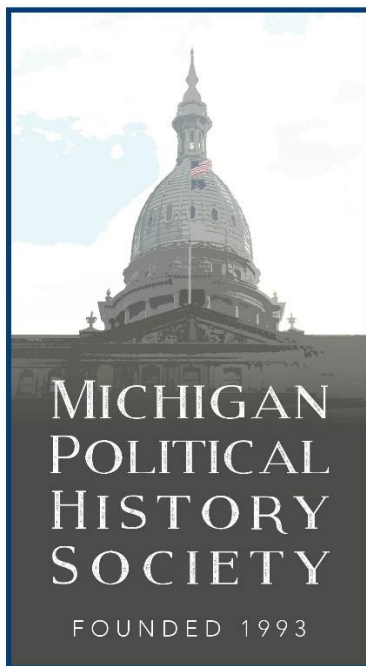
# Richard D. McLellan

Interviewed by

Bob LaBrant

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**Transcript: MPHS Oral History of Richard D. McLellan, interviewed by Bob LaBrant, 4.04.14**

- Bob LaBrant This conversation is part of the **James J. Blanchard Living Library of Michigan Political History**, a project of the **Michigan Political History Society**. I'm Bob LaBrant, a past president of the **Michigan Political History Society** and I'm here today to talk to Richard McLellan. Richard, since 1960, has been an active participant on the Michigan political scene. Richard, why don't we start out and just give us a little bit of biographical data as far as when you were born and a little bit about your folks.
- Richard McLellan Well I'm about to be 72, so I was born in 1942. When I was two, my mother took her new-born baby, my brother, and my older brother, and we went to Hawaii on a troop ship. We were one of the first groups of civilians to go back to Hawaii during the war. So I mention I was in Hawaii during the war and people say, "What war?" these days. I lived in Illinois, Hawaii, came back to Indiana, moved to Mexico for about six months, four months I guess. Then we went to Westfield New York and finally to Michigan. My father worked in the food industry, so he would travel around a lot. So I lived in eleven houses by the time I was in fifth grade. We settled in Paw Paw Michigan, and I went from fifth grade through high school in Paw Paw, where I really started being more politically active, I guess you would say, or active in policy issues. And then went to Michigan State on a journalism scholarship paid for by the Kalamazoo Gazette, all four years.
- Bob LaBrant Now how did you get that scholarship?
- Richard McLellan I was active. I was editor of the yearbook and the school newspaper. And I had a very good journalism teacher that really mentored me and got me involved in writing and reporting and I thought I was going to become a reporter.
- Bob LaBrant Now I also understand that you had an offer to go to the University of Michigan?
- Richard McLellan I did. I had a Regents Scholarship too but I forgot to accept it. I thought I could just decide the last week which one I was going to accept. I didn't quite realize the significance of that, so I ended up with two scholarships, one from the Kalamazoo Gazette and one from Michigan State. So that's how I was able to pay for room and board as well as the tuition.
- Bob LaBrant So, you initially went to Michigan State to be a journalism major?
- Richard McLellan Right, I was a journalism major for about a year and then I didn't think that was sophisticated enough and I moved to Communication Science, until they told me I had to do statistics, and I said, "No, no, no. I do words, I don't do numbers." So, I was embarrassed to go back to journalism so I went into advertising, where my advisor put me in Honors College, where I could take anything I wanted; the theory being you would take more advanced courses. I simply took anything that started after ten and before three. So I took a lot of interesting courses like canoeing, communism, History of the Caribbean Islands, are the main three that come to mind. I always think of those as my... and of course I had no practical skill when I

**Transcript: MPHS Oral History of Richard D. McLellan, interviewed by Bob LaBrant, 4.04.14**

graduated then, with an advertising degree and no advertising courses. Law School was the only choice and I went to the University of Michigan Law School.

Bob LaBrant At Michigan State University you met Peter McPherson and he recruited you into the Young Republicans. Is that right?

Richard McLellan About 1960. I remember Peter was a year or two older than me, so he got me involved and then quickly got me involved in the Romney volunteers, Chairman of the Romney Volunteers for Michigan. I think he saw me as somebody they could, you know, use for political kinds of activities.

Bob LaBrant So, what sort of things would you do in that '62 campaign?

Richard McLellan I remember I had lunch with George Romney at the Michigan - Michigan State game. It was a campaign event, so I thought I was going to have a nice lunch with him at the union. And it was about eight minutes that Romney was there and they took the pictures and he was off, but I did have lunch with George Romney that time. And we did the usual campaign things. The other thing, to show what a geek I was, the next year I was Chairman of Students for Con-Con, when we had to adopt the new constitutional convention. Now I will say, it was kind of hard to recruit for something like the constitutional convention among your average beer-drinking college student, but we helped turn out votes for that. I got involved in the Ingham County Republican operation at that same time, so I pretty much have been involved with Republican Party politics ever since. I went to every national convention from 1960 on.

Bob LaBrant So you went to Chicago in 1960?

Richard McLellan Yeah, I went to '60. I went to San Francisco in '64, Miami in '68, '72. I missed the one where Gerald Ford was nominated because I couldn't afford it. Then I've continued to go, sometimes with Gov. Engler, then-Senator Engler. So I've always been active politically.

Bob LaBrant Back on that April vote in 1963 that adopted the Michigan Constitution by a very narrow margin. I think it was only about 7500 votes and there was a statewide recount. But at least in your career, your analysis of the Michigan Constitution has probably been one of the major areas of your law practice hasn't it?

Richard McLellan Yeah, well I got a job working for then-Lieutenant Governor Milliken in '65 and the new constitution was being implemented and he asked me to do a study of all the executive branch agencies during the summer, because he wanted to write a book on the new structure of state government. So I had an opportunity to learn a lot of what's in the constitution, but more importantly what was in the Executive Organization Act that created the structure of government. And that's paid off for years because I actually know the history of how these departments came into force, and used it in my practice and used it with governors, and particularly the

**Transcript: MPHS Oral History of Richard D. McLellan, interviewed by Bob LaBrant, 4.04.14**

governor's power to reorganize. It was something I learned on my own back then working for the lieutenant governor, and then when he became governor – I was on his staff – and I did a memo on the governor's powers under reorganization, which Governor Blanchard used. And when Governor Engler was elected, a Blanchard official brought me that same memo that they had found in the archives. So sometimes what you do has a fairly long life and that's what makes public policy interesting.

Bob LaBrant Let's go back to college. Probably one of your first patronage jobs, was to be a janitor at the state Capitol.

Richard McLellan Janitor jobs were a political plum back then. We made \$100 a week, which would be the equivalent of more than \$600 a week now. They were generally given to the sons of the Speaker of the House of some powerful Democrat or Republican leader, but through a series of incidences, a good friend of mine got fired, because Peter McPherson was a janitor in the Senate and basically was sub-contracted to help do this House janitor's job. Got caught. My friend got fired. Peter got sent back to the Senate and I got the job because we all hung around together. So that's how I could first afford a car and help pay for those last years of school. So, that was my first job in the state Capitol as I frequently tell legislators. And then I eventually went on the lieutenant governor's staff and then I went on the governor's staff. So three different times I've been in the capitol, starting with my very own mop bucket in a closet. Later on it became the ladies restroom. There was no women's restroom for legislators when I started.

Bob LaBrant I understand that when you were a janitor you used the opportunity to arrange a meeting with Governor Romney about involving student leaders in Michigan politics.

Richard McLellan Well this was later on when I was in law school, a number of us were Republicans and we recognized that the kind of people that joined the Republican Party, the students, were not the same as the student government types. And we felt that there were a lot of potential leaders there and we should reach out to them. So I called up, and went up and saw the governor. And I said, "We had this idea. We want to have this state-wide conference of student leaders for the Republican Party and to make it work, he would have to come and sponsor it." And he did and he brought the lieutenant governor and that was a very interesting project. It did sort of begin to give me the contacts I needed and then gave me the contact the next summer where I got a job with the lieutenant governor. So that meeting with Governor Romney had some consequences for a long time.

Bob LaBrant So that lead then to a meeting with Bill Milliken and you had a job with Bill Milliken, what, during the summer as a driver?

Richard McLellan '65 and '66. During '65, it was not the campaign year, and in '66 I was the driver, and it was the campaign year. I was supposed to go back to law school in August, and John Stahlin, former Senator Stahlin, was going to take over. Well Stahlin was sort of the governor's bag man and very good friend and a former senator. But he

**Transcript: MPHS Oral History of Richard D. McLellan, interviewed by Bob LaBrant, 4.04.14**

decided that he was going to go to Europe or something, and all of a sudden I had to continue to drive, really through the campaign. So I didn't go to law school very much. And, it was my third year...

Bob LaBrant Well let's go back to the first day as a driver for the lieutenant governor. Tell us about that.

Richard McLellan Well, I'm all excited, I have a new job. I'm coming across the street in Lansing and I bumped into the governor's chief of staff and he said, "What are you doing?" And I said, "Well I'm looking for a job for the summer." He said, "Come with me." And we went back and they hired me as a summer intern and driver. So my first assignment was to drive to Kalamazoo where the lieutenant governor was giving a speech to the Regional Boy Scout Conference and all I had to do was drive him there and drive him back. I noticed we were a little low on gas and said, "I'll have to go get gas while he's speaking." But I got so geeked up in watching my new boss give his speech, I forgot and we ran out of gas on the way home. That incident taught me to keep the gas tank full, but it also taught me a lot about Governor Milliken. We sort of rolled up into a parking lot of a car dealership and the lieutenant governor said, "You know my daughter is thinking about buying a car. Let me get out and look and see what they have here while you go get gas." I mean you would have thought he would have yelled at me and said, "What kind of an idiot did we hire as an intern." But he was always a gentlemen and that was an example. And that's why driving all over the state with the lieutenant governor, just he and I, gave me an opportunity to see one politician at work, a person who I continue to have great respect for. He and I perhaps have parted more on some political policy. He's a "Rockefeller Republican" and I'm more conservative on many issues or more libertarian in some respects. But he's a great man and he's one of the three governors I've had the opportunity to work for. He's the only one I ever had a job with. But to work with Gov. Milliken, Gov. Engler, and now Gov. Snyder has been a great thing to make a lawyer who's interested in public policy, have a pretty rewarding career.

Bob LaBrant Let's go back to your college days because I think during that time you kind of demonstrated that you had a commitment from the beginning, to free speech and the First Amendment. Tell us about your first... you attended a speech by Malcolm X on campus. Is that correct?

Richard McLellan I did. At the Kiva at MSU, and I still don't know why I went to it. I guess it sounded interesting and it was the first experience I ever had, having grown up in a small town that had a black population that had been there since before the Civil War and you just didn't sense the racial challenges that were really on the horizon in the sixties. But going to that Malcolm X speech and for the first time hearing the kind of racist language from Malcolm X, who of course was from Michigan, formerly Malcolm Little, and the reaction of the black students cheering when he attacked white people. I mean your basic naive northern white person thinks everybody gets along and I began to learn, at Michigan State, the underlying racial tensions that I didn't even know existed. They certainly do when we had people from the suburbs come to Michigan State, the whites and the blacks had very different views of

**Transcript: MPHS Oral History of Richard D. McLellan, interviewed by Bob LaBrant, 4.04.14**

things. And, I always believed that this was silly that we had this discrimination. I remember we put on in law school a Republican civil rights conference and brought in Hosea Williams. The governor and lieutenant governor again were there. And I'd be hard-pressed to think that the Republican Party today would have a civil rights conference, but things were different in the sixties. And Republicans played a key role in some of those issues and I was active in some of that.

Bob LaBrant Back on the free speech movement itself on campus. There was an attempt by one group to bring the treasurer of the Communist Party of the United State on campus to speak and he was barred and that offended you.

Richard McLellan Well yeah, the Young Socialists invited this Communist Party guy and President John Hannah banned him. John Hannah was a great American and at that time communists were illegal, but I felt as a college student, I should be able to listen to anybody I wanted. I've always felt that way. So I called him up at Cowles House at night, the president's residence, and I said, "Well President Hannah, it's your university and you have the right to ban anybody you want, but we're students and we should have the right to hear anybody we want. So we're going to invite him to my college fraternity, in the back yard." And we had four thousand students show up to hear this communist. They probably would have had forty people show up if they'd let him speak at the Young Socialist Club. But because they banned him...

Bob LaBrant Did you have beer at the fraternity for the speech?

Richard McLellan No, we had no beer. This was a pure political event. One of my fraternity brother's father was head of the Teamsters Union in Battle Creek, and he was a flaming liberal Democrat and I was a Republican, but we both believed in free speech. The next year I was on the cabinet of the student government and they changed the rules that you could speak on campus, but you had to have a permit. Well that still offended us, so they invited "SNIC", the Student Nonviolent Coordinating Committee, the same group did, the Young Socialists. Well we all got together, all the political groups and said, "We refuse to get a permit to let somebody speak politically." And we all then co-sponsored the speech by the Student Nonviolent Coordinating Committee, so every political group had signed up as a sponsor, so they couldn't just go after the Young Socialists, they had to go after all of us, which they did, but I think they realized that the end was near on that kind of "in loco parentis." We were put on quote, "strict disciplinary probation", whatever that meant. They did remove me from the student government council, whatever it was called, but again in the sixties and thereafter, they gave up trying to control speakers and unfortunately now many of those people have taken over the university. Now the socialists and Marxists and so on are now deeply-imbedded in our higher education system, much to my chagrin but, they now keep out conservatives, which is interesting how free speech is something you have to continue to fight for.

Bob LaBrant Now you ran for president of the student body at Michigan State?

**Transcript: MPHS Oral History of Richard D. McLellan, interviewed by Bob LaBrant, 4.04.14**

Richard McLellan I did. Peter McPherson sort of ran my campaign. Our theory was that while I was in a fraternity, I was sort of seen as a radical and therefore I could appeal to both the frat community and the more liberal community. And there were three candidates, and I won the primary, but then the other two candidates got together and I got beat. That year Jim Blanchard won as senior class president. We are having our fiftieth anniversary dinner in 2014. The year before he ran for student body president and lost. That's the only thing with Jim and I, former Gov. Blanchard and I, both have run for student body president at Michigan State and both have lost. He went on to be more successful, electorally than I ever was.

Bob LaBrant Now were you two just acquaintances or were you friends?

Richard McLellan We weren't really friends in undergraduate, but in law school we were both interns. I was an intern in the lieutenant governor's office and he was the intern for the Democratic secretary of state. So we would have lunch frequently.

Bob LaBrant That would have been Jim Hare?

Richard McLellan That was Jim Hare, and so I remember one day we were sitting there and Jim Blanchard said, "Boy, you must have a really exciting job? I'm a summer intern in an off election year with the secretary of state." I said, "Well, it is not quite as exciting as you think it is," but it was the lieutenant governor. And he said, "I've never met Milliken." So I remember I took later-Gov. Jim Blanchard over to meet later-Gov. Milliken. I introduced the two of them and we sat there, and I remember Milliken put his feet up on the desk, and sort of talked to these two young guys about public service and so on. I don't remember what he said, but I remember the incident.

Bob LaBrant Well Milliken would have turned the office of governor over to Jim Blanchard...

Richard McLellan That's right.

Bob LaBrant ...after the election where he defeated Dick Headlee. And then, I guess at that time, you were a law school student down at the University of Michigan and Jim Blanchard was out at the law school at the University of Minnesota.

Richard McLellan Yeah, that's right, we were at different law schools. We had been at Michigan State together, but we were at different law schools, but we both had these political internships, in '65. And then Jim goes on, fairly quickly, to be elected to Congress and then ultimately as governor.

Bob LaBrant Now, you said that you didn't let law school interfere with your political activities.

Richard McLellan Or my beer drinking, yes. That was my rule, but that's true.

Bob LaBrant Were there any particular courses in law school that you had great interest in?

**Transcript: MPHS Oral History of Richard D. McLellan, interviewed by Bob LaBrant, 4.04.14**

Richard McLellan No. I tend to be interested in almost anything and I do remember two things: You have to take Criminal Law the first year and I got a C+, and my professor was Jerold Israel. Jerold Israel was also the Executive Secretary to the Michigan Law Revision Commission. So about fifteen years later I am named Chair of the Law Revision Commission and Professor Israel is still our executive secretary. And every time we would go to a meeting, if I wanted to do something, Professor Israel would say, "Well you know Jason Honigman used to do it this way." And I always figured he just looked at me as a C+ student and that he didn't take me seriously as the chairman. And I finally told him, I said, "Jerry, I'm the Chairman of the Commission. Jason Honigman is dead. You have to..." He said, "Oh, okay, okay." I don't think it was because I had a C+, but I kept believing that.

The other thing I remember was Constitutional Law, which right about then was when the Connecticut decision came down saying that a state couldn't ban contraceptives, which of course created the idea of privacy that has gone on to *Rowe v Wade*, gay marriage, the elimination of DOMA, this whole idea of privacy came out of that case. And that happened when I was in law school and I remember we learned about that case but you could never think through all the consequences of that. Similarly some of the case that I've seen, First Amendment cases which is my particular interest, political free speech, not freedom of religion or anything; I've seen fifty years of evolution of those kinds of legal principals.

Bob LaBrant In reading about Bill Clinton in law school at Yale, I noted that he often took off from Yale Law School to go run campaigns in Texas and then came back and wrote final exams. Did it every get to that point when you were working for Milliken in '66?

Richard McLellan Yes it did. Basically I didn't go to classes and then I came back and took the exams. I remember taking Conflicts of Law, and since I'd never been with the class, I had the exam and all I did was I got the book and I read it from cover to cover. Now normally with a casebook you only read the cases that the professor assigns. But since I had no idea what was going to be covered I had to read the whole book and I got a B+. I had another class that wasn't quite as successful, and that was Tax, with Professor L. Hart Wright; a huge class of a couple hundred students it seemed like, and I never went, and he dis-enrolled me without telling me. Of course I wasn't there to know this, so after the election I wanted to go back for the last couple of weeks and he wouldn't let me take the exam. And I was going to do the same thing, just read the book and take it, which I might well have flunked. He wouldn't let me take it so I had to go to summer school the next year before I could graduate. The good news is I continued with student deferment longer and then was able to get a post-doctoral student deferment and that's how I avoided the draft, which was at the time, '66 - '67, the number one priority of almost every college student.

Bob LaBrant So you had to deal with the draft board back in Van Buren County?

Richard McLellan I did, in Paw Paw. Margaret Grabbee – I'll never forget that woman. She wanted me to die on the fields of Vietnam because I was 25-years-old and she was drafting 18-year-old kids from Paw Paw and our family had moved out of Paw Paw. She thought it was unfair. All my brothers and I kept going to college and getting



**Transcript: MPHS Oral History of Richard D. McLellan, interviewed by Bob LaBrant, 4.04.14**

(degrees); my younger brother got a PhD and a law degree, and my older brother got an MBA, so I think she felt it was her duty to get us all drafted.

Bob LaBrant So, this short period of time that you were a doctoral student; in what field?

Richard McLellan Education Administration. It's hard to believe that the dean of education at Michigan State was also the college Republican advisor back then. Now that would never happen today, I assure you. In fact I just spoke this week to a group of Education Administration students, where I was introduced as the "Dark Prince". I was the primary opponent of the public education system. So, it's fifty years later, I guess, almost.

Bob LaBrant So that lasted long enough to get you past your twenty-sixth birthday?

Richard McLellan Right, I got to about three months shy of my twenty-sixth birthday. I knew they wouldn't have time to nail me by the time I was twenty-six.

Bob LaBrant So you took the bar and here you are a new lawyer. You spent a short period of time working in a private law firm in either what Webberville or Fowlerville?

Richard McLellan Fowlerville. I got \$50 a week and then I got promoted to the chief assistant prosecutor for another \$50 a week for the purpose of electing the prosecutor judge. So I never tried a case, I think I went into court a couple of times. That was my job basically. The lawyer I worked for was also justice of the peace, so at the end of the year, '68, they shut down all the J.P. courts. So I was the chief assistant prosecutor, he was the J.P., and we had hundreds and hundreds of files that had to be turned over to the new district court. So some of the tickets were half-filled out. They really couldn't be prosecuted, so I created a motion: "In the interest of the economy and efficiency of government, the prosecutor hereby moves to dismiss this matter." And I put them on the printing machine and we printed out a couple of hundred of them and stuck them in the folders, and the judge approved them and sent them over to the new district court so they wouldn't have to open up new files on them.

Bob LaBrant So, in 1968 Richard Nixon gets elected president. He basically appoints George Romney to his cabinet as secretary of Housing and Urban Development. Your friend and later law partner Bill Whitbeck goes to Washington with Gov. Romney to work at HUD. And he recommends you as a new lawyer to your old boss, the new governor, Bill Milliken, as far as public policy.

Richard McLellan That's right. Bill recommended to Jim Kellogg, who was taking over the policy operation, and I was making about ten-thousand dollars a year I guess by that time. He said, "Ask for fourteen," and I met with the governor and he said, "Okay, fourteen sounds good." And I was made administrative assistant for policies and programs. There were about five of us. We divide up all nineteen departments and the other guys got all the important departments and there were nine left and I was the only lawyer on the policy staff. So they gave me nine departments which turned out to be very much to my advantage because the cabinet people had to call me

**Transcript: MPHS Oral History of Richard D. McLellan, interviewed by Bob LaBrant, 4.04.14**

before they would go see the governor. So I've learned my lesson. You have to be in the flow of policy and the flow of paper and everything to really have clout within the governor's office. And so, for a couple of years I did, and I learned an awful lot in those first two years. My secretary was a holdover from the Romney era, so she took me by the hand and around to introduce me to these cabinet officials, and I was quite nervous. I had never met most of them and I didn't have any idea how you'd deal with them. And I was young and I had longer hair than the state police director thought I should have.

Bob LaBrant            So the State Police was under your tutelage?

Richard McLellan    State Police, Military Affairs, Drug Abuse, and I also had Secretary of State and Attorney General. The secretary of state was a Democrat and so we would get letters – people complaining about their license plate or whatever – and I had to prepare the responses. So we had a standard response, “Dear citizen, thank you for complaining about the secretary of state. As you know he is under separate powers and I'm sure he will fix your problem.” And we would just automatically pass it over to them. Back then, the policy people had to do all of the governor's correspondence. I found that the best way for me to get my ideas involved was to help write the governor's speeches, because the speech writers always had too much to do, and again, I was sort of a quasi-journalist. I was good at writing. I would wander down and talk to them and say, “What do you have to write a speech about?” “Well, this or that.” So I said, “What if I write a few paragraphs?” So I was able to push some ideas about liberalizing marijuana penalties for example, in the governor's speeches, because I knew how he worded things because I had drafted letters for him when he was lieutenant governor. And he had a certain style of language and you had to have rounded edges on things. And when you would be pushing something like marijuana penalties, you'd have to have some line about: “We're still going to enforce the law, but this is a health issue and we have to deal with it,” and I knew how to articulate some things for him. Similarly we had student riots on campus, and we'd get boxes of letters. And I had to write an answer for the governor to all of those. And I remember having three piles: the people that said, “We should nuke the campuses and teach those kids a lesson.” Another, the squished liberals that felt we should, “Be more sensitive to their needs.” And a very small stack of people that said, “Governor this is a very difficult issue. You've got to do something.” So I drafted three letters that all reflected the governor's exact views, but with sufficient emphasis to try to appeal to the instinct of whichever stack of papers I was responding to.

Bob LaBrant            In 1970 Bill Milliken runs for governor on his own. He is up against Senator Levin, the state senator from South-Eastern Michigan. And it's a very, very close election, but Milliken pulls it out and is elected for a four-year term. That Thanksgiving there's something that is called the Thanksgiving Massacre. Can you explain that?

Richard McLellan    Yeah, the governor won a full term. He had become close to Jack Dempsey, who was a Democrat, who was a strong supporter of his. And I think he'd been on television or something, but he had run for Congress and lost. But he brought Jack Dempsey in to replace Jim Kellogg as the head of policy. And then several different

people were moved on out. For me, they told me I was going to be promoted upstairs from the basement of the Capitol, where the “policy people” were, to an office right outside the governor’s. The governor said he wanted me there. Well it was the worst thing that happened in my career because even though I had an office right outside the governor’s, nobody had to go through me. He also took my secretary and made her his secretary. And so, I had this great office that people would come in and say, “Boy, this guy must be powerful.” But I would just sit there and twiddle my thumbs. It was the new regime, I didn’t really fit into it in a way that I had been. And so I came up with other issues that I could pursue on my own because nobody was really supervising me. The governor isn’t going to check in and say, “What’s going on Richard?” So I didn’t report to anybody. So I worked there two more years and it was not as fun as being in the midst of the policy dispute.

I did want to say something about that 1970 campaign, since money and politics are always very important. I remember two things: John Stahlin came to me one day and he had a note and I had to sign a letter to borrow ten thousand dollars from the Belding Bank to pay for the campaign. I was paid fourteen thousand dollars a year, so borrowing ten thousand! I said, “John do I have to do this?” He said, “Yeah, we’ll pay it back.” But they want personal guarantees. So of course I had a job, so I signed it. Later on John Stahlin again, who is one of my mentors and a great guy, was talking about money. And they got some money from one of these mafia guys, ten thousand dollars! And since I was the governor’s aide on organized crime, I said, “Well you sent it back didn’t you?” He said, “Well I sent nine thousand back.” I said, “John, you can’t do that.” “Well I know, but we need the money. A thousand...” And I always thought, you know, that’s politics: Ten thousand would have been inappropriate, but we needed a thousand and we took that thousand.

Bob LaBrant            So there were no contribution limits, because we had no Michigan Campaign Finance Law back then.

Richard McLellan    Oh yeah there was.

Bob LaBrant            The Corrupt Practices Act.

Richard McLellan    No, no we had limits. In ‘68 we had limits. That’s why I was Chairman of People for Rockefeller because there were limits and Rockefeller created hundreds of committees, not unlike what we did later for John Engler in the Senate; created a whole raft of committees. So you did have these limits, and you would have to get around them by doing a lot of things. So yeah, the limits...

Bob LaBrant            So being the guarantor of the loan wasn’t considered at that time a contribution?

Richard McLellan    No, and if it was, I don’t know. What did I know? It was later that I became an expert on campaign finance, but not until after Watergate.

**Transcript: MPHS Oral History of Richard D. McLellan, interviewed by Bob LaBrant, 4.04.14**

Bob LaBrant        So, you decide it's time to leave state government and hang out your own shingle as Richard McLellan, Attorney-At-Law. Before you did that though, you were at least for a brief period of time, the "drug czar" of Michigan.

Richard McLellan    Right. In 1969 when I went on the governor's staff, there was no drug abuse program in the state government at all. There was alcoholism programs for basically older white men. But the alcohol industry would not, alcoholism people, didn't want anything to do about drug abuse. They were black, younger, different drugs and they thought alcoholism was special. The governor said, "No, we have to start having a drug abuse program." So I met with him and I said, "Okay governor, we could create an office of drug abuse. Do you want it in the Governor's Office or do you want it in the Department of Public Health?" He said, "Well why don't we put it in the Governor's Office." And I said, "Okay." So we created this office of drug abuse, just by press release. George Weeks, the governor's press secretary, called me and said, "There is a guy, I'm sending him down, Alex Laggis, hire him. Your job is to hire him." And I had some control over the crime control money. So Alex became the head of the Office of Drug Abuse, and he was just a reporter. We then took ten thousand dollars I think, and we made a movie about the drug abuse programs around the state. But the governor would participate. He would go to a school, he would go to a hospital, whatever little programs we could find. The governor would get there and he would talk about this program as if it was part of the state's effort. I remember when we made those movies. I'd love to see if one is still around, because that's what you did back then. There was not internet, or that sort of thing. But we basically created the state's drug abuse problem as, you know, smoke and mirrors, for that to get off the ground. Then over the years, more and more money started to flow. So we ultimately drafted a bill called the Office of Substance Abuse Services, OSAS, and created a real agency. I was the last head of the Office of Drug Abuse for about the last sixty days or something. Because who had ever had it had moved on. And so I did that and then I left. The new OSAS was created and I left and went into private practice. So those kind of issues, my long-term experience... I've seen these issues through the whole cycle. OSAS lasted ten to fifteen years and then it dwindled into the bureaucracy somewhere. I'm sure the money is still being sent, but it is not a very high priority anymore.

Bob LaBrant        Before we leave the governor's office, let's just talk about a few personalities there. You knew Joyce Braithwaite quite well.

Richard McLellan    The "Dragon Lady" was the governor's... I knew her when she was a secretary to Elly Peterson, the vice chair of the Republican Committee. Because I worked for the Republican Party in 1963, in the summer. So I knew Joyce...

Bob LaBrant        That's when Bill Ballenger was research director.

Richard McLellan    Bill Ballenger was the research director and I worked for the party. And because I worked for the party I was able to use their print room for my ill-fated campaign for (MSU) student body president. I remember one weekend we took all the paper that the Republican Party had, and back then you mimeographed things and used the mails. Well Elly came in the next morning and the whole paper room was empty.

**Transcript: MPHS Oral History of Richard D. McLellan, interviewed by Bob LaBrant, 4.04.14**

We said, "But Elly, you said we could use some paper. It's a big campus." She wasn't mad, she just, you know. So that's what I did.

Bob LaBrant We were talking about Joyce Braithwaite.

Richard McLellan So Joyce; the key players that I remember in the governor's office were Don Gordon, the first chief of staff, who had been his chief of staff as lieutenant governor, and a one-term legislator I think. Don then had to leave after the "Thanksgiving massacre" because they had offered a job to Jimmy Del Rio's girlfriend, and Don had to take the fall.

Bob LaBrant Tell our viewers a little bit about Jimmy Del Rio.

Richard McLellan Jimmy Del Rio was a foundling and he didn't know what his ethnicity was, so he would be variously Jewish, Hispanic or Black. And grew up and eventually was elected judge. And I think he was eventually removed, but he was a very good friend of my uncle's and I got to be a good friend of his. He was one of these characters that occasionally you would see, or most people would just think he's a crook and a crazy man but in 1970, the governor was in a very close race. There were two groups that helped him on the sly. The Teamsters Union, they published a newspaper for all the labor people. Never had a disclaimer on it, but it was the Teamsters that paid for it. And another group was, they put together a newspaper and they had a picture of the governor and all around it was every black appointee that he had given... because that was his big strategy, and it said, "We need this man." And that went all through the black community. I think that's what Jimmy Del Rio and some other people put together for him. And of course they were all Democrats, but they wanted Gov. Milliken to win. And I have a copy of the labor newspaper because Alex Laggis was involved in doing that. And so, that is sort of one of those historical documents that is rumored to exist and does exist. The one that says, "We need this man," with all the black appointees, I don't know, maybe George Cushingberry has one. But it would be interesting, from political history point of view, to see some of these documents. And of course it points out that while Gov. Milliken is about as straight an arrow as you get in politics, probably not everything that happened in 1970, meets today's standards of politicking.

Bob LaBrant In 1970, John Engler won in an upset over Russell Strange for the State House.

Richard McLellan Yes.

Bob LaBrant Did you know John in that first term in the state House of Representatives?

Richard McLellan I did, because we were both pretty young and that was '71, and I was then sort of on this new assignment with no assignment, and so I got to know John. And I was also pushing the marijuana penalty, and I remember talking to him about that. But he and I just seemed to get along politically, and he was quite unpopular with the governor and with Joyce Braithwaite. And I remember two occasions. One, I got a call from John Stahlin, again who was sort of my mentor. And he liked John Engler,

**Transcript: MPHS Oral History of Richard D. McLellan, interviewed by Bob LaBrant, 4.04.14**

but he said, "Richard look, I'm just warning you. You are seen with John Engler too often. And you are a Milliken person and this may not be good for you." And then one time Joyce Braithwaite called, much more blunt and said, "Look Richard, you're one of us. You're hanging around with Engler and I can tell you this, we are going to get him." And I sort of had to make a choice then and John continued to be my friend and I was sort of one of his political allies all along. And I never abandoned Milliken, but I felt John was somebody I respected, and he did try to totally disrupt Gov. Milliken's control of the Republican Party. So there was some reason for that kind of tension between them, but...

About thirty years later, I was up at Mackinac Island staying with the governor (Engler) in the governor's residence. And it was foggy and we had to drive back, we were going to fly back, but I had driven up and his plane couldn't fly him back. So we decided we'd have the troopers drive my car and the two of us went down early in the morning and got on the ferry boat, and on the ferry boat was Bill Milliken, (former) Gov. Milliken, who also had a place on the island. I remember sitting there with John Engler, then-governor, and he said, "Well I should go talk to him." I said, "Yeah you should." And he went over, and during that ferry boat ride he and Milliken talked, and when we were driving back he said, "That's the longest I've ever talked with Bill Milliken." Even though they were two Republican governors that served, well he served in the House under Milliken and I can't remember if he served in the Senate? Yeah he did, but there was not a lot of love lost between them.

Bob LaBrant Well let's shift here and tell us a little bit about your decision to establish your own private practice.

Richard McLellan Well, again from '70 to '72, I was on the governor's staff, but I didn't have a lot going for me. And I said, "At some point this sort of thing has to end. You've gotta go get a real job sometime." By that time I had worked up to twenty-thousand a year, I think. So I started to see about getting a job. So I interviewed at almost all the firms in Lansing and every one of them said, "Well you're a real nice young man, but you're not a real lawyer. You've never been to court." And I said, "No I haven't, but you know I wrote a lot of these laws and I know how state government works. I think you'd think there'd be a position for that." Well there wasn't in these firms. So my uncle was a lobbyist and had an extra office. So I just decided to go out on my own.

Bob LaBrant This was John McLellan?

Richard McLellan John McLellan was a curmudgeonly old lawyer. Had been close to Mayor Miriani of Detroit. He represented Blue Cross in Michigan for a long time and was a pretty well-known lobbyist and lawyer. Very controversial. Gov. Milliken fired him from the Tax Commission while I was on the governor's staff. And I remember going to a cocktail party with the governor and somebody came up to him and said, "Well I'm glad you fired that McLellan guy." And Gov. Milliken, in only the way that the governor would, turned to me and said, "This McLellan?" And this guy was embarrassed. He didn't have any idea who I was. Uncle John was quite

**Transcript: MPHS Oral History of Richard D. McLellan, interviewed by Bob LaBrant, 4.04.14**

controversial, but he gave me an office, and I figured if I couldn't afford it he wouldn't throw me out after the first month. So I went out on my own and I was very fortunate because I was the first real lawyer-lobbyist I think, because many of the lobbyist were lawyers, but they didn't practice law. I was able to do both. And I got big clients within about three months and so I never had to go scramble for divorces and criminal assignments or anything like that. And I just had a very good high-visibility practice right from the start. Now that was also right after Watergate. So you had all of these campaign finance acts being developed. I told Bill Gnodtke at the time, who was the House Republican policy guy and a good friend of mine. He tells me that I told him, "I'm going to know more about these laws than anybody else." Because they were new and my theory was if you get in on the ground floor of a law, you can beat these big-time, big-shot lawyers that just hire their youngest associate to survey the law. They don't get the in-depth knowledge that I could get from where I was practicing. So I really worked to get to know those laws and I would go to lunch at the City Club with my uncle where all these trade association executives would sit with him. And they would then all pick my brain about these laws because they effected all of them. I remember the Chrysler lobbyist in particular, would always ask me all these questions. And I finally told him...

Bob LaBrant            Was this Hy Todd?

Richard McLellan    Hiram Todd, Hiram Todd. Wonderful guy, long time lobbyist, wheeler-dealer and he asked me all these question and finally one time I said, "Hiram, the free legal aid clinic is closing today. From now on if you want to know about the Campaign Finance Act, you come over to the office and bring a check." I figured that Chrysler could afford one of their in-house lawyers or me. And so I got involved in that, and as you know Bob, I stayed with campaign finance for a long time and we both ended up in the U.S. Supreme Court arguing a campaign finance-First Amendment-political speech case. And those battles continue today.

Bob LaBrant            Over the years, Richard McLellan, Attorney at Law expanded into McLellan, Sheba and Whitbeck. And as you said for yourself, you developed this kind of niche that you were going to be the expert in Campaign Finance Law and the "Lobby Law." You were one of the first lawyers in Michigan to look at this and say, "This has now become a regulated industry and just like lawyers can practice utility law, I can practice political law."

Richard McLellan    That's right, it's a regulated industry. It has all the elements of a regulated industry: complexity, heavy regulation, barriers to entry, criminal penalties to frighten people out of the system, just like we do when we license doctors or other people. We use the government to limit access. So political activity is now not democracy in a way that some people would have you believe, but it is a regulated industry, as much by the government regulations as it is by the increase in money. Now, it's also true there's enough money in it now that a few lawyers, and you know them all here in Lansing, make a living, a pretty good living on ballot campaigns and elections and so on. But, it is what it is, both nationally and in Michigan. It's a very complicated and specialized area of practice and specialized area of activity. You just don't have volunteers in campaigns anymore.

**Transcript: MPHS Oral History of Richard D. McLellan, interviewed by Bob LaBrant, 4.04.14**

Bob LaBrant        Also Michigan, at least in the late '70s, moved to amend the Michigan Lobby Law and you developed an expertise in that. I remember a famous chart that I think you produced on that. Could you tell us a little about that?

Richard McLellan   Well the Lobby Act, again it's a very complicated statute and what it defines as lobbying. Every word is defined, so lobbying is "attempting to influence administrator or executive action," and so, executive action, administrative action, legislative, all of it is defined, so anybody facing that law has to know all those definitions. Well your average lobbyist, or frankly average lawyer looks at that and it is very intimidating. So, it was my business to hustle clients. So I had to speak at the Michigan Chamber, and I took all those definitions and created about a four foot long chart showing how this definition was hooked to this one. And I held it up and I said, "This is what you have to do. This is what you have to understand to be in compliance with the law." It reminded me of an early version of the chart they made of "Hillarycare," showing how complicated that system is or if one could be developed, a chart on "Obamacare," which probably is not capable of being drafted, but it worked because I actually used it. And I knew that I created it and then it was in my head. So I was able to do analysis and help people go through this maze of regulation: What you can do, what you can't do and what you have to count, what you have to turn in. And it was part of the basis for building a real expertise in lobby regulation as well as what I had already pretty much developed on campaign finance.

Bob LaBrant        I recall, we retained you, meaning not only the Chamber but the First Amendment Committee to protect the right to lobby.

Richard McLellan   Right.

Bob LaBrant        And you were one of three lawyers that we'd hired to challenge the constitutionality of that act in a case called "Pletz versus Austin." Do you recall that case at all?

Richard McLellan   I do, and I always remember that Frances Pletz was head of the Library Association and I thought it was a brilliant decision that I think Jerry Coombs and some other people made: "We have to have this committee. We have to challenge the lobby act, and we can't have the president of the Michigan Chamber be chairman of this group. Who could be get? What lobby group is the least threatening to people?" And they said, "Well what about Fran Pletz?" A wonderful woman who ran the Library Association and she was a lobbyist for money for libraries. And she took it on with abandon, plus it was sort of a free speech issue. You know, should people be regulated in their political speech, and being a librarian she had those instincts, so she was our front person if you will. I remember they had some big-time law firms that were driving the choice and I think they misspelled my name on the brief, which frequently happened and I learned later on to try and control the brief, so at least they get your name right. But those kind of issues reflected the fact that there are three or four law firms that take on these kind of issues. Sometimes they split between Republican and Democrat. Sometimes they all work together, but there is a very small fraternity of people that do this. One of the people was Gary Gordon, with the Attorney General, who was with the Attorney General for thirty years. He



**Transcript: MPHS Oral History of Richard D. McLellan, interviewed by Bob LaBrant, 4.04.14**

eventually went into private practice and joined my then-firm before I retired. So he was able to join this small fraternity on the other side. He actually ended up writing a brief for the Attorney General in the Austin Case that you and I lost in the Supreme Court. And he also drafted an amicus brief in the Citizen's United case that we won. So he changed sides and another decision came down, also better lawyers and better justices. But after twenty years the First Amendment was upheld in that controversial case.

Bob LaBrant Well like in politics, litigation...it's all in the timing.

Richard McLellan Exactly right, exactly right.

Bob LaBrant Tell us a little bit about how you and your partners, Rex Schlaybaugh and Bill Whitbeck, decided to seek a merger with the state's largest law firm, Dykema Gossett?

Richard McLellan We didn't. It was McLellan, Schlaybaugh and Whitbeck. Rex Schlaybaugh's mother Doris, had been on the governor's staff and worked with the "Dragon Lady," Joyce Braithwaite. And when he got out of law school, Doris said, "You know Rex is looking for a job." So I hired him and we formed McLellan and Schlaybaugh the day he passed the bar. Whitbeck then came back – had worked for the state for a couple of years – from George Romney in Washington. He went into practice and we hired him, and it was then McLellan, Schlaybaugh and Whitbeck. Then we hired Al Ernst from the Attorney General's office, and he was sort of an energy guy that Bill Whitbeck knew. And Frank Kelley told him not to go to work for these guys, "They're all just Republicans, they're just riding on Milliken's coat tails. The minute Milliken is out they will be gone." Well he decided to come with us. He was just mad because we didn't put his name on the door and we wouldn't give him a speaker phone. Only the partners got speaker phones back then. So Al always wanted that speaker, and he's turned out to be one of the most successful lawyers in the state, in the whole area of telecommunications and energy. So we built up that firm and then one day we got a call from Brian Sullivan.

Bob LaBrant At Dykema.

Richard McLellan At Dykema, he was the chairman of Dykema. Well we had been representing the mobile home industry, and one of the major mobile home companies in Michigan had Dykema as their lawyer. And Rex got to know that lawyer pretty well. He then told Brian Sullivan, who was just the new chairman, he, Brian, wanted an office in Lansing. Because Dickenson...

Bob LaBrant Miller Canfield...

Richard McLellan They all had an office in Lansing and Dykema did not. So he, this partner, called and told Brian, and Brian said, "Okay, I'll call these guys." So he called me up and he said, "We'd like to talk to you about maybe coming in with us? Would you like to come down to Detroit and we can talk about it?" And I figured this was one of

those times you either have to do what they want or do it your way. And I said, "You know Brian, we're really busy up here. Why don't we meet in Brighton?" which was half way, and a lot of times if you're going to go to Detroit you meet in Brighton. And he agreed to do that but he slammed the phone down. And he said, "Who do these people think they are? This little dinky firm in Lansing," ya know. "They can't come down to see me?" Well I knew if we went down on his turf, he'd take us around on a tour and blow smoke at us. Whereas if we met him in Brighton, we could blow smoke at each other at least. And after several months we integrated our practice with Dykema. We didn't call it a merger. We didn't call it a buyout. Thereafter, Dykema swooped in with all their systems and their administrative people and their papers.

I remember the very first day, it was April first when we joined the firm, and the administrative partner would put out something called Dykema Daily, just you know, news of the firm. So we got our very first Dykema Daily, and the very first story was that they'd done a study of phone costs and had determined that people were using the Dykema phone system for personal calls. And everybody had to come down to the administrative office and bring a check for six dollars. And I said, "What?! What kind of firm is this?" Of course it was an April Fools' joke and I didn't know. We were brand new and it was the very first thing we got, so. A year later Brian Sullivan said to people, "We thought we were getting geographic expansion, but what we got was entrepreneurial infusion." Because all four of us were very entrepreneurial. I mean to start a firm from scratch, you eat what you kill. And many of the Dykema Gossett partners, who were smarter than we were, but their whole practice development was their in-basket. Because they were young and they were smart and would take over from some more senior partner. So Brian realized what we brought to the firm and later on I went on the executive committee and ultimately Rex Schlaybaugh was chairman of the firm. So, we had a good run in that firm and I retired about seven years ago. So I have no connection with the firm now.

Bob LaBrant            About that time you got involved in a campaign that was run on the slogan "D is Dumb." Could you tell us a little about that?

Richard McLellan    Well, you know one thing that's changed in the thirty or forty years. There was a period of time when policy was driven by three big groups; business, labor and the consumer groups. And the consumer groups were quite powerful. They had the support of the unions, and one of the issue they would always fight about was utility rates. So the consumer groups put a question on the ballot that was to control utility rates. It would have bankrupted DTE and Consumers Power and so on. So these groups got together and they hired, I think probably one of the best political teams, Republicans and Democrats to fight this campaign. They had polling, they had Republican and Democrat campaign managers and they had me as their lawyer. Two things that we learned. There was a limit of forth-thousand dollars per ballot question committee. We knew we were going to have to spend millions. So I came up with this idea of a compliance and operations group, COG. It was not a committee, but it controlled committees. And through that model we created hundreds of committees so we could spend millions of dollars, I remember that.

**Transcript: MPHS Oral History of Richard D. McLellan, interviewed by Bob LaBrant, 4.04.14**

Bob LaBrant            That sort of dates back to your Rockefeller days?

Richard McLellan    Yes, that's right. That's right, that's where that kind of idea came from; that you'd never assume that these barriers that the anti-political people are throwing up will stop you if it is important enough. Figure out a way to do it. We then did polling and said we are going to lose. There is no way we can win on this ballot. This was going to pass. The utilities controlled the Legislature. They could get the votes. So a decision was made to put another proposal on the ballot called "H". Under the Constitution, if two ballot proposals cover the same thing, if they both pass and one has more votes than the other, it will take effect. So that was the strategy. We later used that same strategy in the "bear hunting campaign." But, we came up with this new amendment. Got it adopted by the Legislature, and then launched one of the most expensive campaigns in Michigan's history with one theme: "D is Dumb." Because there is no way you could run an ad discussing utility rates in a way that people would pay any attention to, and particularly drive their vote. But if you say a million times, "D is Dumb. D is Dumb. D is Dumb." It sticks with enough people and we won. We were way ahead we felt, and then somebody figured out that we had created this COG. I had created the COG, and I had come up with the idea and it was operating. And they brought a complaint against us in the Campaign Finance Act. I told the utilities, "It's legal, I guarantee you. It's perfectly legal." But you could see the daily tracking polls. In the same way we never ran a campaign on the substance, they learned their lesson: "Don't run a campaign on the substance, just beat up on the utilities." Fortunately, they brought it too late and we squeaked by with a win and "H" got more votes. "D is dumb and dead."

What happened thereafter, the utilities chairs said, "What happened? Why did we get this complaint filed? What did you guys do wrong?" I mean, they won the election because of this idea! General councils – I learned my lesson with general councils of companies – immediately it wasn't their fault, it was my fault and I was expendable. So I got thrown under the rug and my friend John Pirich was hired to defend in effect. And they brought a lawsuit, the same utilities, John brought it and ultimately won. And I never wanted him to win a case anymore than that, and he did and I was right. This limit on ballot question committee expenditures was thrown out, by the Sixth Circuit I believe. So that was the most expensive campaign. It showed examples where we had the utility unions on our side. You had business, some labor. You had Republicans and Democrats all pulling together and those are sometimes of the most fun campaigns, where you do get to work with the other side to beat up somebody that you both decide is wrong. Most of the time it's Republicans versus Democrats or business versus labor, as has been the most recent kinds of fights over right-to-work and that sort of thing.

Bob LaBrant            Well later there was a challenge to the forty-thousand dollar contribution limit. The U.S. Supreme Court had spoken in a case out in California at Berkley, and so the forty-thousand dollar contribution limitation was declared unconstitutional. Now there are no contribution limits as it relates to ballot question campaigns. Also about this same time, I came to you with an idea to challenge the prohibition on corporate independent expenditures. That started the lawsuit of Michigan Chamber of Commerce versus Austin. As you've already relayed, that went all the way up to

**Transcript: MPHS Oral History of Richard D. McLellan, interviewed by Bob LaBrant, 4.04.14**

the United States Supreme Court. In fact that case went to the Supreme Court twice. We lost the first time but then Austin was reversed twenty years later. So isn't it good to still be alive to see that had happen?

Richard McLellan Yes it is. I remember the day we lost the case. Of course the solicitor general, for the attorney general, had argued the other side, and we lost the case on the day of his retirement party.

Bob LaBrant That was Louis Caruso.

Richard McLellan Caruso. And I said, "You know, as a professional. What a way to go out on top." You know this was a very important case nationally and for him to win that on the day of his retirement must have really been satisfaction. I do remember arguing that case. One vignette, I went down there and spent almost a week just preparing. And then that morning I wanted to be alone. So I went to the Supreme Court library, and I went way to the back and I sat down. There was hardly anybody in there. I was back in the corner reading my briefs and I looked up and way in the other corner was Louie Caruso doing exactly the same thing. I said, "Now, that's a great scene." If you were doing a movie you would show these two people getting ready for battle. Both in this very ornate library, trying to get their arguments together and were going to be joined on the Supreme Court battlefield in an hour or so. It was an interesting picture that I have in my head about that day. The other picture of course was the flop sweat I had as I had to stand up to argue about five feet away from the chief justice of the United States who didn't think much of our argument at all, and we knew that.

Bob LaBrant Although William Rehnquist kind of flipped a few years later in "McConnell."

Richard McLellan Yes he did, that's right. But that day we knew that he was not on our side. So that was a great experience to have argued your first appellate case in the United State Supreme Court, is kind of an unusual experience. I actually had gone to my firm at the time to the litigators and said, "Well can I come down and meet with somebody who's argued in the Supreme Court, just so I can get an idea of what it is like?" And they said, "We have nobody." Most lawyers simply file attempts to get cases before the Supreme Court that are turned down. So very rarely is a case taken. Nowadays if a case is taken you hire these specialist in the Supreme Court. So, what I did back in '90, doesn't happen much anymore. A lawyer with a creative client like you, that comes up with an idea, and we carry that ball all the way to the U.S. Supreme Court was unusual. The key thing about that case was, it was generated to raise these very issues at the highest level. And you came up with this idea of picking a special election, printing an ad that wasn't very high quality, saying that the Chamber wanted to run this, but they were at risk of criminal prosecution and therefore we were bringing this to declaratory ruling. So it was based on real facts and the court took it and we were able to raise that next step. And the other thing that's important if you are going to argue a case in the Supreme Court, you need to know where you fit in a series of cases. Anytime you're dealing with the First Amendment, or these most recent cases dealing with the right of privacy, gay marriage, that sort of thing, you need to build on all the cases before that. And

that's what you brought and we refined. These series of cases, it began to say, there is such a thing as political speech. You can't restrict corporation from participating in ballot campaigns. You couldn't restrict certain other people, and we felt this was the next step, a big step to move toward allowing corporations to participate in independent expenditures, partisan on behalf of candidates.

Another little story that I'll tell is during that argument we met with all the groups that had files amicus briefs. And one of them was a group of the feminist groups. National Abortion Rights Action League, National Organization for Women. And I met with them. And they're very nice and they had their lawyer doing their briefs. And they said, "We're going to tell you the truth. We have tried to figure out a way for you to loose and us to win. Can we make an argument that we're more entitled to First Amendment rights, even though we're corporation, we're non-profit corporations?" But the Michigan Chamber was a non-profit. And they said, "We really tried, but we couldn't, so we're on your side." The ACLU was on our side. To me that was interesting how these Supreme Court cases and constitutional principles rarely breakdown on Republican, Democrat, Liberal, Conservative bases, and that's the trouble with reading the newspapers, if that's all you read. The press has to polarize everything and report it only that way. And of course the people in the system need to do that too. So, President Obama attacks the Supreme Court in a State of the Union speech on the Citizens United case. It's a very, very important decision and the most recent one that just came down also removing some of the limits. These are really just part of expanding political speech, and I've been involved in it for fifty years.

I did an editorial in Paw Paw High School that they wouldn't publish, in my school newspaper. The principal said, "We can't publish that." So I just printed it up and gave it to the teachers and they handed it around in the faculty room where they would go to smoke, because they agreed with me. And some of the other things we have done over the years. I'm pretty consistent in saying that political speech is something that is kind of at the core of the First Amendment and if you don't defend everybody's right, we see what happens in all these other countries, where they now are trying to crackdown on the internet. They are trying to crackdown on the press, and it happens. And then we have some people in this country trying to do the same thing. When they argued the Citizens United case, the assistant solicitor general said they asked him, "Does that mean under your interpretation, they could ban a book that talked about Hillary Clinton before the election?" And he said, "Yes." So the Obama administration is not a particular fan of the First Amendment. And they have a lot of other people. That's why these fights are worth fighting even if you're not terribly popular sometimes.

Bob LaBrant                      Now you got a memento out of arguing a case before the United States Supreme Court. What did they give you?

Richard McLellan              Well, they give you a quill pen, that I believe I lost. I always had it on my shelf and I must have when I moved... it's either in a drawer some place... I didn't have it framed. If I'd won the case of course I would have had a framed picture of the holding and my quill pen, but we didn't win. It took twenty years for the court to

**Transcript: MPHS Oral History of Richard D. McLellan, interviewed by Bob LaBrant, 4.04.14**

issue the three most important words in my professional career: "Austin is overruled." When the court said that, you and I were vindicated. We were just twenty years early.

Bob LaBrant Well let's move to another area, and that has to do with John Engler's election as governor. But before we get to John Engler's election as governor, let's go back to when he was still a state Senator and as Chairman of the Campaign Committee for Senate Republicans. You and he came up with the concept of the Senatorial Trust.

Richard McLellan Right. We had the same issue of limitations. And therefore John Engler, then-Senator Engler, wanted to have a more coordinated campaign. He was unlike some of his predecessors. Senate Republicans had been in the minority for years and they were happy to stay in the minority. They just needed to elect their incumbents. John had a different view. He wanted to take over. So he wanted to raise more money and they didn't have a real vehicle for it. There were no caucus committees then. Every committee was subject to these limits, so we came up with this model of a Senatorial Trust which was similar to the COG. It was a system of committees that could work cooperatively, not unlike the AFL-CIO. I did a study of all the AFL-CIO committees. They were all in the same building. They all had the same treasurer. They were all different from a legal point of view. So we did that, and again, John wanted to win. So he spent some money to support Norm Shinkle in a primary, the kind of thing you have to do if you are serious about taking control, because if you have a weak primary opponent who wins the primary, then you have no chance to win. Unfortunately, Bob VanderLaan, the Senate majority leader, didn't agree. He was more of the old minority, "We don't spend money in primaries." And he filed a complaint against John Engler and removed him from the Appropriations Committee, which was a huge insult and slap. And John Engler and I spent about eight hours at Beggar's Banquet restaurant, which was kind of a political hangout then, and went through everything he did with the Senatorial Trust, with the campaign committee. And because I know all the laws, and we kind of went through everything, I figured you didn't do anything wrong. You had the authority. You did what was legally permitted. So I wrote a lengthy letter explaining all of that, and that went away. It just went away.

Bob LaBrant This was a letter to VanderLaan?

Richard McLellan Not to VanderLaan, to his lawyer.

Bob LaBrant Okay.

Richard McLellan And Leo Farhat, a prominent Republican lawyer who had always picked the judges in Ingham County for Gov. Milliken, and a good guy. And fortunately, Leo read that letter and said, "Oh well, I guess VanderLaan is wrong. There is nothing wrong here." So, a couple of things surprised me. One is when John Engler took over as governor, VanderLaan by then was a very prominent lobbyist, and John never held it against him. I would have just made that man's life unpleasant. But John Engler, like so many of the really good politicians, just don't; they forget and they move on because they are heading someplace. But I did talk to John the night before he was

sworn in. I drove him home because I'd been the transition director. We were sitting there and it was really cold, ya know it was December 31, and I said, "Well John, tomorrow you're going to be governor and I'm going back to practice law." Because I wasn't going in the administration and we just got talking about it. And I remember two things he said in that. He repeated what he had said many times. He said, "Well, George Romney told me to be bold." And he said, "I'm gonna be." He also said Gov. Blanchard had really frustrated him because he wouldn't do things. I think after he lost control of the Senate, Gov. Blanchard was somewhat shell-shocked. And John always felt there were more things that could have been done if they'd worked together, but they didn't. And then I asked him, I said, "Well John, you're going to be at the peak of your power and accomplishments tomorrow." I want to know your worst day in politics?" And I said, "I think it was when you got kicked off the Appropriations Committee." He said, "Absolutely." Because he had never lost, he had always defeated incumbents. That was the first time somebody sort of impugned his integrity, and really, to be removed from Appropriations, ya know, was just not done. And that's why it reflects the kind of guy John Engler was. It happened. He went ahead. VanderLaan left the Senate. John was minority leader for a couple three months and then became the majority leader and the Republicans have controlled the Senate ever since.

Bob LaBrant           Thirty years.

Richard McLellan   Thirty years, and that's quite an undertaking. I remember, I happened to be in Toronto when the Conservative Party fell after forty-two years in Canada. And I was with Senator Art Miller, and the premier was named Miller. And we got to sit in on the vote for premier. We met with the premier and he said, "Well come on over and watch. It's my last day." And they go through this motion of no confidence and it was just one of those historic periods where the conservatives lost power. Now, they'd had to be in coalition governments, but forty-two years is a long time to run the whole government of the province. That was an interesting time and I remember one time Senator Miller called me over. They were always trying to raise money, and he wanted me to give money to their caucus. Because I was a lobbyist and I had clients that would do it. I said, "Senator, I will not do that. You know I won't do that. You're going to use that money to try to defeat Republican incumbents. You know I'm not going to help you do that because that would put John Engler out of a job." I said, "On the other hand I have to work with your people and there are several of them that I agree with. I'll write a check to some of the incumbent Democrats that I work with and that I respect. I know that means you have to give them less money, I know that, John Engler knows that, but that's the way it is." And I remember, Art Miller understood that.

Bob LaBrant           You had a relationship with John Kelly?

Richard McLellan   I had a relationship with John, now President Kelly and now Ambassador Kelly. He was just named U.S. Army Reserve Ambassador, which is a program of the U.S. Army, and he's been put in charge of a big program and I'm working with him on it. So John Kelly is another survivor over the years.

**Transcript: MPHS Oral History of Richard D. McLellan, interviewed by Bob LaBrant, 4.04.14**

Bob LaBrant            Were you in a meeting with John Kelly with the IRA?

Richard McLellan    We went to New York and had an apartment that Gordon Boardman's corporation had. John Kelly was there but he'd never show up at our meetings. We had all these meetings with the Federal Reserve Bank. We went down to the gold vault. But he was just never there, and then we found out later he was meeting with his Irish friends, let me just put it. I was never at a meeting with the IRA. In fact I was never in a meeting with anybody Irish except John Kelly, John Francis Kelly.

Bob LaBrant            Richard, let's return to 1990 and the gubernatorial election year. Did you think that John Engler was going to defeat Jim Blanchard?

Richard McLellan    I wanted him to, but I didn't think he would.

Bob LaBrant            Had you over the course of the campaign talked at all about transition?

Richard McLellan    No, we really hadn't. I would go to brunch with him. Sometimes you now, a little time off and we'd just go. And I would just say, "John, tell me how you're going to win again?" Because he never wavered. It was the night of the election. After the election, Wednesday night, we went to dinner with the Peros, and John and his new fiancée. And I said at the time, "John I'll do anything you want me to do now that you're governor-elect, except a job. I don't want a job." And the next day, Dan Pero, who became the chief of staff, and the governor-elect came over and he said, "Okay, we want you to be transition director." That was on Thursday. On Friday we had our first meeting with the outgoing governor. So we all went over, and that was as you might suspect, a very tense meeting. I remember that we were waiting for Gov. Blanchard to come in. He came in and said two things that I remember. He said, "Well, my staff thinks we should declare it a tie, but John you won." And then he also said, "They just told me that Richard's going to be the transition director, and my people say they can trust him." And that was really a good thing to say because after this acrimonious campaign, we then had to be an outgoing governor and an incoming governor, and we had to work together. So I was the transition director and probably the most satisfying two months of my professional career in terms of helping a governor and a guy I respected and liked, put together an administration. We did some things I don't think have been done before, but the National Governors Association has used them in their New Governors School.

One thing we did, we created probably the best law firm in the country. We got all the top lawyers who all agreed to help us do it. And we did research for example, on every power of a governor under federal law. Nobody had put all that together, but John Engler wanted to know what his powers were. So Nancy Edmunds, now a federal judge, put together this report on powers of the governor. This business of reorganization of the executive branch that I had done on the governor's staff in 1972, a Blanchard official had stolen this memo from the archives and brought it over to me. I gave it to the governor-elect and I said, "John this is what I've been talking about. You have more power than you think." The next day he told me to go tell Bill Whitbeck that he had to stay after January first. He was my legal counsel with transition. He had to go to work for the governor as special counsel for



reorganization. And from that came all of this reorganization of the executive branch by the governor, unilaterally under his executive authority. That had never been done, by Romney, by Milliken or by Blanchard. So John started this complete remake of the executive branch. And of course it was challenged and he had to go to court and get it approved. The Supreme Court upheld everything he did. He almost never lost a case.

Picking the cabinet was interesting because we would interview them – the political people – myself and others. And then we would turn them over to Pete Ellsworth who would meet with them privately and ask the tough questions. You learn a lot of things. You learn how squeaky clean some people are like Doug Roberts who became state treasurer. And I remember telling Doug, “There is nothing that you have done wrong in your entire life that we can find.”

Bob LaBrant            That’s because his dad was a Secret Service...

Richard McLellan    ...a Secret Service man. There were others that you said, “What were you thinking that you would turn in your resume?” “Well I’m a Republican and I should get this job.” One thing about the transition, we had a party Friday night, and I was driving out to it at the Kellogg Center. I said, “Oh my God. I’m going to be the second-most popular guy here, because I control the jobs.” I don’t control them, but I control the recommendations to the governor-elect. And I said, “I have to have a staff.” I had no staff. I had nothing. We had no office. I’m the transition director. So I’m driving out to the Kellogg Center. I came up with two names. I said I need a deputy and I need a legal counsel. Well, Bill Whitbeck had been my partner and he was quote “writing a book” at the time, meaning he was unemployed. And then I thought of Carol Viventi. Carol had been the governor’s secretary and they had gone to law school together. She was an Asian American, and she was a woman. She was a lawyer and she was clerk of the Joint Committee on Administrative Rules, so she knew the structure of government in somewhat the same way that I did. I said, “She’d be the perfect deputy.” By the time I got to that party she’d had two job offers already with a lot more money. And I said, “No, no you are not taking” ... I said, “You are going to go to work for the governor-elect, and you’re going to be my deputy.” And she was. So that period of time would be like a hundred-hour weeks. It was very, very hard work but to create an administration and a run-up, and we had two sides of the building. We had the inaugural proceedings and that was another huge undertaking that you have to do. One thing people forget is what happens when a new governor is elected. If he or she doesn’t have plans, and of course we had no plans, but we had a governor who had been in government for twenty years. He had his own office in the Capitol. He had his staff. So we had it easier than most people. The first thing I did that weekend, before Monday, I drafted transition principles on ethics and confidentiality and all that. And some of those have been reprinted and used by governors ever since. Because John Engler would go to the New Governors School every two years and give this lecture that I would help prepare. We’d dig out the old stuff that we’d done, things like operating principals. One of the principles was if you are on the staff of the transition team you are never quoted in the press. Period. Well one young guy got quoted by some environmental newspaper up North and we saw it. And he was driving back down

and I called him up and I said, "You are off the transition team." He said, "Why, what did I do?" I said, "Well, I saw your name in the paper. You talked to this editor." "Well I was just trying to get information for the transition." I said, "No, no that's not the rule. The rule is you are not quoted." And he was a young guy that worked for the Republican staff. It was probably unfair. Well it wasn't unfair, he broke the rule, but everybody new after that, McLellan meant what he said. The other thing they kept looking for was our hit list. They were confident that John Engler had a hit list of people. And I said, "No, the only list we have is if you are a Democrat, and if you're unclassified, you're done." And I had just sent a letter to all of them. There was another subset and those were Republicans who had gone to work for Blanchard. And they had my special attention, because I just wanted to make sure they knew and everybody else knew if you were a turncoat you were gone. And a couple of them had the chutzpah to come over and think that it was an interview to stay in the job. And it wasn't. It included some good friends of mine like Larry Meyer who had been commerce director and had been one of my big clients. And fortunately he had taken a leave of absence and he was going back, and he knew it. He knew, so there was no problem with Larry, but there were some that didn't. So those are some of those great things about our political system.

When John Engler left office he really went out of his way to accommodate incoming Gov. Granholm. It didn't matter to him if they agreed or didn't agree. He felt, from an institutional point of view, he had an obligation to pass it along, and I think she did the same when she left office. So that's one of the better things in our highly partisan environment, gubernatorial transitions as well as presidential, are part of the political system that you can be proud of. Now, it doesn't mean there aren't some people who are disappointed because they lose their job, especially if you worked for Jim Blanchard and thought he was going to win. That's the tough one. When Milliken left, when Granholm left, when Engler left, everybody knew they were leaving. Jim Blanchard – those people didn't think he was going to lose.

Bob LaBrant Well he left scores of positions unfilled.

Richard McLellan It really helped our present attorney general because Gov. Blanchard didn't fill the Ag Commission. The governor (Engler) was able to fill it and they picked Bill Schuette as the Ag Director. So he then used that and is now our Attorney General.

Bob LaBrant Let's move ahead, during the Engler years. Why don't we talk about the two public policy issues that you were deeply involved in, and I think both went to the state Supreme Court. The first was charter schools.

Richard McLellan Well charter schools: I was retained by Doctor DeWeese. He had a group called Teach Michigan that was proposing some school of choice ideas. He was paying me at the time. The governor comes in and he wants to do charter schools. They actually passed the Charter School Law that I had never read. And I read it and I said, "This is completely unconstitutional. I mean you're proposing things that don't make sense." And I asked Lucille Taylor of the governor's legal counsel, I said, "Lucille?" Because they were usually very careful. The governor was a lawyer. Well this was during Proposal A, when Proposal A was being considered. She just said, "I

just didn't have time to read it." And they signed it. So I went to the governor, and I said, "This is unconstitutional. You have to do it again." Good news is, they decided to do it again. Dick Posthumus and some of the Democrats, including John Kelly, said, "We want to take a Democratic bill and pass it so that we have a piece of Charter Schools." So I worked with the Legislature. Got it passed. I used the Charter Schools idea as an example of what's been fortunate for me, and that's the life cycle of legislation, public policy. I got in on the ground floor to draft that bill. I then had to help implement it. And I had Len Wolfe, who was then a young associate in the firm, draft the first set of forms. And I said, "Len, whatever you draft will be around forever." Because whoever does the first set of forms, everybody copies it. Then we got sued. And I said, "Well, now we have to defend the law." So to be able to write a law, implement the law, and then defend the law in the state Supreme Court and win, and then continue to represent people in the whole school-change era, is quite professionally satisfying. A lot of times lawyers only get a slight window on that process. But to have basically lived with that for all those years...and school of choice continues to be a battle. I continue to be beaten up by the press trying to help the new governor (Snyder) on his school reform ideas. And he's taken them far beyond where Gov. Engler was. Public education, and public schools and education choice continue to be a battle and will continue to be.

Bob LaBrant If you don't mind I'd like to get a little personal. You first discovered that you had arthritis when you were thirty, and you've lived now over forty-some years with that illness. But frankly, I think most observers know you've lived a very, very full life. Even with what could have been a very debilitating disease. Would you like to comment on that?

Richard McLellan I always say this: "I'm lucky I'm a lawyer." If you just look at my hands. What if I was a brick layer or piano player? I'd be unemployed, but I'm a lawyer. All I have to do is move my mouth. And I type with two thumbs. My secretary would laugh and she'd say, "I can't believe how fast you type." I said, "When I was a journalism student, journalists just typed with two fingers. I just had to switch to thumbs." You hear this from other people who have much more severe disabilities than I do: "Once you get it and accept it," I don't want to say it can enrich your life, but, "It doesn't have to limit it except in the ways that you do." I made a decision, and I think I told you this before. I was at a show and there was a blind musician. And somebody asked him how it limited him as a blind musician? He said, "Well it really doesn't. I treat my blindness as an inconvenience." And I said, "You know, that's what I'm going to do. I'm going to say it's an inconvenience." And even though I've had ten operations and fixed all kinds of things, arthritis doesn't kill you. It limits you, particularly if you want to be a golfer or like I say, a piano player. But for me it has been just part of my life, and I also learned early on, people do not like whiners. They do not want to hear about pain that you have, and so, why ever mention it? One day I was driving with my sister and she said, "Well, you never talk about how much it hurts." Because my feet really hurt that night. She said, "Well what's it like?" I said, "Mary, I never talk about it, but if you want to know I'm going to tell you." I said, "It's like I'm being strapped down on a table and Doctor Mengele, the Nazi doctor, is walking in with a rusty ice pick and jamming it in the bottom of my feet. It hurts like that." She says, "Ohhh, I wish you hadn't told me." I said, "That's

**Transcript: MPHS Oral History of Richard D. McLellan, interviewed by Bob LaBrant, 4.04.14**

why I never tell people.” Because it used to be quite painful. It’s really not now. I was lucky. The first time I had my ankle fused, I had to go six months without weight-bearing, and a friend of mine let me move into his house, because he had a one-story house. He had 24-hour security. He had a cook and maids and all of that, and it was the governor. So I lived for a month in the governor’s residence. And I used to go to work on my little electric cart. So the CATA bus would pull up to the governor’s residence. Pick me up. Take me to work and about the third day the bus driver said, “Excuse me sir, who are you?” He said, “We don’t normally come to this neighborhood. And we pick you up every day and we bring you back.” And I said, “Well, I had this operation and I can’t live at home. I live in a two-story house. And the governor and Michelle are friends of mine and they said ‘Well we live in a one story house. You can come over.’” So I stayed there until I got a lift put in my house. So it is an inconvenience particularly when you’re in a wheelchair and you’re limited. But I just got back from Antarctica and I took crutches when I’m walking on ice and so on. So there’re things that you can continue to do. I’ve met people with arthritis that have it very, very severe, and they can be real role models for you. Because you say, “Ohhh.” It’s like, I think anybody has a limitation. You always find somebody that’s got it worse. Then you can say, “Oh, okay, I can do this. If they can do it, I can do it.” And I’ve found many people over the years that do that. So yeah, I do have arthritis. It doesn’t kill you. It’s an inconvenience. And I’m lucky, I’m a lawyer and I live and practice right in one town, although I do travel a lot. I think that’s one of the biggest challenges sometimes is traveling, cause I like to travel. I do have limitations, but that’s a quick summary of my arthritis.

Bob LaBrant Richard I’m going to kind of rap this up, but in some ways you remind me of that person in the Dos Equis commercial. You’re the most interesting man in the world if we take a look at Richard McLellan outside of the practice of law and public policy. You’ve been to a lot of countries. I think you are a tribal chief if I remember correctly.

Richard McLellan I am.

Bob LaBrant And why don’t you tell us a little bit about being a tribal chief?

Richard McLellan Well in 1974 George Cushingberry was a 21-year-old legislator and he introduced me to a guy named Obi Nwankwo who was a Nigerian. This was during the oil embargo. So Obi convinced me that I could become a billionaire by going over to Nigeria and making tons of money. Well I started to go to Nigeria and met a guy named John Umenyiora, now His Royal Highness John Ezedioramma Ositadimma Umenyiora, the Igwe of Ogbunike.

And I got interested in West Africa. Over the years I have been back to Nigeria a number of times. I went with Colin Powell to the elections. I also then got involved, through Gov. Engler, with President Rawlings of Ghana. And I’ve been to Ghana a number of times and I’ve helped President Rawlings on some things. And then most recently I got a phone call from His Royal Highness, who’s the Nigerian, who said, “Would you go meet the president of Sierra Leone?” So I flew over there and met with the president of Sierra Leone for two days before I had to fly back and meet

**Transcript: MPHS Oral History of Richard D. McLellan, interviewed by Bob LaBrant, 4.04.14**

you to go to Havana. So, I've been lucky to travel to West Africa, where I represented the transitional government of Somalia. I also got to do elections. In 1990 President Bush sent me to Bulgaria as the Soviet Union was unwinding, and I went six years later to the second Bulgarian presidential election, and then I did a Nigerian election. So, three elections. I've been to Antarctica three times because I'm intrigued with Antarctica. And I do like to travel and I hope if I ever really retire I'll get to do more.

**Bob LaBrant** The one story that I remember is that as a 10 year old, maybe younger, you had a set of encyclopedia back in Paw Paw. And it had 18 volumes. And you started out reading each of those volumes.

**Richard McLellan** Yeah. My father lost his job and then ended up being an encyclopedia salesman. And of course we bought the 1953 edition of World Book. And I'd never had an encyclopedia before. You know you could go down to the library and all, but I started to read it and it was just fascinating. So, I am kind of an information junky. Thank God there was no Internet back then. Who knows what I might have done. But I read it and I remember just seeing the diversity of idea and the things that you need to know. Yeah, so I read a large part of the World Book.

**Bob LaBrant** What struck me about that is that it just illustrates that even from a young age, you've had this interest in a wide range of subjects. Even though one topic in the encyclopedia might be kind of boring, the next topic in the book might be totally fascinating. So what your career has shown is that you've developed this passion and this interest in a wide variety of issues whether it relates to charter schools or casino gaming, or things like that.

**Richard McLellan** I remember the day John Engler learned that Matt Engler, his father, had a brain tumor, he came right over to my house because he knew I had all these book on neuroscience and maps of the brain. He knew that and I knew that, but I didn't know anybody else did. He is not unlike me, he has a junk mind and he would be interested in all kinds of things. But he knew I had already been somehow interested in neuroscience, because I'm interested in language. So one thing leads to another and you get into all these different areas and that's what I've done my whole life. I hope to keep doing it for a while.

**Bob LaBrant** Let me conclude this by quoting a recent reporter who wrote an article about you. And I think she said something to the effect that, "Richard McLellan is perhaps the most influential person in public policy in Michigan who you've never heard of." Well the viewers of this particular program now have a pretty good knowledge of Richard McLellan. And Richard thank you so much.

**Richard McLellan** It's been fun. Thank you Bob, it's has been a fun talk.